

HOLOCAUST
ERA ASSETS

CONFERENCE
PROCEEDINGS

Prague
June 26–30, 2009

HOLOCAUST ERA ASSETS

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PRAGUE, JUNE 26–30, 2009

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Editorial Note

The Government of the Czech Republic, in cooperation with participating institutions, hosted the Prague Holocaust Era Assets Conference on June 26–30, 2009. The Conference was built on the foundation laid at the Washington Conference on Holocaust-Era Assets (1998) as well as subsequent international meetings and declarations.

The papers published herein are produced from texts provided by Conference participants and, in some cases, from transcripts of their oral presentations. In order to maintain the maximum authenticity of the contributions, changes of the texts and transcriptions were minimized.

JIŘÍ SCHNEIDER
JAKUB KLEPAL
IRENA KALHOUSOVÁ
 EDITORS

Introduction

The Prague Holocaust Era Assets Conference, held June 26–30, 2009 in Prague and Terezín as the official event of the Czech Presidency of the Council of the European Union, was convened by the Government of the Czech Republic in collaboration with other Czech institutions and organizations: the Academy of Sciences' Documentation Centre of Property Transfers of Cultural Assets of WW II Victims, the Terezín Memorial, the Federation of Jewish Communities, the Jewish Museum in Prague, the Institute of Jewish Studies at the Charles University in Prague, and the Forum 2000 Foundation.

Why hold this conference in the Czech Republic in the cities of Prague and Terezín? The decision to organize the Holocaust Era Assets Conference in Prague and Terezín was not accidental. The territories encompassing the Czech Lands (Bohemia, Moravia, Silesia), Slovakia and Subcarpathian Ruthenia, which in 1918 formed Czechoslovakia, gave life to one of the main cultural centres of Ashkenazi Jewry over a period of one thousand years.

After the disintegration of the Czechoslovak First Republic in 1938 and during the country's subsequent occupation in World War II (WW II), Czechoslovakia, like other European countries, was not spared the Holocaust of 260,000 members of its Jewish community. Moreover, the history of the Holocaust in our part of the world is closely connected with the history of the Terezín Ghetto where tens of thousands of Jews from many European countries died and through which tens of thousands of others passed on their journey to the extermination camps in the East.

After the war, many Jews who survived the Holocaust or spent the wartime abroad fighting in the Allied armies, returned home and/or chose to emigrate to Palestine/Israel. For those who remained, the three years after the war's end, before the Communists took power in 1948, offered little chance to receive any compensation or to regain their real or personal property, including looted works of art. After 1948, anti-Semitism, along with nationalization and repression, became part of the official policy of the Communist regime.

After a prolonged period of Communist rule, Czechoslovakia attempted to redress the "legacy of the past" immediately after November 1989. With the implementation of the Extra-Judicial Rehabilitation Act in 1991, the restitution of Jewish property began in 1992. After the partition, the Czech Republic continued this effort. In 1994, the Czech government passed a resolution followed by a law authorizing restitution to resolve individuals' claims. In 1998, a governmental fund was created to financially compensate all those whose property it was not possible to return.

As a response to the 1998 Washington Conference, a law dealing with the restitution procedure for works of art came into force in 2000 and the Foundation for Holocaust Victims was established. In 2001, the Documentation Centre of Property Transfers of Cultural Assets of WW II Victims was opened in Prague with the goal of establishing a research and documentation workplace that would shed light on the destin(ies) of works and collections of art formerly owned by Jews and would therefore enable their return.

Although much in the Czech legislation is imperfect and much can be criticized, it is indisputable that the Czech Republic did

its utmost to reconstitute the property of Nazi victims and to mitigate the injustice that they suffered. Based on these historical and contemporary circumstances, the Czech Republic seemed to be the most appropriate candidate to convene the Conference.

The main objectives of the Conference were:

- ▷ To assess the progress made since the 1998 Washington Conference on Holocaust-Era Assets in the areas of the recovery of looted art and objects of cultural, historical and religious value (evaluated according to the Washington Conference Principles on Nazi-Confiscated Art and the Vilnius Forum Declaration 2000) and in the areas of real property restitution and financial compensation schemes;
- ▷ To review current practices regarding provenance research and restitution and, where needed, to define new and effective instruments to improve these efforts;
- ▷ To review the impact of the Stockholm Declaration of 2000 on education, remembrance and research about the Holocaust;
- ▷ To strengthen the work of the Task Force for International Cooperation on Holocaust Education, Remembrance, and Research, a 26-nation body chaired by the Czech Republic in 2007–2008; and
- ▷ To discuss new and innovative approaches in education, social programs and cultural initiatives that relate to the Holocaust and other National Socialist crimes and to advance religious and ethnic tolerance in our societies around the world.

The Conference program was prepared by the Working Committee, by Experts of the Special Session on Caring for Victims of Nazism and Their Legacy and by the four Working Groups on Holocaust Education, Remembrance and Research; Immovable Property; Looted Art; and Judaica and Jewish Cultural Property. Their conclusions were conveyed to diplomats of 49 invited countries who approved the agenda of the Conference and endorsed the text of the Terezín Declaration, which was accepted and declared in Terezín. Moreover, the Czech–EU Joint Declaration on the establishment of the European Shoah Legacy Institute in Terezín was signed.

The program of the Conference in Prague consisted of an opening ceremony, plenary sessions and sessions of the four working groups (with an additional special session) and of a closing ceremony in Terezín. The Conference was accompanied by many cultural and social events. Forty-seven countries (and two observer countries), many representatives of nongovernmental organizations (NGOs), and other esteemed guests participated in the Conference.

The Proceedings of the Prague Conference include the following: the text of the Terezín Declaration; the text of the Czech–EU Joint Declaration; the Working Groups’ Experts’ Conclusions; Keynote Speeches; Concluding Remarks of Professor Yehuda Bauer; Plenary Session (Opening Remarks, Working Groups’ Reports, Heads of NGOs’ Statements); List of Participating Countries’ Delegations; and List of Participating NGOs’ Delegations. The papers published in the Proceedings are reproduced from texts provided by participants in the Conference and, in some cases, from transcriptions of their oral presentations.

I would like to thank all of the members of the Organizing Committee, the Forum 2000 Foundation, and all those who voluntarily helped with the preparations for the success of the Conference and for the publication of these Proceedings.

AMBASSADOR MILOŠ POJAR

CHAIRMAN OF THE ORGANIZING COMMITTEE

SEPTEMBER 2009

Terezín Declaration

June 30, 2009

Upon the invitation of the Prime Minister of the Czech Republic we the representatives of 46 states listed below met this day, June 30, 2009 in Terezín, where thousands of European Jews and other victims of Nazi persecution died or were sent to death camps during World War II. We participated in the Prague Holocaust Era Assets Conference organized by the Czech Republic and its partners in Prague and Terezín from 26–30 June 2009, discussed together with experts and non-governmental organization (NGO) representatives important issues such as Welfare of Holocaust (Shoah) Survivors and other Victims of Nazi Persecution, Immovable Property, Jewish Cemeteries and Burial Sites, Nazi-Confiscated and Looted Art, Judaica and Jewish Cultural Property, Archival Materials, and Education, Remembrance, Research and Memorial Sites. We join affirming in this.

► Terezín Declaration on Holocaust Era Assets and Related Issues

Aware that Holocaust (Shoah) survivors and other victims of Nazi persecution have reached an advanced age and that it is imperative to respect their personal dignity and to deal with their social welfare needs, as an issue of utmost urgency,

Having in mind the need to enshrine for the benefit of future generations and to remember forever the unique history and the legacy of the Holocaust (Shoah), which exterminated three

fourths of European Jewry, including its premeditated nature as well as other Nazi crimes,

Noting the tangible achievements of the 1997 London Nazi Gold Conference, and the 1998 Washington Conference on Holocaust-Era Assets, which addressed central issues relating to restitution and successfully set the stage for the significant advances of the next decade, as well as noting the January 2000 Stockholm Declaration, the October 2000 Vilnius Conference on Holocaust Era Looted Cultural Assets,

Recognizing that despite those achievements there remain substantial issues to be addressed, because only a part of the confiscated property has been recovered or compensated,

Taking note of the deliberations of the Working Groups and the Special Session on Social Welfare of Holocaust Survivors and their points of view and opinions which surveyed and addressed issues relating to the Social Welfare of Holocaust Survivors and other Victims of Nazi Persecution, Immovable Property, Nazi Confiscated Art, Judaica and Jewish Cultural Property, Holocaust Education, Remembrance and Research, which can be found on the web link for the Prague Conference and will be published in the Conference Proceedings,

Keeping in mind the legally non-binding nature of this Declaration and moral responsibilities thereof, and without prejudice to applicable international law and obligations,

1. Recognizing that Holocaust (Shoah) survivors and other victims of the Nazi regime and its collaborators suffered unprecedented physical and emotional trauma during their ordeal, the Participating States take note of

the special social and medical needs of all survivors and strongly support both public and private efforts in their respective states to enable them to live in dignity with the necessary basic care that it implies.

2. Noting the importance of restituting communal and individual immovable property that belonged to the victims of the Holocaust (Shoah) and other victims of Nazi persecution, the Participating States urge that every effort be made to rectify the consequences of wrongful property seizures, such as confiscations, forced sales and sales under duress of property, which were part of the persecution of these innocent people and groups, the vast majority of whom died heirless.
3. Recognizing the progress that has been made in research, identification, and restitution of cultural property by governmental and non-governmental institutions in some states since the 1998 Washington Conference on Holocaust-Era Assets and the endorsement of the Washington Conference Principles on Nazi-Confiscated Art, the Participating States affirm an urgent need to strengthen and sustain these efforts in order to ensure just and fair solutions regarding cultural property, including Judaica that was looted or displaced during or as a result of the Holocaust (Shoah).
4. Taking into account the essential role of national governments, the Holocaust (Shoah) survivors' organizations, and other specialized NGOs, the Participating States call for a coherent and more effective approach by States and the international community to ensure the fullest possible, relevant archival access with due respect to national legislation. We also encourage States and the international

community to establish and support research and education programs about the Holocaust (Shoah) and other Nazi crimes, ceremonies of remembrance and commemoration, and the preservation of memorials in former concentration camps, cemeteries and mass graves, as well as of other sites of memory.

5. Recognizing the rise of Anti-Semitism and Holocaust (Shoah) denial, the Participating States call on the international community to be stronger in monitoring and responding to such incidents and to develop measures to combat anti-Semitism.

► **The Welfare of Holocaust (Shoah) Survivors and Other Victims of Nazi Persecution**

Recognizing that Holocaust (Shoah) survivors and other victims of Nazi persecution, including those who experienced the horrors of the Holocaust (Shoah) as small and helpless children, suffered unprecedented physical and emotional trauma during their ordeal.

Mindful that scientific studies document that these experiences frequently result in heightened damage to health, particularly in old age, we place great priority on dealing with their social welfare needs in their lifetimes. It is unacceptable that those who suffered so greatly during the earlier part of their lives should live under impoverished circumstances at the end.

1. We take note of the fact that Holocaust (Shoah) survivors and other victims of Nazi persecution have today reached an advanced age and that they have special medical and

health needs, and we therefore support, as a high priority, efforts to address in their respective states the social welfare needs of the most vulnerable elderly victims of Nazi persecution – such as hunger relief, medicine and home care as required, as well as measures that will encourage intergenerational contact and allow them to overcome their social isolation. These steps will enable them to live in dignity in the years to come. We strongly encourage cooperation on these issues.

2. We further take note that several states have used a variety of creative mechanisms to provide assistance to needy Holocaust (Shoah) survivors and other victims of Nazi persecution, including special pensions; social security benefits to non-residents; special funds; and the use of assets from heirless property. We encourage states to consider these and other alternative national actions, and we further encourage them to find ways to address survivors' needs.

► **Immovable (Real) Property**

Noting that the protection of property rights is an essential component of a democratic society and the rule of law,

Acknowledging the immeasurable damage sustained by individuals and Jewish communities as a result of wrongful property seizures during the Holocaust (Shoah),

Recognizing the importance of restituting or compensating Holocaust-related confiscations made during the Holocaust era between 1933–45 and as its immediate consequence,

Noting the importance of recovering communal and religious immovable property in reviving and enhancing Jewish life, ensuring its future, assisting the welfare needs of Holocaust (Shoah) survivors, and fostering the preservation of Jewish cultural heritage,

1. We urge, where it has not yet been effectively achieved, to make every effort to provide for the restitution of former Jewish communal and religious property by either in rem restitution or compensation, as may be appropriate; and
2. We consider it important, where it has not yet been effectively achieved, to address the private property claims of Holocaust (Shoah) victims concerning immovable (real) property of former owners, heirs or successors, by either in rem restitution or compensation, as may be appropriate, in a fair, comprehensive and nondiscriminatory manner consistent with relevant national law and regulations, as well as international agreements. The process of such restitution or compensation should be expeditious, simple, accessible, transparent, and neither burdensome nor costly to the individual claimant; and we note other positive legislation in this area.
3. We note that in some states heirless property could serve as a basis for addressing the material necessities of needy Holocaust (Shoah) survivors and to ensure ongoing education about the Holocaust (Shoah), its causes and consequences.
4. We recommend, where it has not been done, that states participating in the Prague Conference consider implementing national programs to address immovable (real)

property confiscated by Nazis, Fascists and their collaborators. If and when established by the Czech Government, the European Shoah Legacy Institute in Terezín shall facilitate an intergovernmental effort to develop non-binding guidelines and best practices for restitution and compensation of wrongfully seized immovable property to be issued by the one-year anniversary of the Prague Conference, and no later than June 30, 2010, with due regard for relevant national laws and regulations as well as international agreements, and noting other positive legislation in this area.

► **Jewish Cemeteries and Burial Sites**

Recognizing that the mass destruction perpetrated during the Holocaust (Shoah) put an end to centuries of Jewish life and included the extermination of thousands of Jewish communities in much of Europe, leaving the graves and cemeteries of generations of Jewish families and communities unattended, and

Aware that the genocide of the Jewish people left the human remains of hundreds of thousands of murdered Jewish victims in unmarked mass graves scattered throughout Central and Eastern Europe,

We urge governmental authorities and municipalities as well as civil society and competent institutions to ensure that these mass graves are identified and protected and that the Jewish cemeteries are demarcated, preserved and kept free from desecration, and where appropriate under national legislation could consider declaring these as national monuments.

► **Nazi-Confiscated and Looted Art**

Recognizing that art and cultural property of victims of the Holocaust (Shoah) and other victims of Nazi persecution was confiscated, sequestered and spoliated, by the Nazis, the Fascists and their collaborators through various means including theft, coercion and confiscation, and on grounds of relinquishment as well as forced sales and sales under duress, during the Holocaust era between 1933–45 and as an immediate consequence, and

Recalling the Washington Conference Principles on Nazi-Confiscated Art as endorsed at the Washington Conference of 1998, which enumerated a set of voluntary commitments for governments that were based upon the moral principle that art and cultural property confiscated by the Nazis from Holocaust (Shoah) victims should be returned to them or their heirs, in a manner consistent with national laws and regulations as well as international obligations, in order to achieve just and fair solutions,

1. We reaffirm our support of the Washington Conference Principles on Nazi-Confiscated Art and we encourage all parties including public and private institutions and individuals to apply them as well,
2. In particular, recognizing that restitution cannot be accomplished without knowledge of potentially looted art and cultural property, we stress the importance for all stakeholders to continue and support intensified systematic provenance research, with due regard to legislation, in both public and private archives, and where relevant to make the results of this research, including ongoing updates, available via the internet, with due regard to privacy rules and regulations. Where it has not already been

done, we also recommend the establishment of mechanisms to assist claimants and others in their efforts,

3. Keeping in mind the Washington Conference Principles on Nazi-Confiscated Art, and considering the experience acquired since the Washington Conference, we urge all stakeholders to ensure that their legal systems or alternative processes, while taking into account the different legal traditions, facilitate just and fair solutions with regard to Nazi confiscated and looted art, and to make certain that claims to recover such art are resolved expeditiously and based on the facts and merits of the claims and all the relevant documents submitted by all parties. Governments should consider all relevant issues when applying various legal provisions that may impede the restitution of art and cultural property, in order to achieve just and fair solutions, as well as alternative dispute resolution, where appropriate under law.

► **Judaica and Jewish Cultural Property**

Recognizing that the Holocaust (Shoah) also resulted in the wholesale looting of Judaica and Jewish cultural property including sacred scrolls, synagogue and ceremonial objects as well as the libraries, manuscripts, archives and records of Jewish communities, and

Aware that the murder of six million Jews, including entire communities, during the Holocaust (Shoah) meant that much of this historical patrimony could not be reclaimed after World War II, and

Recognizing the urgent need to identify ways to achieve a just and fair solution to the issue of Judaica and Jewish cultural

property, where original owners, or heirs of former original Jewish owners, individuals or legal persons cannot be identified, while acknowledging there is no universal model,

1. We encourage and support efforts to identify and catalogue these items which may be found in archives, libraries, museums and other government and non-government repositories, to return them to their original rightful owners and other appropriate individuals or institutions according to national law, and to consider a voluntary international registration of Torah scrolls and other Judaica objects where appropriate, and
2. We encourage measures that will ensure their protection, will make appropriate materials available to scholars, and where appropriate and possible in terms of conservation, will restore sacred scrolls and ceremonial objects currently in government hands to synagogue use, where needed, and will facilitate the circulation and display of such Judaica internationally by adequate and agreed upon solutions.

► **Archival Materials**

Whereas access to archival documents for both claimants and scholars is an essential element for resolving questions of the ownership of Holocaust-era assets and for advancing education and research on the Holocaust (Shoah) and other Nazi crimes,

Acknowledging in particular that more and more archives have become accessible to researchers and the general public, as

witnessed by the Agreement reached on the archives of the International Tracing Service (ITS) in Bad Arolsen, Germany,

Welcoming the return of archives to the states from whose territory they were removed during or as an immediate consequence of the Holocaust (Shoah),

We encourage governments and other bodies that maintain or oversee relevant archives to make them available to the fullest extent possible to the public and researchers in accordance with the guidelines of the International Council on Archives, with due regard to national legislation, including provisions on privacy and data protection, while also taking into account the special circumstances created by the Holocaust era and the needs of the survivors and their families, especially in cases concerning documents that have their origin in Nazi rules and laws.

► **Education, Remembrance, Research and Memorial Sites**

Acknowledging the importance of education and remembrance about the Holocaust (Shoah) and other Nazi crimes as an eternal lesson for all humanity,

Recognizing the preeminence of the Stockholm Declaration on Holocaust Education, Remembrance and Research of January 2000,

Recognizing that the Universal Declaration of Human Rights was drafted in significant part in the realization of the horrors that took place during the Holocaust, and further recognizing the UN

Convention on the Prevention and Punishment of the Crime of Genocide,

Recalling the action of the United Nations and of other international and national bodies in establishing an annual day of Holocaust remembrance,

Saluting the work of the Task Force for International Cooperation on Holocaust Education, Remembrance and Research (ITF) as it marks its tenth anniversary, and encouraging the States participating in the Prague Conference to cooperate closely with the Task Force, and

Repudiating any denial of the Holocaust (Shoah) and combating its trivialization or diminishment, while encouraging public opinion leaders to stand up against such denial, trivialization or diminishment,

1. We strongly encourage all states to support or establish regular, annual ceremonies of remembrance and commemoration, and to preserve memorials and other sites of memory and martyrdom. We consider it important to include all individuals and all nations who were victims of the Nazi regime in a worthy commemoration of their respective fates.
2. We encourage all states as a matter of priority to include education about the Holocaust (Shoah) and other Nazi crimes in the curriculum of their public education systems and to provide funding for the training of teachers and the development or procurement of the resources and materials required for such education.

3. Believing strongly that international human rights law reflects important lessons from history, and that the understanding of human rights is essential for confronting and preventing all forms of racial, religious or ethnic discrimination, including Anti-Semitism, and Anti-Romani sentiment, today we are committed to including human rights education into the curricula of our educational systems. States may wish to consider using a variety of additional means to support such education, including heirless property where appropriate.
4. As the era is approaching when eye witnesses of the Holocaust (Shoah) will no longer be with us and when the sites of former Nazi concentration and extermination camps, will be the most important and undeniable evidence of the tragedy of the Holocaust (Shoah), the significance and integrity of these sites including all their movable and immovable remnants, will constitute a fundamental value regarding all the actions concerning these sites, and will become especially important for our civilization including, in particular, the education of future generations. We, therefore, appeal for broad support of all conservation efforts in order to save those remnants as the testimony of the crimes committed there to the memory and warning for the generations to come and where appropriate to consider declaring these as national monuments under national legislation.

► **Future Action**

Further to these ends we welcome and are grateful for the Czech Government's initiative to establish the European Shoah Legacy Institute in Terezín (Terezín Institute) to follow up on the

work of the Prague Conference and the Terezín Declaration. The Institute will serve as a voluntary forum for countries, organizations representing Holocaust (Shoah) survivors and other Nazi victims, and NGOs to note and promote developments in the areas covered by the Conference and this Declaration, and to develop and share best practices and guidelines in these areas and as indicated in paragraph four of Immovable (Real) Property. It will operate within the network of other national, European and international institutions, ensuring that duplicative efforts are avoided, for example, duplication of the activities of the Task Force for International Cooperation on Holocaust Education, Remembrance and Research (ITF).

Following the conference proceedings and the Terezín Declaration, the European Commission and the Czech Presidency have noted the importance of the Institute as one of the instruments in the fight against racism, xenophobia and anti-Semitism in Europe and the rest of the world, and have called for other countries and institutions to support and cooperate with this Institute.

To facilitate the dissemination of information, the Institute will publish regular reports on activities related to the Terezín Declaration. The Institute will develop websites to facilitate sharing of information, particularly in the fields of art provenance, immovable property, social welfare needs of survivors, Judaica, and Holocaust education. As a useful service for all users, the Institute will maintain and post lists of websites that Participating States, organizations representing Holocaust (Shoah) survivors and other Nazi victims and NGOs sponsor as well as a website of websites on Holocaust issues.

We also urge the States participating in the Prague Conference to promote and disseminate the principles in the Terezín

Declaration, and encourage those states that are members of agencies, organizations and other entities which address educational, cultural and social issues around the world, to help disseminate information about resolutions and principles dealing with the areas covered by the Terezín Declaration.

A more complete description of the Czech Government's concept for the Terezín Institute and the Joint Declaration of the European Commission and the Czech EU Presidency can be found on the website for the Prague Conference and will be published in the conference proceedings.

► List of States

- | | |
|---------------------------|-------------------------|
| 1. Albania | 26. Lithuania |
| 2. Argentina | 27. Luxembourg |
| 3. Australia | 28. Malta |
| 4. Austria | 29. Moldova |
| 5. Belarus | 30. Montenegro |
| 6. Belgium | 31. The Netherlands |
| 7. Bosnia and Herzegovina | 32. Norway |
| 8. Brazil | 33. Poland |
| 9. Bulgaria | 34. Portugal |
| 10. Canada | 35. Romania |
| 11. Croatia | 36. Russia |
| 12. Cyprus | 37. Serbia |
| 13. Czech Republic | 38. Slovakia |
| 14. Denmark | 39. Slovenia |
| 15. Estonia | 40. Spain |
| 16. Finland | 41. Sweden |
| 17. France | 42. Switzerland |
| 18. FYROM | 43. Turkey |
| 19. Germany | 44. Ukraine |
| 20. Greece | 45. United Kingdom |
| 21. Hungary | 46. United States |
| 22. Ireland | 47. Uruguay |
| 23. Israel | |
| 24. Italy | The Holy See (observer) |
| 25. Latvia | |

Czech–EU Joint Declaration

June 29, 2009

Being aware of a crucial importance of the legacy of Holocaust and Nazi injustice the politicians and experts representing countries and institutions concerned participated in the Holocaust Era Assets Conference organized in the Czech Republic, June 26–30, 2009.

Taking the Terezín Declaration into consideration, the European Commission and the Czech EU–Presidency declare their readiness to make every effort and create a more effective European approach by supporting goals dealing primarily with education and social welfare such as:

- ▷ Holocaust education and research,
- ▷ Social care of survivors,
- ▷ Preservation of memorials in former concentration camps and cemeteries as well as of other sites of memory,
- ▷ Provenance research of Looted Art.

Recognizing the necessity of better international and European networking such as:

- ▷ Trans-border cooperation and exchange of information,
- ▷ Trans-border networking and exchange of best practice,

- ▷ Trans-border support of national initiatives (e.g. by providing multilingual information),

both sides warmly welcome, in line with the Terezín Declaration, the establishment of the “*European Shoah Legacy Institute*” in Terezín (the Institute) and look forward to its prompt and full functioning. The Institute will serve as a voluntary forum for countries, organizations representing Holocaust survivors’ and other Nazi victims and NGOs to note and promote developments in the areas covered by the conference and the Terezín Declaration.

Following the conference conclusions the European Commission and the Czech Presidency note the importance of the Institute as one of the instruments in the fight against racism, xenophobia and anti-Semitism in Europe and the rest of the world and call for other countries and institutions to support and cooperate with this Institute.

Prague, June 29, 2009

JACQUES BARROT

VICE-PRESIDENT OF THE EUROPEAN COMMISSION RESPONSIBLE FOR JUSTICE, FREEDOM AND SECURITY

JÁN FIGEL

MEMBER OF THE EUROPEAN COMMISSION RESPONSIBLE FOR EDUCATION, TRAINING, CULTURE AND YOUTH

ŠTEFAN FÜLE

MINISTER FOR EUROPEAN AFFAIRS OF THE CZECH REPUBLIC

JAN KOHOUT

DEPUTY PRIME MINISTER AND MINISTER
OF FOREIGN AFFAIRS OF THE CZECH REPUBLIC

VLADIMÍR ŠPIDLA

MEMBER OF THE EUROPEAN COMMISSION RESPONSIBLE FOR
EMPLOYMENT, SOCIAL AFFAIRS AND EQUAL OPPORTUNITIES

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STRATEGY

Expert Conclusions

Expert Conclusions were approved by the preparatory meetings of all working groups during the months of February, March, and April 2009.

► **Special Session on Caring for Victims of Nazism and Their Legacy**

Paying respect to and showing solidarity with the surviving victims of the unique and incomparable crime of the Nazi premeditated Shoah (Holocaust) against the Jews, the genocide against Roma and Sinti, and mass murderous acts against Slavic and other peoples and all other Nazi atrocities.

Recognizing that Shoah (Holocaust) survivors and other Nazi victims suffered unprecedented physical and emotional trauma during their ordeal and ever since, and that all Shoah (Holocaust) and other Nazi victims suffer from a heightened level of health deterioration, particularly in old age.

Recalling that the creation of the “Remembrance, Responsibility and Future” foundation was also a sign of solidarity with the victims living in the Central and Eastern European states and also a means of providing funds for victims from – among other places – Central and Eastern Europe, most of whom benefited little from prior German compensation and restitution programs.

Mindful of the suffering that all Shoah (Holocaust) and other Nazi victims experienced, regardless of nationality, creed or ethnicity,

and of studies which document that, due to this persecution – especially resulting from concentration camp, ghetto and labor battalion internment – even now, more than sixty years after the end of the Shoah (Holocaust), such victims frequently continue to experience significant after-effects of trauma and increased damage to their health, particularly in old age.

Declaring the need for further medical and social programs for Shoah (Holocaust) and other Nazi victims in Central and Eastern Europe and all other relevant places around the world.

Taking note of the special medical needs of elderly Shoah (Holocaust) and other Nazi victims, the improvement of the social situation of the elderly victims must be addressed through coordinated efforts by local, national, international and all other relevant authorities and social policy makers. Living conditions and social recognition can be effectively improved effectively, in particular by the social system in the victims' home countries – old and new.

In order for the international community to fulfill this responsibility, the Special Session on Caring for Victims of Nazism and their Legacy agrees upon the following two principles:

1. The suffering and dramatic fate that all Shoah (Holocaust) and other Nazi victims experienced should be acknowledged and respected, regardless of the nationality, creed, ethnicity, or current country of residence; no matter whether or not they have been included in the disbursement programs for Shoah (Holocaust) and other Nazi victims. We are committed to enabling all Shoah (Holocaust) and other Nazi victims to live their lives with dignity. Those victims in need must be granted access to the medical and social support through the social systems in their home countries and

through other organizations. The Shoah (Holocaust) and other Nazi victims generally receive lower pensions than those individuals who committed the crimes against them.

2. All around the world and especially in Central and Eastern Europe, there are many former Shoah (Holocaust) and other Nazi victims in need of assistance. Essential social services should be made available to all of them in the cities or villages where they now reside, in order to overcome their social isolation, to encourage intergenerational contact, to improve their medical situation and to provide hunger relief. For these programs, we agree upon the responsibility in partnership” approach: we will strengthen local civil society initiatives and provide them with public funding. As caring for Shoah (Holocaust) and other Nazi victims is both a national and international responsibility, we encourage additional program funding by the international community. With this approach, we seek to facilitate the cooperation and mutual reinforcement of local projects by civil society initiatives, government social policies, EU programs and international programs.

Within this context it is suggested to make use of heirless Jewish property in Eastern Europe wherever applicable. Proceeds of that property, after dealing with existing Jewish Communities, should be directed towards survivors' welfare needs and towards education. If we do not take this action now – it will be too late, much too late.

Due to the special circumstances of the Jewish people – survivors and victims alike, who did not have or do not have a directly elected government to represent them – it is for their needs and in their memory respectively, that a strong Jewish voice must be

recognized to fill the vacuum. An organization such as the WJRO (World Jewish Restitution Organization) and other relevant organizations, supported by understanding and by involvement of governments, would be the proper expression of that voice.

Taking into account the special role of the EU and other international communities and the continuing responsibility of national countries, the Special Session on Caring for Victims of Nazism and their Legacy recommends the following steps to be taken:

1. To found a Center for Research, Social Welfare, Education and Advocacy that will also facilitate the exchange of experiences and international cooperation, monitor achievements in all relevant spheres of activity and provide Shoah (Holocaust) and other Nazi victims a much-needed lobbying organization.
2. To establish a system of permanent financial support to the former concentration camps, sites of mass murder and cemeteries and memorials at the EU level.
3. To strengthen financial support to all kinds of organizations caring for Shoah (Holocaust) and other Nazi victims and their legacy at the national level.
4. To strengthen financial support to associations and societies of Shoah (Holocaust) and other Nazi victims at the national level.
5. To improve the legislative framework covering the social and legal status of Shoah (Holocaust) and other Nazi victims with a special focus on assuring equality with the status of war veterans at the national level.

6. To enable Shoah (Holocaust) and other Nazi victims to live the remaining years of their lives with dignity through an increase in their financial benefits at the same rate as that of average wages at the national level and enact legislation which exempts from taxes or needs-based benefits any such assistance received by Shoah (Holocaust) and other Nazi victims or their heirs. The Shoah (Holocaust) and other Nazi victims generally receive lower pensions than those individuals who committed the crimes against them.
7. To address the Ghetto-Rente issues in a timely and un-bureaucratic manner – specifically, the German Government in cooperation with the German Courts.

Further, noting the importance and urgency of such assistance for Shoah (Holocaust) and other Nazi victims, we express our readiness to establish an agency/mechanism which will monitor the efforts of the participating states relating to their commitment to deal effectively with the social welfare needs of Shoah (Holocaust) and other Nazi victims and will prepare and publish an annual report on the progress made.

► **Holocaust Education, Remembrance and Research**

The participating states wish to recognize the accomplishments that have been achieved in Holocaust Education, Remembrance and Research in the decade since the Washington Conference.

Specifically, we reaffirm that the Holocaust has a universal significance, which each generation has to explore anew and transmit

to the following generation. We recall the initiative of the government of Sweden in hosting the January 2000 Stockholm Forum, which resulted in the Stockholm Declaration signed by 44 participating states. We also reiterate the commitments made by the Stockholm Declaration.

We recognize the groundbreaking work of the Task Force on International Cooperation on Holocaust Education, Research and Remembrance (ITF) since the Stockholm Forum. In particular, we acknowledge the fact that more and more archives have become accessible to researchers and the general public, as witnessed by the agreement reached on the ITS Bad Arolsen archives.

The participating states are committed to:

1. Promoting awareness and knowledge of the Holocaust in schools and universities as well as other educational and civic institutions; taking appropriate steps to make it a mandatory part of educational curricula.
2. Promoting the study of the historical context behind the terror regime of the Nazis and their allies and collaborators, and of the Holocaust in all its dimensions.
3. Fostering the study of Jewish history as an integral part of European and world history.
4. Repudiating any denial of the Holocaust and combating its trivialization/diminishment whilst encouraging leaders of public opinion to stand up against this.
5. Ensuring awareness of the suffering of all groups of Nazi victims, including Sinti and Roma.

6. Identifying, marking for posterity and preserving authentic Holocaust-related sites, such as former concentration camps, mass graves and other locations important to Holocaust history.
7. Opening and facilitating access to all relevant archives dealing with the Holocaust period so that documents concerning the Nazi era are available to researchers and the general public (including Holocaust survivors) whilst respecting laws on the protection of personal data, but taking cognizance of possible difficulties in applying such laws when studying the history.
8. Encouraging appropriate forms of remembrance, which includes marking a National Day of Remembrance according to national tradition and observing the annual UN Holocaust Remembrance Day on January 27.
9. Continuing or establishing close cooperation with the ITF or taking the steps necessary for joining it; ensuring the long-term continuity of our efforts by strengthening the ITF as a central body for gathering information and monitoring the implementation of our commitments to Holocaust Education, Remembrance and Research.
10. Reflecting deeply on the evils of genocide, ethnic cleansing, racism, anti-Semitism and xenophobia.
11. Making appropriate funding available for Education, Remembrance and Research activities.

► Immovable Property

Protecting and respecting property rights is a basic principle of democratic governments who operate according to the rule of law. During the Holocaust, wrongful confiscations, enforced property sales and sales of property under duress were part of the persecution of innocent people and groups because of their religion, nationality or political position.

Jewish families and communities were systematically targeted and sustained immeasurable damage due to illegal seizures and destruction. After the defeat of the Nazis, confiscated private property was not restored to its former owners in Central and Eastern European countries, but typically nationalized during the period of communist control. Moreover, neither communal nor religious property – critical to reviving Jewish life, supporting the social welfare needs of Holocaust survivors and promoting the preservation of Jewish cultural heritage – was returned to what remained of the devastated Jewish communities or their successors.

While a number of countries have enacted legislation or taken other actions which address the restitution of, or compensation for, immovable property illegally seized during the Nazi and communist eras, many governments have failed to take adequate steps to return such confiscated properties to their rightful owners.

As a result, the Working Group on Immovable Property makes the following recommendations:

1. Where it has not been done, states should make every effort to return confiscated private property to former owners, as well as their heirs or successors, in an expeditious manner and through a process that takes account of the

many obstacles facing claimants seven decades after the property was taken.

- (a) In accordance with the principles of justice and equal treatment, states should provide restitution in rem whenever possible, particularly in circumstances where the confiscated property is still held by the government, and;
 - (b) Whenever the confiscated property cannot be returned, states should provide alternative property of equal value or provide equitable compensation.
2. If it has not already been done, states should establish a claims process which is simple, accessible, transparent and expeditious in a manner consistent with national law. This should include the following procedures:
 - (a) Applications should be processed by special tribunals or claims agencies, not by the courts of the state's judicial system;
 - (b) Relaxed standards of proof should apply, including the acceptance of alternative forms of evidence, e.g. for establishing property ownership, the death of a former owner or one's status as an heir;
 - (c) Claimants should not be impeded by burdensome financial requirements;
 - (d) Claimants should be able to submit claims easily, which includes being able to send them over the internet or lodging them with local embassies;

- (e) A decision should be issued within a reasonable time after a claim is submitted;
 - (f) The reason(s) for a decision should be clearly stated;
 - (g) Property should be returned or compensation paid promptly, especially for elderly claimants. It should not be done over a protracted period;
 - (h) Claimants should be able to lodge appeals against negative decisions with an independent appeals authority.
3. Current citizenship and residency requirements should not be used to prevent the restitution of, or compensation for, confiscated property.
 4. Where it has not been done, states should make every effort to return – and transfer the ownership rights for – confiscated Jewish communal and religious property to Jewish communities, organizations, or their successors, or they should provide fair compensation in lieu of restitution.
 5. Where appropriate, states should encourage the establishment of foundations (to be administered jointly by representatives of the local Jewish community and pertinent international Jewish groups) to assist in the preparation of restitution claims regarding communal and religious property and to manage such recovered property or related compensation.
 6. As part of the effort to reconstitute communal and religious property, when a property of historic value – such as a

- synagogue – is returned in disrepair or in an otherwise ruined condition (while in the government's possession), states should help either by modifying laws which impose penalties for not maintaining properties in a reasonable condition, or by providing financial and material assistance to undertake necessary repairs and restoration.
7. In ways consistent with national legislation, states should modify privacy protection laws which interfere with access to documentation related to property ownership and personal records, such as birth, death and marriage certificates.
 8. Access to archives and documentation dealing with the Holocaust period should not be hindered for researchers and the public. States should encourage government institutions to provide easy access to their records in accordance with the guidelines of the International Council on Archives.
 9. While every effort should be made to return confiscated, immovable property to its rightful former owners, states should also safeguard the current occupants of such property.
 10. The mass destruction perpetrated during the Holocaust put an end to centuries of Jewish life and included the decimation of thousands of Jewish communities in much of Europe. As a result the graves and cemeteries of generations of Jewish families and communities were left unattended. These cemeteries are sacred sites and governments should insure that they are demarcated, preserved and permanently protected from private development or other forms of desecration. The

Nazi murder of European Jewry resulted in thousands of mass graves throughout Eastern Europe. Today many of them are still unmarked and exposed to the elements. They are targeted by grave robbers and defiled by wild animals. Governments and civil society should support efforts to see that all these places of martyrdom are identified and properly commemorated and that mass graves are protected and permanently sealed.

11. States should establish a special standing committee which will do the following:
 - (a) Monitor and otherwise follow-up on the implementation of the final Terezín Declaration;
 - (b) Prepare and distribute periodic reports among participating states which summarize the relevant restitution-related activities that have been undertaken by governments subsequent to the Prague Conference;
 - (c) Convene another international conference, at an appropriate time following the Prague Conference, to review the progress made and difficulties confronted in implementing the commitments reflected in the Terezín Declaration.

► Looted Art

The Working Group on Looted Art recognizes the progress that has been made in the research, identification, and restitution of cultural property by governmental and non-governmental institutions in some countries since the 1998 Washington Conference on Holocaust-Era Assets and the adoption of the

Washington Principles on Nazi Confiscated Art. Nevertheless, it also affirms the urgent need to broaden, deepen, and sustain these efforts in order to ensure just and fair solutions regarding cultural property looted during the Holocaust era and its aftermath. We acknowledge that the plundering of cultural property was an integral part of the genocide perpetrated against the Jewish people and of the persecution of others, and that it was a war crime and a crime against humanity.

The Working Group on Looted Art makes the following recommendations to the participating states:

1. Where they have not done so, institutions and states should be encouraged to undertake provenance research. Adequate funding for provenance research is needed, including grants to institutions and independent researchers. States should ensure the ongoing internet publication of provenance information, including full details of looted objects and those of unclear provenance.
2. Access to archives and documentation should be unhindered for all parties. States should encourage private institutions and individuals (e.g. auction houses, art-dealers, galleries and banks) to also provide access to their records. Funding should be given to private entities to support the accessibility of archives.
3. States should enact or modify restitution legislation to facilitate the identification and recovery of looted cultural assets by the original owners or their legal successors.
4. If states have not done so already and where consistent with national law, they should establish national claims

procedures for fair and just solutions encompassing decisions on their merits, i.e. on a moral basis and not on technical defenses such as the passage of time. Procedures should include:

- (a) The sharing of evidence by both the current possessor and the claimant;
 - (b) The presumption of confiscation;
 - (c) Relaxed standards of evidence for the original owner;
 - (d) The burden of proof should not rest solely on the claimant; the present possessor also has to prove the rightfulness of his/her possession;
 - (e) Claimants should not be burdened by financial requirements.
5. Export, citizenship, inheritance and cultural heritage laws should not be used to prevent the restitution of cultural property to claimants.
 6. States should support and encourage the establishment of public or private organizations which advise, support and assist claimants in provenance research, legal concerns, restitution and other matters.
 7. States should actively support the establishment and operation of an international association of all provenance researchers. This association should encourage cooperation between researchers, the exchange of information, the setting of standards, and education.

8. Institutions should be encouraged to provide provenance information in all exhibitions or other public presentations that include looted cultural property.

► **Judaica and Jewish Cultural Property**

The Working Group on Judaica and Jewish Cultural Property (further referred to as the “Working Group”) recognizes the progress that has been made in the research, identification and restitution of cultural property by governmental and non-governmental institutions in some countries since the 1998 Washington Conference on Holocaust-Era Assets and the adoption of the Washington Principles on Nazi Confiscated Art. Nevertheless, it also affirms the urgent need to broaden, deepen and sustain these efforts in order to ensure just and fair solutions regarding cultural property looted and displaced during the Holocaust era and as a result of the Holocaust.

The Working Group acknowledges that the plundering of cultural property was an integral part of the genocide perpetrated against the Jewish people and of the persecution of others, and that it was a war crime and a crime against humanity.

In developing a consensus on principles to assist in resolving issues relating to Nazi-confiscated works of art, works of applied art, Judaica, books, manuscripts, ephemera, and everyday items (further referred to as “objects in the above specified categories”), the Working Group recognizes that there are differing legal systems depending on the nations they are located in and that countries act within the context of their own laws.

The subject matter of the recommendations is the identification and discovery of:

1. Wrongfully appropriated objects for restitution to their former owners or their respective heirs;
2. Objects that have been acquired without knowing their true provenance;
3. Inherited holdings of unidentified provenance, including long-term loans and donations.

The Working Group acknowledges that during World War II and the years following the end of the War, much of the information needed to establish provenance and prove ownership was scattered or lost. Based on the Washington Principles, the Working Group recommends that the participating states:

1. Identify all objects in the above specified categories in state, public and private museums, archives and libraries which were issued/created before or during the period referred to above. The Working Group recommends that this should be done regardless of the monetary value of these items.
2. Reasonably consider gaps or ambiguities in provenance in view of the passage of time and the circumstances of the Holocaust era.
3. Make information on objects and their provenance available to potential rightful owners or their heirs.
4. Publicize, especially through the internet, objects in the above specified categories that are found to have been

confiscated by the Nazis and not subsequently restituted in order to locate the pre-War owners or their heirs.

5. Take steps to achieve a just and fair solution if the pre-War owners of objects in the above specified categories (which are found to have been confiscated by the Nazis and not subsequently restituted) or their heirs can be identified, whilst recognizing that this may vary according to the facts and circumstances surrounding a specific case.
6. Take steps to achieve an appropriate solution if the pre-War owners of objects in the above specified categories (which are found to have been confiscated by the Nazis) or their heirs cannot be identified.
7. Ensure the appropriate levels of funding needed for provenance research, including grants to institutions and independent researchers.
8. Acknowledging that access to certain kinds of movable communal property is in the public interest in the case of disputed ownership and with due regard to national legislation and without prejudice to the resolution of ownership claims, to circulate Judaica internationally with appropriate guarantees protecting it from judicial seizure.
9. Set no time limits for claims or for provenance research.
10. Actively support the establishment and operation of an international association of all provenance researchers and create a special section for provenance research on Judaica.

11. Encourage Jewish communities and organizations as well as private institutions and individuals (e.g. auction houses, dealers, galleries, collectors and banks) to provide access to their records.
12. Support efforts to identify and catalogue items which may be found in archives, libraries, museums and other depositories and to consider the international registration of Torah scrolls and other Judaica objects.

Keynote Speeches

Opening Ceremony, Friday, June 26, 2009

► Václav Havel

FORMER PRESIDENT OF THE CZECH REPUBLIC

Unofficial translation from the Czech original

Ladies and Gentlemen:

Allow me to extend to you a most cordial welcome to this Conference, which we are organizing in Prague within the framework of our Presidency of the European Union. It is one of the last events in this context, but, in my opinion, it is more important than any of the others. Why is it so important? Whereas we once asked ourselves how it was possible that something as appalling and dreadful as the Holocaust could have happened in the 20th century and were unable to understand it, now the situation is even more perilous.

There is no risk that some single, unbelievable, improbable or mind-boggling event will take place, which would be a momentary historical aberration. What makes the situation more dangerous today is the threat of something that emerges from the very nature of the current situation. This is because we live in a civilization that is becoming increasingly globalized, in which everything is increasingly interlinked, and all of this provokes a kind of inverted need to defend one's distinctiveness and uniqueness in the face of others, a need to defend one's individuality

in a globalizing environment of increasing uniformity. This also provides a breeding ground for racism, anti-Semitism and various kinds of national and tribal hatred.

This is evident in various parts of the world and this is possibly the most dangerous phenomenon of all in the long term, in the decades to come, particularly in view of the fact that weapons, including nuclear arms, are becoming increasingly more sophisticated. Thus, there is a direct connection between racism and terrorism, and between terrorism and the most modern technology. In the face of this growing danger, it is increasingly important to recall the Holocaust, and demonstrate to ourselves and to our children the inevitable consequences of fanaticism and of racial and national hatred.

I wish your Conference every success.

► **Štefan Füle**

MINISTER FOR EUROPEAN AFFAIRS, CZECH REPUBLIC

Ladies and Gentlemen, on behalf of the Czech government welcome to Prague!

Let me start with two quotes. The first:

“[T]he most interesting – although horrible – sight that I encountered during the trip was a visit to a German internment camp near Gotha. The things I saw beggar description. ... I made the visit deliberately, in order to be in a position to give first-hand evidence of these things if ever, in the future, there develops a tendency to charge these allegations merely to ‘propaganda.’”

And the second quote:

“This place teaches us that we must be ever-vigilant about the spread of evil in our own time, that we must reject the false comfort that others’ suffering is not our problem, and commit ourselves to resisting those who would subjugate others to serve their own interests. ... To this day, there are those who insist that the Holocaust never happened ... This place is the ultimate rebuke to such thoughts; a reminder of our duty to confront those who would tell lies about our history. ... [T]hese sights have not lost their horror with the passage of time. ... And it is now up to us, the living, in our work, wherever we are, to resist injustice and intolerance and indifference in whatever forms they may take, and ensure that those who were lost here did not go in vain.”

Both quotes come from the same place, from the Nazi concentration camp in Buchenwald and its surroundings. Both come from American Presidents. The first is from Dwight Eisenhower, who was still a General of the American Army, when he said it, in the first days after the liberation of the camp. The second was delivered by Barack Obama a few weeks ago, on the anniversary of that liberation. Despite the fact that they are separated by 64 years, both quotes are immensely relevant.

What happened during those 64 years? The world divided into two irreconcilable camps and – 20 years ago – managed to reunite. The former enemies are friends today, even allies. The formerly disputed territories, which were the subject of cruel conflict, are today peaceful territories with developed infrastructure, or sleepy villages where life goes along from day to day.

But let us also ask what did not happen during those 64 years. We meet here today precisely because of things that did not happen. We are here because of the injustices that are still to be rectified.

Even though six million innocent people died in the Shoah, there were a few who managed to survive. What did those people live through in these intervening 64 years? How were they accepted by the society of that time? What happened to their property, which they were forced to surrender or abandon in their homes?

No, we are not the first ones to ask. Many have done so before. And many have contributed to bringing progress to the historical quest for justice and reconciliation. This Conference should, however, remind us that even 64 years after WW II, the Shoah should not be confined to history books. The reason for the Shoah's continuing currency is that it concerns people who are still living today.

For the Czech government, organizing this Conference has a special meaning.

First, the Czech Republic has harbored for centuries one of the most intellectually buoyant Jewish communities in Europe. Our cultural and historical heritage is inextricably linked with that of the Czech Jews. And in Terezín, we were eye-witnesses to one of the darkest chapters of their history. At a time when anti-Semitic moods are re-surfacing in European societies, we see this Conference as our contribution to countering these negative trends.

Second, the Czech EU Presidency is an excellent opportunity to give the topic of Holocaust-era assets the hearing and the importance it deserves. To lend the outcomes of this Conference

legitimacy based on a genuine European consensus, on shared European values and history. To send a clear message of commitment on behalf of the EU. Here, I would like to thank the European Commission for joining us in this line of thinking, for its relentless support throughout the preparation of this Conference and for its determination to promote this idea on the European level.

Last but not least, we saw this event as an opportunity not only to follow up on the results of the Washington Conference, which dealt mainly with property issues and the injustices of the past. We want to add a new, future-oriented dimension to this process. We want to discuss new topics: education about the past should prevent us from repeating it. And protecting the social welfare of elderly Holocaust survivors offers an opportunity to ensure a dignified life to those who were deprived of it in the past. Supporting the Czech government's initiative to establish a European Shoah Legacy Institute in Terezín should be one of the outcomes of this Conference. The Institute should serve as a voluntary forum for promoting developments in the areas covered by the Conference.

Ladies and Gentlemen, four exciting days full of work ahead lie of us. I wish you fruitful discussions and I thank you for your attention.

► **Simone Veil**

FORMER PRESIDENT OF EUROPEAN PARLIAMENT,
FRANCE

Unofficial translation from the French original

Dear Minister, Ministers, Dear President of the Supreme Court, Dear Ambassadors, Commissioners of Europe, and Ladies and Gentlemen, all of you, and, last but not least, because I am so very happy to see you here, Mr. Elie Wiesel:

First of all, I would like to thank you for the honor that you have granted to me by giving me the chance to speak at this Conference. I would also like to thank the Czech government for having organized this very important meeting. I am sure that this meeting will be a highly symbolic way to conclude the Czech Presidency of the European Union, a Union that was built on the ruins of Auschwitz and of Babi Yar. The Union was founded to ensure that genocide, mass crimes and war crimes would never be repeated.

Ten years ago, we met in Washington, and our role was to realize what difficult times lay ahead. Today, we are in those times. Yesterday still, we, the real survivors, were the unwelcome witnesses. When we came back from the camps, our worlds were sunken in an annoyed silence of those who did not want to know and years were needed, so that our need, so that our injunction to give evidence could be heard.

Today, we are invited on many occasions to give evidence, and there are many such invitations because after us, who will be able to recall, to remember what we have heard and what we have seen and what we have lived? Tomorrow, will that which we have constructed remain and will it resist the desire of those

who want to turn the page? Will the imperative of the memory be transmitted in an effective way?

Ten years ago in Washington, there were two types of commitments for which we engaged ourselves. We made the commitment to repair, to compensation and to restitution of the spoliated possessions from the period between 1939 and 1945. But, more importantly, we made a commitment to the moral obligation to stay vigilant and to educate for the sake of memory.

I do believe that France has fully honored its commitments. The government, in close cooperation with associations and with representatives of the Jewish community, has embarked on activities, the aim of which – and that is very important – is to give dignity both to the victims and to the survivors and try to repair whatever can be repaired.

France has put in place an arrangement which is very complex and which helps to sustain the survivors and the heirs. In ten years, the French state has already granted as pensions 36 million euros to the survivors and orphans of the Shoah, sons and daughters of the deportees.

A public commission was put in place. It is the Commission for Compensation of Victims of Shoah Spoliation. It is an institution beyond all comparisons. It is so because it has a budget that has not been fixed and is extensible.

It is without parallel because the Commission compensates the heirs of victims of the Vichy Regime, whatever the nationality and the moment of the history. And members of the Commission also regularly go to Israel and to the United States, where a number of survivors and their descendants still live. The Commission

has already compensated 35,000 claims since its inception and a number of claims still lie ahead, but the total number is shrinking every year.

Forty-five thousand pieces of art were restituted immediately after the war; others have not yet found their owners, although oftentimes, these are paintings by Matisse, or even Picasso. To Whom Do All These Paintings Belong? was the title of an exposition which was co-organized by the Ministry of Culture and the Ministry of Foreign Affairs in Jerusalem last year.

On the occasion of this Conference, France has the honor to copreside over the scientific research group on the spoliation of works of art. We thank the Czech Presidency for this Conference and we hope to be able to continue our work in the future and to cooperate. We were bound to respect our commitments, which were taken ten years ago during the Washington Conference, and there is no place for us to congratulate ourselves. We have only done what we were bound to do, and the task to be accomplished is still huge.

In 1995, France acknowledged the responsibility of the French state, or rather of the Vichy Regime in the deportation of almost 76,000 French Jews, and it has embarked on a very active policy to reflect upon the activities that took place during the Shoah.

It is important to understand that the memory of the Shoah and of anti-Semitism as such should not be considered merely as a question that is only interesting to or that only concerns the Jews. The subject of the Shoah must be beyond all categories, it must be a universal topic, and that must be clearly understood, but people must be educated about it. The memory of the Shoah is a universal responsibility, and it has to remain active, and

it has to stay combative because, as I said before, and I am very serious about that, there is a sense of implicit desire to turn the page.

Denying the Holocaust does not just profane victims and insult the survivors. It also deprives the world of the lessons that must be learned, lessons which are as important today as they were sixty years ago. There is no financial compensation that can ever repay those, whose lives were lost. We can never really be compensated. But there is just one thing which is important, and that is to give rise to a new generation of human beings that will be more vigilant and more sensitive to human rights – because it is the pedagogic mission of this memory, which is the site of construction, that will never be fully accomplished.

For several years, education about the Shoah has become mandatory in France in three educational cycles. It is taught to children aged 10, 14 and 17 years.

We are ready today to help all those who want to pursue the effort in order to repair what can never be forgotten, and we know it well. The work of memory does not simply mean to set up an institution. What is necessary is to pass on the message and to educate. It is our responsibility to make sure that the memory will stay alive forever.

I would like to say once again that I am so very happy to be invited to speak to you, and I must also say that, more than ever, I realize to what extent we are responsible for the future. We have to speak about all that we know, about our memories again and again. And today, I am not very calm. I am upset, I am disquieted by many phenomena which spring up and which appear. And the only way to face such danger is to

speaking again and again about our experience. I am very thankful to all of the institutions that have accomplished the major progress in France, and I am confident that they will continue to work and will keep the memory alive. I want to repeat once again that in France a major success has been accomplished, because it was in France that the number of Jews who came back from the camps was the largest, although it was just a fraction of those who were deported. So we have to mobilize ourselves for the sake of the future, we have to think about our children and we have to keep talking about horrors, so as never to forget and so as to transmit the memory, because this is our responsibility, it is the responsibility for the future of our children and of the Jewish people.

► **Elie Wiesel**

AUTHOR, NOBEL LAUREATE, USA

I remember: On April 18, 1944, on a house to house operation destined to rob all Jewish families of their fortunes, a policeman and an elegantly dressed Hungarian lieutenant entered our home in Sighet and asked for all our valuables: he confiscated: 431 Pengos, our entire cash, 1 camera, my fountain pen, 1 pair of seemingly gold earrings, 1 golden ring, 1 silver ring, 3 ancient silver coins, 1 military gas mask, 1 sewing machine and 3 batteries for flashlights.

They dutifully signed a document, which I have in my possession, and left for my grandmother Nissel's home, two houses away. She was a war widow. Her husband, my grandfather whose name, Eliezer, I try to wear with pride, fell in battle as a medic. In mourning, a profoundly pious woman, she wore black clothes, rarely spoke and read Psalms uninterruptedly.

A similar official document listed her valuables: one Pengo, two coins, three smaller coins. And two pieces of 21-cm tall solid brass candlesticks. That is all she possessed.

Bureaucracy was supreme and eternal even then: whether official murder or robbery, not fearing embarrassment or retribution, everything had to be recorded. Why the Hungarian and German armies needed what was her pitiful life's savings and her Shabbat candlesticks to win their war is beyond me. At times I am overcome with anger thinking of the red coat my little 8-year-old sister Tsipuka had received for our last holiday: she wore it in Birkenau walking, walking hand in hand with my mother and grandmother towards... A daughter of an SS must have received it as a birthday present.

Just measure the added ugliness of their hideous crimes: they stole not only the wealth of the wealthy but also the poverty of the poor. The first transport left our ghetto one month later.

Only later did I realize that what we so poorly call the Holocaust deals not only with political dictatorship, racist ideology and military conquest; but also with... financial gain, state-organized robbery, or just money. Yes, the Final Solution was also meant to remove from Jewish hands all their buildings, belongings, acquisitions, possessions, valuable objects and properties... industries, art works, bank accounts... and simple everyday objects... Remember: before being shot by Einsatzkommandos, or before pushed into the gas-chambers, victims were made to undress... Six million shirts, undershirts, suits, scarves, pairs of shoes, coats, belts, hats... countless watches, pens, rings, knives, glasses, children's toys, walking sticks... Take any object and multiplied it by six million... All were appropriated by the Third Reich... It was all usefully calculated, almost scientifically thought through,

programmed, industrialized... Jews were deprived of their identity, and also of their reality... In their nakedness, with names and title and relations worthless, deprived of their self-esteem, of being the sum total of their lives both comprised all that had accumulated in knowledge and in visible categories...

When the war ended, what was the first response to its unspeakable tragedy? For us individual Jews, the obsession was not vengeance but the need to find lost family members. Collectively, in all DP camps, a powerful movement was created to help build a Jewish State in Palestine.

In occupied Germany itself, the response moved to the judiciary. The Nuremberg Trials, the SS trials, the Doctors' trials. Wiedergutmachung, restitution, compensation: were not on the agenda. The immensity of the suffering and accompanying melancholy defied any expression in material terms. In liberated countries, in Eastern Europe, surviving Jews who were lucky enough to return to their homes and/or stores were shamelessly and brutally thrown out by their new occupants. Some were killed in instantaneous pogroms. Who had the strength to turn their attention to restitution?

Then came the Goldmann-Adenauer agreement on Wiedergutmachung. The first Israel-German conference took place early in 1953 in Vassenaar, Holland. Israeli officials and wealthy Jews from America and England allegedly spoke on behalf of survivors, none of whom was present. I covered the proceedings for Israel's Yedioth Ahronoth. I disliked what I witnessed. I worried it might lead to precarious reconciliation. It did. The icy mood of the first meetings quickly developed in friendly conversations at the bar. Then also, deep down, I opposed the very idea of "Shilumim" I felt that money and memory are irreconcilable.

The Holocaust has ontological implications; in its shadow monetary matters seem quasi frivolous. In the same name of Israel's national interest, David Ben Gurion's attitude was, on the other hand, quoting the prophet's accusation of David, "Haratzachta vegam yarashta": Should the killer be his victim's heir? Logic was on his side; emotion was on mine.

In the beginning, we spoke about millions, at the end the number reached billions. International accords with governments, insurance companies, private and official institutions in Germany, Switzerland and various countries. In Israel, local industry benefitted from the endeavor. As did needy individual survivors elsewhere too, including Europe and America.

Throughout those years, chroniclers, memorialists, psychologists, educators and historians discovered the Holocaust as their new field of inquiry. Some felt inadequate and even unworthy to look into what mystics would call the forbidden ground. Having written enough pages on the subject, I confess that I am not satisfied with my own words. The reason: there are no words. We forever remain on the threshold of language itself. We know what happened and how it happened; but not why it happened. First, because it could have been prevented. Second, the "why" is a metaphysical question. It has no answer.

As for the topic before us this morning, I am aware of the debate that was going on within various Jewish groups on the use to be made of the monies requested and received: who should get how much: institutions or persons? The immediate answer is: both.

However, it is with pained sincerity that I must declare my conviction that living survivors in poor health or in financial need deserve first priority. They suffered enough. And enough people

benefitted from their sufferings. Why not do everything possible and draw from all available funds to help them live their last years with a sense of security, in dignity and serenity? All other parties can and must wait. Do not tell me that it ought to be the natural task of local Jewish communities; let's not discharge our responsibilities by placing them on their shoulders. We have the funds. Let's use them for those survivors in our midst who are on the threshold of despair.

Whenever we deal with this Tragedy, we had better recall the saying of a great Hasidic Master: If you wish to find the spark, look for it in the ashes.

Plenary Speeches

Plenary Session, Sunday, June 28, 2009

► Štefan Füle

MINISTER FOR EUROPEAN AFFAIRS, CZECH REPUBLIC

Before I open the Plenary Session, let me stress once again that I find it very significant that the Holocaust Era Assets Conference marks the very end of the Czech EU Presidency.

The countries of the European Union are bound together by a common history. The atrocities of the Second World War and, in particular, the Holocaust, certainly represent its darkest part. Although a lot has been achieved in reconciling the legacy of the Shoah, important issues remain open, the fate of Holocaust survivors and their assets being one of them.

Given that Czech history and cultural heritage are closely intertwined with and deeply influenced by Jewry, we believed that it was our moral obligation to bring this issue to the European spotlight during our Presidency. Because, as we know, time is of the essence here.

Five experts' sessions are going to address the most pressing educational, social, cultural, and material issues this morning. The *Special Session on Caring for Victims of Nazism and Their Legacy* will discuss the welfare needs and efforts to provide assistance to the victims of Nazi persecution. The importance of conveying the Holocaust legacy to future generations through

education and research will be dealt with by the *Working Group on Holocaust Education, Remembrance and Research*. The *Working Groups on Immovable Properties, Looted Art and Judaica and Jewish Cultural Property* are going to engage in finding solutions to remedy the remaining issues related to the confiscation of Jewish property, works of art and cultural artifacts during the Second World War.

I am convinced that the discussions to follow will bring an important contribution to these serious matters.

► **Stuart E. Eizenstat**

FORMER DEPUTY TREASURY SECRETARY
AND UNDER SECRETARY OF STATE, USA

I want to thank the Czech government for hosting this historic conference, and for the leadership, vision and determination they have put into making it a success – especially Alexandr Vondra; Ambassador Miloš Pojar, and Denisa Haubertová.

I am speaking at the Czech government's personal invitation, not as head of the US delegation.

We should not see Prague as a time to close the door on the Holocaust and assign it to history, but rather as the occasion for a new burst of energy, dedication and determination to honor the memory of six million Jewish victims and millions of others, including Romani, who died at the hands of the Nazi regime, and to provide immediate assistance and a greater degree of justice to Holocaust (Shoah) survivors and other victims of Nazi persecution, many of whom live in abject poverty. The Prague Conference is an historic opportunity to refocus our attention and

regain a sense of urgency. We seek to bring a greater degree of justice, as imperfect as it may be, to those victims who remain. We seek to continue to help survivors and their families reconnect to what was stolen from them. This effort has always been intended to help Jewish and non-Jewish victims.

The Holocaust was not only the greatest genocide in world history but also the greatest theft in history of a people's entire possessions and cultural and religious heritage – a theft of Jewish movable and immovable property, financial assets, insurance benefits, art, Judaica, and Jewish cultural property. In Elie Wiesel's haunting words at the opening session on Friday, the Nazis and their collaborators "stole riches from the rich and poverty from the poor" – who were far more numerous. We cannot bring back the dead from the ovens, extermination camps, and mass graves, but what we can do is to recommit ourselves to remember them, to do justice to their heirs and survivors, to educate generations thereafter, about the Holocaust. We must not let the Conference be merely an event in which we try to show the world that we care with sterling words but without concrete deeds.

There was a 50 year period after the immediate post-war efforts, during which the need to do justice for Holocaust survivors was largely forgotten, except for the major German payments. A number of factors converged to bring the need for justice to victims of the Holocaust (Shoah) and other victims of Nazi persecution back onto the world's agenda and the consciousness of governments and people around the globe:

- The dimensions of the Holocaust became better understood with the opening of World War II-era archives to the public.

- ▷ The end of the Cold War, the collapse of Communism, and post-war anniversaries focused attention on the unfinished matters of World War II, including the inadequacy of post-war restitution.
- ▷ As survivors aged, they began to tell their stories, which had been too painful to share with even their families, before it was too late, and to try to reconnect to what had been stolen from them, following decades when they simply tried to make a new life for themselves and their families.
- ▷ The Clinton Administration took a leadership role, first for the return of communal property – Jewish and non-Jewish – to the re-emerging religious communities following the collapse of Communism; then to mediate a series of lawsuits.

Much has been accomplished in the past 15 years. To address the unresolved issues of compensation, restitution, and remembrance since World War II, several countries took the lead in convoking conferences: the 1997 London Conference on Nazi-Looted Gold, the 1998 Washington Conference on Holocaust-Era Assets, the January 2000 Stockholm Conference on Holocaust Education, and the October 2000 Vilnius Conference on Cultural Property.

A series of lawsuits on behalf of victims were brought in US courts against the Swiss, German, Austrian, and French corporations implicated in the Holocaust, for slave and forced labor, the payment of insurance policies, and for recovery of hidden bank accounts. The US government mediation led to agreements that provided USD 8 billion in new compensation, a substantial portion of which went to non-Jewish victims of Nazi persecution.

- ▷ The 1998 *Swiss Bank* investigation discovered tens of thousands of hidden bank accounts. This led to a settlement of USD 1.25 billion, over 1 billion of which has been disbursed to over 440,000 Holocaust survivors and their families.
- ▷ The establishment in 1998 of the *International Commission on Holocaust Era Insurance Claims (ICHEIC)*, which included nearly all insurance companies in Europe that had issued a significant number of insurance policies to beneficiaries of Holocaust victims. ICHEIC paid some 48,000 claimants USD 306 million using relaxed standards of evidence, and another USD 169 million for humanitarian programs for the benefit of survivors worldwide.
- ▷ The *German Foundation* agreement of July 2000 led to payments of more than EUR 5.1 billion to over 1.6 million victims of Nazi persecution, the vast majority of whom were non-Jewish forced laborers in Poland, Ukraine, Russia, and other countries of Central and Eastern Europe. In addition, the Foundation covered insurance claims and claims for personal property losses. And all of the funds were paid out by 2007.
- ▷ The US agreements with Austria of 2000 and 2001 led to payments programs of nearly USD 1 billion, almost all of which have been disbursed, including funds to 132,000 forced and slave laborers, the majority of whom were non-Jewish. A fund of over USD 200 million for individuals, whose property was confiscated by the Nazi government, is now being disbursed.

- ▷ The 2001 agreement between the United States and France led to some EUR 38 million in payments. France has also distributed EUR 410 million to 25,000 victims of property spoliations.
- ▷ It is particularly noteworthy that Germany and Austria have established foundations for the future as part of these agreements for projects of education and tolerance, as a way of honoring Holocaust victims and other victims of Nazi persecution and bringing lessons learned from the Holocaust to our problems today.
- ▷ In addition, France, the Netherlands and Belgium undertook to resolve Holocaust-era claims by creating national commissions.

Like the Holocaust itself, the efficiency, brutality, and scale of Nazi art theft was unprecedented in history. Experts have estimated that as many as 600,000 paintings were stolen, 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 swell into the millions.

At the Washington Conference, we obtained a consensus from 44 countries on a voluntary set of *Principles on Nazi-Confiscated Art*, which profoundly changed the world of art. The guidelines have important moral authority. They called on museums, galleries, and auction houses to cooperate in tracing looted art through stringent research into the provenance of their collections. Leeway was to be given in accepting claims. An international effort was to be made to publish information about provenance research. A system of alternative dispute resolution was to be considered to prevent art claims from turning into protracted

legal battles. Since none of these principles was legally binding, one may legitimately ask whether anything has really changed. The answer is unequivocally yes.

Major auction houses conduct thorough research on artworks that they bring to market, museums examine the provenance of any prospective purchases carefully; and private collectors consider the prior history of paintings they have under consideration. Some 164 contributing US art museums have developed a creative web “search engine,” with over 27,000 works posted, which allows potential owners of Nazi-looted art to input their claim into one place, and have it considered by all the museums linked to the search engine. And hundreds of artworks have been returned to their rightful owners.

The political will generated at the Washington Conference revived interest and activity in Holocaust issues. There is no greater success story than the *Task Force for International Cooperation on Holocaust Education, Remembrance, and Research*. The 27-nation Task Force has focused its strengths in teacher training in Central and Eastern Europe. On the diplomatic front, in 2006, the Task Force issued a strong statement, carried widely in the European and international media, condemning Holocaust denial and anti-Semitism.

What Remains to Be Done

With all that has been accomplished, some may wonder why, nearly 65 years later, we are still addressing restitution and compensation issues. It is because our work to rectify the wrongs of the Holocaust remains highly incomplete, and because many civilian victims of Nazi barbarism continue to live in terrible and unacceptable circumstances today.

For all that has been accomplished, some areas, like private and communal property restitution and compensation, have barely scratched the surface in Central and Eastern Europe; social needs for survivors worldwide are greater than ever; and art restitution and recovery results are disappointing in many countries. Meeting these and other challenges must be the work of the Prague Conference.

In the USA, Central Europe, and Israel, tens of thousands of elderly survivors today live at or near the poverty level. Our first priority must be to deal with the social needs of survivors, many of whom live in poverty, without adequate access to medical and home care and to medicines, including in my country, the United States of America. It is unacceptable that those who have suffered so grievously during their lives should continue to suffer in their declining years. This is a worldwide problem. It requires a worldwide response.

Governments should recognize the special needs of Holocaust survivors and other Nazi victims, who may be more vulnerable than the rest of the elderly population, and consider a variety of creative mechanisms to provide assistance to needy survivors, including special pensions to non-residents, and the use of assets from heirless property. In almost all European countries, heirless property reverts to the state. But, in the case of heirless property owned by Holocaust victims whose entire families were killed by the Nazis, national governments should not be the ultimate beneficiaries. Funds obtained from such heirless property should be used to assist living Holocaust survivors and other victims of Nazi persecution.

As in so many other areas, the Czech Republic has shown special leadership, which other countries could emulate by providing

an additional pension for survivors of concentration camps. Austria also offers a positive example by expanding home care to all former citizens who were persecuted by the Nazi regime and reside abroad.

France has developed a series of programs that set an example for other countries – restitution or compensation for victims of property spoliations, and a pension or lump sum for orphans of deportees.

In insurance, we need to give the victims and their heirs the confidence that everything has been done – and will be done – to track down insurance policies. ICHEIC companies should renew their commitments to continue accepting all Holocaust-related claims despite the closedown of ICHEIC.

While there has been some progress in the way the art market functions and some important artworks have been returned, there have also been some areas where there has been only minimal progress, or no change at all. Large gaps remain between the Washington Principles and the current reality. It is high time that all states here fulfill the promise of the Washington Principles. Several countries, led by Austria, the Netherlands, and the UK, have actually incorporated the essence of the Washington Principles into their domestic legislation. Too few people have recovered too few of their Nazi-looted art works and too many works remain in museums in Europe and around the world.

It is time for Europe to embrace the 1999 *Council of Europe Resolution* and the 2003 *European Parliament Resolution* and take concrete steps to develop and implement common principles with respect to issues of looted art, cultural and movable property.

Except for a few countries, most have not undertaken open archival access and thorough provenance research, nor have they published the results. The *Terezín Declaration* stresses the importance of completing this task, without which the goal of the Washington Principles will not be fulfilled. In Germany, which has undertaken such research, State Secretary Bernd Neumann said Germany has “thousands and thousands” of looted artworks in its museums today. Russia may have the largest amount of Nazi-looted art, but despite an excellent art restitution law, the Russian government has done little to implement it. Some US museums also need to do more provenance research. In many states, there is no searchable centralized register. Some states permit no restitution at all from public museums. Few countries have an effective national claims process. Countries should redouble their commitment to alternative dispute resolution mechanisms. The USA should work with all stakeholders to develop an expert advisory group, modeled on that of the UK, to assist claimants and museums to resolve ownership disputes.

I am also concerned by the tendency for holders of disputed art to seek refuge in technical defenses to avoid potentially meritorious claims, including statutes of limitation; adverse possession; de-accession laws; and export control laws, which bar the export of looted art back to their rightful owner, even when its ownership has been established.

No country has a moral right to hold onto property that belonged to Holocaust victims. Where there is a living owner or heir, the property should be returned to that person. Where there is no living owner, countries should consider using some portion to help needy survivors in their declining years.

The biggest gap we hope to address in Prague is to find an effective way to encourage governments in Central and Eastern Europe to provide for the restitution or payment of compensation for wrongfully confiscated personal immovable property. This issue was largely ignored between the mid-1950s and the 1990s.

While several countries have created modest compensation funds in lieu of property restitution, virtually no Central or Eastern European country has created a transparent, non-discriminatory restitution or compensation program. Reasonable, affordable compensation is a better way to handle confiscated private property now in private hands than restitution since displacement of current owners is not feasible.

The largest amount of Nazi-confiscated Jewish real property is located in Poland. Poland has repeatedly committed to pass legislation to establish a compensation process, but has yet to enact it. Poland has shown positive leadership on Jewish memorial sites and on Jewish and, most recently, Catholic, communal property restitution. We look forward to seeing similar leadership regarding immovable property.

But other countries in the region should do likewise, as it is advantageous for them, as well as for claimants. It can remove clouds over title, broaden the availability of title insurance for smaller properties, facilitate the privatization process and enhance the rule of law. Many countries need to do more on communal property used for religious or secular purposes. The Lithuanian government has made a recent useful proposal to its Parliament to pay around USD 45 million in compensation for communal property, which represents only a fraction of the current value of wrongfully seized Jewish communal property. We hope that the restitution of several communal buildings can be added.

Victims and their families are usually left to themselves to pursue their looted art and property. I recommend that governments consider establishing offices to facilitate their claims. The wholesale looting of Judaica and Jewish cultural property has meant that much of this historical patrimony could not be reclaimed after the War. We need to establish procedures that will lead to a return of this property, either to the original owners or heirs, or to appropriate religious and cultural organizations.

Governments need to make archives of all kinds related to the Holocaust available to the fullest extent possible to the public and to researchers in accordance with established international guidelines. Israeli leadership would set an example for other countries. Information remains essential to vindicating the rights at issue and to ensuring that the history of the Holocaust is as complete and well documented as possible.

I am pleased to announce that the National Archives of the USA, the UK, and Germany launched a joint international project to extend access to records relating to Holocaust-era looted cultural property. By mid-2010, approximately three million documents will be digitized, indexed, and made available online for researchers worldwide. The plan is to include over time other archival and research organizations with pertinent holdings or databases. I hope other countries will join this important international effort.

Government authorities and civil society should ensure that the unmarked mass graves with the remains of Nazi victims should be identified and protected, and memorial sites created and protected.

Conclusion

The Terezín Declaration is an excellent document. It is our collective responsibility to convert these words into actions, to implement the non-binding promises into reality. The Terezín Institute, as the first follow-up mechanism for any international Holocaust Conference, can help provide best practices and guidelines in all of these cases, including an impetus for action. For example, The Terezín Institute will facilitate the development of voluntary guidelines and best practices for restitution and composition of wrongfully seized immovable property that comports with EU law, and in other areas covered by the Terezín Declaration. All this will require political will on the part of our governments and our private sector — in Elie Wiesel's words, to create sparks in our hearts out of the ashes. How we honor these voluntary pledges will speak volumes about whether we can rise to the challenge of making certain that in the 21st century we properly remember and honor those who suffered so grievously in the 20th century in history's worst genocide and theft.

► Tom Eric Vraalsen

CHAIRMAN, TASK FORCE FOR INTERNATIONAL
COOPERATION ON HOLOCAUST EDUCATION,
REMEMBRANCE, AND RESEARCH, NORWAY

Mr. Chairman, Honorable Delegates, Ladies and Gentlemen:

Before the end of 1998, delegations from five countries held a meeting in Washington, DC concurrently with the first Holocaust-Era Assets Conference.

Inspired by the ongoing deliberations in that conference they declared their commitment “to encourage parents, teachers and civic, political and religious leaders to undertake with renewed vigor and attention Holocaust education, remembrance and research.” Other countries were called upon to strengthen their efforts in these fields and undertake new ones where necessary.

This was the birth of what has become *The Task Force for International Cooperation on Holocaust Education, Remembrance, and Research* (ITF or “Task Force”). I believe it is right to say that the Task Force is a true child of the environment and political atmosphere created by the first Holocaust-Era Assets Conference.

The Washington Conference initiated restitution processes in many countries. The time has come to revitalize this work. Not only because of economic restitution, but because compensation is based on acceptance of responsibility.

Convinced that Holocaust and the lessons learned from it should never be forgotten, Former Swedish Prime Minister Göran Persson invited the members of the ITF and other interested governments to participate in *The Stockholm International Forum on Holocaust Education, Remembrance and Research* in January 2000. The outcome was a message for the future. It highlighted mutual understanding as one of the important lessons to be learned from the Holocaust. It underlined the responsibility of the international community to fight the evils of genocide, ethnic cleansing, racism, anti-Semitism and xenophobia. This document, the *Stockholm Declaration*, became the basis document for the ITF. This is still the case.

This week we successfully concluded the summer Plenary Meeting of the ITF in Oslo. The membership now stands at 27 countries.

Seven more countries are officially affiliated with the ITF. Still others are looking to join. The growth in membership, and the fact that the ITF has to operate on a rapidly changing global scene, present new challenges and opportunities. We stand ready to face the new challenges and to benefit from the opportunities.

The ITF has come a long way since its inception. However, its work is far from completed. We are fully aware of that. There is a need to strengthen the ITF as a vehicle for political action. We wish to increase the ITF's influence as an international organization. The ITF is unique as it brings together representatives of governments, academia and non-governmental organizations. We wish to make better use of the ITF's reservoir of knowledge and experience on the Holocaust. In the ITF's Working Groups on Education, Remembrance, Academic Affairs and Communication, you will find the best and most highly qualified experts on the Holocaust.

At the plenary meeting in Oslo, we unanimously adopted several important resolutions. When implemented, they will make the ITF an even stronger organization. We have lofty goals, we are ambitious, we wish to be successful, and we wish to be an active partner in the global efforts to make the world a better and more secure place.

Anti-Semitism is increasing globally. Racism and xenophobia continue to flourish in many countries. As the results of the elections to the European Parliament show, the rise of ultra right-wing parties is not a thing of the past. It is occurring in Europe today.

Knowledge of our dark past is necessary to fight contemporary anti-Semitism and racism. Genocide and crimes against humanity are still happening in many places in the world. Knowledge

about the background, purpose, and significance of the Holocaust is essential to raise public awareness and to mobilize forces to push back such tendencies and trends. Adult and children must be aware of what happened, of the unprecedented tragedy, of the destruction of Jewish life in Europe and how seemingly civilized societies can implode and commit genocide.

As the only inter-governmental organization devoted exclusively to the memory of the Holocaust, the ITF is uniquely positioned to lead the charge against ignorance. To take on and to succeed in this role, the ITF must raise its profile throughout the world. It must gain political traction to achieve these goals. That is what we are working for. That is what we will do.

To achieve our objectives, we are open to making required changes in our working methods. We are developing mechanisms to alert us to pernicious developments in our own societies. We will reach out and invite other countries to join us in the struggle. The ITF stands ready to play its part. We are ready to cooperate with the Terezín Institute. Our common endeavors must be based on a clear division of work. We must not duplicate.

I recently visited Auschwitz. As anyone who has ever been to these places of mass murder can tell you, they sear the horrific reality of the Holocaust into one's memory forever. ITF will continue to build a bridge between the terrible events in Europe's recent past and the values of the younger generation of the global community.

We must preserve sites of the Holocaust mass murder. This is an important part of ITF's work. The international community has an important responsibility to contribute to such preservation.

We need to constantly remind ourselves of the fragility of human life and the vulnerability of our societies. We must preserve the memory of the Holocaust for posterity as a lesson in the moral failure of humanity. We do so with the hope that we can indeed learn from the past.

I wish the organizers of this important Conference every success.

Wallenstein Garden Reception, Sunday, June 28, 2009

► Přemysl Sobotka

PRESIDENT OF THE SENATE,
PARLIAMENT OF THE CZECH REPUBLIC

Honorable Ladies and Gentlemen:

I welcomed this Conference on the fate of Holocaust era assets that the Government of the Czech Republic decided to organise some time ago, primarily because the history of the Holocaust and above all the fight against all incarnations of anti-Semitism and neo-Nazism are topics that are very close to the Czech Senate, over which I have the honor of presiding, and we have clearly demonstrated this by our actions on more than one occasion in recent years.

It was with great interest that I familiarised myself with the main goals of this Conference, which include reviewing the development of this issue that has taken place since the conference in Washington in 1998 and the declaration made in Stockholm in 2000, which set as its goal the assessment of the impact of activities on education, remembrance, and research about the Holocaust. I trust that the proceedings in Prague have also been successful and fulfilled their goals.

I obviously identify with the aims of this Conference, but I must also profess that, aside from coming to terms with the negative facets of our history and supporting the righting of at least a

fraction of the wrongs that the Holocaust caused, I am personally, along with practically the entire Czech Senate, a staunch opponent of all tendencies that attempt to revive the dark traits in man that brought us to two terrible world wars in the last century.

For this reason I consider significant this Conference's effort, "to discuss new, innovative approaches in education, social programmes and cultural initiatives related to the Holocaust and other National Socialist wrongs and to advance religious and ethnic tolerance in our societies and the world."

I trust, despite the aggressive skin-headed loudmouths in the streets of Europe and the populist rabble-rousers among the ranks of some politicians, say in Tehran, that common sense will emerge victorious and that the decent people of this world will band together in time to stop these proclaimers of evil and hatred in their tracks.

Thank you for your attention and welcome to the Czech Senate.

► Madeleine Albright

FORMER SECRETARY OF STATE, USA

Good evening and I am very pleased to be here with you at this very important gathering. I was born in Prague and I am very pleased when I can come back here.

Mr. President:

I am particularly pleased to be here with you, as you remember, we were here some months ago to commemorate the

tenth anniversary of the Czech Republic's membership in NATO. We have come here to think about a very important topic, the theme of this Conference, what to do about the restitution of assets.

I am especially proud to be here again with Stuart Eizenstat, who was the person during the Clinton administration, who worked on these issues, and this is his abiding interest, and I am very proud to be working with him again. I do think that this is a subject of great concern. First of all, for the people who need to have justice, but also, as the President of the Senate said, because we cannot be in a position where we forget what has happened.

This is a subject of the Holocaust that is with us every day in some form or another, and the people that suffered from it will never be able to have restitution. But their families and survivors are the ones who need a lot of help. But mostly, I think we just cannot forget. And there is a tendency, I think, to try to set aside history in many different occasions and mainly because so much history is being made every day.

But we cannot forget history, what happened in this part of the world and throughout is something we can never forget. I have to say that I especially am deeply moved that you are all going to go to Terezín. I only learned recently of my family's association and my own historical connection with that place.

And so thank you very much for everything you are doing, thank you for all the work that you will continue to do in dealing with this very difficult subject. But as the President of the Senate said, I think more than ever, especially when there are Holocaust deniers, who seem to speak with false authority,

we need to be stronger than ever, we have to be people that will never accept that there are those who are discriminated against and those who die for their beliefs.

Thank you all very much for being here.

Plenary Session Opening Remarks, Monday, June 29, 2009

► Jan Kohout

MINISTER OF FOREIGN AFFAIRS, CZECH REPUBLIC

Ministers, Excellencies, Distinguished Participants, Ladies and Gentlemen:

I am pleased to welcome you on behalf of the Government of the Czech Republic to the Holocaust Assets Era Conference in Prague and Terezín.

Eleven years ago, representatives of 42 countries met in Washington at a groundbreaking conference that paved the way for many activities benefiting Holocaust survivors and other victims of Nazi tyranny from Central and Eastern Europe. Until that time, they had almost no access to any form of compensation.

These 11 years did not, and could not, bring comprehensive reparation; however, they did at least partly alleviate the consequences of the wrongs caused by the Holocaust. I am very pleased to welcome all those, who have worked to move ahead with the process started in Washington, and who also greatly assisted us in preparing this Conference. Let me mention at least one of them – Ambassador Eizenstat.

We are meeting here to review the work we have done in recent years and, above all, to identify the areas in which we should increase our efforts. And, as the survivors are advancing in age, we

must keep in mind that this Conference should bring prompt as well as tangible results as a sound basis for follow-up activities.

While we do have our own memorials to the Holocaust here in the Czech Republic, I should mention that, as you certainly know, we are hosting this Conference in our capacity as the current holder of the Presidency of the Council of the European Union. In this context, let me make just a brief remark about Europe.

Somebody said, quite fittingly, that Europe was founded on the Sinai and Golgotha on the one hand, and on the Athenian Acropolis and the ancient Roman capitol on the other.

The first Czechoslovak President, Tomáš Garrigue Masaryk, said that a state is upheld by the ideas on which it is founded. This can also be said of the European Union, which was founded on the idea of promoting peace and stability on a continent that still had a vivid memory of two world wars and the horrors of the Holocaust. This terrible experience cost millions and millions of human lives and underscored the urgent need for the peace that we are now able to enjoy. Indeed, today we Europeans can almost take peace for granted. Perhaps even too much so. And we tend to forget that our history is also the history of wartime atrocities and the intolerable sufferings of the victims of the Nazis. It was their legacy that has, in fact, brought European states together again. And it is what obliges us to take action today – action oriented towards the past, to benefit the victims and survivors, as well as towards the future, to benefit young people.

For this very reason the Czech Republic considers it necessary at this Conference to underline the European dimension – the

European Union's shared responsibility and readiness to increase its role in Holocaust education and research, in caring for the survivors as well as in caring for memorials in what had been concentration camps. That is, in areas which today are primarily the responsibility of states, the international community and non-governmental organizations. I do not believe that Europe is using its full capacities in these areas.

For the same reason, the Czech Republic decided to initiate the establishment of the *European Institute for the Legacy of the Shoah* in Terezín. The Institute will provide a platform for the exchange of information and experience, as well as specific support for national initiatives and projects designed primarily for Holocaust victims in the key areas that I have mentioned. It will be a visible step and a clear signal in the fight against racism, xenophobia and anti-Semitism. The European Commission's signature under the Declaration that will be signed here in a few minutes will reinforce this, as does the support shown by many states and non-governmental organizations during preparations for this Conference. The Institute will be set up in the very near future, so that about this time next year we should see the first results of its mission as outlined in the Terezín Declaration. And I want to use this opportunity to invite you all to cooperate actively with the Institute, which will be open to everybody – individuals, non-governmental organizations, as well as governments and European and international institutions. We look forward to your suggestions and cooperation.

The Prague Conference is not only about Europe and the legacy of the Shoah. It is primarily about very specific questions and answers in areas such as care for the survivors, Holocaust education and research, immovable property, looted art and Jewish cultural property and Judaica. These issues have been discussed

by experts, non-governmental organizations, and states. Today we will hear the results. I would only remind us all that we must turn the recommendations into reality quickly, without too much red tape, to make them as efficient as possible.

This is what we have been trying to do in the Czech Republic, and this is how we have managed to help the victims as much as we can. One item of proof of this is the EUR 130 million distributed so far to Nazi victims in the Czech Republic. Of this sum, almost EUR 100 million went to social welfare, either in the form of lump-sum compensations and various benefits, or in the form of elderly care services provided free of charge. When the Czech government, in 1998, decided to take an active part in the international process of dealing with the consequences of the Holocaust, we included in our policy statement a commitment to address the property-related claims of individuals and Jewish communities that had not been settled earlier. And that commitment has been followed by real results. Communal property restitutions have made tangible progress and a *Foundation for Holocaust Victims* has been created to provide at least symbolic compensation to certain individuals. There has been a marked improvement in Holocaust education, largely thanks to cooperation with the Task Force for International Cooperation on Holocaust Education, Remembrance, and Research.

However, it cannot be denied that, despite efforts to put into place a comprehensive policy embracing individual restitutions as well, we are still hampered by complex legislation that, in some cases, poses problems in restitution processes and research. We hope that in this respect, too, we will be able to take steps to ensure that the Czech Republic remains fully able to comply with the principles of the Washington Conference as

regards, for example, the restitution of artworks confiscated or looted by the Nazis.

And I welcome this opportunity to express our special thanks, respect and admiration to the survivors. You have been a great help and support in preparing this Conference. The expert conclusions that you have drawn up together with the experts and non-governmental organizations will be one of the most important outcomes of this Conference, together with the Terezín Declaration. I know that some of you have travelled far to be here with us today – once again, welcome and thank you.

I also thank Mr. Miloš Pojar and members of the organizing committee, representatives of the European Commission and all of the states who have actively contributed to the preparation and success of the conference – above all, the Friends of the Chair.

Now, before signing the Declaration between the European Commission and the Czech Republic, let me return to the Terezín Declaration. Yesterday the experts reached an agreement on its text, and I would like to express my gratitude to the representatives of 46 states that approved the Terezín Declaration as well as to the Holy See and Serbia that participated as observers. I am pleased to say that the Declaration will be officially announced by the Czech Prime Minister at tomorrow's concluding ceremony in Terezín.

Thank you for your attention. And thank you all for attending the Prague Conference.

► Ján Figel'

MEMBER OF THE EUROPEAN COMMISSION RESPONSIBLE FOR EDUCATION, TRAINING, CULTURE AND YOUTH, SLOVAKIA

I am happy to be here and to contribute to the spirit of one for all, all for one in the Commission, but also in this community of people who are caring, who want not only to pay tribute, but also to take action, remembering and bringing some justice and lessons for future. I see this meeting as a combination of the Czech Presidency's agenda and program and deliberations on many internal and external issues. I think it is not only a highly symbolic gathering, but also a demonstration of the commitment and engagement of this country and government in this area.

Sixty-four years ago, Europe woke up from the worst nightmare in its modern history. Millions and millions lost their lives, millions their loved ones and their homes. Entire populations were uprooted, borders were shifted, and nations annihilated. It was said that no poetry could ever be written after the horrors of Auschwitz. And yet, the peoples of Europe found the new strength and capacity to rebuild their cities and nations. More importantly, they rebuilt their polity and their fabric, moral fabric. It was clear that we could not survive another conflict of that magnitude. The countries and peoples of Europe needed to begin to trust and to respect each other again. The process of European integration took an amazing turn in the post-war years.

We are part of it now. Half a century later, we can marvel at the unprecedented period of peace and prosperity that European integration has brought to this continent. In the course of history, these developments do not happen by chance. Surely not by accident or automatically. It takes decades of effort, courage and political vision. Today, twenty-seven European countries are bound

together because they share important parts of their history. But why are they all together? Because they decided to build a common future. We can learn from history, but we are responsible for what we do today, for tomorrow.

As you know, I come from this part of Europe. I have always felt myself to be a part of Central Europe and had a lot to do to explain to Westerners that there is not only East and West, but also Mitteleuropa, or Central Europe. For a long time this region was ruled by undemocratic regimes, ending only recently. People of my generation have a truly special appreciation for the achievements of our united Europe. The fundamental values on which this Union is built, such as freedom, democracy, respect for human rights, and solidarity, have a special resonance. Despite the passage of time, it is still early to take these values for granted.

Twenty years have passed and there is a new generation; one without real knowledge of the totalitarian regime. However, it would be a great mistake to take the status quo for granted. We cannot afford to be complacent. Neither freedom, nor the rule of law, democracy, or a shared Europe is guaranteed forever. It is a result, as I said, of a lot of victims and struggle. Various kinds of extremism are rearing their ugly heads again in Europe. We must remain vigilant. Against the backdrop of the legacy of the Holocaust, we can see the importance and the value of our democratic principles. We must continue to preserve the sites and the archives. We must continue to remember the victims. Six million Jews and five million others, including civilians, prisoners of war, homosexuals, political activists, Roma, and the disabled. All Europeans, including the younger generations, can draw important lessons from these dark chapters in our history for the present and for the future.

It is particularly important to do so now, as witnesses of those crimes are progressively disappearing. The European citizens of today should remember the Holocaust and reflect on this. Memory and reflection can help people understand the kind of Europe in which they wish to live. I am convinced that the link between the past and the future is essential. The link between yesterday and tomorrow is today. Preserving the memory of our darkest days will also remind us that building Europe will never cease to be a work in progress. We should never cease to remind our peoples that they are citizens of Europe, not tourists in Europe, citizens, something qualitatively higher, something more. Because our common values are the best antidote against the resurgence of violence and intolerance.

These are the main reasons that the European Union supports efforts to preserve the memory of the victims of mass deportations during the eras of Nazism and Stalinism. This is also why I commend the Czech Republic for having organized this big and important Conference. As we heard, its aim is to build on the Washington Conference of 1998. I welcome the fact that, during five days, participants discussed taking further steps to notably redress the material grievances of the Shoah survivors in an international context.

The European Commission runs an action called *Active European Remembrance*. We designed it to keep the memory alive and to pass it down to future generations. Last year, 49 projects were co-financed in a total amount of EUR 1.7 million. The European Commission and its partners believe that these initiatives must do more than simply commemorate the past. For instance, they should help us remember the breaches that the crimes of totalitarian regimes caused to European fundamental values. They should also engage citizens and civil society in reflection on the

origins of the European Union, on the history of European integration, and on today's Europe.

I would like to point out that integration does not mean absorption of newcomers or assimilation of smaller countries or nations, but participation; it means taking part as equals in the community under its agreed rules. We want to make sure that the 60 years of peace among the countries of the European Union and the unprecedented historical achievement becomes a permanent feature of our future. And as I said, responsible people say they know that the future starts today. But the wise and responsible people know that future started yesterday because we have a legacy. We have to learn from that legacy. In a nutshell, *Active European Remembrance* should remind us of our grave responsibilities against the backdrop of the worst pages of European history.

Let me give you a few, really a few, examples of projects related to Holocaust education. Our program is supporting several activities organized by the *Shoah Memorial* in Paris, France. One of these projects is called *Why and How Should We Teach the Shoah in the 21st Century?* The main objective was to give teachers more than tools to pass on the history of the Shoah and share European fundamental values. Key elements of the approach include a tool to reinforce the fight against racism and anti-Semitism and to develop a sense of belonging to a democratic society based on human rights, cultural diversity, and tolerance. Since these years might offer the last opportunity to share the memories of those who lived through horrors of the war, several projects chose to work with direct witnesses. The project *Aus der Vergangenheit lernen!? Lebensgeschichte als Argument* implemented by *Stätte der Begengung* in Germany organizes a number of activities involving young Poles and young Germans, and the witnesses of the Holocaust. Outcomes included a DVD with testimonies and websites.

In the same spirit, several projects focus on preserving, digitalizing and archiving collections of testimonies and interviews, or making them available online, in particular for the younger generations. The *Karta Center Foundation* in Poland has launched an international oral history program for education about the victims of Nazism and Stalinism called *From Individual Biographies to European Remembrance*. And this program is being implemented in cooperation with the *History Meeting House*. This will make it possible to address high school students including foreign students. Outcomes include a website, video recordings, multimedia presentations and educational scenarios. Right here in Prague, the Jewish Museum has also received support to put together a database of testimonies from Holocaust survivors and witnesses, in order to connect all digitized data, archival records and other material related to each witness and each survivor. This work will lead to a wider publication of selected testimonies through a website.

To conclude, I want to say that I am going now with the ministers to sign a Joint Declaration, expressing our support for the founding of the European Shoah Legacy Institute. Vice President Wallström, Vice President Barrot, as well as my colleague, Commissioner Špidla, co-signed the Declaration. I believe that this Institute will serve as a voluntary forum for countries, organisations representing Holocaust survivors and other Nazi victims, and NGOs to note and to promote developments in the areas covered by the Conference and by the Terezín Declaration. It will create a platform to boost cooperation and the sharing of experience among existing institutions and centres, and support the participation of survivors in educational programs.

I believe that this kind of networking is exactly the type of action that we need at the European level. It is the duty of all public

authorities to increase public awareness of this dark legacy of our history. The European Union is willing and ready to offer, within its competences and capacities, its assistance in this process by encouraging discussion, fostering the sharing of best practices, and bringing the various players together, so that they can work in partnership with the European institutions.

I would like to remark that there are two basic factors or criteria for our living together, not only existing together. Firstly, awareness of togetherness, which means that we belong together, we are but one human family, whether here in Europe or around the world; and secondly, consciousness of shared responsibility. Togetherness and shared responsibility, I am sure, can make the 21st century not only a more peaceful, but also a more humane era, and that is our responsibility. Today for tomorrow.

I thank the organizers for this Conference, for their commitment to the fight against racism, xenophobia, and anti-Semitism in Europe and around the world.

Luncheon Keynote Speech, Monday, June 29, 2009

► Rep. Robert Wexler

UNITED STATES CONGRESS, USA

It is an honor to be here, as a member of the American delegation to the Holocaust Era Assets Conference in Prague, with so many distinguished delegations, representatives of non-governmental organizations, and Holocaust survivors and their representative organizations.

I want to especially thank the Czech government for hosting this Conference and to praise the extraordinary efforts of the Friends of the Chair, the advisory board, working groups, Ambassador Stuart Eizenstat, Ambassador J. Christian Kennedy, and countless others who have worked tirelessly over the past year to ensure the success of this Conference and finalize the Terezín Declaration – in the noble pursuit of justice for Holocaust survivors.

Sixty years after the end of one of the darkest periods of human history, it is clear that while there will never be perfect justice for victims of Nazi crimes, it is the moral obligation of the international community to continue to address outstanding Holocaust era issues, including addressing the welfare needs of survivors, opening archives, expanding the reach of Holocaust education, protecting Judaica and Jewish cultural property, and ensuring that victims receive restitution or compensation for immovable property and Nazi confiscated or looted art.

Since the end of World War II, a concerted effort has been undertaken at the governmental and non-governmental levels to assist victims of Nazi atrocities. This process has been painstakingly difficult with many obstacles and setbacks. Despite courageous individuals, governments, and dedicated organizations – fighting to ensure a measure of justice for Shoah victims – we are here today in Prague, 10 years after the Washington Conference on Holocaust-Era Assets, to again address outstanding Holocaust era issues.

It is self-evident that the international community has a moral responsibility to the victims of the Holocaust and to seek justice for those individuals who survived the Shoah.

What primarily motivated me to participate in this Conference is the opportunity to again be an advocate for the needs of Holocaust survivors in South Florida. I am particularly humbled to be in Prague, participating at this Conference with Alex Moscovic, a survivor from South Florida and a leading member of the Holocaust Survivors Foundation, who has testified before the US Congress and is well respected in Washington.

In October 2007, Alex, who is the only one of 41 family members to survive Auschwitz-Birkenau and Buchenwald, emotionally testified before the Europe Subcommittee about the grave plight of aging survivors in the United States, including many that live below the poverty level and lack proper medical care. I was shocked by his stark description of the situation facing many survivors in their advanced age, which is simply unacceptable and must be addressed.

Fortunately, the Terezín Declaration recognizes what Alex and countless others have advocated for some time – the importance of addressing the welfare of survivors and victims of Nazi persecution. The Declaration states that, “it is unacceptable that those

who suffered so greatly... should live under such circumstances at the end.”

While the Prague Conference and the Terezín Declaration clearly raise awareness and offer rhetorical support for addressing Holocaust survivors’ needs, it is essential that we act over the coming months and years to ensure that survivors, who endured immeasurable suffering and trauma and have special medical and social needs, are properly provided for by the international community.

I want to offer my support for the establishment of the European Shoah Legacy Institute in Terezín. As envisioned, the Terezín Institute will follow-up on the work completed at the Prague Conference, breathe life into the Terezín Declaration, and serve as a central clearinghouse for survivors, NGOs, and governments as they determine the best methods and practices to assist needy survivors.

The Terezín Institute will also focus on the restitution of, or compensation for, immovable property. While many European nations have sought to resolve the complex problem of illegally confiscated private and communal property, there are governments that have made numerous promises but have not implemented legislation to provide compensation or restitution to victims of confiscated property or their heirs. Now is the time for these nations to follow the positive examples of their neighbors, and take bold steps toward enacting comprehensive property restitution or compensation legislation.

Again, I want to thank the Czech government and Conference organizers for giving me the opportunity to address this distinguished audience. I look forward to working with all of the Conference participants in the coming months to implement the Prague Declaration and to assist needy survivors in America and across the globe.

Concluding Remarks, Monday, June 29, 2009

► Yehuda Bauer

HISTORIAN, ISRAEL

There appear to be three central questions: why to teach the Holocaust, what to teach, and how to teach it. The genocide of the Jewish people at the hands of Nazi Germany and its collaborators, which we commonly and inaccurately call the Holocaust, was the most extreme form of genocide to date. It was the most extreme case, not because of the suffering of the victims: there is no gradation of suffering, and Jews did not suffer more, or less, than other victims of other genocides. Nor is it because of the number of the victims – perhaps 5.7 or 5.8 million – nor because of the percentage of the murdered Jews out of the total number of the Jews in the world at the time – about 17 million. In the Armenian genocide, perhaps up to a million, perhaps more, Armenians were killed, or died as a result of the genocidal actions, and that was more than a third of the Armenians in Turkey; between 800,000 and one million Tutsi were killed in Rwanda in 1994, and that was some 90 percent of the Tutsi then living in Rwanda. And in China, the victims of the Great Leap Forward, which was what we call *politicide*, that is – a genocidal murder for political, social, or economic reasons – numbered considerably more than the victims of the Holocaust.

No, the reasons are different. For the first time in history, every single person, who was considered by the perpetrators to be a member of the targeted group, that is, the Jews, was to be killed

for the crime of having been born. For the first time in history, this was to have taken place everywhere the German writ ran – that is, ultimately, all over the globe. For the first time in history, the motivation had little, if anything, to do with economic or social factors, but was purely ideological, and the ideology was totally removed from any realistic situation. It took place in the context of a war, which Nazi Germany initiated for reasons that, again, had little to do with real economic or social or political reasons – Nazi Germany started the war in order to conquer so-called living space; but it did not need that living space, because it could get the raw materials and the agricultural products through trade, and it did not need land for its peasants because there was no real surplus of labor in the German countryside. Germany today is a smaller country, with a larger population, and it is flourishing. Most Germans in 1939 did not want a war; they had bitter memories of the last one, World War I. The industrial and banking elite did not want a war, because they were doing quite well. Did the military want a war? No. In September 1938, the German Chief of Staff, Ludwig Beck, and a number of generals, were planning a putsch against Hitler, because they were afraid of a war against Britain and France, with the Soviets still against them. But Chamberlain and Daladier gave up on Czechoslovakia, and so there was no putsch. Of course, it is not clear whether a putsch like that would have taken place, or, if it had taken place, whether it would have succeeded, but it is indicative of what Germany's top military leaders were thinking. So, who wanted a war?

The answer of course is – Hitler; but surely, not just he. He was supported by the Party. The reason for the war is stated clearly in a memorandum that Hitler wrote to Göring in August 1936, which one can find in the Nuremberg Documents of 1945. In that memorandum, Hitler says that Germany has to prepare for war,

because otherwise Bolshevism, which seeks to replace all the leadership groups in the world with international Jewry, will not only endanger Germany, but will annihilate the German people. Hitler and his closest supporters believe that a defeat of Jewish Bolshevism will enable Germany to expand to the East, settle the area with German colonists, and assure a supply of food and raw materials that will guarantee Germany's predominance in Europe, and ultimately, with allies, in the world. All of this can only be done by defeating international Jewry, which controls both Soviet Bolshevism and Western capitalism.

The war, I would argue, was in essence an ideological enterprise, and the economic and political elements were then manipulated into becoming enabling factors. The Holocaust, then, was basically an ideological project that was part of the ideologically motivated project of a war of a power-seeking expansion. Nazism was thus quite unprecedented, and that explains, to a large extent, why the Holocaust is the central issue in any educational process, and not only in Europe, that deals with the world in which we live. Anti-Semitism, and the Holocaust that was its result, was a central motivation for a war in which not only close to six million Jews, but also some 29 million non-Jews, were killed in Europe alone. That means that anti-Semitism, and the Holocaust, caused the deaths of many millions of non-Jewish Europeans. It thus is a central issue for all of civilization, and certainly for European civilization; it is the most extreme form of genocide so far – again, not because the victims suffered more than other victims of other genocides, but because of its unprecedented motivations and character, and because of the global impact it had and has, as the paradigm of genocide generally, and thus it is of tremendous importance for all of us. That is why we teach it.

When dealing with the Holocaust, educators usually address three groups of people: perpetrators, victims, and bystanders. This is problematic, because when you look at this closely, these three categories are not precise, and they often tend to merge, or the borderlines between them become hazy. Thus, *kapos* in concentration camps were victims, but often perpetrators as well. The term “bystanders” includes such disparate groups as the Western Allies, the Soviet Union, Jewish organizations and institutions outside Nazi-controlled areas, Polish peasants most of whom were indifferent, some friendly, and many were hostile even when they did not kill Jews; it includes members of Christian churches who stood by while in front of their eyes Jews were being transported to their deaths or killed, and governments of neutral countries who could have helped but abstained from doing so. However, we use those terms despite the fact that we know they are inaccurate, because we have not developed better ones.

What, then, should we teach? After all, we cannot teach everything, because the series of contexts and events we call the Holocaust are so widespread, and so complicated, and there is so little time in any educational establishment to teach all of this. There were some 18,000 Central European Jewish refugees in Shanghai – should we teach about them? Latin American governments usually refused to accept Jewish refugees – is this a topic to be taught? Should we deal with the Jews of Thrace and Macedonia who were delivered into German hands by the Bulgarian police and army, or should we concentrate only on the rescue of the Jews in Bulgaria proper? Should we go into the details of Greek, Czech, Italian, Norwegian, and other collaborators with the Germans? I think we have to adjust our teaching to local situations and local concerns. Teaching in Greece will probably mean that we have to emphasize the fate of the Jews of Thessaloniki, of Athens,

Corfu and Rhodes, of the Greek collaborators and resistance movements, of the behavior of Jewish leadership groups and ordinary Jewish people, and point out the shades and differences, while being quite sure that we do not diminish the direct criminal responsibility of the German institutions, organizations and individuals. In other countries, parallel emphases will be in order. But there is a danger in this, namely, that we deal with the trees and forget about the forest. There has to be an overall picture, beyond the national history.

We should aim at what one might call the globalization of Holocaust education. By that I mean that we should describe and analyze the Holocaust in its various contexts, vertically – that is, historically – and horizontally – that is, putting it into the global historical, economic, and political context, of its antecedents, its occurrence, and its impact. One does not have to deal with all of this when teaching, not only because of the time constraints, but also because teachers are not trained to have the kind of knowledge that academics spend their whole lives to acquire; but it is important to keep these dimensions in mind.

Considering the perpetrators, one has to face the dilemma that in November 1932, in the last free elections in pre-Hitler Germany, the National Socialists were, in effect, defeated – they lost two million votes and 34 seats in the German Reichstag. They seemed to be on their way out, to a return to what they had been in 1928, when they collected just 2.8 percent of all the votes. In late 1932, the majority of Germans voted for parties that were either clearly anti-Nazi and opposed anti-Semitism, or at least did not support either: the social democrats, the communists, and the Catholic Center, and some remnants of middle-of-the-road parties. But less than six weeks later the Nazis were in power, not because of any victory at the polls, but because of

the machinations of the conservative Right and the violent disagreements among the non-Nazis. By 1940 and 1941, there was no problem any more in recruiting any number of Germans to become mass murderers. How does one explain this?

German historians have pointed out that there was a combination of an economic upswing and a very clever use of social policies that seemed to improve the lot of the Germans. They managed, to a considerable degree, to reestablish social cohesion, which had been destroyed as a result of a lost war and two major economic crises, in the early twenties and from 1929 on. A resurgent Germany won easy international victories, destroying the effects of the Versailles Treaty and reestablishing Germany as a major political and military European power. The rise from the economic crisis was not really the result of the regime's policies, but rather of the fact that, prior to the Nazi accession to power, the German economy had reached its lowest point and had begun to recover. The Nazis thus rode a wave of improvement, and some of their policies were in line with the rise in production, although there was no appreciable rise in the standard of living. But the absorption of the huge masses of unemployed into even low-paid jobs made the regime very popular indeed.

In addition, Nazi social policies dealt, for the first time, rather effectively, with the problem of the millions of war widows and wounded ex-soldiers, by raising pensions. All this amounted, in a way, to bribing the population, and was accompanied by massive ideological propaganda that reached into every family, in every corner of the country. Some historians emphasize that many murderers were not directly ideologically educated; but they forget that the whole society had been under an ideological indoctrination campaign for seven to eight years, and on its margins

– sometimes fairly wide margins – there was the continuous threat of an increasingly efficient terror machine that was used in a determined way to prevent any political or ideological opposition from taking root. Nazi policies were paid for by using up foreign currency reserves, and by an inflationary policy that was held back by milking the populace through a clever taxation policy. Real prosperity was aborted by massive rearmament, and thus the whole economic structure was endangered. As already indicated, war was an aim that would provide temporary solutions to Germany's inevitable economic and financial crisis by robbing the occupied, conquered, and allied countries, primarily by taking away the property of the Jews.

The Linchpin in any interpretation of Nazi policies must be the story of the German intelligentsia. Since the middle of the 19th century, an increasing radicalization of the intelligentsia had taken place. Radical nationalism won out against a more liberal trend, and turned, gradually, into a racist chauvinism; not only in Germany, but in Austria as well. This became very clear during the Second Reich, between 1870 and 1914. The defeat in World War I exacerbated this trend, and by the twenties it was the universities and the schoolteachers' organizations that formed some of the chief bases for National Socialism. Without the support of the intelligentsia, the Nazi regime would not have achieved power, nor would it have been able to maintain it. It was the intelligentsia from whose ranks the people who directed the Nazi crimes were recruited. The conclusion must surely be that knowledge by itself does not guarantee a humanistic approach to life, and that there is nothing as dangerous as intelligent mass murderers.

Eichmann is an excellent example: he fooled brilliant people, such as the philosopher Hannah Arendt, into accepting his

self-description as a mere cog in the machine, a banal personality who did evil because he was no ideologue and did not know any better. As a matter of fact, Eichmann was a member of the *Central Reich Security Office*, the RSHA, which was composed of highly intelligent, radically racist, radically anti-Semitic and ideologically motivated individuals, who were the main core of the perpetrators' machine. They included the Security Police with its Gestapo Branch, the Criminal Police, and the intelligence units. They did a large part of the murdering. Eichmann may not himself have had a university education, but the people around him did, and he himself could and did quote Kant and Hegel. He was no cog in the machine; he was part of the machine's control system. In a lecture he gave to top Nazi security personnel in November 1937, he explained to them what the international Jewish conspiracy was all about. He was part of the hierarchy, and while he did receive general guidelines from his superior(s), he showed great intelligence and initiative to radicalize them. He gave orders; he did not only receive them – in any case, he rarely needed orders, because he fully identified with the general murderous policy, and he knew exactly that what he was doing was evil. Far from being a banal personality, he proved that evil is never banal. The real story of Eichmann can be used in education to show the exact opposite of the popular image that has been created by films and so-called documentaries. One can provide sources for all of this.

Is the story of Nazism and the Holocaust then a story of bureaucracy, as so many people believe? When one teaches about the Holocaust, one cannot avoid dealing with this question; and yes, bureaucracy, in its various aspects, was employed to great effect in order to murder. But bureaucracies do not kill; people kill. Bureaucrats may give orders, or instructions, but someone has to tell the bureaucrats to do that, or some of the bureaucrats may have

to do that on their own. In other words, the will to murder has to be directed by people who know what they are doing and want to do it. Ideology, or ideological rationalization, or interests, move bureaucracies; when we say “interests,” we mean an understanding of what is good or bad in the eyes of the people who make the decisions. In the case of the Nazis, I have already argued that they acted without regard to their material interests, or in other words, that they were motivated by a non-pragmatic or anti-pragmatic ideology. Once one has understood that, one can put the historical facts into context, and one can teach about the development of Nazi rule in Germany until the war, and about the stages in which the genocide of the Jews materialized. Indeed, one can then talk about those stages, and show that the Holocaust was not pre-planned, contrary to many of the popular perceptions, though Hitler as an individual may have hoped that mass annihilation of Jews would take place. But the ideology was there, and when the occasion arose, it gave rise to the planning. In fact, to a considerable degree, the acts of mass murder came first, and the planning was its result. In this, as in so many other respects, the genocide of the Jews differs from most, or all, other genocides. When one then teaches about ghettos, camps, death marches, and so on, it falls into place.

It is my view that the story of the victims is at least as important as that of the perpetrators. After all, the victims are always the majority, as compared to the perpetrators, and we all are more likely to be victims or bystanders, rather than perpetrators. From a humanistic point of view, it is crucial to understand who the victims were, why they became victims, what they did before they became victims, at what point they understood that they were in danger of becoming victims to mass murder and genocide, and what they did in response to all of this. When we teach about the genocide of the Jews, we obviously have to deal with anti-Semitism; but there is a pitfall there, because the student,

or the teacher as well, may then see the Jews simply as objects of hate, persecutions and murder, not as subjects of history with their own culture, traditions and aspirations, in other words as less than human beings.

One therefore has to teach about the Jews as a historical people – and, of course, the same applies to other groups who were or are the objects of genocidal attack. That means that a teacher has to have at least a rudimentary knowledge of the history of the Jews. The other pitfall is that a student will ask – well, what did they do to be the object of such treatment? Apart from showing, from present discriminatory treatment of various groups of people, that this happens very often in human societies, it is important to try and clarify where anti-Semitism comes from. The simplest, and correct, answer is that while the Jews are neither better nor worse than anyone else, their culture and traditions are different. In Europe, they were the only non-European people until the arrival in the Balkans of the Roma, around the 13th or 14th century, and they had a different culture that expressed itself through a different religion than that of the host societies. They also developed a different occupational structure, because the surrounding societies used them for specific economic purposes, limiting their occupational possibilities. At the same time, one has to emphasize that the history of the Jews is very definitely not the history of their persecutions. In most places, at most times, they lived alongside their neighbors, not necessarily loved, but also not necessarily hated – they were useful, and were often invited into countries in order to fulfill certain economic and social functions. But when a society was hit by a crisis, which happened often enough, it was possible – but it often did not happen – that the Jews would become a kind of a lightning rod to divert the crisis onto a group that every one knew about, that was familiar yet strange, and was always a minority

and therefore easy to attack. These basic differences were accentuated by the Church, or, after Luther, by the Churches, for theological reasons that were intertwined with economic and social ones. It may be awkward to teach that, but it is inevitable.

Christian anti-Semitism never planned a genocide of the Jews; Jews, in the Christian view, had rejected the true Messiah, but they were humans with souls, and killing them was a cardinal sin. But they were possessed by Satan, were in fact a satanic menace to Christianity, and therefore they had to be oppressed, discriminated against, persecuted, exploited, driven out, dispossessed, whenever the occasion or the need arose. Accusations against them repeated the same theological arguments, but the non-theological accusations differed at different times, and in Nazism they reached an extreme: they were contradictory in character, accusing the Jews of being both communists and capitalists, which of course could be maintained precisely because of their supposed satanic qualities. However, all of these accusations, including the racist ones, were based on theological precedents: thus, the accusation that there is a Jewish conspiracy to control the world can be found in early Christian writings; similarly, the idea that Jews corrupt societies and their cultures, or that they use children's blood to prepare their special foods, are of ancient or medieval provenance. In the 16th century and thereafter, the purity of blood, *limpiezza de sangue*, that is, proof that one was not descended from Jews or Moslems, was demanded in Spain for anyone aspiring to high office. The notion that Nazism was a neo-pagan ideology that had nothing to do with Christianity is only partly true: Christian anti-Semitism was a necessary, though not a sufficient, precondition of Nazism. Nazism turned against Christianity largely because it was based on Judaism and contained humanistic ideas that were abhorrent to the Nazis. It turned especially against the Catholic Church, whose divisions

were not of the military kind. But the Jews were caught in between: they were murdered by the Nazis, and were not protected by the Churches, although there were very many individual priests, pastors and higher Church officials who tried to save Jews, and a number of them sacrificed their lives to do so.

It could be argued that the Nazis invented their victims, in the sense that the Jews whom they attacked were not necessarily the Jews, who saw themselves as Jews. Of course, and this has to be pointed out in every educational context, the Jews were not a political collective. In Germany, for instance, a representative body for all Jews never existed before the Nazis came to power. Nor was there one in interwar Poland. There were Jewish communities and organizations of different shades and hues, orthodox and liberal and non-religious, never completely united, not even in a country like France, where a rabbinical organization called the *Consistoire* only represented a minority of those people who considered themselves Jews. In Poland, for instance, a plurality of Jews, close to 40 percent, identified with the *Bund Party*, which was social-democratic and anti-communist, anti-Zionist and anti-religious. The Nazis, following older precedents, invented a Jewish political collective, even an international one, and paradoxically, the Jews then really tried to set up political and international organizations, in part to fight against the Nazi threat. Thus, the *World Jewish Congress* was set up in 1936, supposedly representing Jewish communities worldwide, but in fact only some of them joined, and others did not. The Zionist movement, an expression of rising Jewish nationalism — there were other expressions as well — was a minority among Jews. The Nazis murdered people, whose grandparents had converted, because they regarded them as Jews. They killed people who had been born to Jewish parents, but identified as Poles, or Russians, or Italians, and who had cut all ties with other Jews.

Jewish religion no longer identified all, or arguably even most, Jews. Most Jews identified themselves as being Jews, but their interpretations of what that meant differed. Educators have to explain that one has to respect the way people define themselves, and not let them be defined by others, but that is precisely what the Nazis did. They invented a Jewish people that was only in part the people that most Jews identified with.

And yet, and this is the main point here, the reaction of the Jews to the persecutions, and then to the murder, was little short of amazing. German Jews, the majority of whom were non-orthodox, stout German nationalists, turned back and tried, quite successfully, to reclaim their Jewish historical and, in part, religious identity, by developing a Jewish culture in the German language. The Bible was translated into German and intellectual and social life flourished in the thirties, despite increasing persecutions. After the outbreak of war, and especially in the larger Polish ghettos – but not only there – networks of social, economic, and cultural organizations came into being, trying to maintain morale and a semblance of civilized life, despite hunger, epidemics, beatings, and the threat of deportations to the unknown. There was no possibility of armed resistance, as the Jews were a small minority – even in Poland they were only 10 percent of the general population – had no access to arms, and had not developed any military class; in addition, in most European countries they were ostracized by the majority populations, and were not supported by the Allies. Unarmed resistance was, therefore, the only possible option, and many Jewish communities developed just that. As far as I can tell, there is no parallel to this phenomenon with other populations that were or are victims of genocidal crimes. I suggest that unarmed Jewish resistance should be one of the central topics in Holocaust education.

Of course, unarmed resistance did not happen everywhere. Under tremendous pressure from the Nazis and their local collaborators, there were also many cases of social disintegration, forced collaboration with the enemy, and betrayals. But that one can find in most other cases of genocide as well. One has to be careful not to label the Jewish Councils, set up by the Germans in order to facilitate German policies vis-à-vis the Jews, as collaborators. Some of them, indeed, yielded to German pressure without any resistance – in Amsterdam, for instance, or in Thessaloniki, or, arguably, in Lodz. But in most places, we now know, they tried to protect their communities as best they could, without, of course, open resistance against an overwhelming power – wherever resistance was tried, and there were many places like that, the Jewish Councils were deposed and in most instances their members were murdered. In quite a number of places, however, these Councils tried to resist nevertheless, and in some towns and townships they organized armed rebellions. The Germans also set up Jewish police units in ghettos, and most of these did what the Germans demanded, and in a number of famous instances handed over Jews to the Germans. But it is very wrong to generalize. In most places, both in the East and in the West, the Germans did not ask for the collaboration of Councils or police, but took the Jews themselves, brutally and sadistically. The general image of Jewish police handing over other Jews is true for Warsaw, for instance, but not for Kaunas, and the whole argument is irrelevant for Belgium or the Netherlands. It is important to relate to such issues in an educational environment before they are even raised.

The reactions of the Jewish victims have to be related to the general context of Jewish–non-Jewish relations. It is clear that these relations were different in different countries. As is well known, Danish Jews were treated as Danes by the Danish people, and,

therefore, most of them were smuggled to neutral Sweden. In Bulgaria proper, the Jews were rescued by an unlikely coalition of members of the Fascist Party, the Orthodox Church, and the communist and social-democratic underground, or in other words, by representatives of the majority of the Bulgarian people. Less dramatic, but very marked pro-Jewish attitudes were shown by numerous individual Serbs, Italians, Belgians, and French. There was very little sympathy for Jews in Romania, the Ukraine, and the Baltic. Recent revisionist writing in Poland and in the Polish Diaspora more or less accuses the Jews of having killed themselves, or of having refused to be rescued by a huge number of Poles who were willing to help them. This is not only a total distortion of historical fact, but it also minimizes the real heroism of thousands of Poles who, despite being a minority among their countrymen, tried their best to come to the rescue of Jews, and, in quite a number of cases, paid for that with their lives. It also ignores regional differences — thus, there was a marked anti-Semitic attitude in Northeastern and South-Central Poland, where local populations betrayed Jews to the German and Polish police. The exact reasons for this have yet to be researched. On the other hand, the Polish minority in Eastern Galicia and Volhynia was much more friendly to Jews and, in a number of cases, Jews joined them in a common defense against Ukrainian nationalists and Germans. For educators, it is important to point out the danger of easy generalizations. It is, again, impossible to go into details, but the range of reactions has to be emphasized, and the reasons hinted at: a different past in different places had created different bases for attitudes that defined the possibilities of Jewish survival. In any case, the attitudes of the non-Jewish neighbors were in large part responsible for the death or survival of the Jewish minority.

It is important to point out that, while there was no objective possibility of Jewish armed resistance, nevertheless, and

contrary to all logic, Jewish armed resistance did take place, and much more of it than could reasonably be expected. The story of the Warsaw Ghetto Rebellion is important and must not be neglected, but it was by far not the only instance of its kind. There were rebellions or attempts at armed resistance in Vilna-Vilnius, Kaunas-Kovno, Bialystok, Svencionys-Svenciany, Krakow, Baranowicze, Lachwa, Tuczyn, and a number of other places in the East. In fact, in the area of Western Belarus alone there were some 63 small towns where such attempted or actualized armed resistance took place. It is estimated that between 20,000 and 30,000 Jews went to the forests to fight with the Soviet partisans; not very many survived. There were Jewish fighters and partisans in France, Belgium, Italy, Yugoslavia, Bulgaria, and the Romanian-occupied areas of the Ukraine. In all of these cases, we are dealing with small numbers, and the important thing is not the damage they inflicted on the Germans and their helpers, but the fact that armed resistance was attempted at all. The importance is moral.

When we deal with the outside world, with the Western Powers and the Soviet Union, we are in effect discussing the present, because the major powers today face a somewhat parallel situation: they are bystanders in continuing genocidal situations. The differences between different forms of genocide are several. For one, with the Holocaust we talk of the behavior of the powers in a world conflagration, which of course is different from the situation today. It is a fact that while today we look at the Holocaust as a main, if not as the main event of the war, it was nothing but a marginal issue when it actually occurred. The Allies knew, certainly in general terms, what was happening, but they were fighting for their lives against a very formidable enemy, many leaders simply did not believe the information they received, and, mainly, perhaps, the Nazis' opponents did not understand

the central importance of Nazi ideology, which most of them saw as an instrument to gain and retain power, rather than as a deeply-held conviction that the Nazis sought to make real. We are in a somewhat similar situation today, when many of us believe that the genocidal propaganda of radical Islam is just talk, rather than realizing that it is an ideology that people wholeheartedly believe in and will act upon if given the chance.

There is another aspect to this: many books have been written accusing the Western Powers of keeping silent in face of the genocide that was occurring in front of their eyes, and of not using their military power to rescue the Jews. But the facts are quite different. There was no silence. When the information regarding the massive annihilation of the Jews was finally confirmed, in November 1942, the Allies – including the Soviet Union – declared, on December 17, 1942, that the Germans were murdering the Jews, and that the people responsible would be punished – which of course, happened only to a small extent. No one censored any news on these matters as it came from Europe – whether people believed what they read is another matter. On the second issue, the Germans started murdering the Jews en masse upon their invasion of the Soviet Union, in June 1941. The United States was neutral, and the British had been forced to retreat to their islands, and were fighting for their own survival. The Soviets were being beaten, and in any case had no interest in the Jews as such. The USA did not declare war on Germany; rather, the Americans were forced into the war by the Japanese attack on Pearl Harbor, and then Germany declared war on the USA, not the other way around. Had this not happened, I do not know whether and, if so, when the USA would have joined the fight. During the period of the greatest murder campaigns, in 1941, 1942, and most of 1943, there were no Allied armies anywhere near the destruction sites, and the German armies controlled most of Europe.

The only Western bombers that could have reached the death camps situated in Poland were the British Lancaster bombers; but there were no fighter planes that could have accompanied them to these places. The situation only changed after the Allies had occupied the Italian airfields near Foggia, in November 1943. It then took a few months until they were usable, so that, in practice, the death camps could have been bombed only in 1944. By that time, only Auschwitz-Birkenau was still in operation. Birkenau could indeed have been attacked, after about May 1944, especially after a detailed report on Auschwitz, brought by two Slovak Jewish escapees, Alfred Wetzler and Rudolf Vrba, became available in June 1944. But then the Western military leaders decided that this was a civilian target, and they were going to use their air forces only against military targets.

Had the Western air forces – the Soviets, as I pointed out, could not have cared less – attacked Birkenau, would that have caused the Germans to stop murdering Jews? I do not think so. The German perpetrators would have continued what they had been doing before, namely shooting their victims into pits or, as they did later, marching them to death. The idea that the West could have saved the Jews is popular, and populist, but not persuasive at all. On the other hand, while the West could not have saved the millions, it might have saved thousands, maybe more. They closed the gates of Palestine to Jews trying to escape through the Balkans, and they refused to guarantee the neutrals, Switzerland, Spain, Turkey, Sweden, and Portugal, that they would take care of any refugees arriving in these countries, and would find other places for them after the war – because of course the neutrals did not want any Jews in their countries. The attitude of the Soviets is still being investigated, but clearly, the whole Jewish issue was marginal for them, at best. Again, these are problems that can be translated in class into topical questions.

How do we teach the Holocaust? I am not a professional pedagogue or expert on didactics. But I do believe that the Holocaust should, in principle, be taught analytically, yet also, on the other hand, as the story of individuals who were caught up in it. A historian is someone who tells true stories. Unless a teacher uses this tool, no impression or effect will result. On the other hand, to just tell stories is counterproductive. Students must be encouraged to investigate the facts, the connections, and the contexts. I believe in a combination of educational strategies. Another major consideration is to adjust the teaching of the Holocaust to the social, cultural and historical context of the students. If one teaches in the Czech Republic, one needs to take into account the fate of the Roma, who suffered a genocide that was different from the Holocaust, but occurred parallel to it, in which almost all of the Czech Roma then living in what is now the Czech Republic were murdered. One will have to emphasize that Terezín played a central role in the Holocaust in the Czech lands, and that there was a Czech collaborationist government with a limited autonomy that aided the Nazis in their policies. If one teaches in the Netherlands, one has to emphasize the collaboration of the local administration with the genocide, and, on the other hand, the rescue of some 16,000 Dutch Jews by the local population. In both cases, one will have to emphasize the character of the local Jewish communities, and look at the contrasting behavior of the *Judenraete* in Terezín and in Amsterdam. But in all cases, and in all countries that one teaches, one has to be careful to present the overall picture of the Holocaust, and not to remain imprisoned by the local history. The Holocaust was not a Czech, or Dutch, or Polish event; it was a global event that happened in Europe, in all of Europe, and beyond Europe. That requires pedagogic adaptations, and that is what the ITF is doing and should do. In the end, what one teaches are dilemmas, impossible dilemmas that

people should never be required to confront. Let me give you a well-known example.

In the ghetto of what is now Vilnius in Lithuania, there was a resistance organization called the FPO, which arose out of a coalition of Jewish youth movements, from the extreme left to the extreme right. The commander who was chosen was a Jewish communist, Itzik Wittenberg. The reasons for the choice were, on the one hand, that he was a very popular and charismatic young man, and on the other hand, that the only hope of any help for the resisters was the Red Army. It was thought that choosing a communist would help in establishing relations with the Soviets. The Germans caught a Lithuanian communist on the Aryan side in Vilnius who, under torture, named Wittenberg as a party member and a resister. The Germans did not know about the FPO, but they now knew about Wittenberg, and demanded of the ghetto leader, Jacob Gens, to hand him over to them. Gens, who had some contact with the FPO, invited the FPO leaders to a midnight meeting at the *Judenrat*, and a Lithuanian collaborationist unit who hid in the building then burst into the room and arrested Wittenberg. On the way to the ghetto gate, FPO members overwhelmed the Lithuanians and liberated Wittenberg, who was then hidden in a small room in the ghetto. The Germans announced, publicly, that if Wittenberg was not handed over, they would murder the ghetto inhabitants. Gens appealed to the population to find Wittenberg, so their lives would be saved, and the ghetto Jews, fearing for the lives of their families, sought out the FPO members – it was not very difficult, in the small ghetto, to identify young people who belonged to the FPO – and attacked them, beating them up and demanding that Wittenberg should surrender to the Germans. The FPO leaders faced the choice of either handing over their commander, or having to use their weapons to fight the

desperate Jews. In the end, they turned to the communist cell of the FPO, consisting of two young women and one man, to make the decision. The cell decided that Wittenberg must surrender himself. He was given a cyanide pill, and walked, proudly, to the ghetto gate, the way lined with a silent ghetto population. He was taken away, and when he arrived at the prison, he committed suicide.

Is there a way, was there a way, out of the dilemma? How do we judge Gens, the population, the FPO leadership, all of which, except for Wittenberg, was Zionist? What do we say about the three cell members who decided Wittenberg's fate? In Minsk and in the Belorussian town of Baranowicze, two exactly parallel cases occurred. In Minsk, the *Judenrat* used the body of a dead Jew into whose pockets the identity card of the underground commander was inserted, to fool the Germans and save the commander. In Baranowicze, where the population acted the same way as the Vilnius Jews, the *Judenrat* bribed the German police commander and thus rescued the resistance member. We have three cases, three dilemmas. One ended tragically, the two others less tragically. The German intent to murder every Jew they could find was the same. Who was right? Can one compare? That is the real story of the Holocaust, and those are the kinds of stories that should accompany the teaching of it.

In the Jewish tradition, the sage Hillel, some 200 years before the Christian era, was asked to sum up all the Torah teachings standing on one foot. He said, famously: do not do to others what you would not have done to yourself. That is all the Torah, and the rest is commentary. And now, he said, go and learn. So now, my friends, go and learn.

Remarks at the Special Performance of "Golem 13", Monday, June 29, 2009

► Vladimír Špidla

MEMBER OF THE EUROPEAN COMMISSION
RESPONSIBLE FOR EMPLOYMENT, SOCIAL AFFAIRS
AND EQUAL OPPORTUNITIES, CZECH REPUBLIC

Ladies and Gentlemen, Distinguished Guests:

On behalf of the European Union and in my own name, I wish you a very good evening here in Prague. The National Theatre is the symbol of the will for life and will, in general, and can be a very good inspiration for the Shoah Institute. What is the importance of this Institute? It can be put very simply: No one and nothing shall be forgotten.

I would like to stress one thing – there are no “us” and no “them.” Without exaggerating, all of us sitting here, regardless of our origin, life experience or age, have survived the Holocaust. The Holocaust is a part of our history and our common historical awareness. To accept this fact is the only way to prevent the repetition of these horrors. With the Holocaust, absolute evil came to our European history. It was dirty, had no monumentality and was absolute. Its limits were not defined ethically, but merely technically. It literally opened the gateways to hell and thus influenced the subsequent history of mankind. That is what gives the Shoah Institute undoubted importance and meaning and it is for this reason that the European Commission has fully supported this international Conference and also contributed to it in a fundamental way. The expression of that is the *Joint Declaration*

of the Czech Presidency and the Commission to which I attached my own signature with pleasure.

This Conference is accompanied by a very rich cultural program. Apart from a film festival and series of exhibitions, I consider this world premiere held at the National Theatre to be its culmination.

Ladies and Gentlemen, I wish you a very deep artistic experience, which will be a link for us to the history of not only this country and the whole world, but also to the future, which still remains unwritten.

Thank you.



Terezín Ceremony, Tuesday, June 30, 2009



Jan Fischer

PRIME MINISTER, CZECH REPUBLIC

Ministers, Ambassadors, Distinguished Guests, Dear Participants in this very important Conference, which is taking place at the end of the Czech Presidency, but first of all, Dear Survivors:

Please allow me to summarize, at the close of this Conference, its aims and its outcomes and to say a few words on the topic of the Holocaust and on coming to terms with the past. Freedom and justice are the most important values for every human being. Here in Terezín, those words resonate with a special urgency. Here, tens of thousands were deprived of their freedom and the vast majority of them of their lives. They became part of those six million Jewish victims of Nazi hatred. I can tell you that I am personally moved today, coming here by car as the Prime Minister of a free democratic country, remembering that, in 1943, my father and his relatives came here by train, with one piece of luggage each; remembering how most of their lives ended during the next years of the Holocaust and the Second World War. But all non-Aryans within the reach of the Third Reich's power were deprived of justice long before that. The Nuremberg laws denied them equal rights. They were driven into ghettos, deprived of their property and the chance to be part of the human society. Officially, they became beings of a lower order.

Those who had the good fortune to survive and those who escaped in time were all damaged by the consequent injustice. And what is worse, many families did not live to receive compensation even more than 60 years after the fall of the totalitarian Nazi regime. Since then, three additional generations have been born and, of those who survived the hardships of the concentration camps, only a few are still alive.

Why is justice so delayed? In the countries of the former communist block, it was delayed by four decades by the new totalitarianism. But even those countries that enjoyed democracy from the end of the war were not able to return the property that had been aryanized to its original owners in full. Within the past few years, this has unfortunately become more and more difficult.

Today, we are once again free people. Some of us for 20 years, others for more than 60 years. As free people, we must also hold justice in high regard. We need the political will to guarantee justice always, everywhere, and for everyone. We must have it because it is precisely where injustice prevails over justice that the threat from extremism lies. Injustice is fertile ground for the shoots of evil and allows it to take root and grow. In a just state, with the rule of law, extremism has no chance – it remains isolated among a handful of hateful individuals. If extremism is elevated to a political doctrine, those individuals with the most undistinguished political ambition deny the law, and the doctrine gains popular support. Then, this extremism becomes truly evil. Following such developments, injustice becomes an official state policy. When even the right-minded people are silent in the face of injustice, and acquiesce to it, then finally absolutely everyone has been deprived of their freedom.

Nazism went through this genesis but so did the communism that followed. Both of these ideologies are founded on a denial of the law. On injustice which millions of people supported, if only at the beginning, or at least tolerated in silence. It was not by chance that the new communist totalitarianism prevented the post-war return of the aryanized property. We bear our share of the blame for the fact that we have not been able to make up for this historic injustice.

We have discussed here how to handle this guilt. The representatives of 46 countries have agreed on a Terezín Declaration, which I consider to be a very good result of this Conference. We must follow up on the 1998 Washington Conference, the 2000 Stockholm Declaration and the Vilnius Conference of the same year. I thank all of the participants for their involvement.

I am pleased that one result of our discussions is also a concrete outcome – the creation of the European Shoah Legacy Institute here in Terezín. The Institute will serve as a voluntary forum for countries, organizations representing Holocaust survivors and other Nazi victims and non-governmental organizations that promote developments in the areas covered by the Conference and the Terezín Declaration. I would like to thank the town of Terezín and the Ústí Region for their cooperation. Of course, the creation of the Institute will have the Czech government's full support.

We have discussed here how to secure basic rights for families affected by the Holocaust. But I would like to emphasize that this is not only a matter of the Jews and the Roma, who were discussed here. Justice is a universal value, which stands above individuals, nations and politics.

The ability to distinguish justice from injustice is given to all of us. If we do not use this ability correctly, any one of us could end up without rights, as did the Jews and the Roma. The world is still not a just place. But injustice does not begin with the rulers. That is only the final result. It begins in the mind of each of us. It begins with our envy, with our prejudices, with our endless division of people by nationality, property or religion. The purpose of this Conference and the adoption of the Terezín Declaration is to show that none of these human failings will stop us from establishing justice. If that were not so, then we would open the door to those who would deprive of freedom and justice not only those at whom prejudices are aimed, but by definition, us as well.

I would like to assure you, dear participants, that the Czech cabinet will continue with all these initiatives. We will tackle all of these results, will continue to do so and I am very sure that we can reach the very concrete issues, very concrete results and be in a position to implement them. I would like to promise to you that my cabinet will do its best in order to reach these goals.

Thank you for your attention.

► **Alexandr Vondra**
SENATOR, CZECH REPUBLIC

Ladies and Gentlemen:

After the very interesting and fruitful days of our conference in Prague, we have assembled here in the Riding Hall of Terezín,

once called infamously Theresienstadt. We all know what our unique surroundings represent and we can still feel some residue of the atmosphere. A *genius loci* is talking to us quite strongly and we are exposed to very mixed feelings and emotions. At the same time, we have gathered here in a unique moment in history and we feel that this is a real window of opportunity. Not only for us, but also for the town and the region. We all live with the unfortunate and tragic 20th century history of Terezín. Many of you lost your relatives, friends and dear ones. My grandfather's road to hell began here as well.

But we also have to look into the future. In our vision, Terezín should not only be a burning memento of the past. Because of its past, it should be a unique tool for education, the development of humanities, and culture. We have to build on the legacy of this town while, in partnership with this municipality, the region and the government, supporting its future.

The town of Terezín, together with the regional authority of Ústí Region is currently starting a very important project which should strengthen infrastructure improvements and the reconstruction of several local buildings, including the very one in which we are sitting. The authorities are creating the possibility of inviting several institutions that may contribute to the very special role that Terezín can, and should, play.

Among these new facilities, when their reconstruction, which is funded by the EU, is complete, will be a home for the Institute about which we spoke at our Conference. The European Shoah Legacy Institute will not only be based here, but will also provide a number of opportunities for studies, research, cultural, scholarly and scientific conferences. At the same time, it will serve as a body which, based upon the consensus of the Prague

Conference, will follow up on all of the conclusions that we have reached in these past days.

As you all have noticed, Terezín is not far away from Prague and Prague is said to be the heart of Europe. We have to show that after a long illness, the heart is completely recovered and is able to pump life to all parts of our body, including the brain. And the brain should never forget.

Thank you.



**PLENARY
SESSION**

Working Groups Reports

Special Session: Caring for Victims of Nazism and Their Legacy

► Felix Kolmer

INTERNATIONAL AUSCHWITZ COMMITTEE,
CZECH REPUBLIC

The Special Session dealt with the problem of caring for victims of Nazism and their legacy. The entire Special Session was governed by two co-chairmen: Felix Kolmer, the Vice President of the International Auschwitz Committee (Czech Republic) and Ambassador Reuven Merhav, the special representative of the Government of Israel.

These problems are the same for the Holocaust victims and for the other victims of Nazi persecution. The Special Session has been honored by the participation of eminent figures who are dealing with the problems above mentioned.

Discussion of the enumerated problems was divided into three panels.

The first panel was governed by Prof. Tomáš Kosta, the Advisor to the Minister of Foreign Affairs of the Czech Republic. The panel dealt with the history and future of social support provided to the victims of Nazism and their heirs. The very prominent speakers included Prof. Dr. Władysław Bartoszewski, former Minister of

Foreign Affairs of Poland, now the Secretary of State of the Polish government and a former prisoner of Auschwitz; Dr. Jiří Šitler, Director of the Asian Department of the Czech Ministry of Foreign Affairs who was, in 1999 and 2000, the head of the Czech delegation on the negotiation of the compensation of former slave and forced workforce members; Mr. Günter Saathoff from the German foundation “Remembrance, Responsibility and Future,” and a member of the board of the directors of that institution; Dr. Hannah Lessing, the head of the National Fund of the Republic of Austria for Victims of National Socialism; and Mr. Greg Schneider, the Chief Operating Officer of the Claims Conference.

The second panel, chaired by Dr. Martin Salm, the director of the German foundation “Remembrance, Responsibility and Future,” discussed the collective responsibility to improve the social situation of victims of Nazism. The Special Session heard very interesting lectures given by Marta Malá, the Director of the Czech Foundation for Holocaust Victims; Nathan Durst of Amcha Jerusalem; Kazimierz Wóycicki, from the Office for War Veterans and Victims of Oppression; Alexander Pochinok, from the Council of Federation of the Federal Assembly; and Igor Cvetkovski of the International Organization for Migration.

The third panel, moderated by Ambassador Reuven Merhav, was dedicated to the legal and social status of victims of Nazism and to the maintenance of their legacy. The audience heard from Michael Teupen, the Director of Germany’s Federal Association for Providing Information and Consultations to Victims of National Socialism; Alex Faiman of B’nai B’rith Europe; Čeněk Růžička of the Czech Republic’s Committee for Compensation of the Romani Holocaust; Esther Toporek Finder of The Generation After; and Dr. Dagmar Lieblová, the President of the international organization of the Terezín Initiative.

The last four speeches were given by Frank-Ludwig Thiel, a German lawyer who deals with the questions surrounding the issuance of pensions to forced laborers in the ghettos; Ehud Moses, of the Claims Conference; Anděla Dvořáková, the President of the Czech Association of Fighters for Liberty; and Christoph Heubner, the Vice President and Director of the International Auschwitz Committee.

Taking account of the special role of the EU and other international communities and the continuing responsibility of nations, the Special Session recommends that the following steps to be taken:

1. To found a Center for Research, Social Welfare, Education and Advocacy that will also facilitate the exchange of experiences and international cooperation, monitor achievements in all relevant spheres of activity and provide victims of the Shoah (Holocaust) and other Nazi crimes with a much-needed lobbying organization;
2. To establish an EU system of permanent financial support to the former concentration camps, sites of mass murder, and cemeteries and memorials;
3. To strengthen financial support to all kinds of organizations caring for victims of the Shoah (Holocaust) and other Nazi crimes and their legacy at the national level;
4. To strengthen financial support to associations and societies of victims of the Shoah (Holocaust) and other Nazi crimes at the national level;
5. To improve the legislative framework surrounding the social and legal status of victims of the Shoah (Holocaust)

and other Nazi crimes with a special focus on equating their status with that of national war veterans;

6. To enable victims of the Shoah (Holocaust) and other Nazi crimes to live the last years of their lives in dignity through a proportionate increase in their financial benefits in line with the average national wages and through enactment of legislation that exempts any such assistance received by victims of the Shoah (Holocaust) and other Nazi crimes or their heirs from taxation or needs-based benefits. The victims of the Shoah (Holocaust) and other Nazi crimes generally receive lower pensions than their tormentors; and
7. To address the issues surrounding pensions for former ghetto workers in a timely and non-bureaucratic manner – primarily by the German government in cooperation with the German judicial system.

Finally, Ambassador Reuven Merhav and myself, as co-chairs of the Special Session on Caring for Victims of Nazism and Their Legacy would like to heartily thank our colleague Jana Havlíková for her tremendous contributions and the following contributors for their conceptual advising: Director Jiří Čištecký from the Ministry of Foreign Affairs of the Czech Republic; Director Dr. Tomáš Jelínek from the Czech-German Fund for the Future; the team of the Ministry of Foreign Affairs of Israel and the Ministry of Pensioners influenced by Zeev Factor, an Auschwitz survivor and the founding chairman of the Foundation for the Benefit of Holocaust Survivors in Israel; and Saul Kagan, a life-long activist for the rights of Holocaust survivors and a member of the US delegation.

Working Group: Holocaust Education, Remembrance and Research

► Benedikt Haller

MINISTRY OF FOREIGN AFFAIRS, GERMANY

Mr. Chairman:

The Working Group on Holocaust Education, Remembrance and Research spent almost two days of intensive discussions on the current state of our thinking and acting on these issues. We heard quite a few inspiring examples of the leading institutions of the field – *Yad Vashem*, the United States Holocaust Memorial Museum, the network of memorial institutions organized by the *Topographie des Terrors* in Germany. We heard from courageous initiatives taken within Russian civil society and from practical experiences gained from tolerance education with young people in Western countries. Our first result: The difference between the levels achieved in different countries is still enormous. In many countries, Holocaust education is mandatory, some of them have developed multiple instruments such as memorials or remembrance days and have worked out elaborate methodologies for different target groups – but many countries have to do much more.

The second result is more complicated. An overarching issue was the need to transcend a one-dimensional way to tell the story of the Holocaust. It is important to realize how different the national contexts are and how strongly they are shaping our understanding of the Holocaust. On the one hand, Holocaust Education has to connect with these national contexts. On the other hand, the Holocaust

does not fit fully into any of them. It rather tends to deconstruct national narratives and myths. When done right, education about the particular histories of the Holocaust reveals its universal meaning and its importance for the emerging global civilization. Holocaust education is an excellent indicator of how self-critical a country is in dealing with its own role in history.

Our third result concerns Holocaust research: it is amazing to see how many questions still remain unanswered, especially at the local and regional levels. On the one hand, the newly opened archives represent enormous opportunities. On the other hand, it became quite obvious that the researchers need the widest access possible to the archives. Some archives still follow restrictive access policies, whatever the reasons for these restrictions may be. Archives were mentioned *inter alia* in Ukraine, Russia and the Vatican. The Working Group therefore appeals to all authorities concerned to open all of the relevant archives as soon as possible and as widely as possible.

We agreed on a fourth result: the plurality of perspectives. In the future, Holocaust education can only be effective and reach its audience when taking fully into account that our societies are changing. They have become multi-cultural and we face new perspectives, new emotions, diverse backgrounds which have to be respected. We certainly face challenges here – but we agreed that it is possible to meet them.

We also have to take into account that the Nazi crimes extended to Jews and to other groups as well. There was another genocide aimed at the Sinti and Roma. And murderous crimes were committed against Poles, against handicapped people, against forced laborers, and against prisoners of war. This historical context needs to be addressed within Holocaust education.

It is important to stress that teaching the historical contexts will make visible the extraordinary and unprecedented character of the Holocaust, which cannot be minimized. Initiatives such as the recent motion within the European Parliament to commemorate the events that followed the Hitler/Stalin-Pact must clearly be seen in this perspective.

Finally, Mr. Chairman, at the opening ceremony we carefully noted Simone Veil's concern that remembrance does not happen by itself. She reminded us that, to the contrary, transmitting memory and understanding needs our active commitment. Permit me, therefore, to close my report on a note of cautious optimism. We have a great number of committed people and we have a strong structure in place with the ITF (Task Force for International Cooperation on Holocaust Education, Remembrance, and Research) involving more than 27 countries united on the basis of the Stockholm Declaration. The ITF has grown and matured over the last ten years and serves as an effective platform for our common efforts in this field. The planned Terezín European Shoah Legacy Institute must strengthen these endeavors. With our Conference in Prague, we send an additional, strong signal that we will carry this work forward into the future.

Thank you, Mr. Chairman.

Working Group: Immovable Property (Private and Communal)

► Tomáš Kraus

FEDERATION OF JEWISH COMMUNITIES,
CZECH REPUBLIC

I would like to be a little personal at the beginning, if I may. Both of my parents were Holocaust survivors, and they represent diametrically different individual approaches to the Holocaust: my mother never spoke a word about what happened, but my father wrote several books. In his books, he tried to warn humanity, to send a message saying “Never again.” I am sure the generation of Holocaust survivors shares the same experience: never again. I wonder how my parents, were they alive, would comment on the state of things here in Europe and all around the world – I am not very optimistic.

When we, the Federation of Jewish Communities, were preparing this Conference we foresaw that our Conference could be a little more binding than the one in Washington. The Washington Conference was, in my opinion, a breakthrough. I attended it and know its results – how great its impact was on various countries and on all of us as well. At the same time, some of the observers hoped to see a more binding resolution, a document that would make the states adhere to certain principles. During more than six months of preparations, we realized what politics is about. It is the art of the possible. And therefore, we can be happy with the results presented today because it was quite an art to unite such a number of

countries in agreement on a specific text. I would like to thank all of those who contributed to this.

We were hoping that the Terezín Declaration would include all of the expert conclusions. Unfortunately, that did not happen. However, the Declaration contains a remark pointing out the conclusions of the experts, and not only those of our Working Group. All of our conclusions were given to all participants in a booklet; therefore I will not repeat those 11 points again. I will only say that our Working Group focused on them as a follow-up to a conference that we held in London.

I co-chaired this Working Group with my colleague Nigel Ross from London World Jewish Relief, and during these four sessions we had several panelists. These four sessions were devoted to Overview and Political Context, Works in Progress, Examples, and Where Do We Go from Here? Instrumental help was provided by our colleagues, especially Rabbi Andrew Baker and Herbert Block, and there were many panelists focusing on the issues reflected in the 11 points.

Our Working Group also came up with recommendations on some amendments to the principles that had been adopted. Although it was not possible to approve those recommendations at this time, we hope that they will be very firmly incorporated into the work of the European Shoah Legacy Institute. We all count on the fact that, in cooperation with several institutions, and especially the WJRO, the Institute will adopt the conclusions from this Conference. Thus, the Conference will become a meeting with not only a nice atmosphere and perfect organization, but also with very specific follow-up and very specific steps, which will be of benefit for all interested groups.

Working Group: Looted Art

► Helena Krejčová

DOCUMENTATION CENTRE OF PROPERTY TRANSFERS
OF CULTURAL ASSETS OF WW II VICTIMS,
CZECH REPUBLIC

Ladies and Gentlemen:

I have the honor of appearing here as the chairperson of an expert Working Group devoted to the issue of looted art. First of all, I would like to thank all of the Group's members for the work that has been done, particularly my co-chairpersons Guy Brock, Renata Košťálová and Isabelle le Masne de Chermont.

Generally speaking, everything began quite innocently at the last international conference organized by the Centre in Liberec in 2007, during the final summary of the outcomes of the entire conference proceedings, when we promised that we would strive to organize the next conference within the framework of the Czech Presidency of the European Union. The Centre initiated the current conference in cooperation (or even in direct collaboration) with the Federation of Jewish Communities in Prague. The then-Deputy Prime Minister of the Czech government, Alexandr Vondra, adopted our idea. Eventually, at the beginning of last summer, the Government of the Czech Republic passed a resolution approving the organization of the Conference.

I would like to make some brief comments on the actual genesis of this Conference.

The Centre contacted friendly and collaborating institutions with a request to support the idea of holding a conference in Prague on the tenth anniversary of the Washington Declaration, at which we would reflect on the present development, shape and results of a decade-long effort to revive the restitution of (primarily Jewish) fine arts assets that had been misappropriated in connection with the Second World War, which serves as a cautionary cataclysm to this day. At the same time, we wanted to consider what had already been achieved as well as what had not been accomplished and why this was the case. Moreover, we wanted to think about procedures and resources that could help integrate and intensify our efforts, which are still a long way from completion. Some of those addressed genuinely supported us and thereby provided us with important support in our dealings with the Czech government.

The Centre also formulated a draft declaration based on positive and negative prior experiences in this area, and on the things with which we have become acquainted in the course of international cooperation and in exchanging opinions at a number of reciprocal meetings and conferences. We sent the 13 relatively concise points of this declaration for discussion via e-mail to those who supported the Centre, and they became actively involved in the process of drafting the declaration in more precise terms.

The next stage followed when the Conference Organizing Committee stipulated that a working group would be set up with no more than 20 members. In its own way, the Conference had already become a matter of prestige. Our original idea that the Working Group on Looted Art would be genuinely work-related in character above all else, and that each state would only be represented on it by one expert, not a politician, came to naught.

An intense internet discussion followed on the declaration on looted art, which sometimes gave the impression that the excessive activity of an individual could be exhausting, even for members of the Working Group.

Eight of the points discussed in this way, out of the 13 originally proposed, were finally approved at a pre-conference meeting in Paris. The political representatives of some states were actively involved in this. All of the expert members of the Working Group subsequently hoped and believed that our compromise draft declaration adopted in Paris would be taken into account by politicians during discussions on the Terezín Declaration. This did not happen, however. Our hopes that a vision for the future would be agreed upon were perhaps most succinctly formulated by Uwe Hartmann in a completely different context in the spring of this year when he said: "After the 1998 Washington Declaration, they said: Now we're going to get started. Ten years later, they were still saying: Now we're really going to get started." In its own way, like the task force for the creation of an international database of looted art, the effort to establish an international association of institutions and experts in the field of looted art turned out to be futile. Simply as an aside, I should mention that at one of our working lunches I asked an important politician (who was not Czech) the following question: "What would politicians have done without us "experts"? What would they be discussing today after ten years?" The question remained unanswered.

In conclusion, as an historian, I would like to add a personal comment. We are talking about restitutions, their progress and the accompanying difficulties, including the issue of who can and who cannot receive restitution according to the given legislation in individual states. In doing this, we forget to a certain

extent that the overwhelming majority of those who were murdered and entire families who were slaughtered cannot receive any restitution. What can we do with these victims? What action can we ourselves take, at least in a figurative sense and with appropriate humility, so that their entitlement simply to life itself can be restituted? Or to put it differently: what does this entitlement, no matter how unspoken, continue to mean for us?

At times, during the tempestuous and passionate discussions about our expert declaration, and even more so during negotiations over the political Terezín Declaration, I had the oppressive feeling that what we primarily lacked was respect and humility for those who were not just deprived of their property. I felt that the most important thing – ethos – had vanished from our discussions.

The memory of the millions of victims of this extermination, which is inconceivable beyond the devastating context of unprecedented wartime brutality, should be the basis from which our discussion of restitution proceeds and we should return to this in the final analysis. I still hope and believe that the Government of the Czech Republic understands and accepts these claims as they were understood and accepted under the former Deputy Prime Minister and current President of the Constitutional Court, Dr. Pavel Rychetský.

I would like to thank the Government of the Czech Republic and I would like to personally express my gratitude to Jiří Čištecký from the Czech Ministry of Foreign Affairs.

Working Group: Judaica and Jewish Cultural Property

► Lena Arava-Novotná

INSTITUTE OF JEWISH STUDIES, CHARLES UNIVERSITY,
CZECH REPUBLIC

Your Excellency, Dear Delegates, Experts and Colleagues,
Ladies and Gentlemen:

I would like to inform you at the end of this Conference (which is held during the tragic devastation of the Czech Republic by terrible floods), about the results of our Working Group on Judaica and Jewish Cultural Property, which I had the honor to co-chair together with Ms. Heimann-Jelinek from the Jewish Museum of Vienna.

Our Working Group met for the first time in Vienna on April 5–6 of last year, precisely under the auspices of the Jewish Museum in Vienna. After two days of intensive debates, we unanimously agreed on the following basic points:

- ▷ To request that objects of worship and liturgical objects from private or public collections be made available to researchers and specialists;
- ▷ To request that the publication of the results of their research be enabled and facilitated and that the cataloguing of various Judaica collections be enabled.

I would like to thank all of the members of our Working Group for their contribution to this Conference.

The process initiated by the discussions within our Working Group and by the various versions of the Terezín Declaration made us aware of the special problems that remain to be resolved in the future. However, we are pleased that the recommendations made by our Working Group will be fully taken into account.

I would also like to thank and express my gratitude to the Czech government and its representatives, namely Mr. Miloš Pojar and Ms. Denisa Haubertová, for their courage to continue and intensify the activities commenced at the Washington and Vilnius conferences, and for having organized this Conference in Prague despite numerous difficulties arising throughout the preparatory process of the Conference and the drafting of the Terezín Declaration.

Statements by Heads of Delegations

In Alphabetical Order by Country

ALBANIA

► Qazim Tepshi

AMBASSADOR TO THE CZECH REPUBLIC, ALBANIA

During the Second World War, the treatment of the Jews by the Albanian people was unprecedented. Not a single Jew was harmed, killed, or handed over to the Nazi authorities. The Albanian nation is very proud of that. Even though the pro-German vassal government was collaborating with the Fascist and Nazi authorities, it is significant to note that no lists containing names of Jews were ever handed over to the foreign armies.

Although it underwent a double occupation during the war, Albania is the only country in the world in which not a single Jew was handed over to the Nazis. Not a single Jew was taken from Albania or ended up in concentration camps. Not a single Jew was ever victimized in Albania. This is not only true for the Jews of Albania proper, who were its citizens, but also for the approximately three thousand Jews who came from other Balkan countries, mainly from Yugoslavia, to escape the threat of annihilation in places where they originally lived. These three thousands Jews, the majority of whom entered Albania illegally, were immediately and unconditionally protected both by the

Albanian people and by the state authorities. Albania is the only country in the world where the number of Jews after World War II was higher than before the war. These facts are also recognized by the State of Israel and proudly noted in the Yad Vashem Museum.

This Albanian phenomenon of historical religious harmony, based on democratic values and the rule of law, has a specific role to play in the international debate over the need for understanding, coexistence and respect among different cultures and civilizations. The experience of Albania shows that the values of freedom and democracy implemented in full respect for diversity can become a dominant factor in strengthening the ties among cultures, peoples, religions, and civilizations.

I believe that this statement contributes to today's discussion on Holocaust remembrance and to the education of future generations to fight for and to appreciate the value of the life of every single person and community. Holocaust education gives sense to the future of mankind. Education about the history, culture, and life of nations in Europe teaches young people to respect the people who do not belong to their kin. Albania has had good experience in schools, teaching its young people not only to know, but also to respect others. Our textbooks of history and culture contain much more than the half page on this subject often found in many schools in Europe and beyond. From here begins the fight against anti-Semitism. There is not a single anti-Semite in Albania.

Thank you for your attention.

ARGENTINA

► **Vicente Espeche Gil**

AMBASSADOR TO THE CZECH REPUBLIC, ARGENTINA

Mr. President, Distinguished Representatives:

It is 64 years since the end of the Second World War, the moment when the world discovered the magnitude of the genocide that took millions of human lives. It was a turning point in the history of mankind: an experience that must remain intact in the minds of all generations; an experience to be reflected upon, from which we must draw lessons and try, whenever possible, to repair the damage that it caused.

The Republic of Argentina would like to express its support for this Holocaust Era Assets Conference. It is an opportunity to review what has been done since the Washington Conference in 1998 and the other initiatives that have been carried out during the last decade. But mostly, it is, for our country, and for the entire international community, an acknowledgment of the commitment to do what still needs to be done to heal many of the wounds caused by the Holocaust.

My country has undertaken many actions in the chapters we are addressing here. Among them, the Argentine government has supported the initiative of the National Commission for the Investigation of Nazi Activities in Argentina – CEANA – which resulted in a very thorough report about the entrance to my country, after the Second World War, of persons who allegedly committed genocide or crimes against humanity. We also made the immigration archives and official documents that clarify the

position taken by government officials and institutions during the years of the war and immediately thereafter accessible.

The policy that we followed implied not only the enactment of new legal rules to guarantee foreign and national researchers access to those documents and archives, but also official support for their endeavors. Furthermore, international standards concerning the origin and property of works of art were adopted so that the Argentine government could strictly comply with existing regulations.

A very important step for Argentina was its admission, as a plenary member, to the Task Force for International Cooperation on Holocaust Education, Remembrance, and Research. (ITF). In this context, we have created something very unique: the Argentine Chapter of the ITF.

The Argentine chapter of the ITF was formed by the State through the action of the Ministries of Foreign Relations, Justice, Security and Human Rights, and Education; and by some of the most vocal and active organizations within civil society, including those of the Jewish Community, as well as other groups and individuals working in defense of pluralism, education, and human rights.

We have already seen some results of our joint action. *Inter alia*, the organization of teachers' training programs on Holocaust matters; initiatives presented to international organizations; and improved coordination among participating institutions. A big step forward was the decision taken by the Federal Government, through the Ministry of Education, to incorporate the teaching of the Holocaust in the curricula of primary and secondary schools.

Argentina considers it its duty to be part of this Conference. It is a very important way of reaffirming our commitment to actively participate in every action taken by the international community regarding memory, education, remembrance, research and reparation of the Holocaust. Furthermore, these words also reflect the goals of our human rights policy. After the rule of dictatorship in our country that left behind many victims, memory, justice, truth, and reparation have a special meaning for us. We have lived through years of horror. We know what these words mean.

It is only fair at this point to express the gratitude of Argentina for the efforts by the Czech government in the successful organization of this Conference and for the initiative in the creation of the Terezín Institute.

To conclude, Mr. President, I would like to reaffirm the commitment to the result of this Conference and the Terezín Declaration, which we fully endorse, as an act of justice and a guide for our future actions.

Thank you.

AUSTRALIA

► Statement of the Delegation

Australia would like to thank the Czech government for conveying this important Conference during its Presidency of the European Union and for inviting Australia to participate.

Australia welcomes the Conference, its outcomes, and the efforts of participating countries and NGOs to correct the injustices of the past. Australia supports efforts to ensure that the terrible events of the Holocaust are never forgotten, and is committed to ensuring this kind of untold suffering is never again visited upon the world.

The horrific crimes perpetrated during the Holocaust showed the depths to which humankind can descend. The Holocaust made clear to the world the devastating consequences of hatred and persecution. Its effects have been profound for a number of generations, and continue to be felt today. We must never forget the victims of this terrible tragedy, and we must remain vigilant to ensure this type of horror never happens again.

Today, this gathering of nations will adopt the Terezín Declaration. The Declaration reaffirms the commitment of its participant states to the outcomes of the 1998 Washington Conference and to righting the wrongs of the Holocaust. Australia takes this commitment seriously.

Many Australian collecting institutions have actions in place to give effect to the 1998 Washington Conference Principles on Nazi-Confiscated Art. These actions involve provenance research and publicly accessible listings of objects in their collections with gaps in provenance.

For instance, the National Gallery of Australia's Provenance Project has involved researching, documenting and publishing information about the works of art in its collection, in keeping with international and national efforts to determine the provenance of works of art for the period 1933 to 1945. To fulfill its obligations as an ethical member of the museum community, the

National Gallery of Australia is investigating the whereabouts and ownership of every work of art in its collection that is presumed to have been in Europe between 1933 and 1945.

The Terezín Declaration also calls upon states to give due care to survivors of the Holocaust and other forms of Nazi persecution as they advance in years. Between 1933 and 1939, Australia absorbed between 7,000 and 8,000 refugees from Nazism, many from Germany, Austria and the then Czechoslovakia. Many more Jewish immigrants arrived after World War II; a large number were survivors of the Holocaust. In the immediate post-war years, Australia was second only to Israel in the proportion of Jewish migrants accepted.

The Australian government is committed to addressing the needs of Australia's aging population, including survivors of the Holocaust, and ensuring they have equitable access to quality aged care accommodation. Australia has also legislated in the field of social security to ensure that circumstances of Holocaust survivors do not lead to their disadvantage. Payment to victims of National Socialist persecution and German pensions with deemed periods of contribution are, for instance, not treated as income for social security purposes.

The Terezín Declaration calls upon states to remember the Holocaust by educating future generations about the dangers of prejudice. The Australian government supports opportunities for Australian students to study the history of the Holocaust at school and university level. Australia was grateful for the opportunity to have participated as a "special guest" at the plenary meeting of the International Task Force for Holocaust Education, Remembrance, and Research in Oslo on 24–25 June this year. We hope to continue this association in the future.

Once again, Australia would like to express its gratitude to the Czech government for organizing this event. Australia welcomes the outcomes to the goals of the Terezín Declaration.

AUSTRIA

► **Claudia Schmied**

FEDERAL MINISTER FOR EDUCATION AND ARTS,
AUSTRIA

Mr. President:

Let me first pay tribute to you and to the Government of the Czech Republic for the preparation of Holocaust Era Assets Conference. Your longstanding experience, including your invaluable contribution to the Task Force for International Cooperation on Holocaust Education, Remembrance, and Research in 2007 will guarantee a successful outcome of this important event. I also would like to express my gratitude to the Delegation of the USA for its initiative to draft a document that has become the Terezín Declaration, an exercise in which Austria had the privilege to participate.

As we all know, the issues raised at the 1998 Washington Conference were restitution and compensation for Holocaust victims. These were very important issues constituting some of the main reasons why we gather here today. But even more important, I feel, is the fate of the victims, who suffered unprecedented physical and emotional trauma during their ordeal: they have by now reached an advanced age. It is imperative to respect their

personal dignity and to address their social welfare needs. We shall therefore appeal to the Participating States to strongly support both public and private efforts in their respective countries to enable the victims to live in dignity while receiving the necessary basic care.

In the years following 1945, we have become aware of and have addressed the enormous difficulties that the victims of the Holocaust have been facing. We have been in touch with survivors with Austrian roots, close to 30,000 of whom are living today in more than 72 countries. Their psychological and physical health is very precarious. The effects of traumata do not disappear over the years; their negative impacts tend to worsen. The older the survivors get, the more their state of health will reveal the hell they had to endure. It is our responsibility to ensure that the last years of a victim's life can be spent in dignity.

In response to these needs, Austria provides, in accordance with the Austrian Victims' Welfare Act, in force since 1945, pension payments for victims who were Austrian nationals on March 13, 1938 or resided in Austria for an uninterrupted period of 10 years prior to that date. Under the same conditions, Austria also offers pensions for surviving dependents. In the case of declining health related to persecution, a claim for an increase in the victims' pension benefits may be filed.

During the last years, several provisions have been added to the Welfare Act:

- ▷ When applying for pensions, Austrian citizenship is no longer required;

- ▷ Victims who left Austria due to political persecution and therefore are residing abroad, may benefit from nursing allowances to the same extent as Austrians;
- ▷ Pension payments for dependents were significantly improved; and
- ▷ The degree of health damage for accessing victims' assistance benefits was lowered to 20 percent.

Furthermore, the Committee for Jewish Claims on Austria receives regular financial contributions for medical and social welfare support. For this year, EUR 1.8 million have been pledged. Also, the Jewish Community of Vienna has received substantial subsidies for social welfare purposes, this year amounting to approximately EUR 1 million. All in all, EUR 800 million have been spent on victims' assistance since 1945.

I am very pleased to state here that currently, at the initiative of the Jewish Community of Vienna, the Committee for Jewish Claims on Austria and the Central Committee of Jews from Austria in Israel, the Austrian Parliament is about to widen the scope of our social security legislation and to provide benefits for victims of persecution born before 8 May 1945, if one of their parents was residing in Austria on 12 March 1938. These victims will also be entitled to receive pensions under easier conditions, equaling additional annual costs of EUR 1.9 million.

Post-war Austria's decision to face the full extent of the involvement of Austrians in the Holocaust with too much of a delay cannot make us proud of our achievements in the field of Holocaust era restitution. In full awareness of the importance to shed light on this dark chapter of Austria's history and to document

restitution carried out in the years after WW II, the Federal Government decided, in 1998, to establish a Commission of Experts. Their findings, statistics and historical estimates of all surviving victims of the Holocaust were the basis of recent restitution and compensation programs adopted in 2000–2001. As part of these programs, the National Fund of the Republic of Austria provided for lump-sum payments to almost 30,000 individuals and their relatives who were persecuted by the National Socialist regime. The General Settlement Fund Law of 2001 created the legal basis for dealing with the still-open financial claims of Holocaust victims as well as for *in rem* restitution of state property. Over 130,000 victims of slave and forced labor who had been deported to present day Austria during the National Socialist era received payments through the Reconciliation Fund. After the conclusion of the Fund's activities, the remaining funds were used to support humanitarian projects, remembrance projects, and research activities (including grants). As a follow-up fund, the Austrian Future Fund has been operating since January 2006.

One of the major issues to be addressed by this Conference pertains to heirless property. Unfortunately, as we all know, the wrongs inflicted 70 years ago can never be repaired or compensated for, but at least some restitution can reach, and indeed has reached, survivors and their families. However, as we are painfully aware, some families have been completely wiped out. Not one heir survived, but their property still remains. Nevertheless, it has been noted that heirless property can serve as the basis for addressing the material necessities of needy Holocaust survivors and to ensure ongoing education about the Holocaust, its causes and consequences. Austria has addressed these issues in different ways, in particular with regard to art found at the Kartause Mauerbach and the Art Restitution Law of 1998,

according to which heirless property will be handed over to the National Fund for organizing a sale and devoting the proceeds to the needs of victims.

I would like to share with you some views on the restitution of Nazi-looted art in Austria. When I came into office in 2007, I gave the restitution of Nazi-looted art, an issue I am deeply devoted to, priority on my agenda.

Although, since 1945, Austria had taken various steps to return Nazi-looted art, complete restitution had not been achieved. In 1997, with the seizure of two Schiele paintings from the Leopold Museum Privatstiftung in New York, a new discussion ensued regarding aryanization, looting and restitution of works of art. This discussion led, a few months before the 1998 Washington Conference, to the establishment of the Commission for Provenance Research of the Austrian Federal Ministry for Culture in February 1998. Its task was – and still is – to report systematically on the provenience of all items of the Federal Museums purchased during or after the Nazi-period until today, in order to locate all Nazi-looted objects. The next step was to enact the Art Restitution Act in December 1998, empowering the Federal Minister for Education, Arts and Culture (and other Federal Ministers responsible for federal collections) to transfer the ownership of Nazi-looted art to the victims and their heirs and to create the Art Restitution Advisory Board. Until now, the Advisory Board has recommended in nearly 200 cases that roughly 10,000 objects, ranging from important works of art such as paintings and drawings to bird skins, vehicles, books, letters, stamps and all kinds of personal belongings be returned to their rightful owners. Some of these objects are of relatively low value, but they all are inextricably bound with the lives of the victims, their ideas, passions, and interests. Therefore, they are

worth identifying and re-situating, whatever their economic value may be. All recommendations are published in full length on the internet¹, in order to make the decisions of the Advisory Board as transparent as possible.

I would also like to mention two important partners – the Jewish Community of Vienna, which searches for the legal successors of rightful owners, and the Austrian National Fund, which designed an Art Database² to enable victims of Nazi art theft to search for seized art objects.

Finally, I am pleased to inform you that, last week, a draft amendment to the Art Restitution Act of 1998 was presented in Parliament. Reflecting the experiences of the last 11 years of art restitution, it will serve as a basis for adjusting the current law. It will widen the field of application to all moveable objects owned by the Republic of Austria, even if they are not part of federal collections. It will also clarify some open questions of legal interpretation.

We have come a long way towards demonstrating the readiness of the Austrian population at large, including young generations, to face the Holocaust as part of their historical identity. Since the 1998 Washington Conference, efforts to improve Holocaust education have been remarkably intensified under the responsibility of my Ministry: Every curriculum for history teaching and for citizenship education in grades eight and eleven requires extensive immersion in the history of National Socialism and the Holocaust. We promote and facilitate the integration of Holocaust education into teacher training by the

¹ See: <http://www.provenienzforschung.gv.at>.

² See: <http://www.artrestitution.at>.

Ministry's organization.³ For 20 years now, we have pursued a program, the purpose of which is to facilitate encounters between Holocaust survivors and pupils in Austrian schools. We are aware of the sad fact that soon, the direct witnesses of the Holocaust will no longer be with us. We are deeply invested in securing survivors' testimonies for future generations by developing audio-visual learning materials. In these efforts, we are fortunate to co-operate with international partners such as Yad Vashem and the Shoah Foundation Institute.

Memorial sites and Jewish museums play an important role in education. Almost 100,000 students from Austria and from abroad visit the memorial site of Mauthausen annually. Since 1997, the 5th of May, the day that marks the liberation of the Concentration Camp of Mauthausen, is the official Austrian Day of Remembrance. To honor this day, Austrian schools engage in commemorative projects in order to foster remembrance as well as respect for the Holocaust victims and for their descendants. The recent, shocking events at the former concentration camp at Ebensee showed beyond any doubt the necessity to increase awareness of social and political developments that led to the Holocaust.

We consider it a great privilege that Austria, in the Year of Remembrance 2008, was entrusted to chair the ITF. I wish to stress its paramount importance for the worldwide fostering of Holocaust Education, Remembrance, and Research and would like to advocate for the creation of follow-up mechanisms at this Conference that will enable close co-operation with this international institution.

³ See: <http://www.erinnern.at>.

In conclusion, Mr. President, I would like stress the importance of the follow-up process and thus express my wish that this important Conference lead to sustainable results.

Thank you, Mr. President.

BELGIUM

► **Raoul Delcorde**

ADJUNCT MINISTER OF FOREIGN AFFAIRS, BELGIUM

The Belgian delegation pays tribute and sincerely thanks the Czech organizing committee for hosting the Holocaust Era Assets Conference and the Chair for giving Belgium the time for a brief presentation.

Since 1990, Belgium takes part, at the international level in the study and the investigation of the tragic history of the Holocaust on its territory and of the material and financial consequences suffered by the victims of the Holocaust. The Belgian working process became nationally known as “*l'accord belgo-belge*,” the Belgian Agreement.

The Belgian authorities were involved at every step of the process, in an open and constructive dialogue with the Belgian Jewish Community, represented by the National Committee of the Belgian Jewish Community for Restitution. After the conclusions of the Study Commission and the agreement between the financial institutions and insurance companies, the Commission for Compensations started the individual compensations procedure.

In the preparatory meetings, the representatives of the Jewish Community of Belgium stressed explicitly the importance and the value of this Belgian Agreement, based on respect, dialogue and cooperation. This was sometimes neglected in debates dominated by sheer material interests.

The Belgian efforts and activities concerning Holocaust-era assets are focused on the victims and their heirs.

To quote the Scottish author James Barrie, this whole endeavor was for Belgium, its government, its authorities and its non-governmental organizations, “a long lesson in humility.” It was perhaps internationally unnoticed, but Belgium has gone a long way in the fields of compensation, restitution, research, education, and remembrance.

The English author Oscar Wilde wrote that, “the only duty we have towards history is to rewrite it.” In a sense, Belgium had no ambition to rewrite the tragic history of the Holocaust, only to compensate for the material and financial injustices and to remember the warning from a dark page in European and global history. The Belgian approach succeeded in bridging the past and the present, leading to a future society of respect and dialogue. Belgium clearly understands that the national experiences of every participating country are historically different in accepting and in coping with the dramatic events of the Second World War and with the Holocaust. Belgium is ready to share its experiences and working processes with other participating countries, as we have developed a close working relationship with our neighboring countries including France, the Netherlands and Luxembourg. One of the Belgian initiatives is the Belgian Judaism Foundation, which managed the outstanding funds remaining after the Compensation Commission had concluded

its work. This Foundation concentrates on social, cultural and religious needs of the Jewish Community in Belgium, but is also active in projects concerning violations of human rights, and projects against racism, intolerance, anti-Semitism and anti-Roma tendencies. Belgium will also chair, in 2012, the Task Force for International Cooperation on Holocaust Education, Remembrance, and Research and believes that valuable historical lessons learned from the past can be a key for a future respectful society. To quote Foreign Minister De Gucht, "our country should do its utmost to keep the memory of the Holocaust alive."

These values are also stressed and understood in the highest Belgian offices, through the participation and speeches of H.M. King Albert II and the Belgian Prime Ministers, Mr. G. Verhofstadt and Mr. Y. Leterme during the official remembrance in Auschwitz-Birkenau and during the 65th anniversary of the Warsaw Uprising.

To conclude, I thank the Chair and the delegations for their attention and I wish to express our support for the Declaration of Terezín and, as mentioned in the brochure summarizing Belgian initiatives concerning the Holocaust, I can assure you that Belgium will continue research and efforts while emphasizing the duty of each government and each citizen to never forget the Holocaust.

BOSNIA AND HERZEGOVINA

► Jakob Finci

AMBASSADOR TO SWITZERLAND,
BOSNIA AND HERZEGOVINA

Your Excellencies, Ladies and Gentlemen, Dear Friends:

It is a great pleasure and honor for me to address you in the name of my country, Bosnia and Herzegovina, a country which accepted Jews after their expulsion from Spain, and a country in which Jews found a new home, built a first synagogue as early as 1581, and in which they survived not only the Holocaust, but also a recent war that took place between 1992 and 1995, and the only genocide in Europe after the Holocaust.

Unfortunately, 85 percent of the Jewish population disappeared during the Holocaust, and just a small group survived, some Jews fighting with Tito's partisans, some hiding, and some in the camps, as my own family did. Being born in the Italian detention camp, I am not sure if I am a survivor of the Holocaust or if I belong to the first post-war generation.

Bosnia and Herzegovina was a part of the Socialist Federal Republic of Yugoslavia, and during socialism, a lot of property, including Jewish private and communal property, was nationalized. After the fall of socialism, one of the first things that was promised by the new government was the denationalization and return of nationalized property, but unfortunately the war stopped us in this activity. The war lasted for almost four long and difficult years, and after the war it was not possible even to think about restitution of property in a situation in which

survival and basic reconstruction of our devastated country was our first goal.

Generally speaking, restitution is not a simple project, especially after 60 years, and if nationalization is like making an omelet from three eggs, restitution is like making again three eggs from an omelet. The first draft of a law on restitution was not accepted by our Parliament, so now we have a new commission drafting a new law. Representatives of the Inter-religious Council, representing traditional religious communities in our country and including a representative from the Jewish Community, have been invited to join the commission. We hope that this draft will be acceptable for everyone, and the law is scheduled to be submitted for ratification to the Parliament of Bosnia and Herzegovina in September of this year.

We think that is never too late to rectify an injustice created by nationalization without any compensation, but at the same time we know that we should avoid new mistakes that could arise from our eagerness to remedy the past injustices quickly. If we waited for almost 60 years to start with restitution, is better to spend a few more months, or even years, to create a just process of restitution, than to make new mistakes.

I am sure that the results of this Conference, which was flawlessly organized by our Czech hosts, will help us to rectify this long injustice once for all, and that, as least as far as unlawful nationalization is concerned, we can say “never again.”

Thank you for your attention.

BULGARIA

► Daniel Valtchev

DEPUTY PRIME MINISTER AND MINISTER
OF EDUCATION AND SCIENCE, BULGARIA

I would like to start my brief statement by remembering a fact. From the historical point of view, Bulgaria is one of the very few European countries that did not allow the Holocaust to happen on its territory. What exactly happened at that time is, I think, well known. The Bulgarian people made an important stand against the Nation Protection Act, adopted in Bulgaria under the pressure of Nazi Germany. On the basis of this act, some restrictive and compulsory regulations were enforced, with a major negative impact upon the Jewish population in Bulgaria.

In February 1943, a newly established Commissariat on Jewish Matters made an agreement with Germany on the deportation of thousands of people. At night on March 10, 1943, before the official decision of the parliament was made, the Jews who were arrested in order to be deported were released. A week later, 43 members of the parliament led by the deputy speaker, Dimiter Pechev, submitted a Declaration on the Protection of Bulgarian Jews. Nationwide protests were initiated by politicians, intellectuals, leaders of the Bulgarian Orthodox Church, and citizens with different party affiliations. Everyone embraced the single objective to save their Jewish compatriots living on the Bulgarian territory.

Ladies and Gentlemen, we, the participants of this Conference, are convinced that our efforts will make an impact on whether and how the tragedy of the Holocaust is remembered by future generations. It is our joint responsibility to provide the children

and the young people of Europe and in the world with the spirit of democracy and human rights values in order to prevent the Holocaust tragedy from happening again.

Learning about Holocaust-related historical issues is embedded in the curriculum and the civic education programs in Bulgarian schools. The topics find their natural place in the curricula of history and civilization – a compulsory and specialized subject studied in the junior high and high school, as well as in the curricula of a philosophy study program. Since 2003, the date of March 10 has been remembered as the day of the Holocaust and the saving of Bulgarian Jews. Every year Bulgarian schools commemorate this day with various activities.

In the context of the main issues discussed here today, I would like to remark that in Bulgaria, the problem of restitution of real estate owned by Jewish organizations has been solved to a great extent. The ownership of the total of seventy real estate objects (synagogues, residential houses, land, etc.) has been restored in the capital of Sofia and in other towns as well. The current pending legal actions are related to only two real properties, one in Sofia, and the other in the city of Varna. Considering our legal precedents, we believe these cases of restitution will also be carried out to a successful end.

It is well known that the present Bulgarian government, by its decision of June 2007, granted the ownership rights to two floors of a building in the centre of Sofia, to one of the main Bulgarian Jewish organizations – Shalom. There are no outstanding issues vis-à-vis the real estate objects owned by individuals of Jewish origin, since the properties were returned to these persons after the end of the Second World War. Subsequently, as Bulgarian citizens, the Jews might have been affected by the communist nationalization

after 1944. It has also been recognized by the Jewish organizations in Bulgaria that these injustices were perpetrated against the population at large and not specifically against persons of Jewish origin. To conclude, I would like to express again the support of my government for the Joint Declaration that we consider a very important consensus document.

CANADA

► Jason Kenney

MINISTER OF CITIZENSHIP, IMMIGRATION
AND MULTICULTURALISM, CANADA

Mr. Chair, Your Excellencies, Ladies and Gentlemen:

On behalf of the Government of Canada, and our Prime Minister, the Rt Hon. Stephen Harper, I am honored to join you today.

More than 40,000 Holocaust survivors have resettled in Canada. In fact, after the United States and Israel, Canada has the largest population of Holocaust survivors in the world. Their suffering has impelled our government to act. Canada has recently assumed a leadership role in combating anti-Semitism worldwide, and in supporting initiatives to promote Holocaust education and commemoration.

The Government of Canada recently sought and obtained full membership in the Holocaust Task Force. As part of the membership process, Canada is coming to terms with its own history of anti-Semitism. Our government is supporting projects to

commemorate the St. Louis Incident, in which a group of Jews fleeing the Holocaust were turned away by previous Canadian governments.

Our government is also leading the world in combating the new anti-Semitism. My proudest moment as a minister was when I announced that Canada would be the first country to withdraw from the racist Durban Review Process.

Decades have passed since hundreds of thousands of cultural artifacts and property were stolen from Jews and other Nazi victims. In Canada, for example, seven paintings stolen by the Nazis from the late renowned art collector Max Stern recently went on display at the Montreal Fine Arts Museum. Every piece of art that is recovered bears witness to a personal tragedy, as well as one of mankind's greatest crimes.

Canada fully supports the Terezín Declaration. The focus must now shift to seeing it implemented. Without urgent action in setting up a just system for dispute resolution, settlement, and restitution, I fear that the tragedy we are seeking to address will only be made worse. Past successes, including the one achieved in Washington, will be squandered. What is required is political leadership, both globally and in each of our respective countries. Required also is better coordination, cooperation, and a sustained focus on seeing the principles of the Terezín Declaration implemented before it is too late. Disagreements must be resolved promptly, and not be allowed to become excuses for further delay.

With tens of thousands of Holocaust survivors still living in Canada, our government will do its part, and we expect other countries to do theirs as well, to ensure we do not squander this opportunity. Our government commends those countries

that have taken real steps to facilitate dispute resolution, settlement, and restitution for Holocaust assets. Justice requires restitution, and their leadership inspires us all.

Canada welcomes the establishment of the European Shoah Legacy Institute in Terezín. Canada hopes, firstly, that within a year there is a framework to share best practices regarding Holocaust research education, and commemoration. The Terezín Institute should support and complement the excellent work of the Task Force for International Cooperation on Holocaust Education, Remembrance, and Research.

We also hope, secondly, that the Terezín Institute fulfills its promise of ensuring the creation of mechanisms for settlement, restitution, and dispute resolution. Canada hopes that it brings sustained attention and focus on national governments to ensure that the principles of the Terezín Declaration are implemented within a year.

Last year, Canadian Prime Minister Stephen Harper referred to the Holocaust, and I quote, as “genocide so premeditated and grotesque in design, so monstrous and barbaric in scale and so systematic and efficient in execution that it stands alone in the annals of human evil.”

Our moral obligation to Holocaust survivors is paramount. That moral obligation should guide how every country implements the Terezín Declaration. It should also give us the energy, the resolve, and strength of purpose to ensure that justice is no longer delayed, or worse still denied.

CROATIA

► **Alexandar Heina**

DIRECTOR, MINISTRY OF FOREIGN AFFAIRS
AND EUROPEAN INTEGRATION, CROATIA

Mr. Chairman, Ladies and Gentlemen, Distinguished Guests:

Let me thank our hosts for the wonderful job they have done by organizing this Conference, thus giving all of us an opportunity for the remembrance of the most horrifying crime in human history.

We have gathered here because it is our duty not to let a veil of oblivion cover this monstrous crime and its innocent victims, and also to sum up what we have achieved in order to keep the memory of this inadmissible atrocity present and alive. One of the best ways to prevent such horrors from recurring is to strongly remind the young generation of the inadmissibility of such crimes.

Therefore, I am proud to say that during the last decade, from the first conference held in Washington in 1998, Croatia has achieved outstanding results precisely in the area of education, which is the main tool by which the knowledge about the Holocaust is spread among young people. Thus, we have been reinforcing the belief that such atrocity must not be repeated again.

Allow me to start with the Holocaust education in Croatia, administered by the Croatian Ministry of Science, Education and Sports in cooperation with other relevant institutions.

Croatia has been a member of the Task Force for International Cooperation on Holocaust Education, Remembrance, and

Research since 2005 and cooperates with international Jewish agencies in Israel and in the USA. Observing the need for comprehensive education on the Holocaust, the subject is taught in schools as a cross-curricular subject and Croatia has so far sent 548 teachers to Israel and to the USA to study the subject of the Holocaust. School libraries are equipped with books on the Holocaust, video materials have been prepared as instruction units to be used in classrooms, and teaching aids have been distributed to students and teachers.

Holocaust Remembrance Day is officially celebrated in Croatia and all schools organize special activities on this day. Croatia is among the few countries that have a bilateral agreement on scientific and educational cooperation with Israel, thus creating further possibilities for the scholars of both countries to explore the subject of the Holocaust.

Croatia protects and promotes the culture of all national minorities living in Croatia, including the Jewish minority. In this context, the Ministry of Culture financially supports the preservation and protection of cultural assets that belong to the Jewish minority, including the immovable heritage, movable cultural assets owned by religious communities, as well as private collections, museum and gallery collections, archives and book collections, publication of magazines and books, art production, etc.

As our best example in this field, we would like to mention the Jasenovac Memorial Site, under the care and protection of the Croatian state, where we keep alive the memory of the Holocaust tragedy and of all the Jewish victims and victims of other nationalities and religions who died in Jasenovac. The contemporary concept of the Memorial Museum, enhanced by a

high-quality historical overview, enables the visitors to experience the tragic past. The Educational Centre, which is also part of the Jasenovac Memorial Museum, enables the development of new artistic and communicative relationships both in Croatia as well as within the international cultural context.

Furthermore, referring to international cooperation in this field, I would like to mention that Croatia has signed an agreement with the United States whereby the two countries agree to cooperate in the field of protection and preservation of the cultural heritage of all national, religious and ethnic groups, including the victims of genocide during the Second World War.

All Holocaust-related activities are based on values of tolerance, solidarity and respect for others. These values are incorporated in the Croatian Constitution. It is of particular importance to mention that the Constitution prohibits any call for incitement of national, racial or religious hatred or any form of intolerance and that our legal system imposes sanctions on all criminal offenses motivated by hatred towards a person because of race, language, religion, political or other beliefs, national or social background or similar characteristics.

In addition, the Criminal Code imposes sanctions on all public presentations or dissemination of ideas claiming superiority or inferiority of race, ethnic or religious community, sex, or nationality, as well as the idea of superiority or inferiority based on color with the aim of promoting racial, religious, gender, national, or ethnic hatred or hatred based on color.

Croatia pays due consideration to the issue of restitution of the sized Jewish property, particularly stressing that the

restitution of Jewish religious property needs to be conducted in a way that precludes any religious discrimination.

We are very sensitive to the issue of identification of persons buried in mass graves, as a necessary way of paying historical tribute to victims of horrible crimes, and have achieved progress in this field – especially in the field of DNA analysis.

Also, it has to be mentioned that Croatia has developed a system that ensures that all civil casualties of war are protected against discrimination, regardless of their faith, nationality etc.

Finally, considering our consistent interest and involvement in the wide spectrum of issues related to Holocaust, we welcome and support the adopting of the Terezín Declaration – the fruit of our joint effort to make our activities more effective, and to ensure that they have a stronger and more lasting impact. By implementing our joint programs and initiatives, we will both strengthen the moral obligation of our nations as well as the political obligation of our governments to pass the truth about the Holocaust and its consequences on to the future generations.

Thank you for your attention.

DENMARK

► **Arnold De Fine Skibsted**

AMBASSADOR, MINISTRY OF FOREIGN AFFAIRS,
DENMARK

Mr. Chairman, Ladies and Gentlemen:

At the outset, my delegation would like to thank the Czech EU Presidency for convening and organizing this Conference. We would also like to thank our hosts for their generous hospitality.

Denmark has actively taken part in the preparations of this Conference, and we welcome the Terezín Declaration as its outcome.

It is the obligation of all states to keep alive the memory of the Holocaust. It is equally important to learn from it. The atrocities committed during the Second World War against innocent civilians – children, women, and men – stand forever as the underlying rationale of the need for international cooperation among states in promoting a safer and more peaceful world. The Holocaust stands as a unique example of genocide that must never be forgotten. Likewise, we all have a duty to do justice to the victims of the Holocaust.

In this respect, we believe that this Conference and the Terezín Declaration emphasize important aspects related to the Holocaust and its aftermath.

Many states have already done their utmost to address the challenges and to honor the victims of the Holocaust. But this does not in any way diminish or make irrelevant our fundamental

long-term objective of this Conference: to do justice to victims of genocide, war crimes and other crimes against humanity. We are gathered here to demonstrate that we, the states, and other participants, care about the tragic aftermath of genocide.

In armed conflicts, those who suffer the most are the innocent civilians who for various reasons are deprived of their lives, their homes, and their belongings. History has shown us many times how the real losers in armed conflicts are not the individual states, but children, women, and men who because of state interests are left without a home, and with no possessions.

In this light, Denmark is a strong supporter of all international efforts to protect civilians in armed conflicts, such as the so-called Responsibility to Protect adopted by the United Nations in 2005. In cases of genocide, war crimes and crimes against humanity, the UN member states are obliged to work for the protection of civilians. States have a Responsibility to Protect, and the international community has a responsibility to assist the states in protecting their civilians. Also within the framework of the European Union, we – the member states – are united in a common effort to work for the dignity of all human beings and for the respect of all individuals.

Like many other countries, Denmark believes that learning from the past can prevent repetition of the same mistakes in the future. The story of the persecution of Jews before and during the Second World War that subsequently led to the Holocaust is an important lesson for future generations.

Since 2003, Denmark has commemorated the victims of the Holocaust on January 27, the annual “Auschwitz Day.” Thus, the annual Auschwitz Day is dedicated to the commemoration of the victims

and to the support of the survivors. It aims to promote education and public awareness about the Holocaust and other genocides in schools, high schools and universities, and in the public at large.

Around the country, the local municipalities organize various remembrance ceremonies. Alongside the remembrance activities, the Ministry of Education hosts a series of workshops for high school students to learn about the Holocaust and other genocides.

It is not without significance that, by giving his consent to the activities of the annual Memorial Day, Mr. Bertel Haarder, the Danish Minister of Education, wishes to improve the awareness of the Holocaust among Danish students, upholding the principle “never to forget what the past can teach the future.”

It is our conviction that we must reflect upon the lessons of the Holocaust as a way to understand and prevent such horrors in the future.

We should promote Holocaust education in a comparative way in schools and other educational institutions, in order to motivate students to assume a personal responsibility driven by the spirit of democracy, human rights and tolerance. And we should work for democratic and tolerant societies without racial and other prejudices.

Thus, being united with other European countries and with the international community, Denmark’s commemoration of the Holocaust is an important element in our work for peace, justice and unity among nations. So is our support for the International Criminal Court as a fundamental institution in the development of international law and the promotion of the rule of law in international relations.

Denmark has a longstanding tradition of promoting and protecting human rights and fundamental freedoms. Denmark believes that keeping alive the memory of the Holocaust through education, research and commemorative activities is an important way to teach future generations about fundamental human rights, and about the necessity to observe and protect them everywhere.

That is the background for Denmark’s commitment to the work of the Task Force for International Cooperation on Holocaust Education, Remembrance, and Research, of which Denmark became a member in 2004. We see this cooperation as the leading international forum on Holocaust remembrance.

Mr. Chairman, it is our ambition and hope that the outcome of this Conference will enable us all to better address the challenges of the future.

Thank you Mr. Chairman.

ESTONIA

► **Aino Lepik von Wirén**

UNDERSECRETARY, MINISTRY OF FOREIGN AFFAIRS,
ESTONIA

Excellencies, Ladies and Gentlemen, Dear Friends:

On behalf of the Estonian delegation, I am very happy to greet you all in Prague, one of the most beautiful capitals in Europe,

a city that has for a long time attracted Estonian intellectuals, among many others, with its rich cultural life. I would, therefore, like to begin with a reference to an Estonian writer, Bernhard Linde, who published his travelogue, entitled “Towards Creative Central Europe,” in 1930, in which he described with admiration the Jewish literature and theatre in Czechoslovakia, concluding with the observation that education is the primary foundation of mutual understanding between European nations. This idea was not very original even at that time, but the tragic history of the following decades demonstrated that many Europeans had failed to grasp even the most basic values – the rights of the people to life, freedom and property.

It is clear that the study and condemnation of the Holocaust and other crimes against humanity will always remain on the agenda in all countries, including Estonia, in order to enable future generations to understand the basic values of humanity. The teaching of the Holocaust is part of Estonian school programs and curricula dealing with the history of the Second World War. In order to increase the general awareness and understanding of the Holocaust, the Ministry of Education and Research has organized international seminars in Estonia. Teaching the subject of the Holocaust is based on the valuable experiences and academic research in the member states of the Task Force for International Cooperation on Holocaust Education, Remembrance, and Research. More than ten years ago, the International Commission for the Investigation of Crimes Against Humanity was established to investigate all crimes of this nature that had been committed on the territory of the Republic of Estonia during the Nazi and Soviet occupations. The Commission concluded its activities in 2008, but Estonia will continue to conduct research into the crimes committed by the Nazi and Communist regimes in Estonia and to draw appropriate conclusions from their findings.

The working groups of the recent meeting of the Task Force for International Cooperation on Holocaust Education, Remembrance and Research in Oslo repeatedly emphasized the importance of remembrance days for raising awareness of the tragic events. In August 2002, Estonia declared the 27th of January to be the Day of Remembrance of the Victims of the Holocaust. Another Estonian remembrance day with a long history is the commemoration of the 14th of June 1941, when the authorities of the Soviet Union deported over ten thousand persons from Estonia, including some 10 percent of the 4,300 members of the Estonian Jewish community. In accordance with the declaration of the European Parliament, the Estonian parliament decided, on the 18th of June 2009, to proclaim the 23rd of August as another day of remembrance – it is the date of the Hitler-Stalin Pact of 1939, which opened the way for unspeakable crimes against humanity, including crimes against the Jewish community.

In order to understand our shared history, we need to experience it through well-known objects and symbols. The Estonian Jewish Museum was opened in Tallinn in December 2008. It provides valuable information on the history of the Jewish community in Estonia, from the 1926 Act of Cultural Autonomy, a unique legislative measure in the European context at that time, to the Holocaust and the rebirth of the Jewish community. In addition to existing memorials at the sites of death camps on Estonian territory, a memorial to the Jewish soldiers who died fighting for Estonia’s sovereignty in the War of Independence has been unveiled on the wall of the Jewish School in Tallinn. The Monument to the War of Independence, opened on the 23rd of June this year in Tallinn, is also dedicated to Jews who fought for Estonian freedom.

Museums, memorials and conclusions of research committees are necessary and useful only if they can be used to present the past to those who will shape our future – to the young people. The work of the Czech Presidency of the European Union and Norway's successful chairmanship of the Task Force for International Cooperation on Holocaust Education, Remembrance, and Research have strengthened the foundation, which enables us to move forward towards a better and more understanding world, gaining new knowledge without forgetting the past. Thank you once again and I wish you much success in the future!

FRANCE

► François Zimeray

AMBASSADOR FOR HUMAN RIGHTS, FRANCE

Ladies and Gentlemen:

Let me first say that it is a great privilege to be able to speak at this Conference. I would like to express my gratitude to the organizers of this Conference and to all those who have made a sincere effort to contribute to the work of this Conference. In the presence of the representative of the Israeli government, I would also like to say that our thoughts, our hopes, and our solidarity are with the abducted soldier Yigal Shalit.

One could believe that everything has already been said about the Shoah and that all questions related to that topic are now part of

history, meant only for historians to discuss. But I do not think that it has ever been more appropriate to discuss these questions than it is today. We now find ourselves in a very difficult period. The remaining Holocaust survivors will leave us soon, and we will be faced with the enormous responsibility of keeping their memory alive. Will we succeed? Will we manage to preserve the memories of these people? On the occasion of this Conference, France co-chairs the Commission on Looted Art. I would like to thank the Czech Republic for trusting us and helping us in this cooperation.

The idea, as was already mentioned, is to improve the conditions for compensation of Jewish victims. We in France are committed to improving and to fulfilling the conditions that we agreed on in Washington eleven years ago. We have accomplished a lot since then, and we will continue to meet the commitments made in the past.

We need to understand that the Shoah, as well as anti-Semitism, does not concern only Jews. The issues connected with the Holocaust form a universal chapter in the history of humankind, and we are responsible for keeping them alive. Simone Veil has said that we feel that in France, there is a willingness and ability to turn the page and see that words do not have the same meaning as before. Yesterday, I saw the wonderful exhibition here on the ground floor about the Warsaw ghetto. Observing these pictures and texts up close helps us to fully realize what genocide and Holocaust mean.

Some words are so frequently used that they have almost lost their meaning. Holocaust denial is widespread and Simone Veil said that it is our responsibility to counter this trend. Again, I want to say that we will never allow the memory of the Holocaust to become only a distant legend.

Many speakers before me have said that there are differences between countries in their approach and that is alarming. In France, we are now preparing an innovative project to remember the victims of the Shoah. This project is called "Aladdin." It is painful to realize that today it is difficult to find survivors of the Shoah in countries where the Persian or Turkish languages are spoken. The *Diary of Anne Frank* and other important documents are not available in many of the world's languages, and that needs to be rectified. More information needs to be available on the Internet, in order to foster understanding between Jews and Muslims. That is what "redress" means: not only financial redress but also moral redress. We need to send a strong message to the current and the future generations so that they learn to respect human rights across the world. We want to help all those who want to continue in these efforts, and we will do everything we can to keep the memory of the survivors alive.

In the area of human rights, France is hardly in a position to lecture others. However, we want to learn from our own history and from the history of others. And that is very necessary. We also need to admit that memories cannot be measured by the amount of concrete we use to repair the memorial sites. We should measure our efforts by the ability to pass on these memories to future generations.

Thank you.

FYROM

► **Elizabeta Kanceska-Milevska**

MINISTER OF CULTURE, FYROM

Distinguished Audience:

The care for one's own past is a feature of the civilized world. It provides the basis for one's identity and it is a red line that must not be crossed. Nonetheless, humanity still remembers the Holocaust crimes and endures the pains and wounds.

On March 11, 1943, approximately 7,200 people, among whom were 3,000 children, were deported and killed in the Nazi camp Treblinka in Poland. On this morning, the Macedonian community lost 98 percent of its Jews. It was a murky and gloomy morning in the Jewish neighborhood in Skopje. The sun rose without the children's babble and without the language of the Jews. Today, the available documents speak about the destiny of this nation and the dehumanization of the Jewish people. The memories and photographs of their children, as well as of the Macedonians who witnessed their ordeal are entrusted to the present and future generations so that the memory of the Macedonian Jews is most sacredly and devotedly worshipped.

Therefore, although the demon of anti-Semitism, the demon of religious, national, racial or ideological intolerance, is present and felt even today, I do believe that it is high time that the ideas of freedom and tolerance are promoted in the educational system and in the program policy of all media. This is essentially important so that the new man, formed on mostly humanitarian principles, may avoid the new Holocaust. The continental

barriers are to be crossed and we must not stop with our endeavors in suppressing hatred, racism, fear, and terror on the Balkans, in Europe, and in the entire world.

The modern European leaders have already assumed responsibility for the pogrom. It remains firmly established as awareness that each and every form of anti-Semitism and discrimination is a vile act against humanity and nature as well.

The geography of the Republic of Macedonia has always facilitated the recognition of people's aspirations for freedom and independence. Therefore, our country, as a state that cherishes tolerance and principles of humanism and universal values, was, in 2007, the host of the First World Conference on Dialogue among Religions and Civilizations. This event stressed that only through the exchange of opinions and experiences can the world become a dynamic place where nations once again show not only the inspiring wealth of differences but also the willingness to cooperate. We understand that only through dialogue based on full mutual respect and esteem for the differences and values of the others, can peace be preserved, different tasks attained, and the highest ideals of the contemporary world followed. We have come to a mutual realization of the need to elevate the diversity of values, safeguard the rights and interests of minorities, promote democratic values and human rights, and to develop cohesion of the communities based on shared values. Furthermore, this cohesion does not only imply cooperation, but genuine solidarity with others as well. The respect for the individual rights in terms of gender, race and *ethnos* are of crucial significance today. Pluralism was not imposed as an idea, but as a real fact for socio-cultural integration. Diversity, multiculturalism and dialogue with other cultures imply recognition and promotion of the diverse cultural and social groups. Moreover, they provide

the space for development of cultural models internationally, thus safeguarding those cultural features that are essential for the future development.

I would like to take advantage of this occasion and announce that, following the construction of the Holocaust museums in Jerusalem and Washington, the erection of the museum in Macedonia has commenced. This museum will be the third one of its type in the world, and the first one in Europe. The Memorial Holocaust Center, paying tribute to the Macedonian Jews, will symbolically return the victims of Treblinka home, to their Jewish neighborhood, to the synagogues, to the old and dilapidated shops and workshops, to their Macedonian, Albanian, Turkish, Romanian and Romani fellow citizens, with whom they lived side by side and shared similar destinies, regardless of national or religious differences. Macedonia is proud to be the only country in Europe that has solved the restitution issue concerning the property of the deported Jews from the Second World War. This Memorial Center is constructed through the Holocaust Fund. By means of restitution, the property of the deported Jews was transferred to this Fund.

Via the Memorial Center, the Republic of Macedonia conveys a message to the entire world stressing that this calamity and ordeal must never occur again. The ideas of peace, tolerance, democracy and coexistence shall be promoted by the Center. For the new generations, the Memorial Center will be a shrine in which the highest principles of civilization and of moral values will be enthroned. It will be a contribution to the development of culture in Macedonia and a microcosm of the moral anatomy in this space and time, representing a symbolic universal transversal from Holocaust to *hologenesis*.

I must emphasize that the Republic of Macedonia is the only country where restitution is provided by law for the Jews that did not survive the pogrom and who do not have heirs. In the year 2003, the Government of the Republic of Macedonia completed the restitution of the property belonging to the Jewish religious community in Macedonia, and also returned the land and buildings that were in possession of the Jewish Community.

To safeguard the right to freedom, the right to be different and to realize oneself as an individual in society, is not only a legal obligation stipulated by law, but it is also a moral obligation of each and every politician and person. We all need to contribute to our brighter future.

The adoption of the joint Terezín Declaration acknowledges the thesis that the world aims at unity, by uniting the similarities as well as respecting the differences. Macedonia is a good example, demonstrating how different cultures may live in peace and tolerance. Therefore, I call upon you to adopt this exceptionally important document for humankind. In addition to this, I would like to stress that recently, Macedonia has acquired the status of an observer in the International Holocaust Group, which is the first phase on the path to a full-fledged membership. By being a member in this important organization, established on May 7, 1998, Macedonia will actively contribute to attaining its primary objective, which is the promotion of international cooperation in the area of education, remembrance and Holocaust research. In the course of the last two to three years, Macedonia attended and participated in the semiannual meetings of ITF in the capacity of guest of the Chairperson. In this respect, I am particularly delighted that Ms. Bjanka Subotik, President of the Jewish Community, and Mr. Viktor Mizrahi, Honorary Consul for Israel to Macedonia, are among the delegation members.

Today, there are 1,500 Jews in the Republic of Macedonia. They are treated as equal citizens in this democratic and modern state. I am particularly pleased that this small Jewish community is well embedded in Macedonia. The feeling of friendship and mutual respect has always existed between the Macedonian and Jewish peoples, and the Republic of Macedonia and the Macedonian politics will pursue this tradition.

At the very end, please allow me to quote a thought that was voiced in the course of the World Conference on Dialogue among Religions and Civilizations: "Each and every nation worldwide is obliged to contribute to peace and tolerance, by placing its cultural and spiritual heritage and its own values in the service of the entire humankind. Therefore, we are all obliged to heal the wounds from the past, which have emerged due to a lack of peace and tolerance, and without neglecting the past, we are to look at the future."

Thank you.

GERMANY

► Michael Jansen

FORMER STATE SECRETARY OF THE FEDERAL
FOREIGN OFFICE, GERMANY

Mr. Chairman, Ladies and Gentlemen:

“The Federal Government and the vast majority of the German people are very much aware of the immeasurable suffering that was caused to the Jews in Germany and in the occupied territories... Unspeakable crimes were committed in the name of the German people which engage a moral as well as a material compensation in respect of individual losses of Jews as well as Jewish property for which individual claimants can no longer be traced.”

Those, were the words pronounced by Konrad Adenauer, the first Chancellor of the Federal Republic of Germany, before the German Parliament in September 1951. On the occasion of a visit to Jerusalem in April 2007, our present Chancellor Angela Merkel affirmed: “Only by fully accepting its everlasting responsibility for this terrible period and for the most cruel crimes in its history, Germany, my country, will be able to shape the future – only this way and not through anything else.”

These words remind us that the Federal Republic of Germany has from the very beginning acknowledged and will continue to stand by its responsibility for those immeasurable crimes committed against millions of victims of the Nazi regime.

These victims include the Jewish people murdered during the Holocaust and many others throughout Europe, in particular those in Central and Eastern Europe. When Foreign Minister Genscher signed the German-Polish Border Treaty in November 1990 in Warsaw, he said this: “We do not forget what the name of Auschwitz means not only for the Jewish people. It remains a permanent reminder of the need to preserve human dignity, to respect other religions, other peoples and other ethnic groups.” And he reminded the audience: “50 years ago the Polish people became the first victims of the war launched by Nazi Germany.” And later the people in the former Soviet Union, the Russians, Ukrainians and others, were killed and tortured, their homes destroyed.

In recognition of its special responsibility, Germany has participated in the 1998 Washington Conference on Holocaust-Era Assets and it has taken an active role in the preparation of and the participation in this Prague Conference, which will mark another crucial step in addressing important issues related to the Holocaust era.

The declaration of Chancellor Adenauer as quoted in my introduction opened the path towards the Luxembourg Agreements signed one year later in September 1952 with the Government of Israel. At the time it had been made clear by the German government on the one hand and by Israel as well as the Jews around the world on the other hand that material compensation of the Holocaust survivors was not the only issue arising from the need to come to terms with this catastrophe which was afflicted by the Nazi regime on the countries and peoples and on the Jews in Europe and beyond. Nevertheless it was important in order to acknowledge responsibility and to help the victims in starting a new life after their previous lives lay in

ruins at the end of World War II, after all the horrible experiences they had gone through.

Recognizing the challenges of this situation the Federal Republic of Germany, starting in the early years has, over time, built up a differentiated and fairly inclusive system while trying to do some justice to the victims. Let me only mention a few programs here:

- ▷ More than EUR 45 billion have been paid out to survivors in pensions under the Federal Compensation Act.
- ▷ More than EUR 2 billion have been paid out under the Federal Restitution Act where former Jewish or other victims' property confiscated by the Nazis could not be restituted.
- ▷ Following the Washington Conference and based on the German-American Agreement of 17 July 2000, more than EUR 4.5 billion were paid to victims of forced labor, most of them from Central and Eastern European countries.
- ▷ Also based on the 2000 Agreement, roughly EUR 300 million were paid in Holocaust insurance claims by German Insurance Companies under the ICHEIC scheme. German insurance companies have reaffirmed their voluntary commitment to honor legitimate claims of Holocaust victims. Companies presently do and will continue in the future to honor such claims out of their own funds over and above their previous funding of the German Foundation.

Based on her experience, Germany is well aware of the difficult problems arising in the context of compensation and restitution. We engaged in serious endeavors to implement the Washington

Principles on Nazi Confiscated Art at all levels of the government. We have significantly strengthened provenance research in museums, libraries and archives.

We also acknowledge that today, 64 years after the end of World War II, most of the Holocaust survivors and other victims of Nazi persecution are at an advanced age, and many of them find themselves in a precarious economic and social condition. They will need all the attention of the countries in which they live but Germany will also continue to support them.

I would like to point out, that overall the Federal Republic of Germany, by the end of 2008, has paid out EUR 66 billion in compensation to Holocaust and other victims of Nazi persecution. As of today, Germany is shouldering more than EUR 600 million per year in compensation payments, most of it either directly to Holocaust survivors through BEG pensions or by supporting the various funds administered by the Jewish Claims Conference. Let me add: Everybody knows that money is important. Yet we also know that nothing we do can bring back the dead or heal the physical and psychological wounds inflicted.

With all the importance given to the issues of restitution or compensation for property losses and of the social welfare of Holocaust survivors who are still with us, the subjects of Holocaust education and remembrance will additionally need immediate as well as long term attention of the States participating in this Conference and even beyond. Against the background of what happened in the heart of Europe only some 60 years ago, it cannot be accepted that there are still people in the world, and prominent personalities among them, who continue to deny that the Holocaust ever happened. Anti-Semitism and xenophobia are still frequent phenomena in many countries. It is, therefore,

urgent as well as essential that we address these issues by giving this chapter of European history a firm place in our educational systems, both at schools and at universities, that we promote research, and that we encourage remembrance by declaring commemorative days and creating memorial sites, such as the former concentration camps. This will help to keep alive the memory of the victims and to anchor the historical message among the younger generations: Never again!

When we all gather tomorrow in Terezín to sign the Terezín Declaration, we will present a document that addresses these issues. It aims at rectifying the consequences of Nazi acts of persecution against individual victims of the Holocaust. For the record and for the purpose of clarification I should add that Germany's active support of this Declaration does not in any way reflect Germany's position on other matters relating to World War II or its aftermath, which have no bearing on issues dealt with during this Conference.

We are confident that the Terezín Declaration will help to focus international attention and opinion on these issues, and to encourage national and international institutions to deal with them in a manner that does some justice to the victims of the past and helps to prevent such a disastrous course of history from ever repeating itself in the future. My country will not tire in keeping up its efforts to draw the lessons from the darkest period of its history.

In conclusion, I would like to express my deeply felt gratitude to Chairman Miloš Pojar and his team and to the Government of the Czech Republic for all their efforts in organizing this extraordinary event.

GREECE

► Alexander Philon

AMBASSADOR, MINISTRY OF FOREIGN AFFAIRS,
GREECE

Greece would like to thank the Prime Minister of the Czech Republic for his invitation to participate in the Prague Holocaust Era Assets Conference. As a participant in the 1997 London "Nazi Gold" Conference and in the 1998 Washington Conference on Holocaust-Era Assets, Greece has had the opportunity to highlight some of the problems faced both by the State and by the Jewish Community of Greece. As the Prague Conference has a rich agenda of subjects, we would like to refer specifically to some of them as Greece has immediately after the Second World War, a first in Europe, dealt with some of the most urgent matters:

On the Question of the Restitution of Real / Immovable Property: A ruined and impoverished Greece, right after liberation, enacted legislation for the restitution of Jewish property to its owners, but also adopted Law 846/1946 that prescribed that all Jewish heirless property, which would normally revert to the State, would be ceded to a common fund for the rehabilitation of indigent Jews. To this day, an agency named "The Organization for the Welfare and Relief of the Jews of Greece" run by members of the Jewish Community continues its work, assisted by other organizations that help survivors.

On the Matter of Looted Property: The Ministry of Culture of Greece sent a circular letter in 2008 to all museums under its supervision to investigate the provenance of works of art in their collections in order to ascertain whether any of them might have

come from looted Jewish properties. For the moment, no such works of art have been located, but the investigation will continue. The only objects that could fall under this category are some tombstones from the old Jewish cemetery of Thessaloniki, which was destroyed by Nazis during Greece's occupation. They have been collected and are held for safekeeping and are available to researchers. Some tombstones are on display at the Jewish Museum of Greece. Finally, the Jewish Community of Thessaloniki asked for the restitution of religious artifacts and personal assets looted by Bulgarian authorities in Northern Greece.

On the Question of the Old Jewish Cemetery of Thessaloniki: The discussions between the competent Greek authorities and the President of the Jewish Community of Thessaloniki on compensation for the Community-owned objects confiscated by the Nazis and their collaborators, have made great progress and an early settlement of the matter is expected.

On the Archives Issue: Greece, as a party to the Bonn Agreement of 1955, has been diligently working for the release of the Bad Arolsen Archives and is gratified by the agreement that was reached. Unfortunately, an issue of great importance concerning archives still remains unresolved: it is the issue of the repatriation of looted Jewish archives from several communities of Greece which, despite all the efforts of the governments during the last decade, are still held, as they have been since the end of World War II, in Moscow. This moral issue has been repeatedly raised by the Greek side at the highest level with the hope that Russia, an old friend of Greece since the Greek War of Independence and an ally that fought against the Axis, will look favorably upon this issue. Nevertheless, we remain hopeful. We are also gratified that the question of the repatriation of such archives is mentioned in the Terezín Declaration.

The Prague Conference is also dealing with issues concerning Holocaust education, remembrance and research. Greece, as a signatory to the Stockholm Declaration of 2000 and a member of the Task Force for International Cooperation on Holocaust Education, Remembrance, and Research, has taken steps to implement the Declaration's goals, such as adopting the 27th of January as a Remembrance Day for the Holocaust Victims and Heroes, adding new material on the Holocaust in history schoolbooks, making its teaching mandatory, training teachers in Greece and in Yad Vashem, and encouraging research and seminars. Much progress has been achieved in a relatively short time.

The Greek delegation looks forward to the adoption of the Terezín Declaration with the hope that the recommendations made in this text will take effect in the near future, in particular the sections dealing with the issues pertaining to the aging survivors and other victims of Nazi persecution.

Finally, I would like to mention an important event that took place in Athens recently.

On the occasion of Greece's chairmanship of the OSCE, in the presence of the Chair's Special Representative on Anti-Semitism, Rabbi Baker, and the publication of a volume entitled "Greeks in Auschwitz-Birkenau," the Speaker of the Greek Parliament, Mr. Dimitrios Sioufas, and the Foreign Minister, Mrs. Dora Bakoyannis, honored, in a widely attended and publicized ceremony in Athens, on June 17, 2009, Greek survivors of the Holocaust. In spite of their age, they came, they accepted commemorative medals, and they cried out "pote pia" (never again).

IRELAND

► Statement of the Delegation

Ireland is honoured to participate in the Prague Conference on Holocaust Era Assets. We value the occasion, both in the symbolic coming together of nations and in the real progress that has been achieved on the substance at hand.

The Conference addresses issues of great importance, both in coming to terms with our history, and in creating the precedents for our future. We are hopeful that the progress achieved at the Conference can be duly implemented, to better address the themes of Holocaust education, Nazi looted art, property restitution and Judaica. The conclusions on social welfare needs of Holocaust survivors are also particularly important, given our collective concern that survivors are cared for in their advanced years.

On Holocaust education, Ireland became an Observer Country of the Task Force on International Cooperation on Holocaust Education, Remembrance, and Research (ITF) in December 2007. Preparations are underway for Ireland to progress to the next level, Liaison Country status, with a view to eventually becoming a full Member Country of the ITF as soon as the required arrangements can be put in place. Ireland continues to value the importance of Holocaust education, research and remembrance. The national Holocaust Memorial Day commemoration takes place in Dublin on the Sunday nearest to January 27 every year.

Given Ireland's experience of the Nazi era, the restitution or compensation of lost Jewish immovable property has not been

a relevant issue in our case. Similarly, Ireland has also had little experience of looted Judaica and Jewish cultural property. Our intention is to monitor these issues as they may evolve in the future, and proceed on a case-by-case basis, should the need arise.

With regard to Nazi-confiscated art, Ireland has only experienced one case where allegations concerning provenance have been made and therefore has not enacted formal implementation mechanisms in this regard. Our current approach is to address such issues on a case-by-case basis, as reflected by the detailed work carried out on this case to date. Furthermore, we believe that Ireland's participation at this Conference will lead to a deeper awareness of Holocaust-related looted art issues, contributing to the development of proactive strategies for dealing with such issues in line with international best practice.

Regarding the social welfare needs of Holocaust survivors, Ireland has a wide range of social insurance and social assistance schemes, covering a range of contingencies including pensions and disabilities, which are equally accessible to survivors of the Holocaust as to all residents.

Given that Ireland is situated on the periphery of the European continent, and that we retained our independence and neutrality throughout the National Socialist era, we had a much different experience of the Holocaust than many of our European partners. While our geography put distance between Ireland and the horrors that took place elsewhere in Europe, now, with the benefit of hindsight, we recognise that we could have done more as a nation to address the needs of refugees from Nazism and survivors of the Holocaust. Successive Irish governments have recognised this point and it has informed our approach to more recent humanitarian crises.

It is against this historical backdrop, and in the context of this Conference, that we fully support all efforts to bring about transparency and restitution on issues relating to Holocaust-era assets. To this end, we will be proud to join our partners in signing the *Terezín Declaration on Holocaust Era Assets and Related Issues*, at the Terezín Memorial on June 30, 2009.

ISRAEL

► Yuli Edelstein

MINISTER OF INFORMATION AND DIASPORA LIAISON,
ISRAEL

Holocaust Survivors, Ministers, Excellencies, Friends:

I come here today on behalf of the Government of Israel, totally aware of the enormous responsibility I carry as a son of Holocaust survivors and the son of the Jewish people. I am privileged to be their voice at this most significant gathering.

Israel highly appreciates the consensus of the 46 countries gathered here in support of the Terezín Declaration, to be endorsed by all of us tomorrow at the closure of this Conference in Terezín. The Declaration will serve as a fundamental guideline for a special moral responsibility for all countries represented here. We are very appreciative of the major role taken by the Czech government and by the United States in support of this Conference in Prague. While the title of this Conference – Holocaust Era Assets Restitution – is precisely accurate and its agenda crucially pressing, I think it is fair to say that everyone

associated with the Holocaust assets restitution understands the ideal that has motivated this project from the outset.

In Deuteronomy, the fifth book of the Bible, God orders the people “Justice, Justice shalt thou pursue.” It is a theme accepted and expanded upon by every major religion and certainly endorsed in the text and teaching of the three monotheistic religions – Judaism, Christianity and Islam, if not consistently in their practice. The theme of the pursuit of justice pervades all that we do in the work of the Holocaust restitution and all that we will do to achieve the goals we set. Good laws and intense commitment to the implementation are the stepping-stones to the justice for the living.

Sixty-four years after the end of the Shoah, during which 75 percent of European Jewry was exterminated, in a pre-mediated manner, we are gathered here to finish establishing the foundation that will enable us to achieve norms for acceptable measures of justice for the eliminated communities, the victims, the survivors, their families, their heirs and their memory. In an unprecedented tragedy in human history, the six million people for whom we seek justice are dead. We have an insurmountable problem in reaching anything near the idea of justice, no matter how successful we may be in Holocaust restitution in the years ahead. There can never be anything approaching the resemblance of justice for the Jews who were robbed, tortured and killed. Their potential contribution and that of the countless millions of their never-to-be-born offspring can never be realized.

Therefore, it is an encouraging sign for the future of humanity that we are gathered here to try do what we can. There has been a loss of momentum in dealing with the hundreds of thousands of

elderly victims, Holocaust survivors, about 10 percent of whom die each year. Any systematic delay in establishing settlement and disbursement processes or resolving disputes is, therefore, not just another bureaucratic hurdle; it is, rather, the difference between a dignified closing to a tragic period in their lives and the unrequited sense of the permanent denial of justice.

These survivors deserve assistance for the needs of old age and to alleviate their unabated suffering. The population of needy Holocaust survivors is old and rapidly passing away. Because it cannot wait for assistance until after the process of locating, restituting and selling assets without big hurdles, we urge every state to consider contributing money to a special fund as an advance to permit the start of the assistance to the needy as soon as possible. It is just and right that whatever belonged to Jewish people should go back to the Jewish people. It is the Jewish people who were the major victims in the Holocaust of the Nazi atrocities before and during World War II.

The dead cannot be returned to life, but whatever can be done to help survivors and future Jewish generations must be done now. Whatever can be done for commemoration and education must also be done now. This is the only way to achieve some justice at this late date. The issue of the current value of the restituted property is of essence. It is impossible to set up the appropriate guidelines for restitution of and compensation for the wrongful seizure of Jewish property without addressing the heirless property of all kinds in the fullest context. Nevertheless, we urge the restitution of Jewish property of all kinds. In particular individual property, whether or not there are heirs.

Furthermore, restitution of all kinds of property should be *in rem*. Where fair compensation is not feasible, some appropriate

compensation should be made. Funding should also be provided by the countries for education, remembrance, research, and memorial sites. This should be linked to the restitution of and compensation for heirless property. There is a strong need for the registration of Jewish property in a centralized database that will serve as a resource and memorial for the future generations of the Jewish heritage in Europe prior to World War II.

It is vital that the nations attending this Conference open their archives for examination and research in order to return public and private property, confiscated from the Jews in their countries during the Holocaust, or to pay appropriate compensation for such property. There is a need for follow-up to assure the implementation of resolutions adopted at international conferences. A great deal of multinational effort went into achieving these resolutions and they must be fully implemented.

We welcome the establishment of the European Shoah Legacy Institute in Terezín. It is a tremendous achievement. The state of Israel is prepared to be a major partner together with the Czech government, the EU and the governments that supported the Conference and the Institute from its very outset. Israel is willing to undertake all necessary commitments to that end. In order to prevent another Holocaust, other crucial areas need to be dealt with, such as further research on the Nazi impact on the lives and the property of the Jews in North Africa, Holocaust denial, anti-Semitism, Holocaust commemoration and education and, as immediate a closure on as many issues and problems as possible while members of the first generation are still alive.

Justice delayed is justice denied. Time is running out and we, the international community, the European family of nations, the Jewish people, and all of us gathered here must not miss the opportunity. History and future generations will not forgive us if we fail to properly meet our moral obligations towards the Jewish people of the past, the present and the future.

Thank you.

ITALY

► **Fabio Pigliapoco**

AMBASSADOR TO THE CZECH REPUBLIC, ITALY

Italy has always been particularly committed to the protection and promotion of human rights and fundamental freedoms both at the national and at the international level (United Nations, European Union, etc.). The respect for human rights is in fact to be considered one of the pillars of a peaceful, prosperous and conducive international environment and therefore it has to manifest itself in every multilateral agenda: the broader the awareness of its importance is, the greater the benefits to the international community will be.

The Italian contribution to the adoption of international instruments protecting and promoting human rights is considerable, especially as far as the fight against discrimination is concerned. Our strong support to any initiative that is consistent with the said objective is motivated by the need to send clear political

messages to those countries still fostering intolerance and religious discrimination.

Italy is a member of the *International Commission of the International Tracing Service*, the body supervising, since 1948, the management of the Bad Arolsen Archives. These archives constitute a precious legacy, being an immense source of documents on the Nazi regime and its victims. Together with the other ten members of the Commission, Italy has not spared any effort to make the documentation public, in order to spread the knowledge of the tragedy of the Holocaust.

Italy also supports the Task Force For International Cooperation On Holocaust Education, Remembrance, and Research, created after the January 2000 Stockholm Declaration with the objective of enhancing and promoting educational activities and research on Holocaust. We furthermore support the OSCE efforts to prevent and combat anti-Semitism, in the framework of the broader fight against all forms of discrimination. The ODIHR activity to deepen the public consciousness of the historic reality as well as to encourage member states to implement effective policies to combat anti-Semitism is indeed a pivotal contribution to the general objective, which is its ultimate eradication.

Finally, the initiatives at the national level are also worth mentioning. I just want to stress that Italy has passed several laws in the field, ranging from the protection of the Jewish cultural heritage to the implementation of specific intervention in favor of the victims of Nazi regime and, last but not least, to the commemoration of the Shoah (the "*Shoah Memory Day*" was officially established in July 2000).

In consideration of the facts mentioned above, Italy strongly supports the current exercise organized by the Czech Presidency of the European Union and it is fully in favor of the adoption of the Terezín Declaration.

LATVIA

► **Andris Teikmanis**

STATE SECRETARY, LATVIA

Ladies and Gentlemen:

I would first like to thank the Czech government for organizing this Conference, for this initiative, which is really necessary and very timely. Ladies and Gentlemen, no nation can have a secure and prosperous future, if it is not prepared to remember and honor its past. This year is full of many dates that remind us of crucial moments in the history of the 20th century in Europe. Not only the Molotov-Ribbentrop Pact, but also a movement joined by thousands and thousands of individuals who called for the Baltic states' independence and for the restoration of justice. In the same year, Jews from different parts of the Soviet Union came together to Riga, the capital of Latvia, to discuss the future of Soviet Jewry. Soon after that, the first Jewish school in the Soviet Union was established in Riga, and a year later, in September 1990, while still under the Soviet rule with thousands of Soviet troops stationed on its territory, the Supreme Council of the Parliament of Latvia adopted a declaration condemning the genocide of the Jewish people and expressed a strong will to fight anti-Semitism.

Only after Latvia became fully independent in September 1991, did it become possible for all of its citizens to deal with the past and to regain the sense of a future. Among other things, there was no private property in Latvia at that moment. Private property practically ceased to exist when Soviet troops entered Latvia and occupied the country in June 1940. The Soviet authorities nationalized every asset available and also banned all social, national, cultural and religious organizations. The horrors of the first occupation were continued by the second occupation, which brought to our land a tragedy of unseen magnitude. When the Nazis occupied the territory of Latvia, 70,000 local Jews and 20,000 Jews from different parts of Europe were mercilessly murdered in a very short period of time. Unlike before, in the summer of 1940 when 3,000 Jews from Europe fled from their countries and found shelter in Latvia, to our regret, there was no Latvian government in place to prevent or stop this tragic Holocaust.

The Red Army and the allied forces were able to defeat the Nazi invaders, thus putting an end to the most horrific regime of all times and stopping the ongoing mass murders of Jews in Europe. I pay tribute to the Soviet soldiers who died, who lost their lives in Latvia in this historic fight. But soon after came the Soviet totalitarian regime that brought neither freedom, nor justice.

Since the moment that Latvia regained internationally recognized independence, we have faced a daunting task and felt a moral responsibility for restoring historic justice. The country, the institutions and the legislation – everything had to be re-created or brought to life. Latvia, at the beginning of the 1990s, promptly established a set of legal acts that dealt with restitutions in a comprehensive and non-discriminatory manner. Restitution in Latvia covered all forms of property, regardless of nationality, citizenship or country of residence of the rightful

owners or their heirs. No national, professional, or any other group was discriminated against, and all were given equal rights to claim and regain property or to be compensated. Thousands of Jews recovered their private properties. Jewish cultural and religious organizations were re-created and 63 Jewish communal and religious properties have been returned so far. This work goes on. Last year, the Prime Minister of Latvia set up a task force that has been looking into the matter and is about to produce a new report for the Prime Minister. At the beginning of the 1990s, among other critical issues attended to, there was a question of how to deal with history, with teaching and research. Since the Soviet authorities created their own version of the history of the Nazi occupation, many people in Latvia had only a partial knowledge of the actual facts of Holocaust and other war crimes. In 1998, the International Commission of Historians was established under the auspices of the President of Latvia. Since then, 24 volumes have been produced and published and many conferences on the Holocaust and other issues have been organized.

There are many other important things to be said about the continuous work in Latvia. However, we are short of time and therefore, I will stop here. We are fully aware that it should not stop, that one can never be satisfied or complacent. I would like to reassure you that we are strongly committed to continuing to fulfill all of our moral obligations and principles laid down in the Stockholm Declaration and other declarations of various conferences.

Thank you very much.

LITHUANIA

► **Deividas Matulionis**

SECRETARY OF STATE FOR STRATEGIC AFFAIRS,
MINISTRY OF FOREIGN AFFAIRS, LITHUANIA

Dear Participants and Guests of the Conference:

First of all, I would like to thank our Czech colleagues for this excellent initiative, which has gathered the delegations from all around the world united by the same idea – the principle of historical justice. The Lithuanian government is strongly attached to this principle that became an integral part of Western culture following World War II.

I must admit that not everything has been accomplished; however, our government is determined to do its utmost to turn over the darkest page in the history of Lithuania. Almost 200,000 Lithuanian Jews, about 90 percent of the pre-war Jewish population, perished in the Holocaust.

From the first days of Lithuanian independence, the political leadership of the country paid special attention to the preservation of historical memory, commemoration of the victims, and education of the new generations by the Seimas declaration of 8 May 1990 “Regarding the Genocide of the Jewish Nation in Lithuania during the Nazi Occupation.” In 1995 in his historical speech to the Knesset, President Algirdas Brazauskas apologized to the Jewish nation for those Lithuanians who had taken part in the killing of Jews.

Lithuania pledged to ensure the commemoration of the victims of the genocide of the Jewish people and to fight all manifestations

of anti-Semitism. Holocaust education is a mandatory subject in school curricula in grades five, ten and twelve. September 23 was declared to be the national Holocaust Remembrance Day commemorating the Vilnius ghetto liquidation in 1943.

The 1998 decree of the President of the Republic of Lithuania established the International Commission for the Evaluation of the Crimes of the Nazi and Soviet Occupation Regimes in Lithuania, whose task is to conduct objective research and to fill in existing gaps in the history of Lithuania, to stimulate the process of historical justice and to educate Lithuanian society by disseminating research findings and various educational initiatives. In 2002, Lithuania became a full member of the Task Force for International Cooperation on Holocaust Education, Remembrance, and Research.

I especially want to stress that, despite the current economic and financial difficulties, the Lithuanian government is making a major effort to solve the difficult issue of the immovable property of Jewish communities that was illegally expropriated by the Nazi and Soviet totalitarian regimes from 1940 through 1990.

After eight years of intense discussions, the Law on Compensation of the immovable property of Jewish communities enters into its final stage. Last week, the Cabinet of Ministers unanimously approved the Law. It includes a principal provision that the compensation for Jewish communal property will be paid in a number of years, starting in 2012. In addition to this Law, the Lithuanian government intends to proceed with complementary compensation, offering some buildings to the local Jewish communities on an ownership or long-term use basis. The Law stipulates that compensation will be used for religious, cultural,

educational, scientific, and charity purposes of the Lithuanian Jews as well as for supporting Holocaust survivors from Lithuania. It is our moral duty and primary task to find a suitable mechanism to support the Holocaust survivors as soon as possible.

I sincerely hope that the Parliament will adopt the Law without delay this year. I believe the Law should enter into force immediately. The government will make an additional effort in this direction in the coming weeks.

At the same time, we continue consultations with our Jewish partners on the shape of the recipient foundation which, according to the Law, should be created by the government. In close cooperation with our Jewish partner – the Lithuanian Jewish Community – we are committed to finding a formula on the modalities of a recipient foundation first and foremost acceptable for the Lithuanian Jewish Community, which represents the vast majority of Lithuanian Jewry. Historical justice, transparency and fairness will be the guiding principles in shaping the foundation.

Two days ago on the margins of this Conference, we inaugurated a photo exhibition dedicated to the cultural heritage of Lithuanian Jews (Litvaks). The preservation of this unique culture is of great importance for my government. By its decision, a special working group on the restoration of the fragments of the Vilnius historical Jewish quarter has been established.

This year, when Lithuania is celebrating its millennium and as Vilnius has been declared the European Capital of Culture of 2009, the Lithuanian Jewish community is holding the Third World Litvak Congress, which will undoubtedly become a major

event uniting the vibrant and colorful community of Litvaks from all over the world.

Thank you for your attention.

THE NETHERLANDS

► Pieter-Jan Wolthers

DIRECTOR OF LEGAL AFFAIRS DEPARTMENT,
MINISTRY OF FOREIGN AFFAIRS, THE NETHERLANDS

“The past is a different country” is a saying that is quoted perhaps too often when discussing historical issues and thus has maybe lost the sharpness of an unexpected metaphor. However, in the past about which we are talking during this Conference, the Netherlands was a different country.

Now, more than 60 years after the end of World War II, the consequences of the wartime period still remain of major concern to the society and the government in the Netherlands. The Conferences of London and Washington, and the Stockholm and Vilnius Fora have contributed immensely to the raising of public awareness of the flaws of the early post-war restitution process and also to some correction of our self-image on this point. Investigations carried out at the request of the Netherlands government by independent committees into the fate of assets seized during World War II are an expression of this.

As we know and as various presentations at this Conference emphasized, the identification of – for instance – a cultural object,

often only known by a rather imprecise name and without any measurements or further description, is an extremely fortuitous task. After World War II, mistakes in the identification of objects were made, and not always corrected afterwards. It also happened that cultural objects that were difficult to identify were shipped back to the country believed to be the most likely country of origin. In this way, most of the Delft blue tiles were sent to the Netherlands though in actual fact they might as well have come from a collection originally held elsewhere. For Judaica artifacts, a similar story can be told.

In the same way as the Dutch government is researching its collections, the Dutch museums under the aegis of the Dutch Museum Association has been researching their acquisitions made between 1940 and 1948, to investigate whether they acquired, knowingly or unknowingly, objects that were looted or confiscated from Holocaust victims. That investigation was inspired by the growing awareness in the museum world that acquisitions made during and immediately after World War II were not just the responsibility of the government but also of the museums themselves. In the coming years, the Dutch museums will conduct a follow-up study on the provenance of the acquisitions made from 1933 till 1940, and from 1948 onward. If works of art or Judaica objects which were taken away from Holocaust victims are found in these museums, it is expected that the governing bodies of the museums will act in the same way as the Dutch State and return these objects to their original owners, their heirs, or, if appropriate, to Jewish communal institutions.

Art, as well as other movable, immovable or financial assets may have to be subjected to legal issues as the statute of limitations expires or a lack of proof due to dubious ownership remains. Since the last decade, the Netherlands has tried to

strike a better balance between the legal and moral aspects of each case. The reports that had been issued as a result of the investigations into the looting and post-war restitution of financial assets and property criticized the formal, bureaucratic and unfeeling character of the post-war restitution process. The Netherlands took this criticism seriously. In order to achieve the just and fair solutions that the Washington Principles, and now the Terezín Declaration, urge us to seek, we stepped over our initial reservations and took a fresh look at what justice required.

Having said that, I can inform you that in the Dutch legal system, no change in legislation was needed to comply with international recommendations on the restitution of cultural assets that were lost during World War II. National private law did not constitute an obstacle to the liberalized restitution policy that the Netherlands government adopted, since this liberal policy takes a moral and ethical position as its point of departure, rather than a legal position.

In that sense, we tried and we are still trying, where appropriate, to correct our earlier mistakes and wrongdoings. The pain inflicted on the Holocaust victims and their heirs cannot be undone. Keeping that in mind, we have to ensure that the horrendous events of the Holocaust will never be forgotten, and to pass on the awareness about them to new generations. The Netherlands established a specific program for this: the Heritage of World War II program. The aim of the program is to preserve valuable material from and about World War II and to make it accessible to the general public. The underlying idea is that people will then be able to continue contemplating the World War II period based on their own experiences, and that they will pass on their insights to their children.

After all, we have to take into account that Holocaust survivors and other victims of Nazi persecution have reached an advanced age. If we do not make sure that their stories are captured in the very near future, they will be lost forever. And that is something that we cannot accept: we have to learn from history and we should make every effort to keep our history alive. The story needs to be told, time and time again. And hopefully, because of the awareness of the past, we may learn our lessons for the future.

Let me also mention, that out of respect for and solidarity with those who suffered during the years of World War II, the Dutch government introduced special legislation in the field of social welfare to assist Holocaust survivors and all who were forced to endure the ordeal of the foreign occupation and who suffered physical injury or psychological damage as a result. The government provides benefits, pensions and a range of facilities and services in the hope of helping these people achieve the standard of living they might have expected to enjoy in normal circumstances.

In conclusion, I hope that with these few observations I have demonstrated that we heed the wisdom of the Latin saying "*Tempora mutantur nos et mutamur in illis.*" Times are indeed changing, and we have to adapt accordingly. For our work in the context of this Conference, it means that we feel committed to sharing our experiences and the lessons we drew from them, and to discussing them with others with the aim of achieving better results together. The brochure that was distributed yesterday, "*World War II and Its Aftermath in the Netherlands*" – a booklet specifically published on the occasion of this Conference – serves this purpose of providing more detailed information on developments in my country. It shows that both governmental and non-governmental entities constantly re-address the situation, thus establishing and maintaining a proper balance between the law on one hand and moral

and ethical requirements on the other. At the same time, our experiences show that this work is never finished. Therefore, we are grateful to the Czech government for organizing this important Conference. The Netherlands was privileged to be included in this endeavor as one of the Friends of the Chair. This Conference provides us with a further, powerful stimulus to continue jointly addressing the crucial subject contained in the Terezín Declaration, to be issued tomorrow. There is still a lot to do!

Thank you, Mr. Chairman.

NORWAY

► **Moland Pedersen**

STATE SECRETARY, MINISTRY OF JUSTICE, NORWAY

Excellencies, Mr. Chairman:

Thank you for the invitation to this important seminar, which raises important issues.

Let me recall that Norway assumes the Chair of the ITF this year. We all should do our utmost to take this crucial initiative of Holocaust education and research forward. This is clearly reflected in the Terezín Declaration, which is on the table tomorrow.

In 1999, Norway was the first country to finalize a restitution process and compensate Jewish survivors for their losses during the Nazi occupation. It came late. Nevertheless, it was important, not only because of the economic restitution. It was

important also because the compensation was based on moral considerations and on acceptance of responsibilities of wrongdoings of the past. This process also implies that the Norwegian Holocaust became part of the collective memory of what happened to Norwegians during the World War II. The details of this settlement are described in the White Paper, which has been circulated to the delegations.

I will particularly mention the Fund for support of Jewish institutions or projects outside Norway, established in 2000. The board is chaired by Elie Wiesel. The follow-up of the settlement is very important to the Norwegian government. The role played by schools, museums, memorials and research institutions is crucial in order to inform present and future generations and to maintain consciousness about the events of the Holocaust in the Norwegian society. Holocaust awareness has increased. Many schools take part in student trips to former extermination and concentration camps in Germany and Poland, such as Auschwitz.

The Norwegian government has decided to support the maintenance of Auschwitz-Birkenau with NOK 2 million. The first monuments commemorating the Norwegian Jews were inaugurated in 1947, and now there are approximately 40 memorials throughout the country. This is an ongoing process. The establishment of the Centre for Studies of Holocaust and Religious Minorities in Oslo was part of the economic settlement in 1999, and was officially opened in 2006. The Centre for Studies of Holocaust and Religious Minorities plays a particularly important role as a center for research. The Centre runs extensive educational programs for secondary schoolchildren nationwide. The Centre also organizes international academic conferences and seminars. In addition, the two Jewish Museums in Norway play an important role in education and remembrance.

The international community shares a responsibility to fight genocide, ethnic cleansing, racism, anti-Semitism and xenophobia. An important component in the Norwegian government's efforts to prevent racism and attacks on minorities is the amendment of the Norwegian Penal Code that provides vulnerable ethnic groups with stronger protection against racist statements.

Mr. Chairman, let me finally convey the view of the Norwegian government that the process (of restitution) itself has been important not only for the Jewish community but also for the Norwegian society as a whole. It is a responsibility for all of us to guarantee the continuing presence of political and social awareness regarding human dignity in general and Holocaust education, remembrance and research in particular.

Thank you for your attention, Ladies and Gentlemen.

POLAND

► Władysław Bartoszewski

STATE SECRETARY, PLENIPOTENTIARY OF THE PRIME
MINISTER FOR INTERNATIONAL DIALOGUE, POLAND

Ladies and Gentlemen:

Thank you for your kind invitation to this Conference and for the opportunity to participate in the Conference efforts. To a great extent, the proceedings of this Conference concern Polish citizens, which is why the topic itself is of great importance, and

well known to us. Poland was the first and largest victim of the infamous extermination policy of the German Third Reich.

Let us recount facts. September 1939 brought the occupation of Polish territory by the German Third Reich and the USSR. Poland disappeared from the map of Europe for nearly six years. Half the Jews murdered in ghettos, concentration and extermination camps and during daily executions were Polish citizens. From the early days of the occupation, Nazi Germany consistently followed a campaign of butchering the Polish intellectual elite, political activists, men of the cloth, lawyers, medical doctors, professors, and ordinary citizens. We lost six million Polish citizens to Nazi murder. Poles have a right to demand remembrance of those events.

Unlike other countries, we Poles never formed a collaborative government. We never established any joint military formations with the SS or the Wehrmacht. Only in Poland did the act of helping Jews in hiding carry a death penalty. Entire families were murdered when found guilty. I recall those facts to remind you of the context of the unimaginable crime of homicide committed practically against the entire Jewish nation.

The end of World War II did not mean independence for Poland, however. In the years between 1945 and 1989, the history of the victims of World War II was permanently forged by the communist dictators. Only in 1989, that is, in the year when my country regained sovereignty, were independent historical research and the introduction of legal provisions extended to cover all of Nazi Germany's and the Soviet Union's victims.

Thanks to the facts just mentioned, in 1997, a restitution process was initiated with regard to real estate owned by a variety

of Jewish communities before the war. Restitution applications are reviewed by committees made up of an equal number of religious and governmental jurors. The committees' work resulted in the re-appropriation of numerous properties and facilities of special importance to the Jewish people in Poland; this highly complex process continues.

Prime Minister Tusk's current government is also working on a piece of legislation providing for compensation for all Polish citizens who lost property as a result of actions taken by the communist state, and for those whose wealth was earlier seized by the German occupants. Such initiatives have been launched practically by every post-1989 government of independent Poland, and we can but regret that they lacked the determination or political will to finalize their legislative efforts. The current government is making every attempt to make the new law comprehensive and fair to all applicants for restitution. Despite the burden carried from the times of the communist regime, the young Polish democracy feels responsible to redress all nationalization-related damages. We want to create a compensation-seeking procedure that is simple, not only for Poles but also for foreign residents. I wish to emphasize that the regulation shall extend to all Polish citizens injured in nationalization, since in Poland we do not label people according to their race or religion; furthermore, as a democratic state, we offer equal treatment to all our people.

The memory of Nazi Germany's victims is particularly vivid and is cherished in Poland, which is why the history of Polish Jews and of the Holocaust are now part of the curriculum for all levels of education in Polish schools. Young people take part in Marches of the Living, various educational programs, and youth exchanges. Since 1945, Poland has been the guardian of remembrance by

tending to sites of former Nazi concentration and extermination camps. Their daily maintenance, as well as scientific and educational efforts, are all financed by the Polish state. We feel particularly responsible for those sites, which is why we consider any attempts to violate their integrity unacceptable. We believe in the fundamental principle of safekeeping of original documents and other evidence of the greatest homicide in human history. Proof of crime cannot become the subject of any negotiations or claims. I am glad that, with regard to this particular issue, Poland can count on the understanding and support of former concentration camp inmates and persons representing the most important institution established for the explicit purpose of documenting the Holocaust in Israel – the Yad Vashem Institute.

In closing, I wish to address all state representatives present with an appeal to support the Polish initiative of saving the Auschwitz-Birkenau Memorial and Museum, a place of fundamental importance to European history and civilization. Sixty-four years after the end of World War II, the site is under threat. Time passes mercilessly. Further work to preserve Auschwitz-Birkenau shall require tremendous financial costs. Maintenance and conservation specialists are facing formerly unforeseen challenges: preserving human hair, footwear, dentures, spectacles, and countless other objects owned by gas chamber victims. With future generations being able to see the authentic site of the greatest crime of homicide in history in mind, I set up the international Auschwitz-Birkenau Foundation this year. The objective of the Foundation is to raise funds for a multi-annual maintenance works program. Thanks to the involvement of the Polish government and Poles themselves, the endeavor is definitely known to you, which is why I have no intention of going into detail. I merely wish to appeal for your understanding and support of our work to save

Auschwitz-Birkenau. This is not only a matter to be considered by countries whose citizens were murdered there. Auschwitz is common heritage for all of Europe.

ROMANIA

► **Bogdan Aurescu**

SECRETARY OF STATE FOR STRATEGIC AFFAIRS,
MINISTRY OF FOREIGN AFFAIRS, ROMANIA

Let me first thank the Czech EU Presidency for their initiative to host such an important Conference.

During these past years after the fall of the dictatorship, the Romanian society became fully aware of the need to come to terms with the legacy of the Holocaust. This included a thorough examination of the responsibilities of Romanian authorities during World War II. In 2004, a report of the International Committee for the Study of the Holocaust in Romania, chaired by Elie Wiesel, was endorsed by the Romanian authorities. That came to represent a benchmark in the process of assessment of this dark period in the history of mankind, as well as of our country. This year we will, hopefully, witness the building of the Holocaust memorial in Bucharest.

Another important step has been made with regards to the restitution of properties. In 2001, Romania enacted legislation establishing a restitution process for private and communal property. The process was improved in 2005, resulting in a more dynamic and overall simplified process. A National Authority on

Property Restitution was established. The property restitution *in rem* is the main principle, however, where impossible because of objective reasons, the Romanian legislation on the matter includes several measures aiming at restoring damages. They are based on just and fair principles and include compensation and other goods or services, cash or titles to the property fund. The value of compensation is updated to the market value, and it is possible to combine the different measures. It is worth noting that this legislation was one of the political criteria set forth by the EU for the Romanian accession to the EU.

The claims process is complex. After the expiration of the claims filing deadline, Romania passed a new law that addressed many inadequacies in the private properties claim program, in addition to a number of other problems. A foundation, jointly established by the Federation of Jewish Communities in Romania and WGRO, assumed responsibility for preparing and submitting communal claims, as well as for managing the returned properties.

While acknowledging the length of the process and the difficulties encountered, we have to state that there is a clear and firm political will in Romania to continue with the restitution process.

Policies and programs of social protection, which are also available to Holocaust survivors, or to the spouses of the Holocaust victims, have been valid since 2000, when a piece of legislation guaranteeing a monthly payment and other services was adopted. I would also like to mention that in 2002, Romania was the first OSCE state to support the inclusion of the issue of anti-Semitism in the agenda. In 2007 and 2008, Romania also organized two conferences on combating anti-Semitism.

The Romanian authorities warmly salute the adoption of the Terezin Declaration, an important document. We are confident that the issues raised will be solved satisfactorily in the years to come.

Lastly, there is an urgent need for cooperation in order for our objectives to be fulfilled. In this respect I hope that our reunion today will be the starting point for enhanced cooperation among the participating countries.

To conclude, I would like to wish success to all participants in their future activities aimed at implementing the Terezin Declaration and I am looking forward to welcoming the concrete results of today's Conference.

Thank you.

RUSSIA

► **Mikhail Shvydkoy**

SPECIAL REPRESENTATIVE OF THE PRESIDENT OF THE
RUSSIAN FEDERATION, RUSSIA

Unofficial translation

The Russian Federation agrees with the major provisions of the draft of the Terezin Declaration, which stresses, in particular, the importance of remembering the unique history of the Holocaust heritage for the sake of the succeeding generations and the importance of addressing the related issues that remain pending. This includes those of property restitution along with the necessary respect for the personal dignity of the Holocaust

survivors and other victims of Nazism and with due regard to their social security needs.

Russia's joining of the Terezin Declaration is based on the assumption that any property issues related to the World War II events, including the Holocaust tragedy, must be addressed with due respect for, and in compliance with, the principles of post-war settlement in Europe, including the documents of the conferences of the Allied Powers and the provisions of the peace treaties and other agreements, containing a set of legal norms concerning property issues, the procedure of reparation payments and property restitution. These documents also reflect the aggressor states' remission of any war-related claims against the Allied Powers, as well as their duty to compensate their citizens for the property given away as reparations or restitution.

These principles form an integral part of the current international law and are not subject to review.

SLOVAKIA

► **Dušan Čaplovič**

DEPUTY PRIME MINISTER, SLOVAKIA

Dear Mr. Commissioner, Mr. Minister, Mr. Chairman, Excellencies, and Distinguished Guests:

First of all, let me express my deepest thanks to the Czech Republic for organizing this very special Conference, thus offering

a unique opportunity to continue the discussions launched in Washington and Vilnius.

Nearly 70 years after the Holocaust, the pain and suffering of its victims are still alive and present – through the testimonies of its survivors or immediate witnesses. We know that lives cannot be given back. But what can be done is to make every effort to rectify or mitigate injustice that happened during or after the Holocaust.

In the year 2001, the Slovak Parliament approved the establishment of September 9, a day in 1941 on which the Slovak state adopted the so-called Jewish Codex, as the Memorial Day of Victims of the Holocaust and Racial Violence. This act was initiated by the current Prime Minister, then a Member of Parliament, Mr. Robert Fico. Since then, commemorative events have taken place annually on this day with the active participation of the top state representatives.

Since the fora in Washington and Vilnius took place, the Slovak Republic has made significant progress in the field of Holocaust-era assets identification and restitution. Especially in terms of communal and individual immovable property belonging to the Holocaust victims, the Slovak Republic adopted a number of legislative and non-legislative instruments and mechanisms of restitution or fair compensation.

In 2002, the Slovak government and the Central Union of Jewish Religious Communities in Slovakia agreed on *Partial Financial Compensation of the Holocaust Victims in the Slovak Republic*. Pursuant to this agreement, the Slovak government assigned the amount of almost EUR 29 million to a special account, which is used for compensation of the Holocaust victims or their heirs.

The compensation process is carried out by a special council consisting of representatives of the Central Union of the Jewish Communities in Slovakia and the Slovak government. The Council decides on financial compensation for confiscated immovable property that was not returned *in rem* or compensated. Moreover, the Council supports various projects addressing the social and health needs of the Holocaust survivors, projects aimed at Jewish cultural property preservation, commemoration activities and other social, cultural and educational events. To give an example, the Holocaust Documentation Center – one of the key institutions dealing with the Holocaust history in Slovakia – is funded under the Agreement framework. In terms of addressing Holocaust victims' basic needs, the Council provides funding for a special home for retired Holocaust survivors called *Ohel David* and the Center of Health and Social Assistance for Holocaust survivors called *Or Chaim*, both in Bratislava.

With regard to the Jewish communal property, Slovakia was the first post-Communist country that adopted legislation on the mitigation of property injustices inflicted on the Jewish religious communities during and after the Holocaust. The restitution process was completely freed from administration and court fees. Slovak Jewish communities submitted more than five hundred claims for property restitution and more than 300 objects were returned to their original owners.

For better identification of the Holocaust-era assets, the Slovak National Memory Institute has completed and published a database of Jewish enterprises confiscated and liquidated during the Holocaust.

The Slovak Jewish Community, once a large social group, almost perished during the Holocaust. However, what did not perish and remains in existence is anti-Semitism – new in its forms but ancient in its essence.

The Slovak Republic is fully aware of this fact and uses all available instruments to fight anti-Semitism. Of course, this fight cannot be reduced to repressive measures or exemplary sentences. This fight should be pre-emptive and pro-active. It must be based on permanent education and Holocaust remembrance. This is also the strategy that the Slovak Republic decided to follow. At this place, I would like to underline some of the initiatives and actions taken by the Slovak Republic in this field.

The first one is our involvement in the so-called Sobibor project. The aim of the project, implemented in cooperation with Poland, the Netherlands and Israel, is to create a dignified memorial site and information and educational center in the former Nazi extermination camp in Sobibor and thus preserve the memory of one of the deadliest camps in the Second World War history.

Another project that I would like to mention is the project to create a Museum of the Holocaust in the former labor and transit camp in the Slovak city of Sered'. The Museum, together with the educational center will operate as the first facility of this kind in Slovakia.

Finally, let me mention the Slovak Museum of Jewish Culture, which operates as a detached part of the Slovak National Museum and which has, with financial support from the Slovak government, recently moved to a newly reconstructed premises.

With no doubt, there are still a lot of challenges to be met. However, I believe that the above-mentioned steps and actions demonstrate our dedication to finding fair solutions to these injustices of the past as well as to preventing the injustices from ever being repeated in the future.

Thank you.

TURKEY

► **Birnur Fertekligil**

AMBASSADOR, MINISTRY OF FOREIGN AFFAIRS,
TURKEY

The Turkish delegation would like to thank the Chairman of the Organizing Committee as well as His Excellency, the Prime Minister of the Czech Republic for his initiative to gather us in Prague, in an effort to address the issues arising from the events of the Holocaust, particularly in the field of reparations for the damage suffered during World War II.

Turkey's presence here today reflects its support for the efforts of the international community towards this goal. Turkey attended, in 1998, the first Holocaust-Era Assets Conference, which was the first pillar of the process of recovery of looted art and objects of cultural, historical and religious value.

The Turkish territory remained outside the area where millions of Jews and other peoples were exterminated during the Second World War. Therefore, Turkey is only partially concerned

by the main bulk of the issues tackled by this Conference. Nevertheless, it stays very concerned with this dreadful tragedy that happened in the heart of our continent nearly 65 years ago.

Turkey has a deep history of interaction with various Jewish communities. The history of the Jews in Anatolia started many centuries before the migration of Sephardic Jews. Remnants of Jewish settlement from the 4th century BC have been uncovered in the Aegean region. Jewish communities in Anatolia flourished and continued to prosper. Then in 1492, the Ottoman Empire sent its powerful Mediterranean fleet to save thousand of Jews from the Inquisition. These Jews then settled in various parts of the Ottoman Empire, almost all in urban areas in Istanbul, the coastline as well as the Balkan provinces at that time. Following the collapse of the Ottoman Empire, many of these Jewish communities that stayed in the former Ottoman Balkan provinces suffered gravely during the Second World War, or even before.

Before the Holocaust, Turkey welcomed and thus saved several hundred prominent, predominantly Jewish, intellectuals, scientists, doctors, legal scholars, architects, librarians, and musicians fleeing the Nazis. They came from Germany and other German-speaking parts of Europe, mainly Austria and parts of Czechoslovakia and Hungary, with a number of people also from France and Spain.

The Turkish authorities also spent a great deal of effort to rescue Jews in France and other countries, helping a large number of Jews during the course of the Second World War. Turkish and Jewish records are witnesses of dramatic stories of Turkish diplomats, who, on many occasions went beyond their duties and status in many parts of Europe (Paris, Berlin, Athens, Prague, Budapest, Marseilles,

Rhodes, Costanzia, Varna, Hamburg), assisting Jews while putting their own lives and their own families in danger.

For Turkey, “Holocaust Education, Remembrance and Research” means first of all, to remember our long history of interaction with Jewish populations. It also means encouraging further studies on the history of Jews in Turkey, including in the area of archives and Holocaust education.

One of the goals of this Conference is to strengthen the work of the “Task Force on International Cooperation on Holocaust Education, Remembrance, and Research.” Turkey became, at the end of 2008, an observer country to this organization and is taking part in its work in this capacity. We recognize the importance of the most pressing task undertaken by this organization, which no doubt constitutes a valuable tool in its field.

Turkey is fully aware of the specificity and unique nature of the Holocaust. We believe that it is necessary to continue studying the reasons behind such a barbarous act against human dignity on our continent. We also have to be vigilant about new manifestations of contemporary forms of racism and anti-Semitism. This arises from our common responsibility to make sure that such a cataclysm never happens again.

We sincerely hope that we will seize the opportunities offered by this important Conference under the hospitality of the Czech government to advance the process of solving the main bulk of the difficulties faced by Holocaust survivors, in terms of property, looted art and other assets.

We reiterate again our gratitude to the Czech authorities for the excellent organization and constructive atmosphere for conducting

such substantial work relating to the issues arising from the Holocaust. We are convinced that the outcome of the Prague Conference will be another milestone towards the implementation of the goals set in Washington.

UKRAINE

► **Volodymyr Vassilenko**

AMBASSADOR TO THE UN HUMAN RIGHTS COUNCIL,
UKRAINE

During World War II, Ukraine suffered more human and material losses than any other member state of the anti-Nazi coalition. That terrible war took over 9 million Ukrainian lives, 1.5 million of whom were Jews.

In memory of those millions of victims, Ukraine, after regaining its independence in 1991, adopted the Law “On the Status of War Veterans and Guarantees of Their Social Security.”

This Law defines the legal status of war veterans, ensures proper conditions for their material support, and ensures that their memory is publicly honored. In particular, the Law aims to promote and protect the health of aging war veterans; the organization of social and other services for their benefit; the implementation of special purpose programs for their social and legal protection; and the bestowing of due privileges and social guarantees related to their employment, professional training, and health.

Ukraine was a member of the anti-Nazi coalition and itself a victim of Nazi occupation, and thus adopted the Law “On Victims of Nazi Persecution” that established the legal, economic, and organizational foundation of its national policy towards the victims of Nazi persecution, which is aimed at social protection of war veterans and the honoring of their memory.

According to Article 1 of the Law, “victims of Nazi persecution” are persons who during World War II suffered from Nazi persecution by virtue of their political, national and religious beliefs, and their hostility, opposition and resistance vis-à-vis the Nazi occupiers. Given that every ethnic group and nationality living in Ukraine at that time suffered persecution at the hands of the Nazi regime, the legislative definition therefore does not exclude anyone because of ethnic or national origin.

The Law determines the social rights of victims and provides them, in accordance with established procedures, with monetary compensation for damages caused by the Nazi regime during World War II. According to the Law, the costs of this compensation and the various benefits granted are borne by the state and local budgets.

In this way, Ukrainian legislation concretely defines the status of victims of Nazi persecution, provides for their social security, and regulates the disbursement of appropriate compensation to the victims.

As to the issue of restitution for wrongfully seized public and private property, both movable and immovable, the Constitution of Ukraine states that private property may only be expropriated in exceptional cases. The reasons must be related to public necessity, and based upon grounds, and following procedures

established by the law. Compensation must be complete and for full value of the property.

At the same time, in recognition of the tragic scope of the Holocaust, the Government of Ukraine shares the pain and suffering of the Jewish people and therefore places a high priority on promoting and encouraging the restoration and development of the Jewish community's life in Ukraine, and on meeting its spiritual, cultural, educational and social needs.

Today, the Jewish community of Ukraine is one of the largest and most active communities in the CIS and Eastern Europe. The Jewish community's interests in Ukraine are represented by more than 500 Jewish organizations, 80 University schools, 37 regular schools, seven clerical schools, the International Solomon University in Kyiv, 30 periodical publications, as well as several research institutions, public centers, museums, theaters, television and radio stations.

In accordance with the Law of Ukraine "On Freedom of Conscience and Religious Organizations," Jewish religious communities have received, either as a patrimony or for their usage, 85 of the 109 preserved synagogues in Ukraine. It is planned that other properties will gradually be returned to the communities as well.

According to the Presidential Decree "On Passing the Torah Scrolls to Jewish Religious Communities," the State Archival Committee returned 357 Torah Scroll fragments to Ukrainian Jewish religious communities.

According to the Law of Ukraine "On the Protection of Cultural Heritage," places of the mass execution of Jews in Ukraine (more than 250), old Jewish cemeteries, and various religious relics are

considered objects of cultural heritage and are accordingly protected by the state. The Criminal Code of Ukraine and the Law "On Funerals and the Funeral Business" allows for the criminal prosecution of those who destroy or otherwise deface graves.

Ukraine attaches great importance to remembering the Holocaust and to honoring the memory of the victims of this tragedy. Every September 22, a national Holocaust remembrance ceremony is held at the site of the Babi Yar tragedy. Ukraine's first president, Leonid Kravchuk, formally asked the Jewish people for their forgiveness for the injustices they have suffered in Ukraine.

With the aim of keeping alive the memory of both Holocaust victims and the resistance movement during World War II, documentary testimonies of Nazi crimes against the Jewish people have been researched and studied within the framework of the Treaty between the Security Service of Ukraine, the American Holocaust Memorial Museum and the Yad Vashem Victims of National Catastrophe and Heroism Memory Institute. The national archives on such matters have been opened and made available for the use of scholars, researchers and other interested persons. Recently a number of new educational projects have been implemented in the Ukraine.

Thus, Ukraine has long acted in the spirit of the principles of the Terezín Declaration and continues to share its goals, the attainment of which must protect the rights of the victims of Nazi persecution and promote the renewal of Jewish life in Ukraine and other European countries.

While supporting the principles of the Declaration, we would like to point out some inconsistencies in the use of terminology

in its text with regard to applying national legislation and international agreements.

Acting in good faith, Ukraine will implement the Terezín Declaration without prejudice and detriment to the requirements of its Constitution, national legislation and regulations as well as international agreements.

Ukraine is ready to exert every effort in bringing to life the ideas of this Conference and principles of the Terezín Declaration. It is willing to cooperate actively with interested states, non-governmental organizations and the representatives of the Jewish community in Ukraine, in order to resolve all outstanding issues.

UNITED KINGDOM

► Susan Hyland

HEAD OF HUMAN RIGHTS,
FOREIGN AND COMMONWEALTH OFFICE, UK

Distinguished Delegates:

I would like to make the following statement on behalf of The Rt Hon. David Miliband MP, Secretary of State for Foreign and Commonwealth Affairs of the United Kingdom.

“The United Kingdom welcomes the Czech government’s initiative in convening this Conference. It rightly concentrates on the urgent need for restitution for victims of Nazi persecution. It is now almost 12 years since the UK convened and hosted the

London Conference on Nazi Gold. As the late Robin Cook, then British Foreign Secretary, said at the time, the purpose was ‘to help clarify one of the darkest episodes in human history and to look for compensation for a wrong that can never be expiated.’

It is disappointing but necessary that we are still working to ensure that the victims receive just and fair restitution. Most surviving victims are now of a very advanced age so it is all the more urgent that we focus our efforts on their needs and secure justice for them and their families.

At the London Nazi Gold Conference, the UK created an International Fund for Needy Victims of Holocaust Persecution. The UK contributed one million pounds sterling for this purpose and other countries also made donations. I am pleased that Lord Janner of Braunstone, who was instrumental in convening the London Conference on Nazi Gold, is participating at this Conference. His expert contribution and life-long dedication to these issues continues to be greatly appreciated.

We are also grateful for the active participation of other UK experts and organisations including the Commission for Looted Art in Europe, Sage Recovery, the Holocaust Educational Trust and the Holocaust Survivors ‘45 Aid Society. The Washington Conference of 1998 was an important follow-up to the London Nazi Gold Conference. The Washington Principles on Nazi-Confiscated Art were instrumental in establishing a framework for dealing with such claims.

We would urge those states that have not yet done so to move rapidly to develop national processes to implement the Washington Principles. Following the Washington Conference, the United Kingdom established a Spoliation Advisory Panel in 2000 to deal

with claims for looted cultural objects that victims or their heirs might have lost possession of during the Nazi era 1933 to 1945. Ten claims have been submitted to it and determined by the Panel and its operation and reports have been admired internationally.

I am also very pleased to report that a Private Member's Bill, the Holocaust (Return of Cultural Objects) Bill, has been presented to the UK House of Commons by Andrew Dismore MP. This will allow national museums in England and Scotland to return works of art lost during the Nazi era where there is a recommendation for return from the Spoliation Advisory Panel and there is agreement from the Culture Secretary or Scottish Ministers in the case of claims for items in Scottish collections. Museums in Wales and Northern Ireland do not need this power.

This Bill, which is supported by the UK government, will put the museums in England and Scotland on a level playing field with the other UK museums which are able to return objects in such circumstances. The Bill has now passed through the Lower House (House of Commons) and has gone forward to the Upper House (House of Lords).

It was an honour for the UK to co-host the Immovable Property working group of this Conference. I am extremely grateful to Nigel Ross for taking on this important task alongside Tomáš Kraus and thank them and the other members of this working group for giving us the benefit of their expertise and commitment in this field. Property restitution issues are highly emotive and sensitive, despite the passing of time. These acts can never be undone but we owe it to the victims to ensure that adequate compensation is made.

A set of principles on property restitution is long overdue. It would assist states in developing and implementing processes to

deal with property restitution claims as the Washington Principles have assisted in dealing with confiscated art claims. I hope that work can be continued on these property restitution principles over the coming months.

The UK also welcomes the addition of Holocaust Education, Remembrance, and Research to the Conference agenda. These are essential elements in reminding future generations of the horrific events which took place and to serve as a warning of what can happen when hatred and discrimination go unchecked.

Teaching of the Holocaust is a compulsory element of the National Curriculum covering ages 11 to 14. The government is also match-funding the GBP 250,000 a year provided by the Pears Foundation to ensure that teachers are adequately equipped with the training and resources to deliver Holocaust education in schools.

We also funded an extension to the Holocaust Educational Trust's 'Lessons from Auschwitz' project with over one and a half million pounds a year from 2006–2011. The aim of the project is to send two students (aged 16–18) from every school and Sixth Form College in England to visit Auschwitz-Birkenau. The Scottish government has also allocated funding for this purpose, allowing two children from each secondary school to take part in these visits over the next two years.

To finish I would like again to quote the late Robin Cook who said at the London Nazi Gold Conference that countries had come together to 'shine a light in corners which have stayed dark too long.' It is important that we continue to shine this light to ensure restitution for victims of Nazi persecution and also to remind future generations of the horrific consequences of hatred and intolerance.

I wish you all every success in your endeavors and hope that the delegations represented here today will renew their efforts to ensure that the victims of Nazi brutality spend the remainder of their lives in dignity and security.”

Thank you.

UNITED STATES

► **Stuart Eizenstat**

FORMER DEPUTY TREASURY SECRETARY AND UNDER SECRETARY OF STATE, USA

The Czech government in general, Sasha Vondra, my partner at the Washington Conference, Deputy Minister of Foreign Affairs Tomáš Pojar, Ambassador Miloš Pojar, and Denisa Haubertová in particular, deserve enormous credit for conceiving and organizing this remarkable, historic Conference. But permit me to say that the other parent of the Prague Conference is our own Ambassador Christian Kennedy, the head of the State Department’s Office of Holocaust Issues, who, along with a dedicated staff, was an integral part of the planning process from the start.

The Prague Conference has far exceeded any of the previous four international conferences in which I participated in several respects:

- The preparation was the most extensive and far reaching in obtaining input from experts and stakeholders;

- The Terezín Declaration is the most comprehensive, detailed, and responsive to all the major issues in promoting Holocaust justice;
- The European Shoah Legacy Institute at Terezín will provide the first-ever follow-up mechanism, with a specific task to develop by June 30 of next year voluntary best practices and guidelines in all the areas covered by the Terezín Declaration, beginning with restitution and compensation of wrongfully seized immovable (real) property.

This Terezín Declaration is a tribute to all the delegations, but especially to the countries that composed the Friends of the Chair, and have been for months deeply engaged in drafting the Terezín Declaration. I have been inspired by their commitment to consensus, and to action.

So where do we go from here? The survivors are in their waning years. How do we convert the moral commitments in the Terezín Declaration into actions which will make a difference, sooner rather than later, in the lives of survivors and their families, and in preserving the memory of the Holocaust and imparting its lessons for future generations?

Let me suggest the following:

1. We must deal as a first imperative with the dire social needs of tens of thousands of Holocaust survivors who lack access to basic necessities. It is unacceptable that they should live out the balance of their days in hardship, after spending their early years in barbarous conditions. The unique physical and emotional injuries inflicted on them have created complex health care problems, and

poverty makes this bad situation worse. Governments, working with local and international Jewish social service organizations and survivor groups, should develop national plans for their medical and home care. This applies to the USA as well, where a staggering percentage lives at or below the poverty level. We owe this to those who depend on us for their quality of life in their remaining years.

The special programs of the Czech Republic, Austria, and France are positive examples. But the most significant way to provide funds for social needs in those countries that have heirless property is to use a significant portion for survivors; nothing would better honor the victims than to know that their property is being used for their surviving kinsfolk.

2. Full and immediate access to all official and private archives is absolutely essential, whether national, regional or local, as well as access to vital statistics, estate, and post-war compensation records, and immovable and cultural property records in order to give life to the Terezín Declaration. Without archival openness, we cannot achieve the promise of the Washington Conference Principles on Art; efforts at Holocaust education, remembrance and memorialization would be hampered; and property restitution and compensation will be severely limited. All of this depends on archival openness. Germany, which has done more than any country to come to terms with its past, could set an excellent example by creating effective search aids to make more accessible the Jewish property registration forms required by the odious 1938 law, and by also creating lists of the contents of previously processed claims under German compensation programs.

3. It is time to take the extraordinary work of the International Task Force for International Cooperation on Holocaust Education, Remembrance, and Research (ITF), ably chaired now by Tom Eric Vraalsen of Norway, to a new level, beyond its important work for teachers and students in 27 nations. The Holocaust was a failure at all levels of society. Member states of the ITF should emulate the work of the US Holocaust Memorial Museum, and develop educational programs aimed not only at students but also for law enforcement officers, the military, judges, and diplomats, which enable those who safeguard our common democratic values to understand the lessons of the Holocaust to combat the contemporary upsurge of anti-Semitism, and to protect human rights while carrying out their professional responsibilities.
4. As a former Ambassador and admirer of the European Union, I call on the EU to take a greater leadership role on Holocaust issues, developing best practices and encouraging their implementation by all member states on the dire social needs of survivors; return of looted private and communal property; art restitution; and access to archives. The Holocaust was planned and executed in Europe, and the vast majority of the looted property remains in Europe. In addition to their admirable Holocaust education initiatives, at this late hour, it is time for the EU to take enhanced action on behalf of a united Europe in peace, West, Central and East, for the first time in European history. The European Commission's Joint Declaration with the Czech government supporting the Terezín Institute is a useful step forward. The 2003 European Parliament Resolution (A5-408/2003) on looted cultural property and art called on the European Commission to develop common principles

on access to public and private archives, proof of ownership, and alternate dispute resolution mechanisms. Sadly, none of these have happened. And in the USA we are badly in need of an expert advisory group, modeled on the UK's, to assist claimants and museums to resolve ownership disputes without resort to costly litigation.

I would like to thank all governments for participating and urge that all of us act together to make the promises of the Terezín Declaration a reality for the justice of survivors and the memory of the Holocaust.

Statements by Representatives of NGOs

Opening Statement

► Jiří Daníček

FEDERATION OF JEWISH COMMUNITIES,
CZECH REPUBLIC

Dear Conference Participants, Ladies and Gentlemen:

It is an honor to greet you in the name of the Jewish Community of the Czech Republic and to thank you in its name. I would like to express my appreciation for your shared efforts to make sure that time does not blow over and absorb the fact that, over 60 years ago, the Holocaust, one of the greatest misdeeds in human history, took place in Europe. The Holocaust preoccupies modern history and the overall course of Western civilization to this day. It is a memory and, at the same time, a question that will not be answered in its entirety by any historical, scientific or philosophical research. Anything that is found, elaborated or formulated when looking for an answer always needs to be supplemented by one's own personal answer. And in such an answer, one needs to clearly state who one is, where one stands and what one is willing to do. To answer truthfully is difficult because it means to enter those vast areas of one's own inner self that we rarely want to revisit. To answer is so difficult that some are happy to repeat other people's truths or, in the worst cases, to deny the reality of the Holocaust.

However, that is only one side of the coin. The Holocaust was a very concrete activity of very concrete people with very concrete outcomes. Apart from everything else, it was a gruesome, brutal, and very well organized robbery. That poses no metaphysical proposition. Very concrete people, before they were, in most cases, murdered, had everything that could be taken stolen from them. In similar fashion, Jewish communities, groups and corporations, often even cemeteries, were robbed of everything. Returning assets to those who have survived is one of the few things that we can do in order to defuse the consequences of the Shoah. I am happy to state here that, in many cases, this has already happened in the Czech Republic. I would also like to express my hope that, with the efforts of so many people who have gathered here today and with the efforts of so many governments that are represented, we may soon assure returns in the cases where they have not yet happened.

A basic assumption must be that everyone concerned – whether individuals or societies – realizes that using and owning items that have been acquired by theft, and hence proclaiming robbery legal by tolerating it or approving of it, means that one invalidates one's own right to property. Hence, in the long term, one puts oneself and the stability of the country in which one lives in peril.

Ladies and Gentlemen, thank you all once again.

► **Michael Schneider**

WORLD JEWISH CONGRESS AND WORLD JEWISH
RESTITUTION ORGANIZATION, USA

On behalf of the ten members of the international organizations that constitute the World Jewish Restitution Organization,

Mr. Chairman, I would like to thank those responsible for holding this Conference.

I think it is most appropriate that the initiative came from the Czech Republic, whose proper actions in restitutions serve as an example and a role model for others to follow. This Conference and its outcome may be the last opportunity to address an historic wrong that today still casts a shadow on the continent of Europe. We cannot undo the atrocities of the past, but we can restore what was stolen from the Jewish people during the double trauma of the Nazi and the communist eras. An army of impoverished survivors and other claimants await our actions.

Communal organizations that once lost control of the property portfolios to be returned, say that Jewish institutional life cannot be fully funded and restored if art and precious Judaica remain in unauthorized hands. We, as NGOs, are obliged to respond to the call. We understand, of course, that the precedent governments were not the perpetrators. But there are historic obligations that countries must face from one generation to the next. Some countries have addressed these obligations in differing degrees of restitution, but others have not. We call on them to take action now to put this matter to rest. Once and for all, it is a subject that requires closure on their side and on ours. So far, only a small amount of property has been given back or compensated for. In such cases, claimants have received only a fraction of the true value.

And most countries have not yet confronted the issue of heirless property. In these matters, two countries are of immediate and special interest to us: Poland, where the losses were the greatest, and Lithuania, where the devastation was almost complete. We call on them to do the right thing, and to produce satisfactory

restitution packages, that are assessed fairly and executed in a timely manner. There are certain best practices that must be implemented as a result of this Conference and its follow-up.

1. The Claims Conference must be simple and non-bureaucratic.
2. Minimal documentary processes must be established.
3. Governments must ensure speedy resolution of claims with supervisory bodies that monitor progress and censure obstructionism, and the lower levels of bureaucratic execution.
4. Restitution must be in rem, and failing that, there must be equal value compensation.

Minimal documentary processes must be established, and heirless property must be returned to the Jewish people. Our message to the recalcitrant governments is really plain: Do the right thing, and do it now. The proposed Terezín Institute will be critical to ensure that this Conference will lead to concrete actions. We are encouraged that this Conference has brought together the United States government, member governments of the European Union, and the State of Israel. We are relying on that fact and on our hope that their collective interests will result in vigorous collaboration and sustained advocacy.

Thank you.

► Julius Berman

CONFERENCE ON JEWISH MATERIAL CLAIMS AGAINST GERMANY, USA

As Chairman of the Conference on Jewish Material Claims Against Germany, an international NGO comprising 24 national and international Jewish organizations, I thank the Czech government for hosting this Conference. The Claims Conference was founded in 1951 and for the past 58 years it has been relentlessly pursuing its historic mission of obtaining material compensation for Jewish Holocaust survivors as a result of the horrors of the Shoah.

Today, however, we have reached a crucial point – we stand at the precipice of our efforts to address this vital issue. The need to act has never been as urgent or pressing. The warning offered by the Jewish scholar, Hillel, has never been more pertinent: “If not now, when...”

The survivors of the height of man’s barbarism against his fellow man are old. Their average age is almost 79, and more and more of them are becoming disabled. Too many of them are in desperate need. It is our collective responsibility to help them: to achieve some measure of justice, as well as to mitigate their current plight.

At a minimum, all Holocaust victims should receive some form of meaningful payments or pensions, in the event that they have not yet received it. In addition, they should get back what was unjustly taken from them. No one here would demand any less for himself or herself. But the Holocaust victims deserve more than that.

First, regarding the return of Holocaust-era assets:

Holocaust victims lost virtually everything. To the extent possible, they should get back their looted property – whether a house, or a piece of art, or an item of Judaica. The stolen property is important in and of itself – it, after all, belongs to the survivor(s) – but it also represents a memory of, a connection to, what was taken... and what perished – the parents, the siblings and the communities. It also represents recognition of their loss and pain, and would help in bringing closure to their trying to cope with what they were forced to endure.

Second, but most important:

It is nothing short of outrageous that many Holocaust victims live in dire, if not desperate, circumstances. Urgent action must be taken now to help them. After surviving unspeakable persecution, many Holocaust victims must choose between food or firewood; between medication or monthly rent. These are not exaggerations and if you are not aware of it, you should make yourself aware of it... and it should be unbearable for you to know it.

With family members who would otherwise have assisted them having been murdered, survivors are dependent upon us, the governments and NGOs in this room, to provide them with the most basic, bare essentials. And yet, we are living in difficult economic times, which affect survivors even more than other elderly members of the community. During the last decade, the Jewish world has committed hundreds of millions of dollars to this task. These monies are necessary and welcome, but come late... and it is not nearly enough. The needs of survivors are greater and more pressing – they are in worse health – and there are fewer human and financial resources to address them. The

needs of Holocaust victims far exceed what current funding can reach. More importantly, the Jewish world cannot do it alone, nor should it bear this burden, no, this responsibility alone. It will not be forever – the long-term needs of elderly Holocaust survivors are limited. In relatively few years, there will be no needy survivors to help. It will be too late.

But now, there still is time to make a difference – together to take on the onerous, but clearly necessary, moral imperative to assist needy Holocaust victims to live out their years in a manner befitting the courage and resilience they displayed and the suffering they endured. This cannot be the duty of merely some of us – most of the world stood idly by as Jews and other victims were murdered – rather, it is all of our responsibility. In this spirit, we call on the governments participating in this Conference and on the EU to support critical social welfare services urgently needed by tens of thousands of vulnerable Holocaust victims in their final years. Further, in countries with unresolved heirless property issues, we strongly encourage that initial funding be realized by the return of such heirless Jewish property and as an immediate step, a down payment on heirless property should be used to set up an urgent Holocaust victim relief fund.

Third, there is more to be done in the area of Holocaust education:

Much has been achieved during the last 10 years, since the Washington Conference. Since 1998, the Claims Conference has become a source of funding for Holocaust education and research programs worldwide. More recently, it commenced a visionary and proactive project to establish a long-term fellowship program to support the next generation of Holocaust scholars. And, yet, there is still much to do – and time is running here, as well.

Holocaust scholars and researchers must be able to access archives that are deteriorating and disappearing, as well as record or otherwise preserve the experiences and individual memories of Holocaust victims – all of whom are elderly. Here, too, we have an obligation to the victims and to the Jewish people as a whole, to remember how the vibrant and great Jewish communities of Europe lived, as well as how they were ultimately annihilated. But even more importantly, we must remain committed to ensuring that future generations will be well educated about the Holocaust, to honor the six million Jewish victims, as well as the other victims, and to serve as a warning, to help prevent future genocide. In this respect, we applaud the efforts of the International Task Force for Cooperation on Holocaust Education, Remembrance, and Research to ensure that the next generation of school students worldwide receive Holocaust education – they are the ones who will lead us in the future. Yet time is critical – we have seen the emergence of individuals – from leaders of countries to authors of purported “history” books, who, disgustingly, repudiate the Holocaust. We can never rest; we must be ever vigilant in our task of carrying the torch of Holocaust education. Participating governments must commit themselves to providing funding for all aspects of Holocaust education – from teacher training to curriculum development – and should implement this policy without delay.

We must honor the memories of the millions of victims, the generations that preceded them and the hundreds of destroyed Jewish communities that were found in every corner of Eastern and Central Europe by preserving the cemeteries and mass graves that are now located in areas where Jewish life is a fraction of its former glory. We must ensure that the spiritual heart of these communities – their beloved Judaica and especially their Torah scrolls – are kept and/or used in a manner befitting their holiness.

I look around this room and feel some sense of optimism. Over 45 governments have sent delegations to Prague and the Terezín Declaration will be signed; each had a different experience during the Holocaust – some are countries that were invaded by the Third Reich and some not, some are countries that were formerly Nazi allies and some Nazi foes, some are countries that had large Jewish communities and centers of Jewish life prior to the war and some had only tiny pre-war Jewish communities, some are countries whose own citizens also suffered from Nazi persecution and some not and each has reacted differently after the Holocaust. But despite these differences, and others, we have come seeking to strive for what unites us and not that which divides us – to pursue a measure of justice for Holocaust victims.

Finally, the Terezín Declaration notes that certain commitments that will be made during this Conference are subject to “national laws.” We are certain that such “national laws” are only referenced in the Declaration to include technical and procedural items and that all governments agree on the important principles that constitute the fundamental basis of the Declaration and which unites us all – such as the basic rights of original owners, heirs, and successors to obtain, in a timely manner, the return of the property that was stolen from them or just compensation therefor.

At this juncture, we need to look forward and the Terezín Declaration provides us with an important starting point. I take note that there were a number of working groups of experts that convened before this Prague Conference. Their recommendations have been carefully developed and the Claims Conference strongly believes these must form the basis of future actions and best practices and urge all countries to participate in their implementation.

In addition, we are sure that the newly created European Shoah Legacy Institute will involve countries throughout the world – not only Europe – and will have interested NGOs, particularly the Claims Conference, as important participants in its activities.

There remains much to be done; and it will not be easy. But that should not trouble us. As stated in the Ethics of the Fathers, “Although the task is great, even if we cannot finish the task, neither are we entitled to desist from it.”

► **Andrew Baker**

AMERICAN JEWISH COMMITTEE, USA

This is a year of special anniversaries. Two decades ago, we witnessed the emergence of Solidarity in Poland, the fall of the Berlin wall, the Velvet Revolution here in Prague. The forces that were set in motion then have in large measure brought us to this gathering today. No doubt many would say that the trajectory that was taken was inevitable. A movement towards freedom and democracy, towards an open society and a free press. But even if it was inevitable, it surely is still a wondrous site to behold, hosted as we are, by the Czech government, the presidency of the European Union, here in Prague.

In 1989, the prospects of NATO membership, of EU accession, for many of the countries gathered here today, were distant hopes or mere aspirations. But now, they have been realized. Yet, if those revolutionary forces set in motion then guaranteed a brighter future for all these countries, they offered a much more tentative promise for their Jewish communities. To be sure, individual Jews frequently shared in the excitement and the expectations of

their neighbors. But what would become of their Jewish communities? That was far less certain.

Most European Jews were murdered in the Holocaust; most of those who survived found a new future in the West or in Israel. Those who remained were small in number and beleaguered. They were the victims of state sponsored anti-Semitism and the natural communist repression of all religious movements. Many Jews in Israel and America assumed that the fall of the Wall did not mean new beginnings in these places, but rather aliah and emigration. New lives in new countries. Many Jews did leave, but others stayed, and sought to rebuild Jewish life.

How easy it would have been 20 years ago, as properties were being returned to other religious confessions, or privatized and sold off, to then return them to their Jewish communities. They would have had some elemental basis of support for their activities. With few exceptions, this did not happen. Instead, it has been a struggle lasting well over a decade.

Before coming to Prague, I was in Lithuania, where the debate on restitution of formal Jewish communal property continues. In that country, the government is proposing the payment of compensation, a small percentage of actual value spread out over ten years. They say, perhaps sincerely, that in the current economic climate, and with the unpopularity of the issue, this will be difficult. Lithuania is among the very few countries that have still not resolved its communal claims.

But it is not alone in experiencing a phenomenon that must also be addressed. We who spend time in these countries, and Jews who live in them, know it all too well. When the subject of restitution is raised, anti-Semitism increases. Jewish communities

that are seeking the return of their properties are frequently depicted as taking money from the native population. As though Lithuanian Jews, or Latvian Jews, or Polish Jews were somehow strangers, who do not belong or for whom support by their governments requires special consideration, special justification.

These days, compensation proposals tend to be so modest that officials can see they will have a negligible impact on the overall budget, even in difficult times. But media counts and populist politicians make it seem as though the fiscal stability of the nation will stand and fall on helping these Jewish citizens. In Poland, proposed legislation on compensation for private claims will, by the government's own estimations, primarily address the claims of Poles living in Poland and of non-Jewish Poles abroad. Jewish claimants, Holocaust survivors or their heirs, are thought to be no more than about a quarter of those, however, to the general public, this is a Jewish issue and the public is against it.

How do governments and political leaders respond to this problem? For the most part, they do whatever they can to avoid it. If elections are pending, they suspend negotiations. It would cost the ruling party votes. We are asked to be patient and understanding; we are on the same side, they say. Unfortunately, these are the political realities. And all this was before the global economic crisis.

But at the same time, consider the irony. We are seeking property restitution because of a genocidal anti-Semitism that swept through Europe 70 years ago. Far too many people of good will were unable or unwilling to stop it. And now, two generations later, we have small, reviving communities, a fraction of what they once were, trying to reclaim a fraction of the properties that they once owned. And the price to pay is another wave of

anti-Semitism. Maybe not life threatening, but anti-Semitism all the same.

Twenty years ago, expectations of open and democratic societies, and EU and NATO membership may have only been hopes for the future. But 20 years ago, we also heard powerful voices and witnessed great leaders who made those hopes a reality. We need to hear a few more of them now. Standing up here in Prague and at home, and they must speak clearly. Restituting the Jewish property is the right thing to do. And anti-Semitism is unacceptable. We do not have to choose between the two.

► **Ellen M. Heller**

AMERICAN JEWISH JOINT DISTRIBUTION COMMITTEE,
USA

Introduction

On behalf of the American Jewish Joint Distribution Committee, also known as JDC and the "Joint", I thank you for the opportunity to share information on JDC's programs for Holocaust survivors and its interest in property restitution and this important Conference.

The American Jewish Joint Distribution Committee: History

JDC is in its 95th year as the nonpolitical, international Jewish humanitarian organization that provides assistance to Jewish communities throughout the world. Today it is at work in over 70 countries and carrying out its three "R" mission of rescuing Jews at risk; relief of Jews in need, and rebuilding Jewish

communities so that they can have economic independence as well as a vibrant Jewish identity. Ninety percent of the Jews served by the Joint and 90 percent of its program budget is spent in the 12 countries that make up the former Soviet Union (FSU), the Baltic countries, Europe, and Israel. The majority of its program budget is spent on relief and welfare programs, and almost a quarter of this is spent specifically on services for the aged. A major priority of JDC's programs for the elderly is the care of victims of the Shoah.

The World Wars in Europe and the JDC

JDC has a long history of caring for Nazi victims that began in the 1930s. At that time, the program focused on the flight of Jewish refugees from Nazi-controlled areas and help for the dire economic situation of East European Jews. Its efforts during WW II continued as it provided aid and rescue, when possible, to those in war zones. At the conclusion of the war, at the request of the United States government, JDC was the primary entity providing support and care to the survivors in the DP camps. After the DP camps were disbanded, JDC continued to ensure that the survivors would not be abandoned. It helped with the emigration of Jews to the newly created State of Israel and to other countries throughout the world. In particular, it spent millions of dollars in reconstruction assistance to European Jews. It operated hospitals, schools, soup kitchens and rehabilitation and retraining centers and also provided funds for cultural activities.

As the Jews left the DP camps, JDC gave major financial assistance to the Jewish communities of Europe including France, Belgium, the Netherlands, Italy, Sweden and Spain. Even during the era when the Central and European countries were controlled

by Communist governments, it was able to transfer funds and send food packages to the Jews in those countries.

From its founding in 1914 in Ottoman controlled Palestine to its current programs in the State of Israel, JDC has provided major assistance for Israel's citizens including the care of Nazi victims, other aged, and the disabled and sick.

Nazi Victims in the FSU and Europe

After the war, JDC was a founding member and remains active in both the Conference on Jewish Material Claims Against Germany, "the Claims Conference" and the World Jewish Restitution Organization. Today, JDC's programs for Nazi victims are primarily in the Former Soviet Union, the Baltic countries, Eastern and Central Europe and Israel. I would like to focus my remarks this afternoon on the Nazi victims in the FSU.

With the political and financial collapse of the Soviet Union, pension and other social welfare benefits greatly diminished or disappeared. JDC was faced with an unforeseen economic calamity and the care of an aged Jewish population that consisted of many Nazi victims. It quickly mobilized a massive support program for the elderly that at its height had 185 Hased centers in 3,000 communities providing food, healthcare and housing support. These elderly Nazi victims – the twin victims of Nazi cruelty and repressive Communist regimes – have been described by Judge Edward R. Korman in the Swiss Bank case as the neediest Jews in the world. A 2007 study by Brandeis University found that they have high rates of disability; are more likely to have limited mobility and to live alone with no family in comparison to other elderly persons in the FSU. Female victims are in the worst state, as they receive substantially lower pension payments than

males and are also more likely to live alone without the support of other family members. These aged Jewish victims did not have access to restitution funds during the years of Communist rule, and now receive very minimal government assistance.

The mainstay of the support for the Nazi victims has been the Claims Conference, whose critical allocations have enabled these vital programs to take place. At its peak, JDC served 250,000 Jewish elderly in the FSU but the total number in 2008 was 167,920 of which over half qualify for restitution funding as Nazi victims. Each individual has a separate file, tracked on a database, which is updated on a monthly basis with his or her current needs and services. However, these aged Nazi victims are not mere statistics. They are proud people who served their countries as war heroes, government workers, teachers, professors, doctors, and scientists in spite of harsh political and economic challenges. I have visited countless numbers of these Nazi victims and have held their hands as they shared the stories of their lives and thanked me, with smiles on their faces, for the help the Joint gives them. Most live in substandard housing, but inevitably their rooms are clean and orderly with pictures and books. Because of their frail condition many cannot leave these apartments and depend on the visits of the home care assistant and the food and medical care supplied by the Heseds. JDC's standard welfare services include: food packages, food cards, fresh food sets, hot lunches and meals on wheels; home care; medicines and visits to doctors; medical equipment loans; winter relief; and day care center activities.

The pensions the Nazi victims receive in the FSU are not sufficient for the basic needs of the elderly Jews, and their primary support is the home and health care and food supplied by the Heseds. They have no "safety basket." Due to the declining value of the US dollar,

rising inflation and the worsening economic crisis, JDC has had to implement a major curtailment of services as well as restrictive eligibility criteria. As a result, major cuts have taken place in the FSU ranging from 25 percent to 40 percent in food and medical services. Fewer meals, fewer food packages and a reduction in winter relief are having a devastating impact on the elderly Nazi victims.

In Eastern and Central Europe and the Baltic Countries, JDC's elderly caseload is just under 26,000 people. JDC Europe works with the communities who are responsible for the direct provision of services. High inflation, the weak US dollar, and the world financial crisis have resulted in significant cuts in programs. In addition, part of the European Union mandated deficit reduction efforts have exacerbated the situation, and there have been major service reductions which have left elderly pensioners, most of whom are Nazi victims, unable to cover their basic living costs.

Property Restitution

Property restitution has a major role to play in the securing of adequate social service programs for these aged survivors. JDC has been fortunate in having exemplary partners in assisting with critical funding for the life-sustaining services it provides elderly Nazi victims in both the FSU and Europe. They include the Claims Conference and other restitution-related sources, the Swiss Banks Settlement, the International Commission on Holocaust Era Insurance Claims, World Jewish Relief, the Fondation pour la Memoire de la Shoah, and the German government Funds for Homecare as well as the Harry and Jeanette Weinberg Foundation. But, the funding is not sufficient. It is for this reason that the property restitution efforts are so important. The return of communal Jewish property to the communities will ensure self-sufficient Jewish communities in the future.

There are already successful examples of how JDC and local Jewish communities have converted returned communal buildings into significant income-generating assets which in turn have provided additional support for social welfare programs. In Jablonec, Czech Republic a building that had been nationalized and turned into five apartments has been renovated and now brings in a high rental income. In Warsaw, Poland a 1912 building that had housed various Jewish communal institutions, including a mikva and Talmud Torah survived the Nazi siege of Warsaw. The building was confiscated after the war and used as a school, apartments, and for storage. It was restituted to the Jewish community of Warsaw in 2001 and has been upgraded. Today, there is a private school located in it that pays rent to the community. In Bratislava, Slovakia, the Jewish community successfully secured the restitution of a pre-war Jewish hospital that was returned empty and in derelict condition. In 2002, JDC loaned the community money to install a modern heating system and eventually renovations led to the building being leased and converted into an extended-stay hotel and office building.

All of these project renovations were aided by non-interest loans from the JDC under its SELF program – the Strategic European Loan Fund. These non-interest loans have enabled Jewish communities to maximize the value of, and generate additional income from, restituted properties.

Conclusion

Time is running out. Nazi victims are growing older and memories fade.

It is inexcusable – indeed morally and legally reprehensible – not to proceed with the reclamation of property that was stolen,

seized, and looted by the Nazis in one of the darkest moments in the history of mankind. Property restitution should be the highest priority of democratic countries that adhere to the rule of law. As Ambassador Stuart Eizenstat has written, the return of this stolen property is an “imperfect justice.” Material restitution cannot overshadow the human tragedy of the Holocaust. But, the monetary restitution is a concrete acknowledgement of a terrible evil. Equally important, it is an acknowledgment of the responsibility to provide support to those who did survive.

► **Anne-Marie Revcolevschi**

FONDATION POUR LA MÉMOIRE DE LA SHOAH, FRANCE

I am happy to say that the different issues you confronted during these past days are some of the top priorities of the mission and activities of the *Fondation pour la Mémoire de la Shoah* – education, remembrance, and welfare support of elderly survivors in France, Israel, and many eastern and central European countries. We shall definitely pursue our task and contribute to the projects that will come out of the Prague Conference.

The other day, Mr. Lustig formulated the pending question concerning the Shoah. We know how, we know who, we know when, but we still do not understand why. Historians, philosophers, sociologists, or economists will probably answer these questions their own way. But are these the fundamental questions we have to strive to answer? Is this the fundamental legacy the victims want us to endorse?

The question I would like to answer here is different. I have been obsessed by it from the moment I came to Prague and am still,

after having listened to the discussions. What would my grandfather, who was shot with his grandchildren somewhere in a mass grave in Ukraine – if he had a chance to talk to me, if he had been near me – what fundamental message would he have liked to tell me? And I have no doubt that the fundamental message would have been: Do not ever let Jewish people be murdered! Do not let us ever again be despised, humiliated, spit on, and killed! Do not let the Jewish people disappear!

We have always been at the head of the struggle for human rights, because the Shoah established the concept of a crime against humanity. We Jews feel responsibility when we say: Never again. And we feel guilty because we could not prevent further genocide from happening. But I have no doubt that when my grandfather meant never again, it was for the Jewish people. I feel it is our major responsibility today to be alerted as soon as we see anti-Semitism flourish again, as soon as the very existence of Israel, the harbor of thousands of Shoah survivors, is questioned and menaced. I feel it is our main responsibility to devote our force and strength to protect and assure the existence of the living.

New fascists, new Nazis, new anti-Semites have turned the word Zionist into an insult, and are coming back with the traditional insults, which are no longer a taboo. They are poisoning our young generations with propaganda, fed as usual on populism, nationalism, and economic crisis. So how are we to fight against this vicious propaganda? I only see one way, apart from the restitution of the stolen assets. I think we have to join our efforts and cooperate, so that we all, all fight back, educate, prevent, and teach.

And if we are aware that the Holocaust denial and anti-Semitism in our countries are taking root in the slums, it is our task

to remind the new generations that for centuries, Jews and Muslims – even if the Jews were sometimes harassed and facing violence – co-existed harmoniously in the Muslim societies, and that hate is not a fatality. Many of our Muslim friends, in many countries, think the same way. Many Muslim leaders share those views. It is up to us to rely on them, it is up to us to respect them.

We, in the Fondation, have decided to tackle this difficult issue. We have launched the Aladin project that Ambassador Zimeray talked about. Some people tell us we are fighting a naive and useless fight. In response, I can only quote the words of a very famous politician: All the battles which were not fought were lost.

The second part of my grandfather's legacy was: Do not let the Jewish culture disappear. The present revival of the Jewish culture and Judaism was at stake – we have fulfilled it. In Prague, a city where so many traces remind us of the rich past of Jewish culture, which was nourished by the general culture, just as it was everywhere, those words have a special resonance.

Let me conclude with a few last words. I am happy that this Conference dealt with the return of the stolen Judaica. But let us never forget they were not art pieces, they were parts of the Jews' everyday lives and traditions. And therefore, to be worthy of having back the silver candlesticks of our great-grandmothers who perished in Auschwitz or in Babi Yar, we must know the Shabbat prayers when we light the candles.

I am sure that you share these two essential parts of the legacy of the Jews who perished. Never let the Jewish people face destruction again, let us be knowledgeable of the Jewish past, full of light and horror, of their heritage and their tradition. Let us all be part of the world, so that all together we build a better world

for everyone – full of justice, fraternity, peace and respect. While I do not forget the primary duties concerning the elderly survivors and the return of stolen property, I see that as the main challenge of the Prague Conference.

► **Martin Salm**

STIFTUNG “ERINNERUNG, VERANTWORTUNG
UND ZUKUNFT”, GERMANY

Mr. President, Honorable Representatives of States, Ladies and Gentlemen:

Especially, I salute those ladies and gentlemen present with us who survived the Holocaust and German Nazi persecution!

Why was the Foundation “Remembrance, Responsibility and Future” founded? Its main and first task was to give at least a symbolic recognition to victims of the Nazis who had been neglected for decades. This recognition was given by humanitarian payments to more than 1.6 million persons – Jewish and non-Jewish; East and West.

And on the basis of the revenues of our endowment fund we continue to work in that line:

- We want to keep memories alive and keep them relevant to younger generations;
- We continue to mobilize resources for surviving victims of the Holocaust and other Nazi persecution;

- And we support work for human rights as a lesson learnt from our historical responsibility.

In the field of humanitarian support – mainly in Central and Eastern Europe and in Israel – our Foundation can only fund model initiatives. These model projects demonstrate that there are very specific needs on the side of the now very aged Holocaust survivors and other Nazi victims. And they demonstrate also the great potential and the often highly professional capacity of civil society initiatives and of NGOs for the care of this very aged population.

We expect that governments will take into account and actively support these initiatives and multiply the projects begun in these countries. We ask this HEA Conference to give a signal of cooperation to all sectors of society: local citizens’ initiatives, competent NGOs, foundations (like ours) and public social systems should enhance cooperation and reinforce their action for the common good. We welcome that this Conference considers the importance of follow-up and coordination mechanisms. The survivors have only a little time left. We have to combine and to coordinate our efforts now in order to act as effectively and as quickly as possible.

We welcome the message of respect and inclusion of the different memories that this Conference is sending. The premeditated program of extermination of the European Jews – the unprecedented suffering of the victims of the Shoah – has been considered as has the Holocaust committed against the Sinti and Roma and the fate of the non-Jewish citizens of the German-occupied territories. The dialogue of different memories seems to us an important theme of European understanding. And our Foundation’s projects address that challenge: one example is our

internet-based archive of testimonies of former slave and forced laborers.

We must not only look back to the past. We have to talk about the lessons learnt from the historical legacy. We support the strong European message given by this Conference – a European message that goes well beyond the boundaries of the European Union. In order for Europe to consolidate, it needs to address its diverse history and cultures. This can help us, too, to agree on common lessons learnt for the defense of human rights and for strong common initiatives against the challenges of today's xenophobia, anti-Semitism and renewed nationalisms.

On the basis of the cooperation so far with partners in Central Europe, in Israel and in the USA and, above all, remembering always the victims of Nazi persecution, our Foundation will continue to build bridges between East and West, between Jewish and non-Jewish victims, between cultures of remembrance and between generations.

► **Noach Flug**

INTERNATIONAL AUSCHWITZ COMMITTEE, ISRAEL

Excellencies, Ladies and Gentlemen:

As a survivor of the ghetto of Lodz, the Auschwitz-Birkenau concentration camp, the concentration camps of Gross-Rosen, Mauthausen and Ebensee, and now as an elected president of the International Auschwitz Committee and chairman of the Centre of Survivors in Israel, I speak on behalf of the survivors of the German concentration camps and ghettos. We remember our

murdered families and the million of victims who remain in the places of ashes. They are with us always; we will never forget them. The memorials tell the history of us all.

On January 25, 2009, presidents of the international committees of former German concentration camps gathered in Berlin to formulate a testimony of the survivors. The chairmen of the *Lagergemeinschaft* of Auschwitz, Buchenwald, Dachau, Sachsenhausen, Ravensbrück, Bergen-Belsen and so on were there. We delivered a document, which is directed towards the future, to the German Federal President and the representatives of German politics and to the Prime Minister of the Czech Republic as the President of the European Council. The document states that the former camps are today stony witnesses: signs of the crimes, international cemeteries, museums and places of learning especially for young people. They are evidence against the denial and the diminishment of facts and they must be preserved throughout time. Their conservation and their educational facilities are a powerful message from Germany and Europe in the fight against intolerance spread by right-wing extremism and anti-Semitism, against hatred and intolerance.

Many young people ask us about our memories, pain and grief. The interest in us represents a hope that the knowledge will live on into the future. The knowledge of what happened in Auschwitz, in TerezinStadt and in other concentration camps. Those who know what happened will also understand what it means to live in a tolerant, strong democracy that feels committed to universal human rights. This above all is the purpose of our testimony, of our account and our educational involvement. Nevertheless, our deep concern and involvement are also dedicated to the survivors throughout the world. Many live in difficult social circumstances.

And to this day, the camps continue to claw at their memories and their emotions and their dreams. Many of them are in need of support and medical assistance. They should not be forgotten in their old age. For these reasons, we thank all of the governments and organizations that are accompanying the survivors in both financial and human respects. We hope that they will continue their activities. Our IAC conference is also a source of great support. We thank the Czech government and all those involved for their commitment, which encourages us. The topics of our Conference give us strength in our work; we all affirm that justice has no statutory period of limitation. Stolen assets must be refunded for the sake of justice and the people.

Ladies and Gentlemen, as survivors, we hope that this Conference will send a signal calling upon us to be ever vigilant in our own time. As the American president Barack Obama said a few weeks ago in Buchenwald, we must remain ever vigilant against the discrimination, persecution and exclusion as they are being suffered today, for example by the Sinti and Roma in many European societies. Indifference destroyed everything and everyone; we have experienced it.

I thank you.

► **Dan Mariaschin**

B'NAI B'RITH INTERNATIONAL, USA

Thank you very much Mr. Chairman. I also want to express our thanks to the Czech government for hosting this Conference and to you Mr. Chairman for your abiding interest for many years in Holocaust assets issues.

Mr. Chairman, I represent an organization which as late as 1936 had hundred of branches throughout Europe, including over one hundred in Germany and ten right here, in the former Czechoslovakia. Since 1990, we have re-established ourselves in most of the countries where the Jewish population was decimated during the Shoah. And so, with that, we have a pronounced interest in the subject that has brought us to Prague this week.

It is well past time for the international community to finally and fully do right by Holocaust victims, survivors and their families and restore properties stolen from the Jewish community by the Nazis during World War II, or to make proper compensation. More than six decades after the end of the Holocaust, Jewish communities have remade themselves, and have made tremendous strides towards making themselves whole again. But this restoration cannot be completed until formerly Nazi occupied and Nazi allied countries embrace full restitution efforts. Homes, synagogues, hospitals, stores, schools, and factories were stolen by the Nazis and their collaborators and then acquired by the Nazi allied and occupied nations after Germany's defeat. This historic Conference provides governments with the opportunity to report on what they have done in the last decades with regard to looted assets, including the return of the property to Nazi victims and the survivors. The 1998 Washington Conference on Holocaust-Era Assets, focusing on objects of cultural, historical and

religious value and stolen art, on Holocaust education and research, insurance and communal property restitution made important, but limited progress and helping victims and survivors to make claims on what was rightfully theirs. But the job is far from complete. The material evidence is all around; there will soon be no one left to point it out.

The calls for redress in Europe have gone largely unheard or unmet. According to the Institute for Global Jewish Affairs, the vast majority of assets remain unreturned, “despite numerous clear and explicit international agreements and country promises made during World War II and immediately thereafter.” The Institute also finds that only about 3 percent of all property confiscated during the Holocaust has been returned. There are many places where the process of restitution is severely flawed or non-existent. Some nations have stalled on agreements that would return communal property or provide compensation to the communities. Others have failed to establish adequate legislation to reconstitute property. As Jewish communities in Central and Eastern Europe struggle to re-establish and revive themselves even after all these years, restitution of property or equivalent compensation would go a long way towards sustaining them. And yet, some governments have failed to act, while Holocaust survivors continue to wait and their numbers dwindle by the day, by the month. Tragically, there are not many ways left for justice to be served now, 60-plus years later. Of course, we cannot get back the six million who were murdered. Nor can we ever quantify the loss of their progeny. There is no compensation for human lives and all they might have accomplished. But property can and must be quantified. It is a difficult task, but that should only serve to fortify our commitment to doing it right.

Government intervention is crucial in settling property matters, which have gotten more complex as the years have passed. In some cases properties were destroyed, used as public buildings or are now in the hand of “owners,” three generations or more removed from the war, who acquired the empty properties of Jewish families or institutions in the aftermath of the Holocaust. And while restitution is clearly the preferred course of redress, in such cases financial compensation should be provided.

The dark forces who would deny the Holocaust are growing, making it perhaps more important than ever to have full accountability through restitution. Just two months ago, Iran’s Holocaust-denying President Mahmoud Ahmadinejad was granted a world stage at the United Nations-sponsored conference on racism and emboldened like-minded revisionists to step forward. Settling property debts from the Holocaust would go a long way towards burying the deniers with indisputable facts.

Why should today’s governments be held accountable? These nations and many of their citizens have benefited from the Holocaust era victimization of the Jewish community. So today’s governments can and must choose to make amends now. There can be no more excuses. It is the ultimate test of a democracy to recognize its historical flaws, to look in the mirror and recognize what has happened. The time to turn bromides into action is fleeting. And the time for action is now.

Thank you.

► **Jonathan Joseph**

EUROPEAN COUNCIL OF JEWISH COMMUNITIES, UK

Thank you Mr. Chairman. On behalf of all of the European communities, I want to thank you for giving me the opportunity to speak today.

The European Council of Jewish Communities is the only pan-European body represented at this Conference. We are a non-political body that works with the communities trying to nurture their growth and their re-establishment. These are communities that have been dispossessed not only in terms of their financial and real assets, but also spiritually. It has been our task, very much started by our great friends at JDC, to try to work with those communities in building them up. Many of the victims of Nazi persecution still live within these communities in Europe. They do not live as isolated units, they live within those communities. And it is those communities who also bear the responsibility and the burden of helping to look after them and making sure that they remain a part of the community, because after all, that is what they need and that is what they deserve.

The task of rebuilding the European Council is a complex one and we are only a tiny piece of the jigsaw. But the restitution of the assets, of the individuals and of the communities, is something we care about deeply. We are very proud of our association with the Commission for Looted Art in Europe, who have been represented here at this Conference and who have done a startling job in getting back a number of assets for individuals. They mean more than just money – as has been frequently told here – they mean the return of peoples' lives, their memories and their souls. But it is those that continue to live that we look after, it is the communities we care about, and the individuals

and the victims within those. The communities and other people in this room take care where they can of the physical needs of these victims – the food, the medication and the shelter. But it is the rebuilding of the communities that they were once part of, and continue to be part of, that should also be our great priority.

I thank you very much.

► **Emil Kalo**

WORLD ORT, BULGARIA

Thank you, Mr. Chairman, as I am the last of the NGOs, more or less. Many years ago, I read a Book that gives clear instruction on what will happen to those who are last. Do you remember this Book? The last shall be the first.

Thank you for the presentation; it saved about thirty seconds of my statement. In brief, let me present the history of our organization. It is more than 130 years old and it is one of the oldest international Jewish organizations. In the years before World War II, ORT operated mostly in Russia, Belorussia, Ukraine and other Eastern and Central European countries such as Moldova, Latvia, Lithuania, Poland, Romania, Hungary and Bulgaria. Activities during these times included trade schools for children and vocational courses for adults, distribution of machinery and materials to Jewish artisans and farmers and numerous agricultural projects.

This is very important and very closely connected to the issue of our Conference. During Hitler's rise to power in the 1930s, ORT organized vocational training programs for German Jewish

refugees who had escaped to Lithuania and Latvia. In 1939, approximately 315 ORT institutions were operating throughout Europe. Thus, most of ORT's programs continued to function after September 1939, within the camps and ghettos. ORT never left Eastern Europe even during these most horrific and desperate moments of history. Following the end of the war, ORT had to start again more or less from zero, from the beginning. ORT began working in Germany, Austria and Italy. Programs were also re-established in Bulgaria, Hungary, Poland and Romania and in Czechoslovakia for the first time.

By the late 1940s, when programs in all of these countries came to a close, many ORT students had left for Israel. And within a few years, ORT succeeded in establishing the whole technological system of education in Israel, involving equipment and teachers from European countries. Today, ORT is one of the largest non-governmental educational organizations with schools and educational centers in 63 countries worldwide, with a student body of 300,000.

I think that after these days that we have spent in Prague, it is much clearer why we need the Terezín Declaration and why we are talking so much about restitution and compensation. ORT is not exporting; ORT is an importing organization. We are importing knowledge, money, and equipment. We are investors in the future of the Jewish community. We are investors in the future of the whole society.

Thank you.

► Stanley Samuels

SIMON WIESENTHAL CENTRE, UK

Winston Churchill said that, “in war time the truth is so precious that it should always be attended by a bodyguard of lies.” The Simon Wiesenthal Centre congratulates the Czech Republic on concluding its European Presidency by convening this – what I would like to call – mission of transparency. It comes one decade after the Washington Conference on Holocaust Restitution, which has been cathartic in smashing national myths and entrenched collective memories. The opening of archives has been painful for both combatant and neutral countries of World War II.

I will briefly address two issues that are of concern to our Centre, and that may have been, I hope, ameliorated by the encounters of this Conference. The Wiesenthal Centre has been the principal actor, researcher and interface for claimants in France since the United States class action suits and throughout the restitution of the CIVS commission claims process. We are proud to have identified and shepherded most of the 8,800 successful bank claims. We will continue to monitor over 1,500 registered submissions still waiting to be heard, and also about 50 new claims arriving each month. We are still urging the publication of the list of 86,000 names of spoliated bank account holders, which we know are withheld under privacy laws. Also, property owners in France resident in East-Central Europe or Middle-Eastern holders of French accounts, properties of Yiddish *Landsmannschaften* in France and Yiddish publishing houses and libraries.

Here in Prague, I was able to discuss with the CIVS delegation the complex definition of “rightful heirs” and “reserved shares” of compensation withheld for putative relatives. We submit that

upon the eventual closure of that commission, the CIVS, those reserved shares should be distributed among the claimants and any residual among appropriate Jewish organizations. CIVS hearings can be stressful to the claimant and I am happy that our presence often provides a friendly and independent shoulder on which to lean.

Our Centre has recently acquired *ERR/Dienststelle Westen* inventory lists of apartment looting in northern France. Here, we discussed with the CIVS the use of those documents as a basis for claims for household contents despoiled after their occupants were deported.

The second issue relates to the pedagogical value of archival transparency among World War II neutrals, resulting sometimes in a negative retrenchment around myths and even denial. I refer here to a five-year campaign carried out by our Centre focused on determining the truth surrounding the founders of the Hunt Museum in Ireland.

We requested, at that time, that the President of Ireland suspend her prestigious Museum Award, pending an independent investigation into the alleged association of the founders with Nazi circles and dealers in looted art. This resulted in a very admirable provenance enquiry by the Museum's director; however, the founders' activities were totally ignored by a three-year government appointed enquiry.

Dr. Lynn Nicholas, whom many of you know and who has been a speaker at this Conference, was taken to respond to our critique and I believe that she vindicated our position. I will quote her Final Report from August 2007: "An examination of the Hunt Museum Collection was certainly justified both by its lack of

provenance records and by the discovery of the Hunts' relationship with a dealer who is known to have trafficked in confiscated art."

In January of this year we produced a 165-page Shadow Report on this controversy, which names a network of Nazi agents and art traffickers who, again allegedly, were in content.

We have asked for access to the relevant archives, in accordance with paragraph two of the Experts' Conclusions of the looted art session of this Conference, and I am happy to report that, here in Prague, and not in Dublin, the Conference allowed for a meeting point and for talks with the Irish delegation that have resulted in an invitation to a Wiesenthal Centre researcher to access the relevant archives and even to a proposal for a proactive search for heirs through notices to be sent to the principal Jewish and restitution websites.

To conclude with a French connection: the last train of looted art from Paris to Germany was stopped by the resistance on 15 August 1944 at the suburb of Rosny-sous-Bois. The last train of deportees from Drancy to Auschwitz left on a day very close to the same date and it was never stopped. "*Ars longa, vita brevis.*" May this Prague Conference result in a reversal of those diabolical priorities and also lead to an appreciation of the pedagogical opportunities raised here, for the young generation to better understand the moral dilemmas they invoke.

Thank you, Mr. Chairman.

► **Lord Janner**

HOLOCAUST EDUCATIONAL TRUST, UK

Mr. Chairman and Distinguished Guests:

In 1946, I was a National Serviceman in the British Army of the Rhine. I was taken by the Jewish Relief Unit to the mass graves, on the site of the former Bergen-Belsen concentration camp on the second anniversary of its liberation. And I stood together with survivors, Jewish Displaced Persons, and we all wept as we said kaddish beside those huge, long mass graves. Then I went with the orphaned children to the *Kinderheim*. At the age of 18, I became a War Crimes Investigator – the youngest in the British Army of the Rhine and I helped to track down and to arrest perpetrators of at least some of those horrendous crimes.

Many years later, as a Member of the British Parliament, I worked to pass our War Crimes Act. Together with Lord Merlyn Rees, we created an organisation, which would help teach young people about the horrors of that dark chapter in history – the Holocaust Educational Trust. Over the past two decades, the Trust has grown greatly. It is now able to touch the lives of young people all over Britain. It is not only a leading authority on Holocaust education in our country, but is at the forefront of efforts to preserve the memory of the Holocaust, and to oppose prejudice and racism in all its forms.

The Nazis stole many things. Above all, they stole the right to life from a generation. All of my family who had remained in Latvia and Lithuania – all of them – were murdered. At the end of the last century, righting the critical errors made immediately following the war became an issue of rediscovered urgency, as the barriers that had separated Eastern and Western Europe fell,

and survivors of the Holocaust came to reflect on what had been taken from them and their families. By the time of the 1997 London Conference, the pressing need to face up to these mistakes had spread around the world.

So much remained unknown about the fate of property stolen by the Nazis – but people were prepared to listen. It should be a source of enduring pride to all of us who took part in the London Conference, that it helped to encourage governments to examine this sad situation, and at least to start the process for restitution, which this Conference is continuing. From the Conference in London – to Washington the next year – to Sweden – and now here in Prague – each time, with new achievements to report and challenges reaffirmed. In time, attention turned from gold to other property – and I know that many people here today, particularly the head of the US delegation, Ambassador Stuart Eizenstat, have labored through endless complexities to help secure tangible results.

Following those conferences, some progress has been achieved to re-distribute property stripped from victims of the Holocaust. It has been a task of both vast proportions and of intricacy. Our call went out for truth, for transparency, and for justice – and it did not go unanswered. And now the Terezín Declaration recognises that there remain substantial issues to be addressed, and that we must continue to build on the legacy that we began some 12 years ago, to secure at least some justice for those survivors, and victims and their heirs.

While we have always set down fine principles, participating nations must remember their duty to act on them. So I urge all nations to consider their place in history, when making crucial decisions – to face up to the past. Righting the wrongs of the

past, and remembering the crimes of the Nazis, are two sides of the same coin – both are crucial. As our survivors grow older, we all know only too well what a huge burden we carry to continue their legacy when they are gone.

The Holocaust Educational Trust's extraordinary "Lessons from Auschwitz" Project, which receives great support from our British government, now allows us to take some 3,000 young people a year, from all backgrounds and communities – together with parliamentarians and important communal leaders – to visit Auschwitz-Birkenau. We are proud that Britain can truly be said to have taken a lead – and I would urge all of our delegates here to consider the vital place of education in preserving the collective memory of the Holocaust. There is no point in just righting wrongs, unless we also strive to ensure that they can never again be allowed to take place. That is what those graves in Belsen taught me – and that is the message I will never stop delivering.

The continuing need to return property to those from whom it was stolen is, a crucial part of the story. It cannot and must not be underestimated; for the memory of the victims – for their families – and in the interests of justice. So let us all leave Prague – renewed afresh with that same desire that drove us a decade ago – to do what is right, to do it effectively, and to do it now. Now – before it is too late.

► Čeněk Růžička

COMMITTEE FOR COMPENSATION OF THE ROMANI
HOLOCAUST, CZECH REPUBLIC

Dear Holocaust Survivors, Mr. Chairperson, Ladies and Gentlemen:

I am delighted to have been given the opportunity to speak at the final plenary session. You will not find my name in the original program of this afternoon meeting, but I am glad that the Conference organisers finally decided to also make room for representatives of the Roma community.

We are just a few hours away from the adoption of the Terezín Declaration. Some think that this is an inadequate document, while others consider it to be the most that can be done. I would like to point out, however, that what Terezín symbolises for Czech Jews is represented by former so-called Gypsy camps in Lety and Hodonín for our Roma and Sinti people. While the establishment of a European Institute will be announced in Terezín tomorrow, there is still a pig farm on the site of the camp in Lety, where our forebears perished.

Of the 5,000 Bohemian and Moravian Roma and Sinti who were imprisoned in concentration camps, only around one tenth survived. Despite this, we are still struggling to get the public to actually understand and recognise the genocide of the Roma population that occurred in Central Europe during the War. What is even more depressing is that this fact was overlooked in many respects even during the preparation of this Conference. Not one representative of Roma organisations was on the Organising Committee and our representatives were not invited to participate in most working groups. At the same time, the fate


of our forebears was comparable to that of the Jews. The Gypsy camp in Auschwitz adjoined the Terezín Family Camp. Our wagons, family jewelry, domestic animals, and houses were also confiscated and sold off, while our destruction was financed from the proceeds. I hope that this Conference will help open up the issue of property damages. So far, not even the Czech government has been able to respond to a letter on this matter sent in February of this year.

It is a great pity that the representative of the Central Council of German Sinti and Roma, Romani Rose, could not speak here. His work has received international recognition for a long period, spanning decades, but he was also not involved in the preparations for this Conference. Nevertheless, I would like to reiterate the appeal he made on Friday.

The Terezín Declaration should not be silent about the shameful situation in Lety, where for more than 35 years a pig farm has stood on the site where our forebears perished. The declaration should also pay particular attention to the places where Roma suffered!

At a time when neo-Nazi activities are on the rise again in Europe, I feel it is important that property and restitution issues do not occlude the main reason why we are here. Millions of people who lost their lives in barbarous conditions because of a monstrous racial theory oblige us all to unite today in the fight for human rights; so that the message of our forebears suffering helps us create a better society.

Thank you for your attention.



PROCEEDINGS FROM THE SPECIAL SESSION AND WORKING GROUPS

Special Session: Caring for Victims of Nazism and Their Legacy

History and Perspective of Care Support Provided to Victims of Nazism and Their Legacy

► **Władysław Bartoszewski**

STATE SECRETARY, PLENIPOTENTIARY OF THE PRIME MINISTER FOR INTERNATIONAL DIALOGUE, POLAND

REMEMBRANCE AND RESPONSIBILITY

Ladies and Gentlemen:

Thank you for kindly inviting me to this Conference and for granting me the opportunity to open the session devoted to caring for the victims of Nazism and for their legacy. This topic is very important to me, as it affects me personally. I am standing before you not just as a historian, but even more crucially as a witness to and a participant in the most tragic events in the history of Europe and of my own life. I have never denied that my subsequent path through life was shaped by the experiences of an eighteen-year-old man who became an Auschwitz prisoner in 1940 and experienced infernal evil in its pure form, against which he was utterly helpless. When I managed to get out of Auschwitz, I took it as my duty to, first of all, help people avoid a similar fate and, second of all, to maintain and spread the truth about what I had been through and what I had witnessed, regardless of the consequences. For this reason, when the war ended I devoted myself to work as a documentarian, historian and opinion journalist

under the Commission for the Prosecution of Germany's Crimes in Poland. At the time, the topic of Nazi Germany's crimes was very much alive among thousands of former prisoners of concentration camps who survived in Poland. There were tens of thousands Polish and Christian, as well as other victims of Hitler's racist policies. While the Polish society was aware of Jewish losses, this awareness was denied and masked in various ways under the communist regime. One must remember that we did not live in a democracy with a free press and educational system. I myself spent six and a half years in Stalin-era prisons, including the most bitter experience of sharing a cell on the same corridor as Rudolf Höss, the former commander of Auschwitz-Birkenau, during his trial in Warsaw.

I am not talking about it to present my personal story as a particularly tragic one. No, this kind of experience was shared by many Poles, former prisoners of Nazi camps, members of the Polish underground *Armia Krajowa*, or by people who gave assistance to Jews. What I intend to achieve is to make you realize that in many ways the Second World War in Poland looked quite different than in Western Europe. Poles fell victim not just to the Third Reich, but also to the Soviet Union. After the war, Poland lost its sovereignty. A communist regime was established. Not long after I had met Rudolf Höss, they jailed, in the very same Warsaw prison, an officer by the name of Witold Pilecki who had deliberately let himself be caught by the Germans and who was brought to Auschwitz on the same train as myself in September 1940. At the camp, he became the main organizer of the resistance. In 1948, Witold Pilecki was pronounced an enemy of the People's Poland and murdered with a shot to the back of his head.

Despite the aim of this Conference to look particularly carefully at "victims of the Holocaust," I see it as my duty to remind

the distinguished forum that in Poland the terms "Nazi victims" and "victims of the Holocaust" do not mean the same thing. Indeed, the German Nazi regime pursued, from the autumn of 1939, a consistent extermination campaign against Polish intellectual and political elites. In no other country but Poland did the Germans also murder two and a half thousand priests and nuns. For this reason, Poles have a right to demand that remembrance should also include these horrible events. The topic will be discussed later on by Dr. Kazimierz Wóycicki from the Office for War Veterans and Victims of Oppression, a Polish authority responsible for caring for the victims of the Third Reich and of Stalin's Soviet Union. For this reason, I will refrain from going into details of this aspect. Nor do I want to give you a detailed account of the Polish system of care for the victims of the two totalitarian systems. I am not a specialist in this field and I perceive my role here differently. To me, caring for the Nazi victims means not just providing for their material needs, ensuring conditions of life in dignity and offering social care. The care that I am thinking about is expressed in care for their legacy and in continuously doing our homework in a history lesson that stems from their suffering.

I entitled my comments "Remembrance and Responsibility" because to me these are two key terms when talking about Nazi victims and about their legacy. Remembrance is particularly important today, when the generation of witnesses to the genocide is passing away, when certain people, including some leading state-level politicians, deny the numbers of victims and put in doubt the very existence of the Holocaust, the gas chambers and the crematoria. I will venture an opinion that we Poles are particularly sensitive to what is known as the Auschwitz lie. Denying the Holocaust and the entire Nazi system is an insult for millions of Christians around the world, for whom Edith Stein

and Maksymilian Maria Kolbe, murdered in Auschwitz, are saints. This is also an insult for hundreds of thousands of Poles, whose relatives were murdered or died in concentration and death camps.

The German Third Reich created a whole system of death camps. But it is Auschwitz-Birkenau that has become the symbol of the Holocaust. For this reason let me say a few words about the Polish initiative to save this Commemoration Site, Poland's and Europe's largest cemetery without graves, of which Poland has been taking very tender care for decades. Sadly, this place is at risk. Built on marshy ground with the hands of exhausted prisoners, their provisional huts are struggling to stand the test of time. For these ruins and buildings, time is passing ever faster and if we fail to find a permanent source of finance for a global conservation plan, the natural erosion and deterioration processes will only accelerate. Conservators will also face the task of preserving countless items belonging to the murdered prisoners. This is an extraordinary scientific and financial challenge. Indeed, no education curriculum teaches how to preserve human hair or prosthetics left by the murdered.

We all need this Place, one inscribed in the UNESCO register. It is here that you can find the fullest understanding of the drama of a Europe engulfed by war and hatred. It is here that young generations can best understand how much there is to protect today to make the future look completely different. The place where one can evaluate the most important questions about man, about society, about anti-Semitism, about racial hatred and about contempt for one's fellow human beings.

The generation of those who survived Auschwitz is passing away. In a few years, perhaps in less than twenty years, the last

of those who survived as children will be gone. This year, I established an international Auschwitz-Birkenau Foundation so that future generation of visitors to the remains of the German Nazi concentration camp Auschwitz can continue to see with their own eyes the genuine place of murders perpetrated during the Second World War. The Foundation will raise funds for a core Perpetual Fund. The Fund will be invested and the interest on this investment will be spent on a long-term conservation plan. The initiative has already received the support of Donald Tusk's government and a favorable reception from several national leaders, including first and foremost the leaders of Germany. Very few of them, however, have committed concrete amounts. I would like to encourage all of you, Ladies and Gentlemen, to take every step to save Auschwitz-Birkenau. This will be an expression of our remembrance of the victims and our responsibility for their heritage and ours.

► **Jiří Šitler**

MINISTRY OF FOREIGN AFFAIRS, CZECH REPUBLIC

**HISTORY OF INTERNATIONAL DISCUSSIONS ON
COMPENSATIONS TO VICTIMS OF NAZISM AS SEEN
BY DELEGATIONS REPRESENTING CENTRAL AND
EASTERN EUROPEAN COUNTRIES**

Ladies and Gentlemen:

In Central and Eastern Europe, the issue of compensation of Nazi victims and the issue of social care for them have always been interconnected – practically all the money they received was legally considered to be of a humanitarian,

not of a compensatory, nature. The victims who survived and stayed in Czechoslovakia, both Jewish and non-Jewish, and in other countries of the region were *de facto* excluded from post-war compensation payments by the German government, due to what is known as the “Hallstein Doctrine.” Even after the fall of the Iron Curtain in 1989, the German government considered the era of compensations to be over, and it was ready to provide only limited humanitarian payments through newly established foundations. In addition, the Jewish Claims Conference managed to obtain some funds for Jewish survivors in the region. But this amounted only to about 2 or 3 percent of the total money paid out to Nazi victims in the post-war era (approx. USD 100 billion) – the rest being paid mostly to victims living in Western Europe, the United States, and Israel.

Over 10 years ago, I was the head of the Czech delegation at the Washington Conference on Holocaust-Era Assets. At that time, I noted with regret the sad reality that, by as late as December 1998, in spite of the fact that many programs and funds had been announced and many plans and promises had been made, almost none of the Central and Eastern Europe victims of the Holocaust era had received any significant compensation for the dreadful ordeals they had had to endure.

But the renewed interest in the legacy of World War II, as demonstrated by that conference, and by the class actions lawsuits in US courts, gave impetus to a new – and probably the last – round of talks on World War II reparations and compensation. An important part of the process was the long and difficult negotiations leading to the establishment of the Foundation “Remembrance, Responsibility, and Future,” endowed by EUR 5 billion, from which the victims of forced labor, as well as victims of property seizures,

victims with insurance claims, and victims of other Nazi wrongs (art was explicitly excluded) were to be compensated.

During these negotiations, it was very difficult for us to be heard as equal partners. I remember that we had to fight hard for the inclusion of a symbolic paragraph in the Joint Statement signed in Berlin in July 2000, acknowledging the fact that the victims living in Central and Eastern Europe had benefited only a little from German compensation programs and stating that the Foundation “Remembrance, Responsibility, and Future” was a sign of solidarity with and a means of providing funds to these victims. The mistrust was so great that, even after the signing of the Joint Statement, we did not believe it was going to be implemented. But the complicated and sometimes very emotional negotiations gave us an opportunity to learn to respect each other. Solidarity between victims’ representatives from Central and Eastern Europe and the Jewish Claims Conference also developed thanks to the personal qualities of men like the late Karel Brožík and Noah Flug. But I also have a great deal of respect for the German chief negotiator, Otto Graf Lambsdorff. I am glad to see here many of those who participated in the negotiations at this Conference, among them Stuart Eizenstadt as the head of the US delegation, and Michael Jansen leading the German delegation.

I am sure that they will confirm that we have come a long way since 1998. As a result, a substantial sum of money has been rightfully distributed to 1.6 million victims, many of them in Central and Eastern Europe, Jews and non-Jews alike, including 76,000 Czech citizens. These payments from the German government and German industry were supplemented by payments from Austria. In this context, I would like to express my appreciation to Austria, who specifically acknowledged the genocide of Slavic nations in the preambles to its bilateral agreements with

Central and Eastern European countries. In the European and German culture of memory (*Erinnerungskultur*), we remember first and foremost – and rightfully so – the uniqueness of the horrible crime of the Shoah, the attempt to physically exterminate the entire Jewish population. The persecution of the Roma and Sinti, homosexuals, handicapped people, and political opponents of the Nazi regime is also widely acknowledged. But the knowledge of plans such as the *Generalplan Ost*, the fact that Slavic populations were also considered inferior and destined to perish, is limited more or less to academic circles and is not an integral part of the European and German *Erinnerungskultur*.

Although the payments surely helped to alleviate the difficult social situations of many of their recipients, they surely did not represent compensation for the hardships and horrors suffered – something that cannot be compensated by any sum of money anyway. But the victims accepted these payments as a sincere gesture of regret.

The survivors are our citizens; they suffered for us or fought for us. It is also our moral duty to support them. Based on several specific acts that the Czech Parliament adopted between the years 1994 and 2005, we have been settling claims of these deserving people on either a lump-sum basis or on the basis of monthly allowances and bonuses to their already existing entitlements. These acts pay tribute not only to the direct victims of the Nazis and to those who fought for our freedom, but also to their surviving relatives who often suffered the consequences as well. As of March 2009, the number of qualified claims amounted to 71,467 while the aggregate sum of money awarded to these claims amounted to CZK 2,532,872,627, which is over one hundred million euros (see annex p. 1 202).

It is important that the Foundation continues to focus on humanitarian programs for victims in Central and Eastern Europe, especially in the current economic crisis, which of course affects them as well. We hope that Germany will also satisfactorily resolve the outstanding problems, such as the ghetto pensions, and will continue to support victims where necessary and possible. As long as the survivors are still among us, they will need not only our moral acknowledgement, but in many cases also our assistance and help. This is now our shared responsibility – of Germany, of European institutions, of the governments of the countries where the survivors reside, of NGOs and charities alike.

► **Günter Saathoff**

STIFTUNG “ERINNERUNG, VERANTWORTUNG
UND ZUKUNFT”, GERMANY

**POLITICAL IMPORTANCE AND ADMINISTRATION
OF THE FINANCIAL COMPENSATION PROCESS
ACCORDING TO THE LAW ON THE CREATION OF THE
FOUNDATION “REMEMBRANCE, RESPONSIBILITY AND
FUTURE”**

The establishment of the Foundation “Remembrance, Responsibility and Future” – in German: “*Erinnerung, Verantwortung und Zukunft*” (EVZ) – and the payments of the Foundation to former forced and slave laborers are a historically unprecedented example of dealing with National Socialist injustice. There has been no other comparable institution with an international focus, an international construction and an “international mission.”

The Foundation “Remembrance, Responsibility and Future” (EVZ) closed a big gap in German legislation addressing the issues of the recognition and compensation of National Socialist injustice. This is especially true as far as the financial compensation to former slave and forced laborers and other Nazi victims in Central and Eastern Europe is concerned. The *Law on the Creation of a Foundation “Remembrance, Responsibility and Future”* supplements the global agreements that Germany concluded with other countries during the 1970s and 1990s, and later comparable agreements (for instance, Germany’s agreements with the JCC).

The founding history of the Foundation can only be understood with the following three factors in mind:

The Fall of the Iron Curtain

The awareness of the political necessity for financial compensation to former slave and forced laborers, which had acutely grown in Germany (in the parliament, in private enterprises, and among the public) by the 1990s. This public awareness in the media and among various NGOs prompted the parliament to act. Some years later, this public pressure was reflected in the coalition agreement between the Social Democrat and Green parties in the German Bundestag in 1998.

The class action lawsuits pursued in the United States against major German enterprises.

These factors led to international negotiations between 1998 and 2000, which in turn produced various results: the establishment and funding of the Foundation EVZ (based on a German law), legal stability in the United States for German businesses,

and further agreements between the participating states and the former disputing parties.

The concerted effort in which the German government and German enterprises raised DEM 10.1 billion (EUR 5.14 billion) to fund the Foundation EVZ can also be seen as a unique event. The money and the interest accrued were primarily used to provide benefits for victims who suffered as slave or forced laborers during the period of National Socialism, who sustained other personal injuries, or who experienced property losses, including insurance losses. In accordance with the Law, the funds were also used for humanitarian projects benefiting surviving needy Holocaust victims. It is important to point out that the countries and other parties involved in the negotiations agreed that the Foundation should also include a permanent grant-giving “facility” (the “Remembrance and Future” Fund). DEM 700 million (EUR 350 million) of the Foundation’s capital was reserved for this task. I will explain this element of the Law and its meaning later.

It would not have been possible to carry out the payment programs without additional contracts and without close cooperation between the EVZ Foundation and its partner organizations, which were named in the Foundation Law. Special measures, such as the establishment of independent offices for appeals, were implemented in order to guarantee the transparency of the application and payments procedure.

The fact that the Board of Trustees of the Foundation – the “Kuratorium” – with its far-reaching competencies was composed of international members also turned out to be of great importance. Thus, the “founding bodies” (the Federal Government and German enterprises) of the Foundation as well as representatives of various states and the organizations representing those who

had suffered most under the Nazi regime had a chance to influence the overall development of the Foundation and of the payments process. This way, it became possible to guarantee that the well-being of the survivors would remain the ultimate goal of the payment programs. To this end, the Foundation and its partners agreed to make the procedure as simple and efficient as possible, ensuring minimal administration costs and speedy and secure processing of the payments.

The payment programs, which officially ended in 2007, had a remarkable impact. Over 1.7 million people in almost 100 countries received payments from the Foundation funds for the hardship inflicted by the system of forced and slave labor and for other injuries suffered. Details of the various payment programs and the payments process are documented in our final report, which was recently published in English under the title “A Mutual Responsibility and a Moral Obligation.”¹ I have prepared a short overview of the payments statistics that is being circulated as a separate paper.

However, we should not forget that several groups of Nazi victims were not covered by the international agreements and were not eligible for benefits under the Foundation Law. In hindsight, this was deplorable and unacceptable, vis-à-vis the victims, but the Foundation Law and the Foundation’s scope for action were defined by the above-mentioned agreements and the limited funding available.

At the end of the payments process, residual funds of EUR 46 million (e.g., from accrued interest and additional external donations) were available to the Foundation and its partner

¹ Jansen, Michael; Saathoff, Günter (eds.). “A Mutual Responsibility and a Moral Obligation” – The Final Report on Germany’s Compensation Programs for Forced Labor and Other Personal Injuries. Palgrave-Macmillan, N.Y. 2009.

organizations for this task. The Kuratorium decided that these funds should be used for two special purposes:

1. To fund additional humanitarian programs and projects of partner organizations for the benefit of Nazi victims in particular need; and
2. For a documentation program that would foster the remembrance of forced and slave labor under the Nazi regime and its victims.

These two objectives became the focus of the funding programs that the Foundation launched and financed through the “Remembrance and Future” Fund.

Following the completion of the payments programs, the remaining task of the Foundation was to establish international funding programs. The former “Remembrance and Future” Fund is no longer just part of the Foundation; the two bodies – the “Foundation” and the “Fund” – have now become one. In consultation with its international Board of Trustees, the Foundation establishes and finances programs in the three areas of activity listed below. Around EUR 7–8 million generated each year by the Foundation’s capital is available for the following programs:

- ▷ A critical examination of history;
- ▷ Promotion of human rights;
- ▷ Humanitarian commitment to the victims of National Socialism.

With these programs, the Foundation seeks:

- ▷ To keep alive the memory of injustice for present and future generations;
- ▷ To contribute to the task of confronting present day challenges in order to ensure the human rights and the legal safety of minorities; and
- ▷ To make any recurrence of the injustice, violence and arbitrary misuse of power of the Nazi regime impossible. The Foundation also wants to build bridges between East and West, between generations, and between Jewish and non-Jewish victims and cultures of remembrance.

► **Hannah M. Lessing**

GENERAL SETTLEMENT FUND AND NATIONAL FUND OF THE REPUBLIC OF AUSTRIA FOR VICTIMS OF NATIONAL SOCIALISM, AUSTRIA

RESTITUTION PROGRAMS PROVIDED BY THE REPUBLIC OF AUSTRIA

Ladies and Gentlemen:

First, I would like to thank you for giving me the generous opportunity to speak to you here today.

In my role as Secretary General of the National Fund of the Republic of Austria, I would like to provide you with a brief overview of Austria's present efforts in recognizing and supporting victims of National Socialism and give you an introduction to the work of the National Fund.

There are still many surviving victims of National Socialist persecution alive today; to give you an example, approx. 30,000 persons have contacted the National Fund since 1995. Today, their ages range from 64 to over 100. It is Austria's responsibility to support these people who had suffered so much many years ago, and to ensure that they live a dignified life in their advanced age.

Let me first briefly describe to you the measures for victims provided by the Austrian Federation.

Retirement Benefits according to §§ 500 ff of the General Social Security Act, the so-called *Begünstigtenpension*, enable persons persecuted by the National Socialist regime, who had to emigrate and did not collect insurance months in Austria, to pay contributions to the pension system at a preferential rate. Contributions can be retroactively purchased from the date of emigration.

Persons who have been granted the *Begünstigtenpension* are also entitled to receive a nursing allowance, *Pflegegeld*, if they need assistance in their daily lives and must rely on a caregiver for such daily tasks as cooking, eating or dressing. Depending on their different needs, applicants are entitled to receive payments in categories from level 1 to level 7 (which range from EUR 154.20 to EUR 1,655.80 at present).

In addition, victims can receive pension payments according to the Austrian Victims' Welfare Act, the *Opferfürsorgegesetz*. They are eligible to receive victims' pension benefits – *Opferrente* – if they were subject to:

- ▷ At least 6 months of severe confinement (such as a concentration camp, forced labor camp, etc.); or

- ▷ At least 1 year of captivity or arrest; or
- ▷ If there is evidence of damage to health related to persecution.

Victims with low income can also apply for support benefits, the *Unterhaltsrente*. Dependents of recipients of victims' pension benefits are eligible to receive surviving dependents' pensions, the *Hinterbliebenenpension*. In the last years, several amendments have been made to the Victims' Welfare Act to adjust the measures for the victims, taking their special living conditions into consideration.

Through the Assistance Fund, the *Hilfsfonds*, created in 1988, the amount of ATS 300 million (Austrian Schilling) was paid out to the Committee for Jewish Claims on Austria for projects focusing on the care of former Austrian Holocaust victims and their families.

Moreover, after the grant of 300 million Schillings was used up in 2008, the Committee for Jewish Claims on Austria received a further grant of EUR 2 million from the Federal Ministry for Labor, Social Affairs and Consumer Protection. Provincial funds which contribute towards medical and disability-related expenses of former Austrian Holocaust victims and their dependents are endowed by these federal and provincial funds.

Since 1945, through the Victims' Welfare Act and the Assistance Fund, a total amount of EUR 800 million has been used as monetary contribution towards the victims' welfare.

On several historical occasions, in order to express its responsibility for the persecution of the victims, the Republic of Austria has issued one-time payments in the amount of EUR 1,000.

In 2005, on the occasion of the 60th anniversary of Austria's liberation from National Socialist tyranny, the Liberation Memorial Allocation, the *Befreiungserinnerungszuwendung*, was implemented; in 2008, on the occasion of the 70th anniversary of the *Anschluss*, the Memorial Allocation, the *Erinnerungszuwendung*, was issued.

All the steps that I have mentioned have been taken by the Austrian federal institutions with the sole intent to address the material needs of the applicants.

Not until 1995 was an institution solely responsible for the comprehensive care and support of the victims established. *The National Fund of the Republic of Austria for Victims of National Socialism* was created as a first acknowledgement of a collective responsibility towards the Holocaust victims by the official Austrian government. The team of the National Fund worked hard to build bridges:

- ▷ From the Austria that the victims had fled to the Austria of today;
- ▷ From the victims who had the need to talk about their traumas to people willing to listen;
- ▷ And from the older generation to the younger one.

During my last fourteen years as Secretary General of the National Fund, I have always felt that reaching out to the victims was our most important task. Notwithstanding the importance of the financial aid and compensation payments, emotional and social support for the victims has been of at least equal significance.

Reaching out to the victims, therefore, means both recognition and support.

The National Fund offers material help through the Symbolic Payment of USD 5,087.10, which is paid to each victim of National Socialism of Austrian origin. Through this payment, the Republic of Austria acknowledges a direct responsibility for the injustices suffered by the victims.

I would like to point out that not only Jewish victims have benefited from the creation of the National Fund. It is the first Fund in Austria that recognizes and materially compensates every single victim group.

If the victims are in need of greater financial support, they can request additional gesture payments from the Fund. In many countries that victims had to flee to due to National Socialist persecution, they have been living under difficult social circumstances and with insufficient medical care. Their health might have deteriorated as a consequence.

Even if many of the victims do receive pension payments and other support from Austria, they occasionally have additional and urgent medical needs that their regular pension payments cannot cover. As people age, our help is needed today even more than it was some years ago. For these people, the additional payments from the National Fund are an important help.

Since 1995, more than EUR 150 million has been paid out by the National Fund to approx. 30,000 individuals who are now living in more than 75 countries. We always have to bear in mind that behind these dry statistical numbers the unique fates of many individual victims and their families lie hidden.

In addition to individual payments, the National Fund supports various projects. Some projects of the National Fund serve, on the

one hand, to benefit the victims of National Socialism. The support of victims' organizations such as *Amcha* or ESRA has always been of particular importance to us. Such organizations offer psychological and social support to the victims who, while remembering their painful past, often become re-traumatized. Only with the help of these organizations can people who not only suffered in body but also in soul, achieve a better quality of life.

Other projects promote academic research on National Socialism and the fate of its victims who stand as a reminder of National Socialist injustice. The projects focus on preserving the memory of the victims: No fate of a victim and no life story may ever be forgotten.

The safeguarding of historical consciousness forms a part of the educational mission of the National Fund. For this reason, it is important for us to create a bridge to the present, to the society in which we now live. We need to sharpen and maintain our sensibility regarding radical political developments. In this regard, the subsidization of school projects and programs for teacher training is of great importance.

Since 1998, the National Fund manages the monies transferred to it from the International Fund for Victims of National Socialism ("Looted Gold Fund"). From these funds, projects as well as needy individuals can also be supported. Since 1996, a total of 700 projects have been subsidized by the National Fund with EUR 16 million.

Although more than 60 years have passed since the fall of National Socialism in Austria and Germany, the persevering radical nationalism, racism and anti-Semitism still have a negative influence on the Austrian society.

Through its work, the National Fund has been able to make a contribution to reconciliation, remembrance and Holocaust education as well as to Austria's efforts in supporting the surviving victims of National Socialism. Nevertheless, there is still much to be done: support for the victims is still desperately needed, and political education is an ongoing process in which Austria must continue to engage in order to provide a stable basis for the future.

Thank you.

► **Greg Schneider**

CONFERENCE ON JEWISH MATERIAL CLAIMS AGAINST
GERMANY, USA

**PROVIDING SUSTAINABLE FUNDING FOR THE SOCIAL
WELFARE OF HOLOCAUST SURVIVORS**

A Review: Social Welfare For Jewish Nazi Victims

The personal history of every victim of Nazi persecution, as well as the story of each victim's struggle to adjust to a life in normal society after enduring hell on earth, is unique. Nonetheless, trends and patterns describing the circumstances facing Holocaust victims as a group can and need to be made detailing the assistance many of them require. This report will describe the growing challenges Holocaust victims face and what has been – and might be – done to address them.

This report has three parts. The first describes the general social circumstances of Holocaust victims worldwide – many are currently experiencing, and almost all can anticipate, the need for supportive services, including long-term care and health care, to

ease the difficulties that accompany aging. The second reviews the social welfare services that the Conference on Jewish Material Claims Against Germany (“Claims Conference”) has been and continues to be involved with in assisting Holocaust victims. The final part – mindful that current funding sources are diminishing and already are proving inadequate – focuses on the collective obligation of all countries to support victims in response to their increasing needs.

I. GENERAL SOCIAL CIRCUMSTANCES

In the 64 years since the end of the Holocaust, the number of Nazi victims worldwide has declined and continues to decline as part of the human condition. Currently, it is estimated that there are approximately 600,000¹ Jewish victims of Nazi persecution dispersed around the world, with the largest number living in Israel, the United States, and the countries of the former Soviet Union (FSU).

The resilience, refusal to succumb to tragedy, and profound commitment of Holocaust victims to rebuilding their lives and making sure that what happened to them and their families is remembered, in perpetuity, is truly remarkable and reflects an extraordinary strength. Nonetheless, all victims of Nazism are

¹ There are no official data on the number of Holocaust victims alive today; however, several demographic reports have been prepared over the last several years. All of these reports, such as Holocaust Survivors in Israel: Population Estimates and Utilization of Services for Nursing Care at Home, Presented to the Foundation for the Benefit of Holocaust Victims in Israel (Myers-JDC-Brookdale Institute Draft, June 22, 2008) indicating that the Nazi victim population of Israel currently is estimated to be 218,000, can be found at the Claims Conference website: www.claimscon.org. Current estimates suggest that the following eleven countries are home to 85–90 percent of Holocaust victims: Israel, United States, Russia, Ukraine, France, Germany, Canada, Hungary, United Kingdom, Belarus, and Australia.

now elderly, their median age is 79,¹ and many increasingly suffer from illness and are in urgent need of continual assistance.

Jewish Nazi victims are both part of, but distinct from, other elderly in their countries of residence. The personal history of each individual survivor as a victim of Nazi persecution, combined with memories of Nazi persecution and post-war adjustment, has created a group that has aged differently and has different, more acute, needs than other elderly. Holocaust victims are not merely a subset of the frail elderly. They are more likely than other elderly to be socially isolated and, as a result, are more likely to live in poverty and to be in poorer health.² Indeed, the Holocaust victims' poverty is often aggravated by non-existent or weakened familial and social support networks, as often there is no spouse or adult children nearby to provide financial and emotional support. Many victims who live on their own never married (or remarried) after the war. Among those who did marry, many are childless. Certainly, extended family networks such as siblings, in-laws, and cousins are dramatically reduced in this population. Thus, the Nazi victim population, for the most part, is more socially isolated than other older adults.³

¹ Pearl Beck; Ron Miller. *Nazi Victims of the Holocaust: In-Home Service Needs, 2005: Review and Cost Estimate Projections*, Prepared for the Conference on Jewish Material Claims Against Germany, (April 14, 2005), p. 1. In 2005, the median age of a victim was 75.

² Beck; Miller (2005), op. cit. p. 5. Laurence Kotler-Berkowitz, Lorraine Blass & Danyelle Neuman, *Nazi Victims Residing in the United States*. New York: United Jewish Communities, 2004, pp. 9 and 23. In addition, the general poverty is made even worse by unavailable medical care. For example, in countries of the former Soviet Union, voluntary health professionals lack basic equipment and access to medical care for the Jewish elderly is almost non-existent. See Spencer Foreman, M.D., *Report of Findings on Annual Visits to the FSU, 1996-1999* (December 1999), p. 2.

³ Beck; Miller (2005), op. cit. p. 6; Kotler-Berkowitz et al. (2004), op. cit., p. 11.

The majority of Holocaust victims are women, who have longer life expectancy than their male counterparts and face a higher risk of poverty.⁴ Indeed, income for older women between the ages of 67 and 80, in general, declines at rates two to three times greater than it does for older men (13–15 percent vs. 4–7 percent). This is largely due to the lower pensions that they receive, due to life-time earnings and lower rates of victims' benefits.⁵

Many victims live alone as a result of having lost their entire family during the Holocaust, particularly those in the FSU.⁶ Nazi victims are more likely than other elderly to suffer from certain illnesses that result in functional limitations and disability, such as osteoporosis, as well as cognitive impairments (see discussion below), and, as a result, sink further into poverty.⁷ This combination of poverty and isolation results in Holocaust victims being in poorer physical and mental health than their contemporaries without comparative wartime ex-

⁴ Ron Miller; Pearl Beck; Berna Torr. *Nazi Victims Residing in the United States, Canada, Central & Western Europe. Estimates & Projections: 2008–2030. Preliminary Tables*. Prepared for the Conference on Jewish Material Claims Against Germany (November 21, 2008).

⁵ Barbara A. Butrica. *How Economic Security Changes During Retirement*. Boston: Boston College, Center for Retirement Research, 2007. http://crr.bc.edu/images/storeis/Working_Papers/wp_2007-6.pdf?phpMyAdmin=43ac483c4de9t51d9eb41, accessed June 12, 2009.

⁶ Andrew Hahn; Shahar Hecht; Tom Leavitt; Leonard Saxe; Elizabeth Tighe; Amy Sales. *Jewish Elderly Nazi Victims: A Synthesis of Comparative Information on Hardship and Need in the United States, Israel, and the Former Soviet Union*. Report Prepared by the Joint Distribution Committee. Waltham, MA: Brandeis University, 2004. Also see Beck; Miller (2005), op. cit. p. 6; Kotler-Berkowitz et al. (2004), op. cit. p. 11; and Jenny Brodsky, *Background Material for Meeting of Steering Committee on Holocaust Survivors*. Jerusalem: JDC Brookdale Institute of Gerontology and Human Development and WHO Collaborating Center for Research on Health for the Elderly, November 14, 2000.

⁷ As victims get older, their economic security decreases. Life-changing events during retirement, such as the onset of poor health or the death of a spouse, can cause unexpected shocks to wealth and income. More than two-fifths of older adults have significantly less income at age 80 than they did at age 67. See Butrica (2007), op. cit.

periences. Health researchers have found that both immediate and long-term health problems for survivors of the Holocaust and other genocides include disease, injuries and trauma all of which are chronic, lifelong and difficult to treat, and confer an increased burden on victims.¹

Older adults with strong social supports report the fewest health complaints and more of their needs being met regarding their care.² In comparison, Holocaust victims – in both self-assessments and health surveys – present with higher rates of chronic co-morbidities and acute conditions than both other elderly Jews and other elderly in general.³ These chronic co-morbidities and acute conditions are exacerbated by the survivors' social isolation. Survivors are also more likely than other older

¹ Reva N. Adler; James Smith; Paul Fishman; Eric B. Larson. "To Prevent, React, and Rebuild: Health Research and the Prevention of Genocide." *Health Services Research*, 39:6, December 2004, 2027–2051.

² Ralf Schwarzer; Ute Schulz. *The Role of Stressful Life Events*. Berlin: Freie Universität Berlin, Department of Health Psychology, 2001. <http://userpage.fu-berlin.de/~health/materials/lifeevents.pdf>, accessed June 23, 2009.

³ In overall self-assessments, Holocaust victims report that they are in poorer health than both other Jewish and other American elderly. Kotler-Berkowitz et al. (2004) found that just over 60 percent of victims described their health as "fair" or "poor," compared to 30 percent of other Jewish and American elderly. In Russia, 57 percent of Jewish Nazi victims have some level of disability, compared to 53 percent of all older Russians. These differences exist in other Soviet successor states as well. Particularly noticeable are differences in vision and mobility between victims and other elderly. See Elizabeth Tighe; Leonard Saxe; Fern Chertok. *Jewish Elderly Nazi Victims in the Former Soviet Union. Ongoing Needs and Comparison to Conditions in Europe, Israel and the United States*. Waltham, MA: Brandeis University Cohen Center for Modern Jewish Studies and the Steinhardt Social Research Institute, December 2007, pp. 19-20. Health surveys in Israel found that higher rates of hypertension among victims than among all elderly Israelis (52 percent vs. 46 percent), higher rates of cancer (7 percent vs. 5 percent), and higher rates of osteoporosis (18 percent vs. 15 percent). See Brodsky (2000), op. cit. Also see Jenny Brodsky; Sergio DellaPergola. *Health Problems and Socioeconomic Neediness Among Shoah Survivors in Israel*. Jerusalem: Myers-JDC-Brookdale Institute and The A. Harman Institute of Contemporary Jewry of The Hebrew University of Jerusalem, April 20, 2005. A. Mark Clarfield; Elliot Rosenberg; Jenny Brodsky; Netta Bentur. "Healthy Aging Around the World: Israel Too?" *Israel Medical Association Journal* 6, September 2004, 516–520.

adults to suffer from chronic pain syndrome.⁴ Among the most noticeable differences are the following: Holocaust victims have higher rates of osteoporosis and hip fractures than other elderly;⁵ higher cancer rates;⁶ higher rates of functional limitations and disability;⁷ and higher rates of cognitive impairments and mental health problems, exacerbated by "trigger" events.

Cognitive impairments and mental health problems are particularly troubling among Holocaust victims. Cognitive impairment has been documented to be more prevalent in groups who have survived genocide than in the general population.⁸ As a natural part of the aging process, memories change over time and are

⁴ Adler et al (2004), op. cit., p. 2036. See also A. Yaari; E. Eisenberg; R. Adler; J. Birkhan. "Chronic Pain in Holocaust Survivors." *Journal of Pain and Symptom Management*, 17:3 (1999): 181–187.

⁵ Holocaust victims are nearly twice as likely as other elderly to suffer from osteoporosis resulting in hip fractures. Such injuries often lead to continued disability and loss of independence, as many never regain their pre-fracture ambulatory status. See Beck & Miller (2005), p. 4; Miller et al. (2008), pp. 14, 20 and 26. See also A.J. Földes; J. Brodsky; N. Bentur. *Increased Prevalence of Hip Fractures Among Nazi Victims of the Holocaust: Summary of Research Study*. Jerusalem: JDC-Brookdale Institute 2004, p. 4.

⁶ See Brodsky (2000), op cit. and N. Vin-Raviv, "Incidence and Survival Characteristics of Malignant Diseases among Holocaust Survivors That Have Immigrated to Israel" (MPH thesis, University of Haifa, 2006). Using the 1997 Israeli Elderly Survey, Brodsky found a slightly higher cancer incidence rate for Holocaust victims. In addition, Vin-Raviv, found that Holocaust victims are more likely to be diagnosed at later stages, which, in turn, reduces their five-year survival rates by 5-13 percent, depending on the type of cancer.

⁷ Holocaust victims are more likely to have self-care or mobility limitations than either other elderly Jews or other older adults in their countries of residence. Kotler-Berkowitz et al. (2004) found that 36 percent of all Nazi victims and 23 percent of all elderly Jews reported that "someone in household has health condition that limits activities." Among all Americans age 65 and over, roughly one-fifth have self-care or mobility limitation. As a result, victims need constant support services to assist with the activities of daily life, such as bathing, dressing, getting in and out of bed, and toileting. There is also a greater need for durable medical equipment, adaptive devices such as canes, wheelchairs, and telephones for the hearing impaired, particularly among female victims, who are more likely to live alone and, therefore, have greater personal assistance needs than male victims.

⁸ Adler et al. (2004), op. cit. p. 2036.

reinterpreted to the present social context. For Nazi victims, however, cognitive impairment may change the impact of war trauma by confusing events of the past in time and place. In the case of Alzheimer's Disease and other forms of senile dementia, the loss of short-term memory – and the reliance on long-term memory – can be especially painful and can place victims particularly at risk. Loss of short-term memory may, for example, mean a loss of recognition of post-war accomplishments, such as success in building new lives in new countries, raising and educating responsible and caring children, and living to see and enjoy their grandchildren. As their minds deteriorate, Holocaust victims may be unable to control the intrusion of painful, long-term memories, and traumas of years past may become their only reality.¹

Wartime experience also places Nazi victims at risk to suffer more from post-traumatic stress disorder, anxiety disorders and long-standing adjustment disorders than other older adults.² Research on the Holocaust victim population has shown that their behavioral and cognitive functions are affected in both particular and more acute ways than that of the average aged population who did not have similar life experiences.³ For example, rates of clinical depression among Holocaust victims are higher than in the general population.⁴ Concentration camp survivors under psychiatric care are al-

¹ Paula David. "The Social Worker's Perspective." In *Caring for Aging Holocaust Survivors: A Practice Manual*, eds. Paula David; Sandi Pelly. Toronto: Baycrest Centre for Geriatric Care, 2003.

² Adler et al (2004), op. cit. at 2036. See also J. Sadavoy. "Survivors: A Review of Late-Life Effects of Prior Psychological Trauma." *American Journal of Geriatric Psychiatry*, 5:4 (1997): 287–301.

³ Paula David. "Aging Survivors of the Holocaust in Long Term Care: Unique Needs, Unique Responsibilities." In *Journal of Social Work in Long Term Care*. I(3) (2002).

⁴ David K. Conn; Diana Clarke; Robert Van Reekum. "Depression in Holocaust Survivors: Profile and Treatment Outcome in a Geriatric Day Hospital Program." *International Journal of Geriatric Psychiatry*, 15 (2000): 331–337.

most twice as likely to exhibit suicidal "ideation," i.e., "the wish for death or the passive or active thinking and planning of ending one's life," than other older Jewish adults under psychiatric care who are not Nazi victims. Among Holocaust victims who have been admitted to a psychiatric facility, actual suicide attempt rates are higher than for the elderly population in general.⁵

Moreover, as victims grow older, they are confronted by events that trigger, or bring back, difficult memories which, in turn, provoke adverse emotional or physical reactions. These "trigger events" are more likely to occur when someone is ill, cognitively or physically impaired or just feeling vulnerable.⁶ They can even result from normal day-to-day activities or situations. For example, even food and nutrition programs combined with a socialization element geared for victims – which seem innocuous – may unwittingly create uncomfortable food-related situations. As a result, several US communities have replaced the "soup kitchen" model, which requires that victims queue up for food, with a congregate meal model, in which victims are served their food.⁷ Similarly, long-term care in a skilled nursing facility is the least preferred option for Holocaust victims, by both the victims themselves and the professionals involved in their care. A female Nazi victim reported to her psychiatrist that she felt that the small daily

⁵ D. E. Clarke; A. Colantonio; R. Heslegrave; A. Rhodes; P. Links; D. Conn. "Holocaust Experience and Suicidal Ideation in High-Risk Older Adults." *American Journal of Geriatric Psychiatry*, 12:1 (February 2004): 65–74. Also see Y. Barak; D. Aizenberg; H. Szor; M. Swartz; R. Maor; H. Y. Knobler. "Increased Risk of Attempted Suicide Amongst Aging Holocaust Survivors." *American Journal of Geriatric Psychiatry*, 13:8 (August 2005): 701–704.

⁶ David (2003), op. cit.

⁷ Amy J. Sindler; Nancy S. Wellman; Oren Baruch Stier. "Holocaust Survivors Report Long-Term Effects on Attitudes Toward Food." *Journal of Nutrition Education & Behavior*, 36 (2004): 189–196.

indignities she faced in the nursing home were worse than her experiences in a labor camp – she could not bear feeling like a victim again, even in small measure.¹ A wide range of seemingly standard scenarios in institutionalization settings may serve as triggers for vulnerable Holocaust victims. These often include institutional/hospital beds with bars/railings on the side, uniformed staff (guards), showering facilities in institutional settings, etc.

For Nazi victims, unfortunately, time does not heal all wounds. Too often, their wartime injuries and horrific memories are aggravated with the passage of time and become increasingly stressful.

Moreover, demographic studies indicate that, while the absolute number of living Nazi victims will decrease, the percentage of those still living and requiring aid will increase. As such, we will certainly continue to see for the next 4–5 years an increase in their needs. Simply put, the assistance Holocaust victims will require will grow in the next few years.

Based on a study by the Brookdale Institute in Israel,² the chart below shows the absolute number of Nazi victims living (not in institutions) in Israel. Each year, as expected, the number decreases.

¹ Mark E. Agronin. "From a Place of Fire and Weeping, Lessons on Memory, Aging and Hope. The New York Times, December 22, 2008. http://www.nytimes.com/2008/12/23/health/23case.html?_r=2&scp=2&sq=Holocaust&st=cse, accessed June 12, 2009.

² Holocaust Survivors in Israel: Population Estimates and Utilization of Services for Nursing Care at Home, Presented to the Foundation for the Benefit of Holocaust Victims in Israel. Myers-JDC-Brookdale Institute Draft, June 22, 2008.

YEAR	NUMBER OF NAZI VICTIMS IN COMMUNITY
2007	228,400
2008	215,000
2009	201,700
2010	188,600
2011	175,700
2012	163,200
2013	150,700

However, during that same period, within the same population, the percentage of those severely disabled increases. As a result, the total number of severely disabled Nazi victims is projected to increase through 2013.

YEAR	NUMBER OF NAZI VICTIMS IN COMMUNITY	NUMBER OF NAZI VICTIMS IN COMMUNITY WITH SEVERE DISABILITY
2007	228,400	14,300
2008	215,000	14,600
2009	201,700	14,600
2010	188,600	15,000
2011	175,700	15,400
2012	163,200	15,500
2013	150,700	15,600

Further, even after the projected peak of need is reached in 2013, there will be substantial numbers of poor Holocaust victims who will have substantial social welfare and medical needs for several years beyond 2013. In fact, projections show that in 2022 the number of Holocaust victims from among the non-institutionalized Holocaust victims in Israel with the same level of poverty and disability will be 75 percent of what it will be in 2013.

However, three years later, in 2025, the figure drops to 58 percent, illustrating the sharp drop anticipated thereafter.

Notwithstanding the vast disparities among Holocaust victims in income, medical care and long-term care services in the countries in which Nazi victims reside, broadly speaking, as victims grow older, they will become increasingly frail and disabled and, wherever they reside, in greater need of ongoing medical care and other attention owing to their wartime experiences.¹ Further, as the demand for ongoing social services intensifies among those who are disabled, home- and community-based services represent the survivors' "best chance" to avoid feeling like victims again.² In a cruel irony, the very population that is

¹ The situation for Nazi victims in the FSU and other former Eastern bloc countries is and will continue to be particularly challenging and tenuous, as Holocaust victims have spent a greater number of years being persecuted – both during and after World War II – and are in poorer health and have poorer health outcomes, than victims in other countries with adequate services to help them. Smaller per capita GDP and lower expenditures for health-related services have resulted in a health and long-term care system that consistently underperforms when compared to Israel, the United States or Western Europe. Following the fall of communism and the collapse of the "cradle to grave" welfare system, many vulnerable populations were left in poverty and without government support to keep them from the most abject conditions. Indeed, poverty among the elderly in Belarus, Bosnia-Herzegovina, Romania and the Russian Federation falls below the USD 4/day threshold established by the United Nations Development Project (UNDP) for transitioning economies, while poverty levels in Azerbaijan, Georgia, Moldova and Ukraine hover around the USD 1/day bare subsistence level that the UNDP has established for the least developed nations. At the same time, survivors living in these areas, particularly in the FSU, may need and demand a higher – or, certainly, a similar – level of care than survivors living elsewhere, but these countries are less able to support services for them. See Lev Krichevsky, "Jewish Centers Offer Safety Net for Elderly in Former Soviet Union," JTA Daily News Bulletin, October 29, 1999. Mark G. Field & Judyth L. Twigg, "Introduction" in *Russia's Torn Safety Nets: Health and Social Welfare during the Transition*. New York: St. Martin's Press, 2000, p. 3. and Tighe et al. (2007), op. cit. pp. 8–12, 15 and 20.

² While institutionalization is generally resisted by the elderly, it is particularly abhorred by Nazi victims seeking to avoid memories of their personal traumatic wartime experience. See Beck; Miller (2005), op cit. p. 1. Also see S. Letzter-Pouw; P. Werner, "The Willingness To Enter a Nursing Home; A Comparison of Holocaust Survivors With Elderly People Who Did Not Experience The Holocaust." *Journal of Gerontological Social Work*, 40(4), 2004.

most unable to bear institutionalization is the same population with the least amount of family support to delay or avoid institutionalization. On a practical level, it is more cost effective for society to maintain Holocaust victims at home. On a moral level, society has an obligation to compensate these survivors for the paucity of familial structure which was destroyed by the hands of these very societies.

These factors, combined with the unique characteristics of Jewish victims of the Holocaust, point to the need for a wider discussion concerning the current and future needs of the Jewish victims of Nazi persecution worldwide. Holocaust victims suffer from multiple problems and needs associated with aging. They are poorer, more socially isolated and more likely to suffer from certain illnesses than other elderly, which are exacerbated because of their Holocaust-related experiences. As they age, even normal day to day activities or situations may conjure up lingering traumatic wartime memories. While the total number of Nazi victims is diminishing, as the remaining victims grow older, their need for social welfare and health care services, especially home care, is dramatically increasing.

The next section summarizes certain activities of the Claims Conference and its almost six decade battle to secure the rights of and assistance for Holocaust victims.

II. CLAIMS CONFERENCE

From its early days, the Claims Conference has vigorously pressed for the establishment and expansion of Holocaust-related compensation and other benefits programs for Jewish Holocaust victims. Over the course of its activities over the years,

the priorities of the Claims Conference have evolved from rehabilitating victims in the immediate post-war period to caring for needy, vulnerable victims in the past decade, seeking to help ease the burdens they face to allow them to live out their days with a measure of dignity.

While there are many Holocaust victims who recovered fully from the trauma of the Shoah, rebuilding their lives and establishing financial independence, there are literally hundreds of thousands of Holocaust victims who today live in poverty. Many Holocaust victims are forced to choose among food, rent, and medicine, as surely all three are unattainable. In addition, there is a tier in society of near-poor, those who meagerly eek out an existence just above abject poverty but for whom economic disaster is one or two bad months away. For these victims, the funeral expenses of a spouse, unanticipated medical expenses from the sudden onset of a new condition, or changes in economics, such as increased fuel prices or a sharp drop in governmental subsidies for basic necessities, wreak havoc. Further, for those Holocaust victims with families, such as children or nieces and nephews, the economy can change the situation of the near-poor survivor, who is getting small but important aid from the family member, to a source of funding for the recently unemployed family member. Any of these events can send near-poor Holocaust victims spiraling downward into financial disaster, necessitating reliance on communal sources. The goal of the Claims Conference programs is to partner with agencies to provide assistance to achieve and maintain a dignified quality of life for victims. For those who suffered beyond compare, surely this is the least that we must provide.

The bulk of services provided to Holocaust victims, as is the case with all older adults, comes from government support. However,

government entitlement programs contain significant gaps that condemn many Holocaust victims to live choosing between food and medicine. Simply put, there are hundreds of thousands of Jews who survived the Shoah and today are old, alone, poor, and sick.

In this light, the Claims Conference funds organizations and institutions around the world that provide essential social welfare services for Holocaust victims. The Claims Conference currently funds social service programs, with an emphasis on home- and community-based services, in 43 countries. The Claims Conference and its partner agencies have designed long-term care programs based on home- and community-based services to ensure quality of care in an environment that will ensure that Holocaust victims live out the rest of their days in dignity and comfort. Using a “Continuum of Care” model, in which the Claims Conference works with local agencies to create and sustain services that take into account the particular conditions and needs of victims in their communities, criteria have been established that seek to ensure that the needs of Holocaust victims will be met. Continuum of Care includes case management, and continues with home care, health care, psychological services, food programs, emergency assistance, supportive communities, senior day centers, and housing security, shelter, and institutionalization.

Case Management: The starting point for quality of care in home- and community-based services is case management. Surely, in many countries in North America, Western Europe and in Israel, Nazi victims can draw upon services provided by public assistance and non-government organizations (NGOs). However, all too often, Holocaust victims do not – in fact, cannot – fully benefit from these programs. There are many reasons for this. First, it may be that they are unaware of such help. Additionally,

Holocaust victims may be resistant to it for a whole range of reasons (many stemming from formative years' experiences with being known by authorities and/or psychological perception of needing to be strong and never being able to admit frailty, knowing that it would lead to death in the camps). For some, as they become increasingly isolated because of frailty and impairment, they are physically or mentally unable to access assistance. Finally, for others, the process is overwhelming and can engender frustrating barriers such as extraordinary complexity in navigating bureaucracy, forms and delays. For poor and near-poor victims who are aging, often vulnerable and devoid of strong familial support, managing the tasks of daily living can be daunting, never mind facing the complex web of assistance programs that may keep them from living in severe privation. The reality is that in most societies public benefits, when available, are delivered in an overburdened, overly complex system. Aging elderly and frail victims often require professional guidance to understand and access the public and NGO assistance that is available to them. In professional case management, case workers are available to vulnerable clients to help guide them.

Case management consists of ongoing interaction between a social worker and a client. It begins with a comprehensive assessment of the client's environmental, health, financial, social and physical situation. Case workers monitor the overall conditions of their clients and respond quickly to changes in their clients' physical, psychological, medical and financial condition. In addition, the case worker connects clients with public and private programs and family resources. Even in countries and US states that provide publicly-funded home- and community-based services that ensure a dignified level of in-home care,¹ it is essen-

¹ In the United States, Medicaid programs are state-based. Some states, such as Massachusetts and New York provide a more substantial amount of home care, while

tial that the case managers arranging for such care understand the particularities of Holocaust victims.² Case workers strive to provide seamless delivery service. For example, the care of a Nazi victim receiving 12 hours of home care per week may be funded by different Claims Conference sources, other private philanthropic funds and public sources (e.g., Medicaid in the United States or *Bituach Leumi*/National Insurance Institute in Israel). It is incumbent upon the case worker to ensure that service is continuous and ideally from the same home health care agency. Further, case workers are trained to handle the special sensitivities of Holocaust victims.³

Case managers also ensure that all elements in the continuum of care model are integrated. For example, a case worker at the Cummings Jewish Centre for Seniors in Montreal, Canada, ensured that a 79-year-old client with a broken arm would receive assistance with medical care, medical equipment, transportation, home-delivered meals, clothing and other services. Before the intervention of the agency's case manager, the victim did not receive any services that would enable her to remain in her home.

others, such as Pennsylvania and Florida provide very little. Similarly, in Europe, long-term care insurance laws in Germany, and to a lesser extent Austria and the Netherlands, allow for relatively high level of care at home.

² For example, Selfhelp Community Services in New York City assigns its case workers to make home visits to survivors in New York City, complementing the home- and community-based services they receive from public funds. Case workers frequently combine their home visits with the delivery of a meal and use the visit to observe discrete changes in the client's living conditions that may need attention.

³ As an example, the home health worker, unfamiliar with particular triggers of Holocaust victims, may become frustrated by the elderly wheel chair confined client who refuses to be pushed into the shower for bathing. While the untrained worker is simply trying to bathe the client, the Holocaust victim is experiencing severe trauma recalling the concentration camp experience and all of the associations with showers and being forced into them.

Home Care: Studies indicate that the largest area of unmet needs for Nazi victims continues to be home care services.¹ As victims age, they, like general older adult populations, will experience significant limitations in their physical, mental and social functions. However, there are two differences between the general adult populations and Holocaust victims. First, as we have shown in Section I of this paper, Holocaust victims, as a result of what they endured, are more infirm, more isolated, poorer and more vulnerable to psychological distress than their counterparts who did not undergo the trauma of the Shoah. Second, nursing home and other forms of institutionalized long-term care are particularly traumatic for many victims, who often experience such care as a recurrence of their treatment at the hands of the Nazis.² Home care services, on the other hand, allow Holocaust victims to remain in their homes as long as possible, even after they are disabled, by providing them assistance with activities of daily living, including bathing, dressing, eating and housekeeping and personal nursing care for those who need assistance with medication or medical equipment. Further, home care workers ensure that minor home modifications, such as guard rails in or near toilets and in bath tubs, ramps for the wheel-chair bound and special telephones for the hearing-impaired, are properly installed and maintained.

The provision of even minimal home care, such as a few hours of chore/housekeeping services per week, allows Holocaust victims to remain among familiar surroundings, significantly improving the quality of their daily life.³

¹ Beck; Miller (2005), op. cit. Miller et al. (2008), op. cit. J. Brodsky; S. Be'er; Y. Shnoor. Holocaust Survivors in Israel: Current and Projected Needs for Home Nursing Care. Jerusalem: JDC-Brookdale Institute, 2003.

² Yael Danieli. "As Survivors Age, Part 1." National Center for PTSD Clinical Quarterly, Winter 1994, p. 3, and studies cited therein.

³ Such home care has, in recent years, become a principal focus of Claims Conference

Health Care: As previously mentioned, the physical and mental health needs of Holocaust victims differ significantly from other elderly. In general, their physical and mental health tends to be poorer than their contemporaries, including other elderly living in poverty. Subjective assessments of personal health by Jewish Nazi victims in Israel and the United States reflect similar disparity between Holocaust victims and non-victims. In Israel, nearly two-thirds of Jewish Nazi victims have reported that their health is "not so good" or "bad,"⁴ whereas in the United States, just over 60 percent of Jewish Nazi victims described their health as "fair" or "poor."⁵ Particularly troubling are the general health conditions of Holocaust victims who have either remained in the FSU or have immigrated from the FSU to Israel, the United States, Germany and other countries. When compared to other Holocaust victims, regardless of where they currently live, their general health measures are worse.⁶

While a number of the countries where Holocaust victims reside have universal health care for the elderly, many of these health care schemes require some cost-sharing for medical services, hospitalization, prescription drugs and durable medical equipment. These costs can add up for individuals on fixed

efforts. For programs in 2004–2009, the Claims Conference obtained, through negotiations with the German government, a total of EUR 81 million for in-home services for Nazi victims. This amount includes EUR 30 million for services in 2009. These funds were allocated for programs to 42 agencies assisting Holocaust victims in 17 countries.

⁴ Brodsky et al. (2003), op. cit.

⁵ Kotler-Berkowitz et al. (2004), op. cit.

⁶ Tighe et al. (2007), op. cit. Also see Ukeles Associates, Inc., Special Report. Nazi Victims in the New York Area: Selected Topics, 2002. Prepared for UJA-Federation of New York. The Jewish Community Study of New York 2002. New York: UJA-Federation of New York, 2003, p. 23. The UJA study found that no respondents from the FSU thought that their health was excellent, while 85 percent reported "fair" or "poor" health.

incomes with chronic medical conditions. Further, there are many goods and services – either excluded from public coverage or with high cost-sharing requirements – that victims desperately need, such as eyeglasses, hearing aids, orthotics, prosthetic devices, incontinence pads, bed pans, wheel chairs and orthopedic beds, chairs and shoes. The Claims Conference has worked with local Jewish communities to develop health programs through its grants to help provide such critical additional assistance. However, despite these efforts, skyrocketing costs for medicines and co-pays, supplemental insurance, and items not covered under national programs make proper health care unattainable for hundreds of thousands of Holocaust victims.

Claims Conference grants also emphasize preventative medicine: Many Holocaust victims living on their own have personal emergency alert systems and have received home modifications, such as installation of safety devices and prophylactic, or non-slip aids, such as handrails in bathrooms and toilets, as discussed above, in the section on in-home services. Further, many agencies have begun to provide subsidies for medical treatment or have established clinics that rely on the *pro bono* medical services of professionals who are sensitive to the needs of Holocaust victims.¹

Dental Services: Even when universal health care is available for the elderly, dental care, which is a key component of maintaining physical health, is often overlooked. Dental disease is a prime example of the disease, injuries and trauma discussed

¹ In 2007, over 820 Holocaust survivors in Romania received assistance for medical expenses through the Federation of Jewish Communities of Romania. In Bosnia-Herzegovina, La Benevolencia established a community pharmacy, which dispersed medication to nearly 200 survivors in 2008.

above, which victims of the Holocaust endure as a result of their substantial malnutrition during war-time years. Poor dental care leads to bacterial infections, which in turn exacerbate the co-morbidities that older adults have, such as cardiovascular disease. At the same time, other co-morbidities, such as diabetes, affect oral health.

Poor dental health is particularly acute for victims who spent the post-war years in Eastern Europe or the FSU, regardless of where they live today. Moreover, other poor and near-poor victims in countries with significant health care for older adults often suffer from a gap in entitlements. In the United States, for example, the Medicare program does not include dental care and dental care under Medicaid is severely limited.

Hence, the Claims Conference has worked with its partner agencies to establish dental services that address the needs of Holocaust victims. For example, the Jewish Family and Children's Service of Greater Boston established a dental clinic that provided extensive services to go Holocaust victims in 2008. Such dental care programs include emergency treatment for relief of pain and infection, x-rays to assess state of oral health, and provide for the cost of dentures and denture repairs. Through the Foundation for the Benefit of Holocaust Victims in Israel, the Claims Conference has subsidized dentures for thousands of Holocaust victims. The Claims Conference also assists victims who cannot afford the high cost-sharing requirements of many public dental care programs.

Psychological Services: Holocaust victims' special psychological needs have been known for many years. As mentioned above, loss of cognitive function, particularly short-term memory, regardless of degree, is particularly traumatic for survivors and

post-war accomplishments are often overshadowed by wartime experiences.¹ Moreover, the “natural” decline of social and familial supports – the loss of a spouse, the high level of international geographical mobility of adult children of survivors resulting in a split of networks across different countries,² declining income as a result of both smaller household size and declining health, is often debilitating both physically (manifest in increased loss of mobility) and psychologically (presented as clinical depression) for victims. After a lifetime of pursuing activities and making decisions in concert with others, whether they were family members or friends in the best of times, or other concentration camp inmates in the worst of times, victims suddenly find themselves painfully alone. Elderly persons have the highest rates of suicide among any age group, but aging Holocaust victims are at increased risk of attempting suicide.³

Many of the Claims Conference’s partner agencies serving this population have also provided therapeutic interventions including counseling and Jewish spiritual care, support groups for Holocaust victims, and support programs for family

¹ Adler et al. (2004), op. cit. David (2003), op. cit.

² As noted above, adult children of Holocaust victims in the FSU are more likely to live in other countries than the children of victims in other countries. This does not mean, however, that children are geographically proximate. For nearly Jewish demographic studies have noted increased geographical mobility of adults, so that even when Holocaust victims and their adult children live in the same country, they are sometimes thousands of miles apart, particularly in the United States, where retirement communities abound in states such as Arizona and Florida. See, for example, Sidney Goldstein; Alice Goldstein. *Jews on the Move. Implications for Jewish Identity*. New York: SUNY Press, 1996. Sergio DellaPergola. *Neediness Among Jewish Shoah Survivors. A Key to Global Resource Allocation*. Jerusalem: The Hebrew University and the Jewish People Policy Planning Institute, 2004.

³ Barak et al, op. cit. (2005). See also Y. Barak; H. Szor. “Lifelong post-traumatic stress disorder: evidence from aging Holocaust survivors.” *Dialogues in Clinical Neuroscience* 2000; 2:1–6. S. Robinson. “The current mental state of aging Holocaust survivors.” *Gerontology (Israel)* 1996; 73:39–41. S. Robinson; M. Rapaport-Bar-Sever; J. Rapaport. “The present state of people who survived the Holocaust as children.” *Acta Psychiatria Scandinavia* 1994; 89:242–245.

members and caregivers. Through Claims Conference support, 9,000 Holocaust victims in Israel receive psychological counseling through the organization Amcha, and 3,000 are members of Amcha’s day clubs.

Food Programs: Food programs are an essential component of home- and community-based services. Many Holocaust victims are at risk of food insecurity – that is, limited or uncertain availability of, or ability to acquire, adequate and safe foods – and hunger.⁴ Inadequate diets may contribute to or exacerbate disease.⁵ Moreover, food programs decrease the isolation of victims, either by combining a home-delivered hot meal to a client (meals-on-wheels) with a friendly visit from a case worker or trained volunteer, or by inviting clients to congregate meals, with victims and others, which are frequently held at local Jewish communal centers.⁶ In addition, in the “warm home” model, small groups of Holocaust victims gather at one victim’s house for a meal. Beyond the nutritional value, socialization occurs as warm home participants are usually clustered (organized by social welfare agency) around common war time experiences and locations. Other food programs include food vouchers/cash grants that enable victims to purchase groceries and the provision of food packages, which are particularly important for those living in areas in the FSU and other parts of Central and Eastern Europe, as well as the homebound.

For example, throughout the FSU, a network of Jewish social service agencies called Hesed organizations (Hesed is a

⁴ S. A. Anderson. “Core indicators of nutritional state for difficult-to-sample populations.” *Journal of Nutrition*, 120 (11s):1557–1600 (1990).

⁵ F. M. Torres-Gil. “Malnutrition and the Elderly.” *Nutrition Reviews* 54(1):S7–S8 (1996).

⁶ S. B. Roberts. “Energy regulation and aging: Recent findings and their implications.” *Nutrition Reviews*, 58(4):91–97 (2000).

Hebrew term for acts of loving-kindness) are providing, with Claims Conference funding in 2009, more than 353,000 hot meals in communal settings, more than 508,000 meals-on-wheels, 169,000 fresh foods sets, and 148,000 food packages. In addition, the Claims Conference is working with Jewish communal organizations in many other countries that provide hunger relief, including dozens of communal meal settings (soup kitchens) in Israel and even food delivery programs in Western countries such as the United States, Australia, Canada and the United Kingdom.¹

Emergency Assistance: Emergency Assistance programs provide short-term financial assistance to victims in acute or crisis situations. Funds are applied toward housing costs to prevent eviction, utility payments to prevent shut-offs, emergency relocation, dental care, medical care, home care, client transportation and other services such as winter clothing and funeral expenses. Emergency funds are used as a stop-gap measure until a victim can receive public funds or a long term solution can be found. For example, emergency home care would include short-term nursing hours, as opposed to long-term care, after a hospital stay. The goal of the program is to be flexible enough to respond to whatever the problem is.

Client Transportation: In order for Holocaust victims to avail themselves of many of the various services described, they must have access to reliable transportation. Client transportation programs

¹ As examples, in Brooklyn, New York, the Jewish Community Council of Greater Coney Island served 12,127 meals to 1,440 Holocaust victims as part of its Sunday Senior Program in 2006. It also delivered 5,957 meals to Holocaust victims at home. The Jewish Centre of Aging in Sydney, Australia served 25,700 meals in 2006, either at the Centre or through its home-delivered Kosher Meals-on-Wheels program. For list of additional programs, see the Claims Conference website at www.claimscon.org or the Claims Conference Annual Report.

enable victims to obtain social services outside of the home, such as respite care and Café Europa programs, as well as participate in other social, recreational and cultural events, congregate meals, religious services, medical appointments, shopping and other errands.² By helping Holocaust victims get out and about, particularly those with vision and hearing difficulties who are afraid to go out on their own, the client transportation programs relieve victims' feelings of isolation and enable them to feel more independent.

Socialization Programs: An Israeli study³ found that Holocaust victims expressed a strong desire to participate in social activities and to receive emotional and social support. The need to find meaning and feel connected, especially with other victims who can understand and share experiences from the past and present, is critical. Surprisingly, only 19 percent of the victims surveyed reported attending social clubs, though many others expressed interest. To counter this trend, most agencies serving Holocaust victims, and in many instances victims themselves, have formed socialization programs, commonly known as Café Europa. Café Europa programs provide Jewish Nazi victims with an opportunity to socialize within a support network. Further, speakers provide information on a range of topics from compensation and restitution issues to older adult health care issues to general interest topics. Such groups are meeting in virtually

² In Brooklyn, New York, the Jewish Community Center of Greater Coney Island provided more than 8,561 trips to 1,045 clients during 2007. In Toronto, Canada, the Circle of Care Transportation Service boasts a fleet of four vehicles, six drivers, and operates 4.5 days per week, as well as in the evenings for special outings. The service provides about 800 rides monthly. In the Czech Republic, a handicapped accessible van enables Holocaust victims with limited mobility to participate in communal meals and get to medical appointments.

³ Jenny Brodsky; Yaron King. A Survey of Disabled Victims of Nazi Persecution and Disabled Veterans of War against the Nazis. Jerusalem: JDC-Brookdale Institute of Gerontology and Human Development, November 1997.

every place that Holocaust victims live from Buenos Aires to Budapest. In Los Angeles, for example, Holocaust victims and college students meet to discuss victims' lives before, during and after the war. These programs provide victims with a social framework and comfortable environment where they can be entertained and make friends among their peers. The sense of doing things collectively is extremely important to the Holocaust victim population and the isolation many feel now is in complete contrast to how they felt when they were younger, even in the worst of circumstances. As one Holocaust victim noted, "When we had to stand at attention for hours, we stood together, propping up one another when weak. When we dug ditches we did it together, one holding and moving the arms and shovel for another who didn't have strength that day. We were desperate, but never alone."¹

Community-Based Programs (Supportive Communities and Senior Day Centers)

Supportive Communities: Community-based efforts to maintain Holocaust victims in their homes and add dignity to their lives are important pieces in the continuum of care. In neighborhoods with substantial numbers of Nazi victims, the supportive communities model helps to address the needs of aging and increasingly frail victims. Through joining a neighborhood association, members are provided with services such as personal emergency alert systems, home modifications, counseling, security and socialization programs. For elderly living alone, the knowledge that someone will check in on them on a regular basis is a comfort and can be life-saving. In Israel, the Claims Conference is providing subventions for

¹ Auschwitz survivor as quoted in Agronin, op. cit.

any low-income Holocaust victim who wishes to participate in one of the several hundred supportive communities throughout the country.

Senior Day Centers: Similarly, senior day centers provide activities to combat loneliness and isolation associated with old age. Programs are combinations of health and social services designed to help prevent the premature placement into long term care facilities, offer participants opportunities to socialize, enjoy peer support, and receive medical and social services in a stimulating environment while sustaining independence and provide assistance to families and caregivers (often spouses who themselves may be Holocaust victims) who are responsible for an impaired older adult. The support given at the senior day center allows participants to preserve their precious independence while providing beneficial respite to family members and caregivers. The Claims Conference offers subventions toward the cost of participation for thousands of low-income Holocaust victims who attend one of 140 senior day centers across Israel.²

Housing Security, Shelter, and Institutionalization: Notwithstanding these home- and community-based efforts, the Claims Conference recognizes that, despite efforts to keep Holocaust victims at home as long as possible, as this population gets older and more infirm, many will no longer be able to remain in their homes, particularly if they live alone. In Israel, the Claims Conference funds capital projects that shelter and/or provide institutional settings for Holocaust victims. This includes support for old age homes, psychiatric hospitals, senior day care centers, geriatric centers and hospitals, sheltered housing, and nursing units on kibbutzim. The lack of

² It should be noted that well over half of the Senior Day Centers in Israel were established with Claims Conference funding as well.

affordable stable housing for many elderly further exacerbates the economic pressure felt by Holocaust victims. As housing costs drain individual savings and inflate the cost of living, the struggle of the near poor is intensified. Understanding the enormity of the finances required to address these issues, the Claims Conference's only possible response has been to provide emergency cash assistance to help alleviate a crisis situation while case managers help to develop a care plan. Additional facilities for congregate living and sheltered housing are required.

Despite the Continuum of Care that these services are geared to provide, there remain many unmet needs. In the past decade, Holocaust victims have seen the average public pension benefit decline in the majority of countries in which they live, raising the risk that more of them will fall into poverty. Even in Western Europe, there has been a notable drop in the generosity of pension benefits in several countries, including Belgium, Denmark, Greece and the United Kingdom. In Israel, the value of the old-age pension benefit has declined as well and the government introduced higher eligibility standards for elder care programs. These phenomena have also occurred in Central and East European countries as they transitioned to market systems. The net result has been massive changes to public pension systems, hurting most those who were already living close to poverty.

Most of the activities of the Claims Conference have been funded by Successor Organization funds (proceeds from restituted unclaimed property in the former East Germany) as well as other sources (see discussion below). Since 2005, the Federal Republic of Germany also began to address these needs¹. Claims

¹ Danieli (1994), *op. cit.*

Conference funding for social welfare programs has had a huge impact on Holocaust victims; however, the needs are beyond current Claims Conference resources. Further, the funding sources that, for example, support current Claims Conference allocations for social services will not last nearly as long as Holocaust victims are in need. Substantial, additional funding sources will have to be developed.

III. ADDRESSING THE CURRENT AND FUTURE NEEDS OF NAZI VICTIMS

The work which must be done to assist Holocaust victims in their waning years is far from complete. As Jewish victims of Nazism enter the last chapter of their lives – lives shaped by the appalling experiences and terror they were forced to endure during the Holocaust – many require special care to address their health and other needs. These victims, including those who succeeded in rehabilitating themselves after the war against the greatest odds and with minimal if any assistance, have, in the latter years of their lives, found themselves in distress and without adequate resources to meet their essential needs, including the costs of medication and other critical services.

The identification of the many challenges Nazi victims must inevitably confront in their remaining years, and helping to educate governmental and social service leaders to respond to their special plight, as well as providing financial and planning assistance throughout the world, must be a central mission of the Prague Conference and its aftermath. Providing crucial assistance to these elderly people in need who, understandably, are not capable of coping with the consequences that human malevolence together with time have wrought, must become an international commitment.

Care for these Holocaust victims over the next two decades cannot be the exclusive obligation of any particular country or organization, but the collective responsibility of all.

Over the years, the Claims Conference has applied proceeds of sales of property it has obtained in the former East Germany as the Successor Organization to general social welfare services which assist Nazi victims. In addition, the Claims Conference has distributed and continues to administer social service grants from a number of other Holocaust-related benefits programs, including the following: Swiss Banks Settlement, through funds allotted to the Looted Assets Class; the “Hungarian Gold Train” Settlement; the International Commission on Holocaust Era Insurance Claims (ICHEIC); and international Nazi Persecutee Relief Fund from governments of Austria, France, Spain, and the United States.¹

For services in 2009, the Claims Conference has allocated a total of approximately USD 170 million.

¹ The Hungarian Gold Train Settlement (HGTS) concluded a class action lawsuit brought by Jewish Hungarian Holocaust survivors against the US government regarding the handling of property contained on the “Hungarian Gold Train.” The Hungarian Gold Train was a train taken into custody by the US Army in Austria, in May 1945, as it transported personal property which had been illegally taken by the Hungarian government from the Jews of Hungary. As part of the HGTS, the US government agreed to pay USD 25 million, of which USD 21 million is being used to fund social service programs for the benefit of eligible Jewish Hungarian Holocaust survivors over a five-year period. The Claims Conference administers the distribution of these funds for survivors of Hungarian descent worldwide. The Claims Conference has been administering social welfare grants on behalf of the International Commission on Holocaust Era Assets Insurance Claims (ICHEIC) to agencies in 32 countries which provide essential social services to needy Jewish victims of Nazism. The ICHEIC funds were used primarily to provide home care, as well as other services enabling Holocaust victims to remain living in their own homes, which include provision of food packages, hot meals, medical equipment and medications. The Nazi Persecutee Relief Fund, an international fund created as a result of the 1997 “Nazi Gold Conference,” provided resources for the relief of needy victims of Nazi persecution who had received very little or no compensation for their persecution. Contributions, from approximately 20 countries, were channeled through non-governmental organizations, including the Claims Conference.

The funds are from the following sources:

Successor Organization USD 92,000,000
 German Government USD 39,000,000
 ICHEIC (Insurance Settlements) USD 20,000,000
 Swiss Banks Settlement USD 5,000,000
 Hungarian Gold Train Settlement USD 4,200,000
 Other USD 9,800,000

However, many of these sources of funding are running out:

SOURCE OF FUNDING	ESTIMATED END DATE
Successor Organization	4–5 years (Claims Conference has already indicated intention to allocate USD 117 million annually for these purposes from SO funds in 2010–2012)
German Government	Subject to annual negotiations
ICHEIC (Insurance Settlements)	December 31, 2009
Swiss Banks Settlement	June 30, 2011
Hungarian Gold Train Settlement	December 31, 2010
Other	December 31, 2009

It must be noted that there are several other sources of funding available from restitution sources, such as the Future Fund of the German Foundation “Remembrance Responsibility and the Future,” *Fondation pour la Mémoire de la Shoah*, and similar funds in other European countries, such as Austria, Netherlands, *et alia*. While these funds may go on in perpetuity, each provides a much smaller amount of annual funding, only a portion of which is devoted to social welfare needs of Holocaust victims. In addition, there has been a restitution body created in Israel, “The Company for Restitution of Holocaust Victims Assets,” which may have significant sums available for distribution.

Funding derived from unclaimed assets within the control of the Claims Conference has overwhelmingly been used for the social welfare needs of needy Holocaust victims. Indeed, funds generated from properties in East Germany have been used for social welfare needs of Holocaust victims regardless of country in which they currently live or country of origin. This act of Jewish solidarity has enabled tens of thousands of poor elderly Holocaust victims to live their final days with some dignity.

As the funds from available sources deplete, long before there is a substantial decrease in the pressing needs of Holocaust victims, alternate and additional sources of funding must be found. It is for this reason that we call upon signatory countries and the EU to establish fund(s) to provide for the social welfare needs of vulnerable Holocaust survivors.

We must not abandon these people, again.

Toward the goal of enabling Holocaust victims to live their remaining years with the dignity they deserve, the Claims Conference recommends that the Participating States, as well as the European Union, support and encourage, as a high priority, the following actions:

- ▷ The establishment of an international assistance fund, or of discrete national assistance funds, for Nazi victims, in which all countries would participate and which would provide funding for critical services required by the most vulnerable of elderly Holocaust victims – such as hunger relief, medicine, or home care – and access to the medical and social support programs offered in their home countries;

- ▷ Efforts to ensure passage and implementation of Nazi victim assistance legislation which, among other matters, improves the social and legal status of Holocaust victims in their home countries and which exempts from taxes or needs-based benefits any Holocaust-related assistance received by Holocaust victims or their heirs;
- ▷ Strengthening and otherwise improving existing programs which care for Holocaust victims;
- ▷ The establishment or the reinforcement of programs which provide payments that acknowledge – even if only symbolically – the suffering endured by Holocaust victims and ensuring that such payments are linked to inflation and cost of living increases; and
- ▷ The establishment of a center which would be responsible for researching the current status of assistance programs for Holocaust victims, disseminating information about such programs, facilitating international cooperation regarding aid for Holocaust victims and otherwise lobbying on their behalf.

Time is truly of the essence and is not an ally in this necessary and correct mission to assist the aging, substantially impoverished and increasingly disabled Nazi victim population.

Responsibility in Partnership: Improving the Social Situation of the Victims of Nazism

► Marta Malá

FOUNDATION FOR HOLOCAUST VICTIMS,
CZECH REPUBLIC

THE SOCIAL SITUATION OF THE VICTIMS OF NAZISM: A CZECH EXAMPLE

World War II significantly damaged the Jewish Community living on the territory of today's Czech Republic. Eighty thousand out of the total 130,000 Czech and Moravian Jews were murdered during the Holocaust and about 30,000 saved their lives by leaving the country. After WW II, there were only about 15,000 Jews living on the Czech territory. The establishment of the State of Israel and especially the rise of communism led to the departure of many Jews (in 1948 and then after the Soviet invasion in 1968). After 1989, the Jewish Community counted only 1,500 members. Local Czech Jewish Communities slowly started to renew their activities in traditional ways, as for example taking care for the members in need, and especially of the Holocaust survivors. Today, the total count of registered members of Jewish Communities is 4,000 out of which about 700 are Shoah survivors.

Care for the Holocaust Survivors

The Prague Jewish Community offers the Holocaust survivors the widest and most varied services. The Prague Jewish Community has, for many years, been a center of help to other Jewish

Communities in the Czech Republic. Today, the community provides residential care, home care, nursing services, and psychological assistance to people with post-traumatic stress syndrome. It manages daycare centers, social work in the field, social advisory services, personal assistance, health services, ergotherapy, psychotherapy, physiotherapy, and rehabilitation centers, and provides medical care, specialists on call and various activities programs (e.g., contact across the generations, physical exercises, cultural events, group work, etc.).

In 2004, thanks to aid from the Erinnerung, Verantwortung und Zukunft Foundation, we managed to establish centers providing home care for the Jewish communities in Ostrava and Brno. This served as an example to social and health care establishments in other communities, which, even though they would not run home-care services on their own, began to organize or provide their members with professional services.

In 2006, with a support from the Foundation for Holocaust Victims, the Federation of Jewish Communities in the Czech Republic implemented a project to map the social and health needs of particular Jewish communities. Currently, a related project focusing on methodical leadership and coordination of Jewish communities in providing social and health services exists. Within the scope of the project, the foundation for Holocaust Victims continues to conduct an active search for new clients. Social workers in particular communities hold meetings on regular bases, collectively discussing and establishing the ideas of and rules for providing the needed care. They exchange their experiences, conduct further studies, and participate in supervisions. Since 2007, in the Czech Republic, a new Act on Social Services has come into effect. This Act requires all social care and health care service providers to be registered and to conduct their tasks in

accordance with the social services standards. All Jewish communities successfully registered their services. Service providers make use of volunteers both from the Czech Republic as well as from abroad, especially from Germany.

The Holocaust tragedy caused excessive damage, which has continuously been felt not only by the survivors but also by their descendants. Scientific studies and professional psychotherapists in Europe and Israel showed that the impaired mental and physical health of the second and third generations, the descendants of the Holocaust survivors, can be caused by the Holocaust experience. In the Czech Republic, there is an institute called the Rafael Institute, which organizes therapeutic and educational activities to prevent and treat psycho-trauma. The Prague Jewish Community, assisted by *Dusiach*, provides those attending the Rafael Institute with psycho-therapeutic interviews and memory and positive thinking exercises.

Financial Aid to Survivors

Concentration camp prisoners were, in accordance with the Act on Czech Foreign Military Forces Members and on Other Participants of National Resistance and Fight for Liberation from 1946 Coll., recognized as participants in the national resistance, and thus entitled to certain compensation. Currently, thanks to this Act, former prisoners are given free access to social and health care services.

In the 1990s, the Czech government paid out a sum up to a maximum of CZK 100,000 to each former concentration camp prisoner. From 1998 to 2008, the Czech-German Fund for the Future distributed humanitarian aid in regular financial installments to

former prisoners of Nazi concentration camps in the amount of DM 90 million. In accordance with the 2005 Act, the Czech government supports those recognized as national resistance participants with additional pensions, the amounts of which are determined according to number of months of imprisonment or resistance activities.

Pensions have also been provided to Holocaust survivors by the Claims Conference (The Conference on Jewish Material Claims Against Germany) within Programs Available for Eligible Jewish Victims of Nazi Persecution.

Currently an application by Czech citizens has been submitted and is being considered by the German Federal Social Court regarding the so-called *Ghetto Rente*, which makes those who were forced to work in the ghettos eligible for pension payments.

Financial Support of the Care for Holocaust Survivors

The Claims Conference supports the projects of The Terezín Initiative, the association of the former Terezín Ghetto prisoners, namely the Health Fund, Emergency Care Fund and Home Care. The Health Fund provides the Jewish victims of Nazi persecution with medication, health equipment, and preventive care or provides the people with equipments for the disabled. The Emergency Care Fund focuses in particular on distributing financial aid to individuals who struggle to survive at or near the poverty level and who have little or no property.

The services provided by the Jewish Communities are funded by the Ministry of Labor and Social Affairs, Ministry of Health of the Czech Republic, Regional Governments of the Czech Republic, and city and regional municipalities.

The Foundation for Holocaust Victims that I represent was established in the year 2000 by the Federation of Jewish Communities of the Czech Republic on the basis of conclusions and recommendations of the “Joint Work Committee” focusing on the problems of mitigating property injustices inflicted upon the Holocaust victims. The Committee, under the leadership of the Deputy Prime Minister of that time, Dr. Pavel Rychetský, operated between 1998 and 2002. The members were representatives of the Czech State and the Jewish Community. The Foundation devoted itself to the studies of Nazi persecution of Jewish citizens, with the main focus on the Aryanization of properties within the territory of today’s Czech Republic. The Committee proposed an Act on Mitigating Some Property Injustices, which was subsequently approved by the Czech Parliament on June 20, 2000 as Act No. 212/2000 Coll. On September 15, 2000, the Chamber of Deputies decided, based on a proposal of the Czech government, to transfer CZK 300 million to the account of the Foundation for Holocaust Victims. The Foundation currently administers four programs, distributing on a yearly basis endowment benefits amounting to CZK 15 million (EUR 570,000). It supports educational and remembrance-related Holocaust projects, restorations of Jewish monuments, education in Judaism, and the development of Jewish communities. Its priority is care for the Holocaust survivors. The Foundation for Holocaust Victims is the main source of financing of most services provided by the Jewish Communities. As I mentioned before, we also support care for Holocaust victims in other institutions, e.g., in the deaneries or in the international Home for the Elderly Sue Ryder. Currently we are in the process of a financial campaign in order to acquire independent means to fulfill our mission.

The foundations and NGOs supporting the care for Holocaust victims have been trying hard to acquire financial means and

have been struggling with the lack of finances. We would be thankful if the governments continued to support the foundations in the future. The care for Holocaust survivors is necessary, it has its own specifications, and the transfer of trauma to the new generations requires ongoing care and support. The work and experience of the NGOs and foundations are irreplaceable.

Thank you.

Composed thanks to the contribution of Andrea Fictumová, Zlatka Kopecká, Dr. Zuzana Peterová and Ing. Jana Wichsová from the Prague Jewish Community, and Prof. Felix Kolmer, DrSc., and Michal Frankl, Ph.D.

► **Nathan Durst**

AMCHA JERUSALEM, ISRAEL

REQUIREMENTS FOR STATE SOCIAL SYSTEMS: THE EXPERIENCE OF A NON-PROFIT ORGANIZATION

Improving the Social Situation of Former Victims of Nazism

During the Holy Roman Empire of the German Nation (962–1806), many people from Central and Eastern Europe, *the Slavs*, were sold into slavery, back then a normal custom. Between 1939–1945, some 12 million people from Central and Eastern Europe, including Russia, were taken to Nazi-Germany as forced laborers, and forced to live in conditions similar to those of the slaves.

In the following lecture, I will give a short historical overview of the laws issued to compensate Nazi victims such as Holocaust survivors, slave-laborers, homosexuals, Gypsies, etc.

Then I will discuss A. Maslow's model *The Basic Human Needs*. Based on this model I will explain the necessary steps that should be taken by governments and their institutions to enhance the social and material situation of these elderly victims still living among us.

Historical Overview

1953 (London) Agreement on (German) External debts; forced labor was not accepted.

1957 Compensation for Holocaust victims, formerly German citizens, refugees, etc.

1980 Hardship Fund, for those who fled to Eastern Europe, excluding those living behind the Iron Curtain.

1993 Article 2 Fund, Central and Eastern European Fund: including former Soviet Union.

2002 Slave and Forced Labor Agreement (Remembrance, Responsibility and Future)

As we can see from this overview, it took nearly 50 years from the beginning of negotiations for approx. 1 ½ million of the slave laborers still alive (out of close to 12 million slave laborers) to receive financial compensation for having been taken to Nazi Germany by force and made to work and live there under inhumane conditions. Fifty years later they were paid. "Justice" was done!?

However, the slave laborers were never really compensated for the hardship they had endured during the war and for the difficulties of adjustment after they returned home.

Basic Human Needs, a Model Developed by A. Maslow (1908–1970)

We all know that the slave laborer living in captivity is as vulnerable as a baby. His living conditions are completely controlled by his captor. Regarding his most basic needs as a human being, he is totally dependent, being in a state of helplessness, deprived of his basic human rights while everyone around him sees him as easy prey, cheap, and replaceable.

According to Maslow, there are different basic needs in human nature:

1. Deficiency needs that must be met in order to survive, function, grow, and develop

These needs are hierarchical, ranging from essential requirements for sustaining life, e.g., physiological and biological needs such as food, shelter, and rest. After these are satisfied, humans are in need of safety, stability and permanency. On a higher level we find the social needs such as a sense of belonging, feeling needed, loved, respected, etc. I will not go into the so-called psychological needs like acceptance by others, gratification, and self-esteem.

2. The growth needs, like freedom, goodness and justice

It is clear that these basic needs are universally valid, and not inherent to a particular culture or society. The lack of

these ultimately leads to a loss of faith in humans and humanity, undernourishment, disaster, illness, and eventually death.

Application of a Need-Hierarchy for the Social Situation of Nazi Victims

The former Nazi victims, Holocaust survivors and slave laborers alike, are at this moment confronted with a host of conditions that are directly connected with their growing older. The fact is that the most, if not all, former (post-traumatic) victims live for many years with a feeling of loneliness (and sometimes bitterness) derived from the fact that they were abandoned by their government and by society in general. In Central and Eastern Europe, their experience was never recognized. They were a forgotten group living in poverty and sometimes suffering from illnesses that were a direct outcome of the living conditions they had had to endure during their captivity. People suffering from these kinds of losses mourn for their entire lives. At this critical point in their lives they become physically weaker, prone to old-age frailness and illnesses, thus losing psychological resistance and defenses. As their friends are dying or have already died, they become more dependent on their surrounding. Some or all of these facts can become a trigger for reactivating old feelings, e.g., fear of being abandoned again, depression, distrust, and suspicion. Old age is perceived by them as a metaphor for the past, and the miseries connected to WW II come back to hunt their sleepless nights.

Each state is responsible for the security of its inhabitants. It creates laws for its citizens to ensure that justice be done. Any state should be capable of setting moral standards for itself, and aspiring for a better future. After the Central and Eastern European

countries joined the European Union, the economic and social status quo of their citizens has improved.

Now, after the restoration of socio-economic stability, the time has come for governments to take responsibility for their most vulnerable citizens: the children, the weak, the ill, the elderly, and, 60 years later, also for those which were victimized by the Nazi regime.

Based on Maslow's concept of the hierarchy of basic human needs and on my experience of working for more than 30 years with Holocaust survivors within the NGO framework, I would like to propose the following working model in order to alleviate the suffering of the victims, mostly disadvantaged elderly people living in many different countries.

Step 1: A case worker of the local Social Services should conduct a home visits in order to get an objective impression of the basic needs of the elderly (the victim = the client). This should include the following:

- ▷ Everyone should have shelter: a bed to sleep on, a roof above his head;
- ▷ Food should be available (food packages, warm kitchen in the vicinity);
- ▷ Medication, medical alert system (emergency buzzers, etc.) and hospitalization should be provided if needed.

On top of the existing services that are provided to all citizens:

- ▷ For the homebound, daily help should be provided (home care worker);

- ▷ Winter relief should be available (warm blankets-coal-gas);
- ▷ Information should be given about the services provided by the government;
- ▷ In every neighborhood, a nurse should make home visits on a regular basis;
- ▷ Mobile phone services should be provided for those confined to bed;
- ▷ Senior day center-supportive community in the area should be established.

All these services should be free of charge.

Step 2: An information center should be established in every country where former Nazi victims can learn about the benefits that are available to them. It must be possible to alert those who are homebound about the benefits of which they can take advantage. This can be achieved with help from volunteers such as high-school students. A data bank that would help to localize the addresses of former Nazi victims should be created.

Step 3: Creation of community-based programs:

- ▷ Promote public awareness;
- ▷ Educational programs in schools, universities, etc;
- ▷ Testimonies, document life histories;

- ▷ Centers that provide a domestic atmosphere;
- ▷ Support groups, recreational activities, self-help groups;
- ▷ Volunteers to visit homebound clients;
- ▷ Inter-generational meetings between former victims and high school students.

Step 4: A central agency should teach, supervise, and provide advice to local care-givers on the historical background of the former victim/client so that they can be equipped with the basic knowledge about this group, and be able to recognize its specific needs.

Conclusion

We expect our governments to take action regarding the former Nazi victims now, sixty-four years later.

Governments ought to:

- ▷ Become aware and recognize the existence of this group;
- ▷ Show solidarity with and improve the social and financial circumstances of this group;
- ▷ Implement the program described above: provide the victims with basic needs, in order to alleviate their longstanding suffering.

And if you know what to do, do it now, because later might be too late.

► **Kazimierz Wóycicki**

OFFICE FOR WAR VETERANS AND VICTIMS OF
OPPRESSION, POLAND

**CO-OPERATION OF THE STATE SOCIAL SYSTEMS
WITH THE NON-PROFIT SECTOR IN SUPPORTING
THE VICTIMS OF NAZISM: EXPERIENCE AND FUTURE
OUTLOOK**

The nature of events of World War II in Poland was in many respects different from that in Western Europe. Poland became in 1939 an object of aggression of both the German Third Reich and the Soviet Union. The war ended with the deprivation of the Polish state's sovereignty, followed by a long era of communist dictatorship. As a result of WW II, the Polish citizens became victims of both the Third Reich and the Soviet Union.

The persecution by the Third Reich had the most tragic impact on the Polish citizens of Jewish nationality. However, the racist ideology was directed also against the Slav population – hence the genocide and persecution (slave labor) of Polish citizens of Polish as well as of Ukrainian and Byelorussian nationality.

The persecution by the Soviet Union resulted in an expulsion of Poles to the East, some to the Gulag and the labor camps. One should emphasize that this persecution persisted after the end of WW II and it had an impact on Polish citizens of the Polish, Ukrainian and Jewish nationalities.

The extraordinary character of the Holocaust during which the absolute majority of Polish citizens of Jewish nationality perished as well as the anti-Semitic character of the

communist regime, which was the main cause of the emigration of the remaining Polish Jews after the war, affected a relatively small group. Nevertheless, for obvious reasons, this group is of special importance.

One should remember that the events of WW II created a situation in which the map of Poland was redrawn, and that all Poles, regardless of religion, became victims of the German and Soviet aggression. It is particularly important to remember that the persecution of Poles continued also in the post-war period.

Between 1945 and 1989 the issue of the victims of WW II was subject to the ideological criteria of the communist authorities. It was only the political changes in 1989 that enabled the enactment of new laws and regulations that took the rights of all groups of victims fully into consideration. It also became finally possible to acknowledge the unique character of the Holocaust.

The remembrance of the Holocaust and the anti-totalitarian consensus among European leaders are pivotal for the creation of a true historical narrative of modern Europe, which must never forget the plight of the victims of the Second World War.

► **Igor Cvetkovski**

INTERNATIONAL ORGANIZATION FOR MIGRATION,
FYROM/SWITZERLAND

**SUPPORTING GYPSIES IN CENTRAL AND SOUTH EAST
EUROPE: A PRACTICAL MODEL OF CO-OPERATION
BETWEEN THE NON-PROFIT SECTOR AND LOCAL
AUTHORITIES**

The Roma people were systemically and ruthlessly persecuted by the National Socialistic regime. The material evidence and witness accounts of the atrocities committed against the Roma are abundant and the facts regarding their plight well documented and publicly recognized. However, what is less recognized is the fact that the more or less severe discrimination against Roma continued to exist in some parts of Europe well after the fall of the Nazi Regime. This silent discrimination and marginalization aggravated the material destitution, social exclusion, and cultural isolation of the Roma people for years to come.

As a direct result of the above-mentioned discrimination and neglect, the situation of elderly Roma Holocaust survivors remains extremely difficult. Elderly Roma across much of Eastern Europe still live in ramshackle houses in isolated communities without proper infrastructure and without access to some basic services like social and medical care. They remain socially and culturally isolated not only from mainstream society, but also within Roma communities where the traditional respect for elders has all but disappeared.

The appalling economic and social situation of the Holocaust survivors has been mentioned on many occasions during the plenary and panel sessions of the HEA Conference. The prevalence

of poverty among the overall population of Holocaust survivors has been estimated to be between 40 and 60 percent. Based on our direct experience, we can safely estimate that when it comes to elderly Roma, this ratio is 90 percent or even higher.

The provision of help and remedy for this particularly vulnerable group is not only our humanitarian responsibility, but also a historical and ethical imperative, which stresses that past injustices do not remain unaddressed and that human society has both the will and the capacity to recognize and remedy those injustices.

This is especially important in a period when the current economic crisis and the omnipresent feeling of uncertainty could easily give way to a rise of racism and xenophobia. The analysis of the social and cultural preconditions for the rise of anti-Gypsyism in Central and Eastern Europe during the early 20th century, given by Dr. Baumgartner during the first panel of the Special Session, were especially evocative of some of the current trends.

However, even if the will and resources are fully available, the provision of humanitarian and social assistance to elderly Roma Holocaust survivors remains a complex and challenging task. The situation of elderly Roma and Roma in general varies significantly from country to county and community to community. The only constant feature in the lives of elderly Roma in Central and Eastern Europe is their poverty. The extent to which the omnipresent poverty manifests itself depends on many variables like:

- The overall level of economic and social development of the given country;
- The structure and capacity of the country's social security

and health care systems;

- ▷ The level of development and competence of the NGO sector and other civil society organizations;
- ▷ The in-country wealth distribution between its regions and sub-regions;
- ▷ The level and quality of Roma political representation;
- ▷ The geographical distribution and accessibility of Roma communities in conjunction with the country's infrastructure and institutional presence;
- ▷ The level of understanding and tolerance between the neighboring Roma and non-Roma communities;
- ▷ The generational structure of the particular community.

In addition to these, there are also many other factors such as availability of quality media, formal and informal educational structures, etc.

However one of the most important factors is the mentality and cultural value system of the concerned Roma community. Despite all the stereotypes that exist in the perception of the majority non-Roma population worldwide, the Roma remain one of the most diverse ethnic groups. In addition to the different religious denominations, Roma communities can differ in their traditions, customs, folklore, internal gender politics and susceptibility to external influences.

Taking into consideration all these factors, as well as remaining

continuously vigilant and sensitive to the local circumstances, are the key elements for designing and implementing a successful Roma project.

The International Organization for Migration (IOM) implemented the Roma Humanitarian Assistance Project (RHAP) between July 2007 and December 2008. This project was preceded by the Humanitarian Assistance Project (HSP 2003–2006) and succeeded by the Inclusion of Roma Elders through Social Interaction (IRESI 2009). While HSP and RHAP were very similar in methodology and delivery and both included many different types of assistance, IRESI is mainly focused on the establishment of sustainable social support structures with the aim of enhancing the inclusion of the Roma elders in selected local communities.

The overarching objective of RHAP was to contribute to the general improvement of the living conditions of needy elderly Roma Holocaust survivors in the selected communities in Eastern Europe by providing material, medical and social assistance.

The concrete primary objectives were to:

- ▷ Provide material assistance in order to alleviate the poverty of the beneficiaries;
- ▷ Provide medical assistance and improve the health of the beneficiaries;
- ▷ Provide legal and social assistance and facilitate the beneficiaries' inclusion into regular services provided by the state institutions.

The secondary objectives, aiming at ensuring long-lasting effects and sustainability were to:

- ▷ Stimulate the local governmental and non-governmental factors as well as individuals to continue with activities which benefit the elderly as well as the overall Roma population;
- ▷ Reduce the feeling of social exclusion and cultural isolation among the beneficiaries;
- ▷ Contribute to the improved relationship, tolerance, mutual respect and understanding between Roma and non-Roma communities.

In order to secure greater access, maximize the impact and minimize the costs, IOM decided to create broad consultative and partnership base. The project activities were implemented by external service providers, Roma and non-Roma NGOs with established access and good cooperation with Roma communities and their leaders. In addition, IOM encouraged the service providers to communicate the project objectives and activities to, and ask for cooperation from, all of the interested parties such as local authorities, municipality officials, mayors, etc. This broad cooperative model was instrumental in ensuring the necessary support and sustainability of the projects.

Based on its prior experience with Roma and within the policy framework agreed with the Foundation “Remembrance, Responsibility and Future,” IOM established the following categories of assistance:

- ▷ *Food Packages:* Contained locally purchased and pre-packed basic food items based on need assessment and

local alimentary regime. Roma communities, especially the elderly, have been severely affected by the ongoing economic crisis and the increased food prices. According to our experience, food packages are the most welcome type of assistance among the beneficiaries.

- ▷ *Hygienic Items:* Contained various pre-packed items necessary for personal and domestic hygiene. The provision of this type of assistance improved the sanitary conditions and contributed to the general health of the beneficiaries.
- ▷ *Winter Assistance:* Winters in Central and Eastern Europe are usually very severe. This is especially true of the remote mountainous areas where many Roma settlements are located. The sub-standard housing, infrastructure and prevailing poverty further aggravate the problem. Without external assistance, the elderly Roma are usually forced to gather and burn various and not always healthy heating materials. The packages contained wood, wooden briquettes, coal and in some cases heating equipment such as stoves.
- ▷ *Clothing:* Packages with basic clothing items were delivered several times during the project period. The items were selected and purchased on the basis of their quality and durability.
- ▷ *Medical Assistance:* The overall health condition of the elderly Roma is very poor, with cardiovascular and respiratory disease prevalent among the entire beneficiary pool. In addition, there are a series of regular medical conditions related to the beneficiaries’ advanced age. These health problems are further aggravated by the complete

lack of or very limited access to health care. Due to the lack of health care insurance, many elderly Roma are not included in the national health care systems. The costs of treatment and medicine are prohibitive and given the poverty level, the beneficiaries very often have to choose between a visit to a doctor and buying food. For them, the choice is obvious. Even in cases where free health care or health insurance is available, the medical centers and clinics can be located very far from the Roma communities.

RHAP tackled the health care issues from several different angles, based on the concrete conditions and requirements in the concerned community. In addition to the provision of basic medicines, we also arranged and paid for the basic medical exams and necessary treatments. A special emphasis was given to the inclusion of the elderly Roma in the existing health care systems and insurance schemes. The project also managed to raise the awareness among the national health care institutions regarding the specific health problems faced by the elderly Roma.

- ▷ *Social Assistance:* In addition to the poverty, poor housing conditions and health issues, most of the elderly Roma suffer from deprivation of social contact. Contrary to popular perception, Roma communities are very sedentary with the young people being the only ones who commute or travel abroad for work. This situation leaves the elderly Roma socially and culturally isolated without any meaningful contact with the world outside or even inside their communities. RHAP established social clubs where elderly Roma were able to gather and socialize. In addition to the social activities like playing board games, watching TV shows together and celebrating common events and

holidays, the beneficiaries were able to participate in various activities such as handwork workshops, health care information sessions performed by qualified medical staff, competitions, etc. Based on our experience, among the most appreciated were inter-generational activities where the elderly would sit together with their children and grandchildren and discuss various topics like Roma history and tradition, the value of work and education, and the importance of ethnic tolerance.

- ▷ *Legal Assistance:* Many of the above-mentioned problems, such as the exclusion from health care and other public services are due to unresolved legal issues. Many elderly Roma still lack personal ID and property deeds. Due to the prevalent illiteracy and the lack of legal advice, many elderly Roma are not aware of their entitlements to state pensions or social protection. Teams of lawyers and other qualified personnel provided free legal advice and assisted the beneficiaries in collecting legal documentation and completing the forms which are necessary for exercising their rights.
- ▷ *Home Care:* A large number of the elderly Roma live alone. Their children often move away in search of work, and the elderly are left alone without any help or assistance. The public services or social care are either non-existent or they do not have the capacity to cover all Roma communities. Given their advanced age and deteriorating health, many of the beneficiaries are in dire need of personal or household care. Based on prior need assessments, the project engaged qualified personnel who frequently performed home visits and assisted the elderly Roma with basic hygiene, household work and other needs.

- ▷ *Emergency Assistance and Quick Impact Sub-projects:* Based on beneficiary requests and subsequent assessment, RHAP provided one-time assistance for individual or communal mini-projects. The types of these mini-projects varied from individual house repairs (in the case of severely deteriorated living conditions) to communal well maintenance, sewage improvements and building small Holocaust commemorative parks where elderly Roma could gather and socialize.

RHAP was implemented in cooperation with eight service providers in five countries: Romania, Serbia, Slovakia, FYROM and Montenegro.

The projects were developed in cooperation between the RHAP Team in Geneva, the RHAP Field Monitoring Office and the Service Provider (SP). Once the projects' scopes, schedules and budgets were established, separate agreements for each individual project were signed between the RHAP Field Monitoring Office and the respective SP. The transfers of funds to the SPs were based on pre-established funding schedules. SPs reported to the RHAP Geneva Team (via the RHAP Field Office) on a quarterly basis by using pre-established and customized financial and narrative reporting formats.

The RHAP Field Offices and the RHAP Team in Geneva performed regular monitoring and auditing visits. The project implementation and expenditure were monitored, audited and evaluated against the agreed scope, schedule and budget.

Legal and Social Status of Victims of Nazism and Maintenance of Their Legacy

▶ **Michael Teupen**

FEDERAL ASSOCIATION FOR PROVIDING INFORMATION
AND CONSULTATIONS TO VICTIMS OF NATIONAL
SOCIALISM, GERMANY

SOCIAL AND LEGAL STATUS OF VICTIMS OF NAZISM IN GERMANY

Ladies and Gentlemen:

Although less than ten minutes have been allocated to me in order to describe the German legal and social status of the National Socialist victims, I nevertheless want to give thanks for the invitation to speak. I do hope the congress' results will lead to an improvement of the situation of *all* victims of the Nazi persecution in Europe – especially in Eastern Europe.

Considering the development of the indemnification law in Germany, you will notice that this is only patchwork. Furthermore it must be pointed out that this German Law of Restitution was a result of the allied powers' intervention. Most notably, it was the United States government that demanded that concrete legal steps be taken by the first democratic Federal Government in order to atone for the injustices inflicted during the Third Reich.

In the beginning, the Federal Law for Compensation of Victims of National Socialist Persecution (*Bundesentschädigungsgesetz* or BEG) only compensated those victims of National Socialism

who were persecuted on the bases of race, religion, or political opinion. It pertained mainly to the Jews, Sinti and Roma, communists, and Jehovah's Witnesses. But no later than 1969, the BEG was rescinded. After 1969, it was only an issue when the Law's wording would also cover the cases of exacerbation (*Verschlimmerung*).

According to the BEG, the following prerequisites for filing a claim of exacerbation (*Verschlimmerungsantrag*) are:

- ▷ Exacerbation must be a result of suffered physical and/or mental injury. Declining health due to age justifies no claim;
- ▷ Exacerbation must occur before the age of 68. This limit was defined in the BEG during the 1950s. Hence, it does not correspond with the current life expectancy anymore.

At least the German legislation recognized that the BEG has forgotten and ignored several groups of Nazi persecutees such as homosexuals, victims of *Euthanasie* or the so-called *Asoziale*. Therefore, with the help of a hardship fund, the General Act on War Matters (*Allgemeines Kriegsfolgenengesetz* or AKG) was enacted in 1957. Two kinds of financial contribution were provided:

- ▷ A one-time aid of approximately EUR 2,500;
- ▷ A monthly payment was granted only in cases of severe persecution (e.g., victims of euthanasia).

Until 2002, both grants were only paid out if a certain income line was not surpassed (EUR 1,150 monthly for singles, EUR 1,450 for people living in cohabitation).

But since 2002, these regulations have been changed. Only when applying for monthly payment does the recipient have to prove that he or she has suffered hardship. And with regard to the one-time payment, the term "suffering injustice" during the period of National Socialism was emphasized from then on. Claims for compensation under the AKG are still being accepted at this time.

The Jewish Claims Conference initiated and administers several compensation funds: the Hardship Fund, the Article II Fund and the Central and Eastern European Fund. The ongoing negotiations between the Jewish Claims Conference and Germany have advanced the interests of Jewish victims of Nazi persecution: the requirements for filing a claim under the Article II Fund for instance were enhanced. Old age pensions are of no interest anymore when applying for compensation under the Article II Fund.

Yet it is incomprehensible regarding the Central- and Eastern-European Fund why there is still a considerable gap between Western and Eastern Europe, especially if you consider the rising prices in East-European countries.

In the meantime, the Foundation "Remembrance, Responsibility and Future" (*"Erinnerung, Verantwortung und Zukunft"* or EVZ) has completed its payments. Now, the EVZ focuses on future-oriented projects, with the interest in the victims of National Socialism on the one hand and the fostering of historical responsibility on the other.

In spite of the fact that the Foundation has worked effectively and successfully, it is important to note that the Italian military internees, the Greek victims, as well as the Russian prisoners of war are still excluded from payments. Certainly this was not the Foundation's fault.

Some German Federal States (*Bundesländer*) created the so-called hardship funds. These funds provide financial support only to those victims of Nazism who are residents of the respective *Bundesland*.

Again, the monthly income limits are EUR 1,150 for singles and EUR 1,450 for people living in cohabitation. It needs to be pointed out that, regrettably, these subsidies were not raised within the last five years despite the inflation rate and increased costs of living.

In June 2002, the German Bundestag passed the Law for the Payment of Pensions for Periods of Work in a Ghetto (*Gesetz zur Zahlung von Renten aus Beschäftigungszeiten in einem Ghetto* or ZRBG) as result of a Federal Social Security Court decision from 1997. Because of this decision, the survivors of the Nazi ghettos are entitled to receive a monthly pension for “voluntary” and remunerated work. But the chief defect of the ZRBG was the fact that it was not part of the compensation law but of the social law, and thus 90 percent of the applications were refused by the Social Security offices.

This was surely contrary to the governmental political will and the intention “to establish a fast and non-bureaucratic solution in order to close a gap in the indemnification law.” Although all political parties shared this opinion, regrettably, the ZRBG has not yet been reformed. Especially the United States and Israel pressed the German government to reform the ZRBG. Subsequently, the German government offered a one-time compensation of EUR 2,000 to those who had had to work in a Nazi ghetto. Usually, requests for this compensation are still being granted.

Unfortunately, the German government does not feel compelled any more to substantially revise the ZRBG. It has to be underlined

that the German Federal Social Court precisely defined the term “remuneration” in June 2009. Contrary to the restrictive interpretation of the social security offices, the court has decided that each kind of remuneration counts as a sufficient reason to apply for a ghetto pension if a certain “rest of voluntary” can be stated, for instance when the centralized Jewish associations placed workers outside the ghettos.

From now on, the formerly rejected applications can be submitted again. And the German pension insurance providers have declared that they will review all formerly rejected applications within the next 12 months. Given the fact that there are about sixty thousand cases on the table, this time-frame might not be sufficient.

Until this very day, politicians completely ignored the problem of the second generation. Extensive and profound US and Israeli studies show that the victims’ traumatic experiences from the era of the Third Reich have had a severe impact on their children and thus on the next generations as well. Therefore, it would be desirable if the German government became aware of this problem and found appropriate practical solutions.

Despite the fact that the Federal Republic of Germany has paid enormous amounts of money in compensations, the average pensions and indemnification payments are low. Many survivors currently live under difficult financial conditions. The percentage of those who are needy should not be underestimated. This affects all victim groups of Nazi persecution: Jews, Sinti and Roma, homosexuals, as well as people who were forcibly sterilized under unacceptable conditions. Besides their financial problems, the victims’ lives are marked by isolation, fear, trauma, and physical and mental illnesses. All this does not seem to be an exclusively “German phenomenon.” As far as we know – and the international

NGOs we cooperate with confirm this – other countries have to deal with the same problems. Nevertheless, this issue is of a special concern to the EVZ Foundation. The EVZ initiated and continues to initiate various model projects and pilot schemes in many countries (particularly in Eastern Europe), hoping that these activities will take root and will become part of the national social systems. Now a “Responsibility in Partnership” is demanded.

Regarding the German responsibility, the following issues need to be solved:

- ▷ Finding appropriate solutions for those victims who have not received compensation yet (Italian military internees, the Greek victims, the Russian prisoners of war);
- ▷ Improvement of living conditions through individual medical and therapeutic actions;
- ▷ Precarious financial situation of the victims; facilitation is needed so that they can live a life without constant worry;
- ▷ Amendment of the Ghetto Pension Law without delegating responsibility to the highest courts;
- ▷ In order to file claims of exacerbation according to the BEG specifications, the minimum age must be raised from 68 to 75 due to the current life expectancy;
- ▷ Raising the hardship funds’ payment of the German Federal States;
- ▷ Considering the problem of the second generation and developing adequate solutions.

In this short time, I could only touch upon some of the current problems concerning the legal and social situation of the victims of Nazi persecution, no matter if they are Jewish, Sinti and Roma, political persecutees, or forced laborers.

► **Alex Faiman**

B'NAI B'RITH EUROPE, UK

**KEEPING STARVATION AT BAY FOR HOLOCAUST
SURVIVORS AND OTHER VICTIMS OF NAZISM**

Ladies and Gentlemen:

It is now over 64 years since the end of the World War II and the defeat of Nazism. By now, a great number of Nazism’s victims who survived the Holocaust have died. Today, our duty and responsibility is to look after those who are still with us.

Let us look at the facts on the ground in Eastern Europe: In the West, survivors of the Holocaust were able, through education and funding, to become professionals and achieve a reasonable standard of living for themselves and their families. However, in the East after the collapse of Communism, the higher the education one attains, the less appreciated by society he is. For example, in Ukraine, a doctor earns UAH 1,200 (grivna), a school teacher UAH 1,200, but a janitor earns UAH 2,000 and a university professor 10 percent less than a janitor. So despite their education, some Holocaust survivors are only just able to survive.

Before World War II in Central and Eastern Europe there were between 8 and 10 million Jews – 3.5 to 4 million in the USSR,

3 to 3.5 million in Poland, and large communities in Romania and Hungary. There were also small numbers of Jews in Bulgaria and Czechoslovakia. Excluding the Soviet Union from the above countries, 90 percent of the Jews were annihilated by the Nazis. Two and a half to 3 million survived as they managed to escape to the Central Asian regions of the Soviet Union and to Siberia.

Considering the Soviet Union, the first casualties were Jews of Ukraine, Belarus, Moldova and the Baltic States who could not escape. Jewish partisans who fought heroically in the forests of Lithuania and Belarus were saved as well. At this point, we should acknowledge the heroism of the great numbers of Righteous Gentiles who risked their lives to save their Jewish fellow citizens. We should be eternally grateful to them. In all, 3 million Jews survived in the Soviet Union after the war – those who fought in the armed forces, the partisans, and those who managed to evacuate to the Urals, Central Asia, and to Siberia.

After the war there was a shortage of housing, food and other basic necessities in the Soviet Union, but help was given only to those who were invalids or veterans of the war. Those who survived not only large concentration camps but also ghettos and many small “labor camps” did not receive any help from the Soviet authorities. No social welfare was available to cushion their misery.

In the Soviet Union and the satellite People’s Republics, strong anti-Semitism existed – a fact that morally decimated the Jewish population. For example, in the Soviet Union:

- ▷ Top Jewish Kremlin doctors were tried and murdered;
- ▷ Jewish Anti-Fascist Committee was closed;

- ▷ Their chairman Michael Losovsky (head of Sov-Inform Bureau) was murdered;
- ▷ Jewish theatres were closed.

In the People’s Republics, Jewish communist activists originally occupied important political positions but gradually, they were eliminated. Examples from other countries include Hungary’s Mathias Rakosi, Romania’s Ana Pauker and Czechoslovakia’s Rudolf Slánský. The anti-Semitism in the People’s Republics was strong. Immediately after World War II, 250,000 Jews returned to live in Poland (before the war, there were 3–3.5 million living there). Then, in 1946, there was a pogrom in Kielce, Poland.

In 1968, Polish leaders Gomulka and Mocher, made conditions intolerable for Jews, but allowed most of them to leave the country. The old, sick or those with families had to stay behind for personal or family reasons.

Today, anti-Semitism is thriving in Ukraine, as the example of MAUP shows¹. The veterans of the infamous SS Galician division have returned in great numbers. They have come from Scotland, Canada and the USA. In Ivano-Frankivsk, these veterans are very active in anti-Semitic activities. I should also mention that there is still no memorial standing for those who perished in the Yanovska camp in Lviv.

Ladies and Gentlemen, let us use this unique and final opportunity. We must learn the lessons of the past and at all costs prevent the spread of anti-Semitism and promote tolerance. This will benefit the surviving victims.

¹ MAUP=Mizhrehional’na Akademiya upravlinnya personalom (The Interregional Academy of Personnel Management).

We must maintain the legacy: Throughout Eastern Europe, all sites of concentration camps, both large and small, should be preserved as museums and serve as a lesson for future generations. Monuments to the victims, both Jewish and Gentile, should be erected on all the sites and the Righteous Gentiles should be forever remembered in Yad Vashem.

It is imperative that financial help to the remaining victims continues and increases.

In the words of Sir Jonathan Sacks, Chief Rabbi of Great Britain and the Commonwealth: "To be a Jew is to be alert to the poverty, suffering and loneliness of others ... to be a Jew is to accept responsibility."

► Čeněk Růžička

COMMITTEE FOR COMPENSATION OF THE ROMANI
HOLOCAUST, CZECH REPUBLIC

**HISTORY, PERCEPTION, MEMORY,
SOCIAL CARE FOR ROMANI SURVIVORS**

**A Memorial to the Roma Holocaust in the Czech
Republic and Compensation for Czech Roma and
Sinti**

Good afternoon, Ladies and Gentlemen:

First, I would like to thank the organizers of this panel, who have allowed me to speak here. The Committee for the Redress of the Roma Holocaust in the Czech Republic, which I represent, is an

association of former prisoners of Nazi concentration camps and their surviving relatives. We have been dealing with issues concerning our tragic history since 1998.

Due to time constraints, my contribution will only focus on two topical points:

- ▷ The respectful treatment of so-called Gypsy camps on the territory of the Czech Republic; and
- ▷ Open questions concerning damage to the property of Czech Roma and Sinti.

I myself come from a community of traditional, nomadic Czech Roma. Both my parents survived four years of fury unleashed by the Nazis and their accomplices. They were among approximately 500 people who survived, from the original community of 5,000 Czech Roma and Sinti. I have been involved in compensation issues since 1972.

In 1946, Act No. 255/1946 of the Collection of Laws (Coll.) was adopted in the former Czechoslovakia. This guaranteed social benefits such as increased old-age pensions, etc. to concentration camp survivors, based on certification pursuant to this law. Unfortunately, Roma and Sinti survivors very often did not know about the awarding of this certification, and it was to be almost 30 years before some of them managed to get it. This was partly because few of them knew how to read or write, but also because organizations such as the Ministry of Defense and the Czech Union of Anti-Fascist Fighters, who could or should have informed them (because they had lists of former prisoners at their disposal), did not notify them of this entitlement. Why did this happen?

I believe that it was because it concerned money that was meant to be provided to the Roma victims. The moral aspect of the issue was put to the side. Officials at that time had prejudices against Roma and did not want to broach this subject.

I will state the following facts so that you can have a better understanding of my opinion. In August 1942, at the request of the German Nazis, the criminal police of the Czech Protectorate established two so-called Gypsy camps, which were used exclusively for interning Roma families from what was then the Protectorate of Bohemia and Moravia. Under the administration of exclusively Czech guards and Czech camp commanders, up to 50 of the 2,500 people who were interned there perished as a result of their cruel treatment. Most of them were children. This happened despite the fact that no order to exterminate the Roma existed in our country. An opportunity simply presented itself for getting rid of the Roma and Sinti once and for all. I believe that for many Czech Protectorate officials it was simply a continuation of the anti-Roma policies of the 1930s. This negative attitude towards the Roma continued in a certain form even after the war. The communist regime of that time erected shameful buildings directly on the sites of both camps, where our relatives died.

A pig farm was established on the site of the camp in Lety u Písku and a leisure centre was erected on the site of the camp in Hodonín u Kunštátu. Both these places are associated with the genocide of Czech Roma and Sinti. Despite our protests and the protests of the EU institutions and the international community, these locations are still being desecrated instead of serving as dignified memorials. This is particularly tragic today, at a time when neo-Nazi attacks on Roma are increasing in the Czech Republic. Another debt has been incurred by society here, and the

overwhelming majority of surviving prisoners have not lived to see it being repaid. Both locations should remain a respectful reminder of the Roma Holocaust, and they should become an active part of Czech history. The current government is willing to resolve this issue. It has put forward a policy that we agree with in many respects, but we have been hearing countless promises over the past decades. I hope that we – the children of former prisoners – will at least live to see the repayment of this debt.

Now, I will return to the issue of certification pursuant to Act No. 255/1946 Coll., which I mentioned at the start of my speech. If you check the date on the certificates issued to Roma concentration camp prisoners, you will find that they were almost always issued in 1973 or in subsequent years.

In 1972, my parents baptized a child for a family of Sinti in Liberec. The christening was also attended by a Sinto who was one of the few to receive a certificate. A senior consultant at the local hospital, who was also a former concentration camp inmate, helped him get it. The Sinto drove an ambulance for the hospital. My parents first heard from him that they were entitled to something. They subsequently received certificates from the Ministry of Defense after overcoming incredible obstacles. As I had helped my parents to obtain the certificates, I became an “expert” on this issue and I was able to help others whom I knew. I informed around 10 families with whom I was friendly about the certificates, and because we sold merchandise in stalls at various locations in the former Czechoslovakia, Roma and Sinti then informed each other about them. I also continued to help a number of people to obtain certificates from the Ministry of Defense. But how many Roma and Sinti did not obtain certification? The basic problem with any compensation program for victims of the Roma Holocaust is

the specificity of communication, which has always required the knowledge of our Roma community.

Nevertheless, we also noticed a similar attitude after 1989 within the framework of compensation arranged by the International Organization for Migration. Even though we constantly pointed out that the local organizations who were supposed to distribute the assistance should be carefully chosen so that the aid would actually reach those who were entitled to it, the assistance program ended with a bitter taste for us. There were several compensation programs. The survivors had no complaints about those organized by the Czech-German Fund for the Future. They were happy with the work of this organization.

Nevertheless, the assets of Roma victims of the Holocaust are still an issue that has not yet been resolved. Almost 5,000 Czech Roma passed through concentration camps, and only one tenth of them survived. Before they were transported to the camps, the Czech police seized all their property such as houses, horses, caravans, gold jewelry (something which they prided themselves on and really had a lot of), musical instruments, and other items. They could only take clothes with them to the concentration camps, or possibly work tools such as spades or pickaxes (which could only weigh up to 50 kg). In accordance with a decree on combating the Gypsy nuisance, dated August 10, 1942, the property of those imprisoned was sold off at public auctions. Often this was bought by former neighbors or by those living near camps like the one in Hodonín. The proceeds of these auctions were used to fund the nine-month stay of the prisoners in both the Lety and Hodonín camps, as well as their subsequent transportation to an extermination camp in Auschwitz. A portion of their assets was also stolen by some fellow Czech citizens.

In my opinion, this plundering of assets has never been officially dealt with. Only one preliminary study devoted to this topic exists in the Czech Republic. In the context of dealing with the issue of damage to the property of the victims of Nazism, the victims' surviving relatives view this fact as a grave injustice that must be resolved. A solution ought to be found quickly. In February of this year, we urged the Minister for Human Rights and Minorities to initiate an historical survey, which would clarify these issues and enable us to negotiate with the government the establishment of a Foundation for Victims of the Roma Holocaust along the same lines as the Foundation for Holocaust Victims, which was established by the Federation of Jewish Communities in the Czech Republic on the basis of the so-called Rychetský Committee in 1999. This fund should compensate some of the survivors, but its main function would be to look after the commemoration of the Roma Holocaust and to promote research and education on the subject.

In view of growing manifestations of racism, Czech Roma and Sinti like us have only very little time to inform the public in an adequate and timely manner of the tragic fate of those we were close to, as well as of the roots of racism and its consequences, so as to ensure that the same atrocities do not happen again.

Nobody will do this for us, even though it often seems that we are fighting a lost battle against prejudice. Nevertheless, those of us who are survivors of the victims will never give up.

Thank you for your attention.

► **Esther Toporek Finder**

THE GENERATION AFTER, GENERATIONS
OF THE SHOAH INTERNATIONAL, USA

THE SECOND GENERATION OF HOLOCAUST SURVIVORS

Caring for Our Aging Survivor Parents

Children of Holocaust survivors face numerous challenges as we help our parents age with grace and dignity. As we age we all confront physical, psychological and financial changes. For our parents, these changes have been profoundly influenced by their experiences in the Holocaust.

Survivors often have medical conditions that began during WW II Injuries and illnesses from those years can haunt survivors today. In the USA, we do not have universal health care and since most survivors have multiple pre-existing medical conditions, they are denied long-term health insurance even if they can afford to pay the high premiums.

Diseases of age, such as dementia, are experienced in a qualitatively different way by survivors than by other people. Many survivors show signs of Post-Traumatic Stress Disorder (PTSD) which can include flashbacks, nightmares, etc. Other disorders include: depression, guilt, paranoia, separation anxiety, painful memories, etc. Unfortunately, there are very few programs that help the survivors with their unique emotional issues of loss, loneliness, anxiety, and depression.

What happens if short-term memory goes? Long-term memory often brings survivors back to the war years so they must relive the horrors again and again. With loss of memory comes loss of

language. The last language learned is the first one lost and for American survivors that can mean parents and children no longer share a common language. It is extremely difficult to find health care workers who can speak to our parents in the European languages of their childhoods.

We also must educate health care workers about the special sensitivities of survivors, such as why dogs, uniforms, confinement or loud noises generate anxiety.

For my generation, the size of the USA can be a problem: some of us are caring for parents who live far away, even traveling cross-country regularly to supervise their parents' care.

There are some experiences that are unique to survivors in America: there is no uniformity of care in all 50 states. For example, Florida provides the lowest amount of state funding for home and community based services of all the states with significant survivor populations and there are long waiting lists for limited resources. Many social service programs that are available in other states do not exist in Florida.

Home health care is crucial! Survivors lost their homes, freedom and independence during the war. Losing these again is unthinkable, so most survivors prefer to age at home and view institutionalization as a death sentence. The good news is that home health care is less costly than institutionalized care. The bad news is that it is still very expensive and can cost thousands of dollars a month.

Which brings us to financial concerns: while we have lost many survivors, there are survivors who are living into their 1980s and 1990s and have lived beyond their savings.

We must be creative in finding solutions to these challenges. The goal is to develop a treatment and care plan for all survivors in need and maintain them, to the extent possible, in their homes with adequate help and financial support.

► **Dagmar Lieblová**

TEREZÍN INITIATIVE, CZECH REPUBLIC

MEANING AND FUNCTION OF PRISONERS OF NAZISM ORGANIZATIONS IN SOCIETY

The first organizations of former Nazi prisoners were formed immediately after the liberation. Bringing together people who had been returning home weakened, exhausted, and often gravely ill, the organizations strove to help them to return to normal life. In our country, after 1948, their Union was merged in the newly created Union of Freedom Fighters.

The Terezín Initiative (TI) was founded in 1990. The main incentive for this step was to make it public knowledge that in 1941-45, there had been a concentration camp in Terezín, the Ghetto, where Jews from the Protectorate of Bohemia and Moravia, as well as from other German occupied countries, were assembled and then deported to their deaths in extermination camps. At the time, most people were aware of the existence of the Small Fortress of Terezín, a former police prison of the Prague Gestapo; the fact that in the neighboring Main Fortress a large concentration camp had existed was not officially acknowledged, and the public was not aware of it. The TI set three goals for itself: to keep alive the memory of the victims; to educate the young generation about the Holocaust; and to work for a decent life

for those survivors of the Holocaust presently still living in this country. A first great success was the establishment of the Ghetto Museum in 1991. Presently, the membership of the TI is roughly 500 survivors and about 150 of their offspring. The aims of the TI are meaningful even now. Let me show this by taking a closer look at the individual aims.

The German approach to the extermination of the Jews was systematic, and so mostly entire families perished without a single survivor. A sector of society was murdered which for centuries had been an integral part of the life of Czech towns and villages. There was a real possibility that all these people would vanish from memory, with not a single surviving relative. In this situation, the TI initiated systematic work on the publishing of the so-called Terezín Memorial Book, a simple name list of those deported from the Protectorate to Terezín and to Lodź, recording their fate during the Holocaust tragedy. Later, corresponding volumes with data on Jews from Germany and Austria appeared. In this way, an appropriate memorial was created for all those whom nobody remembers. It also became an important reliable source of data for people who write to the Czech Republic to find information on the fate of their grandparents and other relatives. Lately, several books of memories of survivors and expert publications on the lives of important personalities have been published; in these editorial activities, the TI and its branch, the Institute of the TI, play an important role.

For the secondary school and university students of today, everything that has taken place before they were born is history. They are taught a few basic facts about the Protectorate in the framework of their history lessons, and that is all. At the same time, it is obvious that this period of our past is, and should be, the crucial historic experience of our nation, and the lessons

learned from it a guarantee that nothing similar happens here again. It turns out, and this does not come as a surprise, that for the young people, acquiring knowledge about the Protectorate and the Holocaust is an incomparably deeper and more cogent process when the school lecture is accompanied by a visit to Terezín and a discussion with a survivor. The role of the former prisoners who are both physically and mentally able to take part in such informal chats is unique and irreplaceable. They can speak to the young people about their experience, answer their questions, and explain the inherent perils of neo-Nazism, and the danger posed by the curtailment of human rights and in citizens' indifference vis-à-vis these violations. When the survivors are no longer with us, there will be professional documentaries and audio- and video-recordings of their memories to learn from.

Nazi imprisonment had a lasting influence on the lives of the survivors. Many returned from prisons with health problems. Most importantly, however, they often lost all their relatives, were not able to start or become part of new families, and as a consequence were left absolutely alone. This fact has set them apart from ordinary Czech retirees – not only in their fate but also in their practical needs. The Terezín Initiative makes an effort to complement the Czech social network in situations when a survivor needs additional support...

The TI, as any organization of survivors, is important also for the members themselves. They share a common experience in life, which creates a certain closeness. It stimulates them to meet, speak about the past, share the success of their children, grandchildren and great-grandchildren, and generally exchange experiences of their interaction with the younger generations. Reading the regularly published Bulletin also provides them with useful information and helps them with solving specific problems.

All activities of the TI require financial backing. There are voluntary contributions from our members; a substantial financial legacy from a childless former Terezín prisoner who later became a wealthy WHO expert was very important for our organization. The TI also presently mediates and administers temporary payments from the Claims Conference towards easing the social situation of Czech survivors. The publication of the Terezín Memorial Book was co-financed by the German government. It is, however, obvious that financial funds are still lacking. The visits of Czech school classes to Terezín have been financially supported by voluntary contributions from TI members for years.

There is something morally wrong with a society that leaves the task of preservation of an important part of its collective memory, the education of the young generation, and the material care for its war victims to these same victims to finance these initiatives (or to rely on foreign contributions). The Czech public must realize that it has obligations towards its own future. It must start supporting the personal commitment of the Czech Holocaust survivors.

► **Frank-Ludwig Thiel**

LAW OFFICE GÖRNANDT-HEINZ-THIEL, GERMANY

GHETTO-RENTE ISSUES

Ladies and Gentlemen:

My name is Frank-Ludwig Thiel. First, I would like to thank the organizers of this Conference for having invited me to speak. I am the designated counsel of the German Federal Association on

Information and Advice for Persons Persecuted by the National Socialist Regime. In this capacity, I have represented far more than 1,000 claimants for a so-called “ghetto pension.”

Many of you certainly know that the “Ghetto Pension Law” (*Ghetto-Rentengesetz*) was passed by the German Bundestag, our parliament, in 2002. This was a unanimous vote by all of the parties elected to parliament. The purpose of the Law was to speed up, in a non-bureaucratic manner, the processing of the claims of those persecuted persons who had worked under specific circumstances in a ghetto; they were supposed to receive a pension benefit from the German Social Security (*Deutsche Sozialversicherung*). By way of this Law, the gap that existed in the “Reparation Legislation” (*Wiedergutmachungsrecht*) was to be closed.

However, reality proved otherwise for quite some time. This was due to the vagueness of legal terms in the Law such as “voluntariness” or “monetary considerations” (*Entgelt*). The result of this vague terminology was that a high percentage of the claims were rejected, in fact the percentage was 90 percent. The social security agencies and the courts applied the Law with hardly any exceptions. When I prepared myself for this Conference a month ago and drafted my address, I focused on the problematic areas of the Law, such as:

- ▷ The high percentage of rejected claims through the social security agencies and the courts;
- ▷ The varying manner of processing the claims by the regional social security agencies;
- ▷ The varying dispensation of justice through the regional courts; and, thus

- ▷ The resulting substantial inequality in dealing with claimants.

Today, however, I can give you good news: The draft of my original speech is no longer up to date. Because, on June 2 and 3, 2009, the *Bundessozialgericht*, which is the Federal Social Court in Germany, issued a groundbreaking ruling. This ruling of the Federal Social Court is decisive, because it is the final court of appeal. The Federal Social Court has abandoned its previous rulings and has now determined:

- ▷ That one has to assume that the ghetto inhabitants worked voluntarily, even in those cases where they were obligated to work. The decisive issue here is that the person concerned was not forced to do a specific type of work in the ghetto. Rather, it has to be asked whether there was a “choice” for the person concerned, for example through the intervention of the ghetto’s Jewish Council (*Judenrat*), which might have influenced the decision as to whether this person should or could do the work and under what circumstances. A person could also opt not to work in a ghetto;
- ▷ That remuneration (*Entgelt*) means any kind of reward, whether it was in money or in kind – food, for example. Matters of insignificant rewards are not to be reviewed by the courts;
- ▷ That it is not imperative whether the remuneration was directly handed out to the workers or whether it was handed over to a third party (for example to the Jewish Council to be provided to the ghetto inhabitants).

The result of this change in jurisdiction is that many of the claimants can expect a positive decision in their cases. This will also apply to claims that have already been rejected by the courts. Of course, we must wait to see how the German Social Security Agency will translate this changed jurisdiction into reality. One can only hope, in the interests of the persons concerned, that all of the claims will be reviewed in a very quick and non-bureaucratic manner.

Since this Conference is taking place in Prague, allow me to say a few words to the claimants from the Czech Republic about the problems they have encountered regarding ghetto pensions. Before the new jurisdictional ruling of the Federal Social Court, most claims were rejected on the grounds that the element of voluntariness or remuneration for work was missing.

The Czech and the Slovak claimants, however, must deal with one more problem. The Ghetto Pension Law has another requirement for those claimants to fulfill: each claimant must confirm that he or she has not received any benefit from another social security agency. However, for most of the Czech claimants, the periods of incarceration in a ghetto were included in the Czech agencies' calculations as part of the so-called resistance periods. That prompted the German social security agencies to reject claims on the grounds that the period in the ghetto had already been taken into consideration by another social security agency.

As to this problem, too, the German Federal Social Court has provided clarity in jurisdiction, in its ruling of February 13, 2009. The social security agencies in Germany have been entrusted with the task of reviewing each case to ascertain whether the person concerned in fact received a higher Czech pension payment because of his or her involvement in the resistance.

Some Czech claimants have received, as it is called in the Czech Republic, the "maximum possible pension" (in German: *Höchstrente*), from Czech Social Security, and have therefore reached the cap (in German: *Kappungsgrenze*). Beyond that limit, no further time periods will be considered. So, most of these claimants have not benefitted at all; their monthly pension amount is not higher because of their involvement in the resistance. As a consequence, which is not acceptable, people who only receive a low pension from the Czech Republic, and who have benefitted from the resistance pension supplement, have their claims rejected by the German Federal Social Security Agency on the ground that further payment from Germany would amount to payment of a double-pension benefit.

Only those who receive the highest pensions benefit from the ghetto pension paid out by the German Social Security. This means that the claimants who have many fewer financial resources at their disposal will be placed at even more of a disadvantage. This surely cannot be the intended result of the legislature. Here, the constitutional principles of equality and equal treatment for all must be observed. The legislature in Germany must be asked to improve the Law accordingly and to change it so that all of the Czech claimants will be able to receive a ghetto pension, whether they receive the highest pension or not.

Ladies and Gentlemen, thank you for your kind attention.

► **Ehud Moses**

CONFERENCE ON JEWISH MATERIAL CLAIMS AGAINST
GERMANY, ISRAEL

DISSEMINATION OF RELEVANT AND UPDATED INFORMATION TO VICTIMS OF NAZISM

More than six decades after the Holocaust, the issue of disseminating updated and accurate information to Nazi victims with regard to their compensation and restitution rights has become increasingly relevant and important.

For example, tens of thousands of Nazi victims all over the world have become eligible in recent years for new compensation and social programs, such as:

- ▷ The new decisions of June 2009 issued by the Federal Social Court in Germany, which have liberalized the eligibility criteria for a German social security pension for ghetto work;
- ▷ The new payment in recognition of work in a ghetto, established by Germany in 2007;
- ▷ Various liberalizations of the eligibility criteria for Holocaust survivors' pensions from the Article II Fund, funded by the German government, due to ongoing negotiations between the Claims Conference and the German government;
- ▷ Recent liberalizations regarding the Hardship Fund for Nazi victims, funded by the German government, enabling certain Jewish victims of the Nazi siege of Leningrad to

receive a payment, as well as permitting a second application for previously-rejected applicants. These liberalizations were achieved due to negotiations between the Claims Conference and the German government in 2008 and 2009;

- ▷ In recent years, new worldwide assistance programs have been established for the benefit of Nazi victims, such as the Hungarian Gold Train Settlement and the Austrian Holocaust Survivors Emergency Assistance Program;
- ▷ In 2008, the Israeli government established a new pension and benefits program for Israeli Nazi victims, and in June 2009, a new ruling was issued by an Israeli district court that could provide a pension to many Israeli survivors who were held under curfew during the Holocaust.

The large volume of new and complex information often confuses Nazi victims in their attempts to navigate the compensation labyrinth. Further, Nazi victims may fall prey to people who charge excessive fees for simple services.

The Claims Conference, a non-profit Jewish organization has dealt with negotiating compensation and restitution programs for the benefit of Nazi victims for more than 50 years. Mindful of its responsibility towards Nazi victim communities all over the world, it has initiated many activities for dissemination of relevant and updated information to Nazi victims.

The following are the main obstacles in the way of disseminating relevant and updated information to Nazi victims and some examples of activities that the Claims Conference has initiated during recent years to address these obstacles:

1. The information that is relevant to Nazi victims consists of many programs, each with its own eligibility criteria and run by different bodies in languages with which many Nazi victims are not familiar.

That is the reason the Claims Conference continuously gathers information regarding all of the various compensation and restitution rights of Nazi victims all over the world and disseminates it through every available medium.

For example, the Claims Conference disseminates new information regarding its funds by publishing advertisements all over the world in newspapers with broad circulation and in newspapers that cater to specific groups of Nazi victims and in languages that are relevant to these specific groups, such as Hebrew, English, Yiddish, Hungarian, Romanian, Russian, etc.

The Claims Conference also operates a website¹ in four languages – English, Hebrew, German, and Russian – which includes updated information concerning all of the various compensation and restitution rights of Nazi victims worldwide.

As another example, immediately after the Federal Social Court in Germany issued a ruling in early June 2009 that liberalized the eligibility criteria for a social security pension for ghetto work (under the so-called ZRBG Law), the Claims Conference prepared a series of informational materials on the program to distribute worldwide in print and electronic formats and to post on our comprehensive web

pages on compensation and restitution. Among the updates made public in the days after the liberalizations are: an overview of the changes to the eligibility criteria of the ghetto pension resulting from the Court's ruling, information on how applicants should proceed with their claims, information on where to obtain assistance, and "Answers to Frequently Asked Questions."

Posting information on a website is not enough. Thus, the Claims Conference sent out email news alerts to a mailing list of approximately 20,000 addresses. Bulletins to our network of partner Help Centers (a network developed by the Claims Conference around the world) immediately notified them and provided the updates, and outreach was directed to over 300 Jewish social welfare agencies worldwide.

In addition to print and electronic dissemination channels, large conference calls were set up to exchange information and answer questions on the new developments from colleagues working in the field.

This blanket approach of print, electronic, and personal notification is the hallmark of the dozens of Claims Conference Special Outreach Projects that have provided information directly to Nazi victims and their assistants all over the world.

2. The relatively advanced age of Nazi victims renders regular media channels unavailable to many of them. Thus, there is a need for additional outreach activities to Nazi victims in social clubs, homes for the elderly, sheltered communities, and many other centers where Nazi victims may be living.

¹ See: <http://www.claimscon.org>.

For example, in recent years, the Claims Conference has initiated dozens of gatherings in social clubs, Holocaust survivors' organizations, retirement homes, and sheltered communities all over Israel, which have been attended by thousands of Nazi victims. Following these gatherings, thousands of Nazi victims were personally assisted in applying for all their compensation and restitution rights.

3. In many cases, Nazi victims are homebound and are chronically ill patients. In these cases, additional and unique outreach activities are necessary.

For example, the Claims Conference initiated gatherings for social workers who take care of homebound Nazi victims regarding their rights. And for another example, due to the new Israeli pension for Nazi victims who were incarcerated in ghettos and camps, which was passed by the legislature in 2008, the Claims Conference traced more than 8,000 potential Nazi victims who might be eligible for the new pension from its funds' records and cooperated with the Israeli government to send the application forms for that pension directly to their homes.

Targeted and proactive mailings concerning specific programs for Nazi victims all over the world have been instrumental in enabling Nazi victims to find out about and make claims for their compensation rights.

4. In many cases, Nazi victims are intimidated by the claim forms and the dissemination of information is useless without additional and specific outreach activities.

For example, in Israel, the Claims Conference initiated a special Volunteers Project in recent months. The volunteers visit Nazi victims in their homes and assist them in filling out claim forms for benefits to which they are entitled as victims of Nazi persecution. The volunteers were also trained to deal with the emotional aspects of Nazi victims reliving their painful Holocaust memories when applying for compensation programs.

Needless to say, we shall be happy to share our experience with all those concerned.

► **Anděla Dvořáková**

CZECH ASSOCIATION OF FREEDOM FIGHTERS,
CZECH REPUBLIC

VICTIMS OF NAZISM AS WAR VETERANS

Ladies and Gentlemen:

I would like to provide brief information about certain difficulties that we face with granting of the "Veteran" status to political prisoners who hold the certificate of resistance activity according to Act No. 255/Coll. 1946. Holders of the certificate and their spouses enjoy significant social benefits, including a yearly contribution in the amount of CZK 20,000 for health-related spa treatment, CZK 15,000 for recreation abroad, CZK 10,000 for domestic recreation, contribution for a stay in a pension for war veterans, as well as other benefits. Approximately three years ago, all resistance members who held the aforementioned certificate were granted these benefits according to Act No. 225/ Coll. 1946, including the political

prisoners – the members of the so-called “Group G.” Nowadays, the Ministry of Defense ceased to grant these benefits to the Group G, arguing that political prisoners did not fight with arms against the oppressors. But is there a difference between, for example, a guerilla fighter or a soldier serving in a foreign army for half a year and a prisoner who spent 5 years in a concentration camp? In spite of our best efforts, we were not able to force the authorities to address this injustice. Furthermore, the participants of the Confederation of Political Prisoners (the so-called 3rd Resistance) who, except for the brothers Mašíns, also did not fight with arms, have enjoyed disproportional social benefits. For example: according to the state decree, the Confederation awarded a monetary contribution in the amount of CZK 200–600 per month to an orphan of a 2nd Resistance fighter (according to the time they either spent in jail or were actively involved in resistance actions), CZK 3,000 per month to a widow of the Confederation, and CZK 25 per every day their husband was actively involved in a resistance movement. After nearly two years, we were able to redeem this injustice thanks to Act 108 from March 26, 2009. But while we had to have the endorsement of the parliament, senate, and the president, the Confederation needed only a government resolution.

Before the start of this conference, we asked 10 sister organizations for information about social security awarded to the members of resistance movements from the Second World War. Despite our best efforts, only Poland sent us this information. But from various contact with these organizations we know that their members do not enjoy such social benefits as mentioned above, and thus it is rather difficult for us to make a convincing case. I would like to ask for help with granting the “Veteran” status to political prisoners or, alternately, with the reinstatement of the benefits granted to the members of “Group G” by

the Ministry of Defense. The Minister of Defense Mrs. Parkanová never provided a comprehensive explanation for this action. We hope that with the change of personnel, the new Minister of Defense will show a more positive attitude toward this problem. I will be able to give you a report on June 28.

Working Group: Holocaust Education, Remembrance and Research

Genocide of the Czech Roma and New Educational Projects in the Czech Republic and Abroad

► Petr Lhotka

MUSEUM OF ROMANI CULTURE, CZECH REPUBLIC

GENOCIDE OF CZECH ROMA

Before 1938, there were approximately 70,000–100,000 Roma living throughout pre-war Czechoslovakia, the vast majority of whom had settled in Slovakia. The number of Roma in the Czech lands (Bohemia, Moravia, and Silesia) can be estimated as having been between 8,000 and 10,000 persons. While the Moravian Roma lived somewhat settled or permanently settled lives in Romani settlements in south-eastern Moravia, the majority of the Czech Roma were itinerant. These groups of Roma were joined by Sinti (German Roma), who lived in areas occupied by German-speaking inhabitants.

Before the arrival of the Nazis, the typically xenophobic approach of the Czechoslovakian state toward the Roma (i.e., critical of their itinerant lifestyle) was expressed in Law No. 117/1927 Coll., “On Nomadic Gypsies.” After the arrival of the Nazis, an approach based on racial considerations began to be practiced.

A Protectorate Interior Ministry decree banning itinerancy, dated November 30, 1939, was inspired by similar measures in Germany. On the basis of this decree, all of the Roma who had been itinerant until that time were forcibly settled by the beginning of February 1940. By April 1, 1940, a total of 6,540 persons living on Protectorate territory were designated as “Gypsies.”

When Reinhardt Heydrich took office as *Reichsprotektor* in 1941, the Nazi occupation authority increased its control over events in the Protectorate. The Protectorate government issued a regulation on March 9, 1942 (No. 89/1942 Coll.) “On the Preventive Extermination of Criminality.”

At the beginning of July 1942, a reform of the Protectorate police force was undertaken to make it conform even more to the model of the German Reich and to German supervision. The Protectorate Criminal Police and Gendarmerie undertook the individual steps under the supervision of the German Criminal Police (*Kripo*). On July 10, 1942, the General Commander of the plainclothes Protectorate Police issued an order to implement the regulation on “Exterminating the Gypsy Nuisance” that had been passed on June 22, 1942 (as per the German model of 1938). On the basis of this order, a list of all “Gypsies, Gypsy half-breeds and persons living the Gypsy way of life” was compiled, and as of August 1, 1942, the so-called “Gypsy camps” were established at Lety u Písku and Hodonín u Kunštátu.

On August 2, 1942, registration of the persons designated as Gypsies and Gypsy half-breeds began. The registration results were not evaluated until the end of the first quarter of 1943. According to the data collected, a total of 11,860 persons were subjected to processing. Of these, the police bodies categorized 5,830 persons as “Gypsies and Gypsy half-breeds.” Per racial criteria, therefore,

this registry ascertained there were approximately 6,500 ethnic Roma and “half-breeds.” Their nomadic permits were confiscated. After registration, some were immediately imprisoned in the “Gypsy camps” at Lety u Písku and Hodonín u Kunštátu.

The Gypsy camp at Lety u Písku was located on the site of a former disciplinary labor camp. Even though its capacity was increased to 600 prisoners, this still was not enough, because, during August 1942, more than 1,100 men, women, and children were rounded up and imprisoned there. A total of 1,309 persons suffered in this camp, of whom 326 perished there.

The Gypsy camp at Hodonín u Kunštátu served as the site for the forced concentration of the Moravian Roma. The conditions of accommodation, nutrition, and hygiene were just catastrophic as at Lety and the camp management was identical, staffed by members of the Protectorate Gendarmerie. Approximately 1,375 persons underwent internment in Hodonín u Kunštátu. As a result of illness, primarily during the time of the typhus epidemic, and as a result of living conditions, 207 people perished there.

Per Himmler’s order of December 16, 1942 “On the Deportation of Roma to Auschwitz II-Birkenau,” prisoners of the Protectorate’s “Gypsy camps” were to be the first sent to the concentration camp at Auschwitz II-Birkenau. The German Criminal Police managed the selection of persons for deportation, but the Protectorate Criminal Police carried out the entire mission. The first transport of Protectorate Roma from Moravia to the concentration camp at Auschwitz II-Birkenau took place on March 8, 1943. Further mass transports followed on March 11, March 19, May 7, August 22, and October 19, 1943, and on January 28, 1944, deporting a total of 4,870 persons. Altogether, more than 5,000 Roma were deported from the Protectorate to Auschwitz.

On the Protectorate territory, therefore, it is estimated that approximately 200 Roma remained at large (some of them in hiding). Another group of Roma received confirmation from the authorities that they were excluded from the transports. This group was later forced to undergo sterilization. After the liberation, 583 Roma prisoners returned to the Czech lands from the concentration camps.

Roma Possessions Confiscated by the Nazis

The losses suffered by the Roma did not consist only of seized property. In some cases, the prohibition of the nomadic lifestyle and the enforced settlement of the Roma resulted in a loss of their original source of income from plying trades and its replacement by day labor. On October 31, 1942, following the registration of August 2, 1942, the Inspector of the plainclothes Protectorate Police ordered a review of the nomadic permits held by persons living in what was known as the “Gypsy manner.” This review prevented the nomadic population from carrying out their trades, depriving them of their means of subsistence. It affected a total of 340 persons, including 166 without permanent homes. Nomadic permits were withdrawn after the registration of August 2, 1942 and only three were returned after this date.

From July 1, 1942 on, anti-Roma measures were managed by the General Commander of the plainclothes Protectorate Police. The head of the organization was the Office of the General Commander of the plainclothes Protectorate Police. Provincial inspectorates were set up in Bohemia and Moravia. They became decisive in the implementation of anti-Roma measures, which had been done until 1942 by the Protectorate Ministry of the Interior.

Detailed instructions for the implementation of the ordinance on combating the “Gypsy nuisance” were issued on July 23, 1942. The instructions ordered that “the transportation charges were to be paid by the deportees” and that their ration books were to be confiscated. The persons interned in the Gypsy camps in Lety u Písku and Hodonín u Kunštátu were allowed to keep a maximum of 50 kg of the bare necessities (clothes, underwear, bed linen, blankets, kitchenware) per person. Other moveable assets of the detainees were to be sold off and their debts were to be settled from the proceeds of the sale. According to the camps rules, the prisoners had to hand in all valuables and cash on arrival. If any persons used their own caravans to reach the camps, both caravans and draft animals were seized. Prisoners in the Gypsy camps had no right to dispose of their possessions.

An order by Heinrich Himmler of December 16, 1942 became the starting point for the genocide of Roma in the concentration camp at Auschwitz II-Birkenau. According to another of Himmler’s order, the possessions of Roma interned in Auschwitz II-Birkenau were confiscated for the Reich.

The possessions of Roma interned in the concentration camp were confiscated on the basis of the Third Reich’s law “On the Property of Enemies of the Nation and State” of July 14, 1933, as were those of other groups and individuals prosecuted by the Nazis. The bodies competent to enforce this law were the Gestapo, the Reich Security Office (*Reichssicherheitsamt* or RSHA), and the German Criminal Police (*Kripo*). Until the confiscated possessions were taken over by these organizations, the State Police (*Stapo*) maintained them.

For the territory of the Protectorate, the key “legal” regulation was an edict “On Dealing with Property in the Protectorate of

Bohemia and Moravia” issued on October 4, 1939. The scope of the edict was expanded to include “enemy property” of the Roma by the German Ministry of the Interior on January 26, 1943, three days before the issue of a RSHA decree implementing Himmler’s order for deportations of Roma to the concentration camp at Auschwitz II-Birkenau. The General Commander of the plain-clothes Protectorate Police explained how to deal with the possessions of Roma persons deported to the concentration camp at Auschwitz II-Birkenau in a letter dated June 21, 1943. According to the ordinance of June 10, 1942 on combating the “Gypsy nuisance,” the deportees’ property was to be sold off at public auctions by the local communities. Proceeds from these auctions were to be deposited with the courts. Most of the property was confiscated during the transports to the Gypsy camps at Lety u Písku and Hodonín u Kunštátu in August 1942. The possessions in Moravia were to be transferred from the courts to the administration of the Protectorate Criminal Police at its headquarters in Brno and the Protectorate Criminal Police stations at Jihlava, Olomouc, Moravská Ostrava, and Zlín.

All of the deportees’ property was forfeited in favor of Germany (the Reich), and the Brno headquarters of the Gestapo could dispose of it in Moravia. The property was to be secured by the communities. Some of the confiscated property (that of persons deported on March 7 and 19, 1943) was guarded by the Protectorate Criminal Police headquarters in Brno.

The property of the Roma transported to the concentration camp at Auschwitz II-Birkenau directly from their homes was handled in the same manner as the property of the Roma interned after August 1942 in the Gypsy camps at Lety u Písku and Hodonín u Kunštátu. Cash and valuables handed in on

arrival were transferred to the Protectorate Criminal Police headquarters in Brno and Prague.

Possessions Confiscated in the So-Called “Gypsy Camps” at Lety u Písku and Hodonín u Kunštátu

All possessions of the Roma deportees were confiscated on arrival. They included cash, bank savings books, valuables (rings, earrings, watches), personal effects (clothing, kitchenware), and in some cases, caravans and horses. The internees were forbidden to own anything. Since most were deported directly from the Gypsy camps to the concentration camp in Auschwitz, the confiscated possessions were not returned to them.

In the Gypsy camp at Lety u Písku, CZK 100,000 in cash was confiscated and deposited in the District Savings Bank at Mirovice. The balance was left in the camp safe and released prisoners were paid from it. On August 8, 1943, the balance in the camp safe totaled CZK 81,367.45. It was transferred to the account of the District Savings Bank at Mirovice. Of the sum of CZK 81,367.45, CZK 49,550.15 belonged to unknown owners, CZK 32,520.45 to prisoners deported to Auschwitz, CZK 29,885.45 to the deceased, and CZK 9,011.40 to fugitive prisoners.

The Commander of the Gypsy camp at Lety u Písku handled valuables and confiscated bank savings books in the same way. Valuables (2 gold rings, 1 pair of gold earrings, 1 gold earring, 2 pocket silver watches with chin, 1 silver pocket watch, and 1 chrome-plated wristwatch) and 29 bank savings books with a total deposit of CZK 3,430.80 were entrusted to the district court in Písek after the dismantlement of the camp.

The same procedure was followed in the Gypsy camp at Hodonín u Kunštátu. A report of the Commander of the camp on confiscations of possessions from the prisoners deported on August 21, 1943 to Auschwitz II-Birkenau included: valuables (3 gold rings, 1 pair of gold earrings, 1 gold necklace, 2 silver rings, 1 silver bracelet, 1 silver chain and 1 silver chain with pendant), cash of 154 prisoners totaling CZK 72,138.30 and 8 bank savings books with a total deposit of CZK 2,187.30, all of which were deposited in early October 1943 with the headquarters of the Protectorate Police in Brno. Caravans and horses were sold at public auctions. In the case of the Hodonín u Kunštátu camp, 19 caravans whose value was calculated by the local blacksmith in May 1943 were auctioned. The best parts of these caravans (chassis and suspensions) were sold to the local peasants. The best parts sold, according to eyewitness, for CZK 300–500.

To recapitulate, all possessions of internees in the Protectorate's Gypsy camps were confiscated. They were not returned to them even if the prisoners were released. Possessions left by interned Roma families in their homes were for the most part, misappropriated or destroyed. Since most Roma imprisoned in the Protectorate's Gypsy camps were deported to the concentration camp at Auschwitz II-Birkenau, these possessions were confiscated by the occupation authorities as possessions of “enemies of the Reich.”

After World War II, a total of 538 Roma came back from concentration camps to the territory of Bohemia and Moravia. An estimated 200 individuals survived on the territory of the Protectorate either legally or illegally. In many cases, the survivors could not return home because their villages had been demolished after forced deportation. However, survivors were allowed to inherit the possessions of their murdered relatives who had

been imprisoned in the concentration camp (Auschwitz II-Birkenau). The possessions confiscated at the so-called Gypsy camps in Lety u Písku and Hodonín u Kunštátu were only partially returned and there has never been any compensation paid.

The acknowledgment of the Holocaust of Roma is largely due to Professor Nečas of the Masaryk University in Brno and also partly due to the “Union of Gypsies-Roma,” which was active from 1970 to 1973. After 1989, this work was taken on above all by the Museum of Romani Culture in Brno and by other individuals and groups.

The overall value of the confiscated possessions is very difficult to calculate. The richest Roma dealt with tens of thousands of Czech Koruna but the poorest were dispossessed. The vast majority of the Roma were poor and the value of their possessions was counted in hundreds of Koruna. According to the data from the Gypsy camps at Lety u Písku and Hodonín u Kunštátu, the value of the confiscated bank accounts savings was around CZK 350,000–400,000. The confiscated jewelry and other valuables were of some value as well. The confiscated properties (houses and lands) were estimated to be worth hundreds of thousands of Koruna.

► **Jana Horváthová**

MUSEUM OF ROMANI CULTURE, CZECH REPUBLIC

EDUCATION ABOUT THE GENOCIDE OF THE ROMA: A CZECH EXAMPLE

The Roma Holocaust in the Museum of Romani Culture

The Museum of Romani Culture (MRC) was established in 1991, shortly after the Velvet Revolution, in the Moravian city of Brno. Its founding was initiated by a group of three Roma from Brno that included the first Czech Roma historian, Bartoloměj Daniel, a deputy of the Czech National Council, Karel Holomek, and me, then a fresh graduate in history from the Faculty of Arts at Masaryk University in Brno.

The beginnings of our Museum were highly unusual and very difficult. We worked in a single rented office, which was also the embryo of the future depository for our collections. In 1992, we held our first exhibition, called *The Roma in Czechoslovakia*, in a museum in Brno and other exhibitions followed later. Although we did not have our own premises, this way we managed to show the public our collections. Gradually, people became more aware of the Museum’s existence. The state’s first significant appreciation of the Museum’s work was demonstrated through its funding of renovations of an old building for the Museum’s activities; we moved into it at the end of 2000. Thanks to the new building, the Museum was able to organize a continuous program of temporary exhibitions and to establish a permanent exhibition outlining the history of the Roma. At present, we display half of the exhibition, covering the period from 1939 to 2005. Managing the large building, organizing exhibitions, and holding cultural

events – i.e., qualitative and quantitative enlargement of the Museum's work – led to the expansion of our team. The multi-source financing from individual grants would not have covered the daily expenses of running such a museum, so we found ourselves in a difficult financial situation, but the Czech state supported us again. Since January 1, 2005 the Museum of Romani Culture has been a state-grant-aided organization under the Czech Ministry of Culture. Including security guards and service staff, the Museum now has twenty employees and the collection includes around 30,000 items.

The Museum's objective remains the same: To document in a comprehensive way the history and culture of the Roma as a worldwide ethnic group. The broad scope of our focus is also directed by the fact that the MRC is still unique in the world. Although there are several European museums with departments dedicated to Roma culture, there is no other museum outside the Czech Republic that is exclusively dedicated to the culture of the Roma.

From the start, the Roma Holocaust has been one of the Museum's main topics of research and education. In 1988, two women who would later work for the museum – the ethnographer Eva Davidová and I (Jana Horváthová) – participated in collecting evidence on the fate of the Roma in the Czech Republic during World War II in collaboration with the United States Holocaust Memorial Museum in Washington. We began recording survivors' accounts. Since the Museum was established, it has recorded dozens of interviews with Roma Holocaust survivors. We have continued the research and interview recording through today. Although on the one hand, the number of living survivors has significantly decreased, on the other hand, we now have good video and audio technology, operated by professionals who have been properly trained.

In May 1995, the Museum organized an international conference on the Roma Holocaust in the town of Písek in Southern Bohemia. It took place on the same day that a memorial to the Roma victims of the Gypsy camp in nearby Lety was unveiled. The following year, the Museum organized similar activities in a similar camp located in the town of Hodonín u Kunštátu in Moravia, a camp that had long been ignored by the public and the media. In 1997, the Museum built a memorial, created by a Roma sculptor Eduard Oláh, on the site of a mass grave of Roma victims of the camp. In the same year, the Museum published *Ma bisteren. Let's Not Forget.*, a publication on the history of the site. In 2001, the Museum published an anthology called *Memoirs of Roma Women. Roots I*, which included interviews with five Holocaust survivors. In 2003, it published bilingual (Czech and English) proceedings from an international seminar held in Prague on the Roma genocide during World War II, edited by the author of this article. The seminar proceedings offer an overall picture of the wartime fate of the Roma community in almost all of Europe.

In 1998, the Museum installed a bronze memorial plaque by the blind Roma sculptor Božena Vaverková-Přikrylová on the wall of a cemetery in a neighboring village, Černovice, where the first victims from the first period of the Gypsy camp in Hodonín were buried. The great majority of them were children.

Since 1997, the Museum has held an annual memorial ceremony on the site (Hodonín u Kunštátu). It takes place around the 21st of August, which is when, in 1943, the majority of Roma men, women, and children in the camp were transported to Auschwitz, where most of them lost their lives. Out of a total of approximately 6,500 Czech Roma, only 583 returned from the concentration camps to this country after liberation. This year, the ceremony will be held on the 23rd of August and anyone who is interested

can attend. Those who come will see that the former concentration camp has been turned into a holiday camp, now in decline, whose name – Žalov (related to the Czech words for “jail” and “woe”) – is a reference to what happened here during the war. On its premises, we can still find one of the original buildings of the camp where Roma families were held. At present talks are in progress, seeking to ensure that the Czech state purchases the entire site and builds a memorial and an international education centre on the Roma Holocaust, with a broad conception that embraces Roma history and culture in general. That would make the Czech Republic, after years of lethargy, the first country in Europe to properly reflect its history, as the Roma genocide, whose start and first two major phases took place in the Czech Lands, forms an integral part of Czech history.

In 1999, the Museum, which at the time was still a public benefit corporation, became involved in distributing humanitarian aid from Swiss banks (i.e., from the *Schweizer Fonds zugunsten bedürftiger Opfer von Holocaust/Shoa* in Bern). The Museum distributed the funds to almost three hundred elderly Roma, many of whom were illiterate and would have had considerable difficulty filing applications without assistance. Since then, the Roma survivors have become accustomed to seeking the Museum’s help in matters of possible compensation. The Museum continued such work in the following years, when the Czech-German Fund for the Future took account of other groups of victims of Nazi persecution. This recognition allowed compensation to be paid not only to the Roma who had been imprisoned, but also to those who had had to hide during the war, and to the direct descendants of those who had died before the compensation became available. The Museum handled the paperwork for almost five hundred Roma applicants before the deadline at the end of 2001. In 2002, the Museum helped to clarify and substantiate the applications that had been

submitted. The Museum also went through the fates of all applicants, and recorded the stories of selected applicants.

New Czech legislation in 2001 was intended to introduce more options for compensating people who had been persecuted on the basis of race, but it has not met the expectations. In numerous cases, the applications have been unsuccessful. Those cases concerned the Roma who had lived in independent clerical-fascist Slovakia during the war; they were not sent *en masse* to concentration camps, but suffered persecution from the Hlinka Guards and were later terrorized by the German army. They also concerned the Roma from the Protectorate of Bohemia and Moravia – those who had not been imprisoned only because they had hidden in the Protectorate or beyond its borders. In either case, their lives were at best a matter of hunger, powerlessness, and mortal peril. If survivors were unable to find at least two living witnesses to confirm their concealment, there was almost no chance for elderly Roma in the final stage of their lives to receive compensation from the Czech state. If we take into account that those people were often illiterate and had to rely on external assistance when dealing with the authorities, and that their friends and peers from the war years who would have been able to furnish evidence of their concealment were no longer alive, their chances were very slim indeed. Although our Museum has provided expert statements on Roma survivors based on verified historical facts, the successes have been few and far between. The law was formulated very unfortunately, and in my opinion the degree of willingness displayed by officials at the Ministry of Defense was less than ideal. In consequence, applications were very often rejected. Today the issue is no longer pressing, as almost none of the few dozen Roma who survived the war are among us.

The testimonies of survivors, which the Museum has recorded over the years, have also yielded some generally unknown and

disquieting information. Although the Roma Holocaust has gradually been opened up for the public, there has thus far been practically no mention of the loss of property among the Roma, and yet it is no negligible matter. The imprisoned Roma lost everything that they owned. Anything they brought with them had to be surrendered in the camps: clothes, bedding, jewelry, money, securities. The homes, furnishings, and livestock that they left behind in their villages were forfeited as the property of “enemies of the Reich.” They were sold in public auctions, or ransacked and gradually destroyed. Houses were often demolished under a program to liquidate Gypsy settlements. After the war those Roma had nowhere to go back to. Let me illustrate this point with a quote:

“The police came and told us to take what we could, and everything else we left behind. And when we got back from the concentration camp there wasn’t a single floor, window or door, nothing. Absolutely nothing...”
(H. M., born 1926, Z-9953)

For instance, the Roma had for many years lived in the Moravian spa town of Luhačovice with no serious problems. Their children went to school and the men worked as laborers. By 1940, 13 brick houses had been built in the settlement, each properly registered. Their value is indicated by archived documents such as an estimate of the value of a house, or fire insurance for a Roma house. On the 15th of March 1943, all of the Roma in Luhačovice were taken to Auschwitz; only three of a total of 68 survived. Soon after their enforced departure, all of their property was confiscated and sold off in public auctions, while their houses were demolished by a variety of “volunteers.”

Entire Roma families, instructed to report to the Gypsy camps in Lety and Hodonín, were allowed to pack a maximum of fifty

kilograms of personal property, clothing, bedding, and food. As part of the initial “cleaning” in those camps, prisoners had to surrender their documents and everything that they had brought with them. They were then assigned to accommodation units. Some Roma arrived at the camps in their own horse-drawn covered carts or caravans, which were then immediately confiscated. They were not even returned to those who were not transported to Auschwitz but instead released because of anthropological indications that proved their non-Gypsy origin:

“Then they let us go home... Our caravans stayed there, our horses stayed there, everything. What my dad had, my grandmother’s earrings, they didn’t return anything, we got nothing back, they took everything. And we didn’t get anything either. We were happy that we’d escaped. We didn’t even wait to get tickets – they opened the gate and we walked all the way to Mirovice for the train...”
(J. M., born 1932, Lety concentration camp)

Some carts, especially the good ones with what were then modern rubber tyres, were sold to local farmers in public municipal auctions shortly after their owners had arrived at the camps; other vehicles, especially caravans, had their wheels removed and were used in the camps to store materials, or as sick wards or punishment wards, and as a storage for corpses – morgues, as survivors recall:

“We had caravans, entertainments, swings... We had the caravans built... there was a workshop in Kojetín. The caravans cost eighty thousand, the same as a house at the time. Beautiful... We had sofas, a worked sideboard, rugs, curtains, cupboards. Just like in a house... My dad had two beautiful horses and when the Germans took us away, our

caravans and the horses stayed behind. They didn't give them back to us; they used them to go to Mirovice, that's a small village near Lety, and they used them to transport milk. The prisoners, you see." (A. L., born 1927, Lety concentration camp)

The personal property that prisoners brought with them to the camps was taken away during the initial inspections and stored. Clothing was to be used by all prisoners as needed, but as a rule, prisoners never saw their possessions again. It is well known that in both camps the prisoners suffered in the winter months owing to insufficient clothing, and the workshops in the camps where imprisoned Roma worked did not have the resources to provide clothing for prisoners:

"As children we all had earrings, gold necklaces, my mum had a heavy gold chain with the Madonna, and when we had to wash we had to surrender all of it. It was written down, taken away and we never saw it again." (J. M., born 1932, Lety concentration camp)

"So we arrived there with our horses and cart, which they immediately confiscated. They didn't give my dad his horses back; I know that they were six years old at the time and those horses cost a lot of money. Nor the caravans, or our things, or our quilts, or our gold. Nothing. And my dad had – they used to wear them on their waistcoats – a large gold watch and a thick chain, he had that and they took it away and said they'd store it." (B. B., born 1928, Lety concentration camp)

Excerpt from the Rules at Lety concentration camp, valid until 30th September 1942:

Duties

- 1) Persons placed in the camp do not have the right to dispose of themselves or their property...

Section 3

- 2) The clothing of persons of the male sex will be taken away and deposited in the store. All persons' property surplus and unnecessary items will also be deposited there.
- 3) Items of no value, or items that are unnecessary, will be either destroyed or taken to the scrap-yards.
- 4) Valuables and money must be surrendered to the camp's command for safekeeping; the money will be used to cover expenditure caused by willful damage of the camp equipment, personal expenditure and expenditure ordered by the camp's command.

Persons who were assigned to the Auschwitz transports lost everything they owned: that which they left behind in their homes as well as that which they brought to the camp, since that was lost during the imprisonment.

"The SS and some of the prison staff searched for gold among the wealthy Gypsies. In the Gypsy camp, there was supposedly the Gypsy 'king,' who apparently had a royal ring as one of the symbols of the old Gypsy royal dynasty. However, the secrecy surrounding the Gypsy monarchy was impenetrable, and the SS never got their hands on the heavy royal ring in the form of a snake." (Rud. Víték, doctor at the camp hospital)

“The police told us to take everything we could. Food and other things, gold, money and so on. But when we got to the Gypsy camp in Auschwitz they took it all away anyway and it was of no use to us.” (A. B., born 1926, Z-1199)

“They took us from our home, told us to take up to fifty kilograms, so we had to leave everything in our flat and we only took what we could carry...” (Alžběta Danielová, Plzeň, born 1924)

“They came suddenly at half past two in the morning, they appeared behind the house and cars were standing outside. They blocked off the house and we had to get undressed, take off our gold and we weren’t allowed to touch anything in the house.” (I. V., born 1925, Z-1777)

“We took food and the best clothes we had. I know for sure that my father also took a ring and a watch... We had to hand over our documents, fabrics and so on. And we had to hand over everything that was worth anything, even the keys to our house.” (V. D., born 1925, Z-1245)

“Once I was making jam (a Roma prisoner working in the kitchens in Auschwitz) and I was stirring it so it wouldn’t burn... And there was something hard in there... I scraped it off a bit and I saw it was a bag. I opened it, there was another bag inside and I rinsed it with water. There was a German there, a bad one, a real devil... I opened the bag and there were rings, earrings, I think there was more than 300 grams of gold. The German took it from me and kept it. All he said was ‘Gut, gut’. ‘You bet, you bastard’, I said to myself.” (V. D., born 1925, Z-1245)

After returning from the concentration camps, the Roma were not particularly welcome, and so the majority of them did not return to their original homes but began a new life elsewhere.

“The worst thing was that we didn’t have any resources, clothes, nothing to cover us. We didn’t get anything from the local council. It was a hard life for us.” (V. D., born 1925, Z-1245)

Since 2002, the Museum of Romani Culture has represented the Czech Republic in the Task Force for International Cooperation on Holocaust Education, Remembrance, and Research (ITF). The ITF cooperates with state and non-governmental organizations in member countries to support awareness of and education about the Holocaust. The greatest emphasis is placed on work in the countries of Central and Eastern Europe, where, in the decades that followed the war, any mention of the Holocaust was suppressed or distorted by the communist regimes. Among the group of experts and government representatives, the Museum of Romani Culture is the only institution to examine the Nazi Roma genocide. In 2005, the Museum received support from the ITF to build a fourth hall for a permanent exhibition covering the Roma Holocaust. The hall was opened in 2006. In the ITF, the Museum’s representative is a member of a sub-commission on the Roma Holocaust (the group’s original name was “The social status of the Roma today with regard to Holocaust education”). In the spring of 2007, the sub-commission initiated an international seminar for researchers and teachers on how to teach about the Roma Holocaust, which was held in the Museum of Romani Culture. Each year, the ITF’s plenary meetings are attended by the Museum’s historian and archivist, Michal Schuster.

The Museum was also one of the creators of the concept and supporters of the launch of an exhibition dedicated to the Czech prisoners in Auschwitz and an exhibition about Roma prisoners in Auschwitz.

In 2002, the Museum, in collaboration with the Film and Sociology Association, made a 30-minute documentary film about the Roma Holocaust entitled *Those are Tough Memories* and directed by Monika Rychlíková. The documentary recapitulates the persecution and genocide of the Roma in the Protectorate of Bohemia and Moravia and in Slovakia, working on the basis of period documents, photographs, and accounts of Roma survivors. The film is continuously screened as part of the Museum's permanent exhibition and also serves as an excellent teaching material for schools.

Along with the above-mentioned research, ceremonies, and exhibitions, educational activities for schools are among our main objectives and missions.

The Museum has an Educational Department consisting of two teachers. One of them is in charge of special tuition activities for Roma children held in the Museum's free time club; the other works with school groups visiting the Museum and prepares special program for them depending on the children's age. The key topic is the forgotten and previously unknown issue of the Roma Holocaust.

In addition to guided tours of the permanent and temporary exhibitions, the Museum offers simulated experiences of situations from the Roma Holocaust for teachers and their pupils. These programs include the interpretation of private sources (correspondence, memories, diaries, songs), timelines and experience-based learning along with the traditional fact-based methods

such as working with period documents and the press. The following two activities illustrate the general concept of the Museum's permanent programs.

The first one is a debate called *Hero or Coward*, in which participants are presented with model situations that the Roma and others had to face during the war. Each situation has two possible outcomes and the participants have to formulate their own opinions and defend them. For example, you are a mayor of a village where the Roma live. One family is summoned to a transport and you, as the mayor, theoretically have the right to claim "your" Roma and request that they be exempted from the transport. Your first option is to try to exempt them from the transport. The second one is to do nothing so as not to attract the Nazis' attention to your village and your family. Two parts of the hall, divided by a tape, represent the participants' decisions. The simulated situation is followed by a short debate and an outline of the historical context.

The second one, called *Magda*, follows the true fate of a Roma family – the Daniels from the village of Mutěnice in South Moravia. The story of the seven members of the family (all but the mother died in the concentration camps) is viewed through the eyes of the eldest daughter, seventeen-year-old Magdalena Danielová. Students evaluate the behavior of the individual actors in the story (Magda, her boyfriend, her parents, the mayor, a neighbor and a policeman) and rank the individuals from the most likable to the least. Students' opinions are compared and the story is placed in its broader historical context.

On anniversaries (e.g., the International Holocaust Remembrance Day on January 27) the Museum screens special animations (*Porajmos–Shoah–Holocaust*) in collaboration with the Brno branch of the Jewish Museum. The Holocaust is examined

by focusing on two groups persecuted by the Nazis: Jews and Roma. After the introductory activity, called *Forward March*, during which participants work with their existing knowledge, comes a theoretical segment that is focused on the use of terminology (e.g., Nazism, fascism, nationalism, prejudice, chauvinism). The most valuable information comes from working with a timeline, which presents the events of the Jewish and Roma Holocaust. Participants learn about the different sources in activities called *Regulations against Jews* and *The Holocaust Song*. That is followed by an experience-based activity entitled *What will you take with you for the transport?* A short film called *I Cannot Understand* then introduces the most important part of the program, in which participants meet Roma and Jewish survivors.

The Museum organizes accredited seminars for teachers on covering the Roma Holocaust and how to teach it. In 2009, the Museum plans to publish six toolkits for teachers (1. Racial Theories; 2. The Protectorate – The Situation until 1942; 3. The Protectorate – The Situation after 1942; 4. Auschwitz; 5. Slovakia; 6. The European Roma Holocaust). The toolkits will include period documents, articles from the press, photographs, memories, and quotations relating to the given theme. In addition to teaching materials, it will also include a comprehensive teaching program and ideas to inspire further activities. This year, we have also submitted the project of a traveling exhibition on the Roma Holocaust that will be lent to schools.

We feel, however, that there is still a great deal of work ahead. A large part of the public has yet to grasp or to accept the proven fact that the Roma were to be liquidated not for any antisocial behavior, but for their supposedly inferior genetic makeup. Even today, it is not uncommon for us to come across such alarming opinions.

► Gerhard Baumgartner

AUSTRIAN ROMA DOCUMENTATION CENTRE, AUSTRIA

AUSTRIAN ROMA UNDER THE HOLOCAUST AND THE PROBLEMS OF RESTITUTION¹

Thank you very much for the introduction. In my presentation, I will not recount the, I think, well-known and well-published facts about the Roma Holocaust in general. I will try to move a little bit further back, to present the root of the conflict between Roma and non-Roma in Central Europe and to show what we know about this persecution, and why we know about it.

I will speak about Austrian Roma and Sinti. Before the war, this was a group of about 12,000 to 13,000 people. Most of them lived in the east of Austria, in a province called Burgenland. Then, there were about 1,000 in Vienna and another maybe 2,000 in the western provinces of Austria. In the east, in Burgenland, they were Roma; in the west, they were mainly Sinti.

To cut a very long story short, when we refer to Roma, we refer to those that came in the 16th century in the context of expansion of the Ottoman Empire. The Sinti came to Europe about 200 or 300 years earlier, starting in the 13th and 14th centuries, with the retreating armies of the crusaders, and reached the regions east of the Alps in western Germany. Only later, in the 19th century, did they re-emigrate towards Central Europe.

I will talk mainly about the Roma of Burgenland, the largest group of Austrian Roma. This is a study of a population of 10,000 people, and I want to present it here because I think that the structural

¹ The speech was accompanied by a PowerPoint presentation.

properties of this group actually have a lot in common with other groups in Hungary, Slovakia, Croatia, Slovenia, etc.

These people lived in settlements; most of them did not move around. You can see one of these settlements here, a village in southern Burgenland called Stägerspach. Oberwald is another. These were small settlements at the outskirts of villages. The Roma came to this region in the 17th century. They received permits to settle down from the local nobility, and were forcefully settled down under Maria Theresia in a first wave and later granted plots of land and houses in the middle of the village, *in linea*, as it was called then.

This is the older core of the Roma population and of many of the newer settlements, like the one that you see here. They came at the end of the 19th century, when many Roma from Eastern Europe were actually pushed out of the Austrian territories of the monarchy and back towards Eastern Europe. This was due to the economic crisis within the Austro-Hungarian Empire, as these people were plying trades without having proper papers or proper permissions, and the authorities were pushing them back towards their Eastern European homelands. They were hence forcefully settled. In the communities where the police caught up with them, they were given a plot of land by the community and they were allowed to build houses on common land. This is how these settlements came about.

I am elaborating on this because it will become quite important. We had about 130 settlements like this with varying kinds of building standards. The house that you see here was very typical for the region in the 1920s, 1930s. Most of the houses did look like that, so they were actually quite far on the road towards integration. Here is a photograph from a city called Oberwald, the

local fire brigades, big celebration, and in the front row here you can see people who are the members of the local Roma community, so social integration was actually taking place there.

What were these people doing? They were mostly laborers, farm laborers, manual laborers on big manorial farms, working during harvest time, plying traditional trades as tinkers, basket weavers and producers of wicker chairs. In these photographs, if you look carefully, there is always a policeman. All these photographs, that we have, always have a policeman in them because they were all taken during police raids. We have to take into account that most of the historical sources that we have about the Roma are actually police records. The photographs were taken by the police, to illustrate police work, not to illustrate or to tell us something about the Roma. That is a typical photograph taken during a police raid. These photographs were then put together as illustration material for training policemen and later, the material was published in special journals for the criminal police. The criminal police were trained according to these materials.

Only lately, in the 1990s and in the last ten years, new research has emerged in Austria and in many other places, and many new sources have been found. These are private photographs taken by private persons. The people look a lot happier in these. So they give us quite good insight into what these settlements and life in these settlements did look like. They were taken here; this is the largest collection of these photographs. About 1,000 photographs of Roma settlements in Burgenland in Eastern Hungary were made by the person in the centre of the picture. He actually was a Jew from Graz – he also took this picture – Alfred Rhuman, an entrepreneur and hobby photographer, who fled to Sarajevo and died there in 1939.

Back to the Roma: How do we know who these Roma or Gypsies were, as they were called? With Jews, it was quite easy because if you were a Jew, you were a member of the Jewish community or your parents or your grandparents had been. But no such records existed for the Roma population. We have different counts of the Roma from this area of Burgenland. If you watch the bottom-line, you will see that from year to year, the total varies considerably: In 1934, it is 6,500; in 1936, it is already 7,871, so these figures do not really make sense.

The major problem was determining who was a Gypsy and who was not. We know we can answer this question because many communities kept separate files, Gypsy records, or Gypsy files. I have taken here one from a village called Unterwald. They have different filing cards here, pink for the ladies, blue for the men, not very original. The cards give you all the vital data here of the people involved, including some vital information such as whether this person served during the First World War in the army. Some other records would be school records, where we find remarks such as this one about a pupil: as a Gypsy, he is bad or misbehaved, lazy, and lying.

What are the reasons and the roots for the conflicts between the Gypsy and the non-Gypsy population? First, Austria's 1923 Social Welfare Act did away with the first federal models of social welfare and referred the whole problem back to the local communities. This meant that the local communities had to pay for the medical costs, for all the social welfare costs of the local poor. Many of these poor were the so-called Roma.

Second, dealing with the "Gypsy question" became very prominent after the First World War among the police. Why would that be? Because the "Gypsy problem" was the first instance

of international police cooperation. Interpol was founded and had its first base in Vienna because it was meant to keep an eye on the moving so-called Gypsy populations. If you wanted to have a career in the 1920s within the police, Gypsy policing was the place to be because everything was there. Fingerprinting was introduced there, photographs were introduced there, you were in international relations – that was the place to be.

The criminal police also created a separate "Gypsy Kartothek," Gypsy files, where all males and females over the age of 14 were photographed, and were given a little file. These files, this database was in use until the 1960s. We have never found it, and are still searching for it.

The situation in the villages deteriorated during the world economic crisis. Why? It has a lot to do with the social structure of Central and Eastern Europe. Western Europe is a region where generally, in the rural areas, one child inherits the farm. Eastern Europe or large parts of Eastern Europe have a different model, where all of the children inherit, which for farming has quite catastrophic consequences because you end up with small farms. These "pin stripe" fields are 300 meters long and 6 meters wide, so you cannot really farm them to survive economically. During the economic crisis, when the unemployed people from the cities, who were officially still owners of some of farmland which their brothers usually were farming, became unemployed, they all came back into the rural areas, pushing the local Roma laborers out of the labor market.

The Roma became very poor and had nothing to live on. Social conditions were unbelievable. Infant mortality within the Roma population of Burgenland, where we have figures, was 60 percent.

Sixty percent in the late 1920s, early 1930s! Social conflicts became very bad. In 1933, the first conference was convened again in Oberwald, among Austrian parties about what to do with the so-called “Gypsy problem.” All of the ideas that you have ever heard about in the context of the Holocaust were voiced there: put them into camps, take them to Africa, ship them to Madagascar. One of the participants even started his speech with the sentence: “Since we cannot kill them...” As you see, the formulation is in the negative, but the idea was there already.

To “free Burgenland from the Gypsies” was a major slogan of the Nazi party and the program for it was written by somebody called Tobias Portschy, who said: “Germans, if you want to be the gravediggers of Nordic blood in Burgenland, you only have to neglect the danger that the Gypsies pose.” This is the contribution of Nazi ideology to this question. They introduced racial theory into this cauldron of social conflict.

The Nazis also introduced two other concepts. One was the concept of crime prevention, meaning that it is better to lock up the culprit before he has done something wrong. The other was the conviction that social behavior is biologically determined, which meant that if you came from a family of evildoers, you would also end up doing the same things. Research on this “racial theory” was carried out by Robert Ritter. Here is a picture of him in Austria with a Roma woman in 1943.

I will not go into this because in the long run, racial research did not have such a large effect. Why? Because the Nazis did not know what to do with it. Even Robert Ritter realized that by measuring noses, you do not get anywhere. So, after a certain time, they started to draw family trees, which for us social historians are very important. Of course, Ritter’s research was responsible

for the fact that thousands, who did not even know anymore that they had some Roma blood in them, became the victims of persecution. Hundreds of soldiers were called back from the front lines, and were arrested at home and then sent to concentration camps. However, in determining who would be deported or not, this racial research did not really play such a big role.

Basically, those people who in the 1920s had ended up on a list of local Gypsies were deported. Therefore, if the local policemen thought that you were a Gypsy, and you were on the list, you were probably deported. If not, then not. In late 1943, the whole attitude towards Gypsies also changed. I will not go into that, but by then the Nazis had discovered that the Roma were actually Aryans. Something had to be wrong because an Aryan could not be all bad, so they tried to create a solution by saying that the original Roma, as Aryans, had been very good, but because they had intermarried with all kinds of peoples in the east, they had become very bad. Now they were looking for the pure Gypsies and tried to not include them in the deportations. We know from some examples in the local archives some interesting stories: there is a document from Lower Austria, where people met together after receiving this new order about not deporting every one. The local administrators said: “Oh, you know, maybe this is our last chance to deport them to Auschwitz in this case, in 1943. We will just deport everybody. We will just deport all of them. We do not deal with these racial finer points.”

This is Heinrich Himmler’s *Festsetzungserlass*. Point 1.4 says: “Persons who according to their appearance, their habits, and customs are considered Gypsies and half-Gypsies.” So there is nothing about descent. And persons living according to Gypsy fashion. So it is social behavior basically, that determined who was considered a Gypsy, and who was not.

Here are the major facts of what happened to the so-called Gypsies in Austria, after the annexation of 1938, according to the *Festsetzungserlass* order by Heinrich Himmler, which said that no one was allowed to leave his permanent residence. The first deportations were to Dachau; in 1939 there were deportations to Ravensbrück, Dachau, and Mauthausen; in 1940 to camp Lakenbach, the first and only Gypsy camp set up within the German Reich. In 1941, there was a big deportation to Litzmannstadt, and in 1943 a deportation to Auschwitz.

At one point in 1939, the SS required unemployed Gypsies from Burgenland to be sent to the concentration camps to work there. The answer of the local administrator is posted in the presentation. He said that there were no unemployed Gypsies because the war economy had sucked the labor market dry, and the Gypsies were working again. But, out of racial considerations, he sent these Gypsies into the concentration camps. And here is where the vicious circle started.

Those people who were employed and who were able to work were sent into concentration camps, leaving the old and the children behind in the villages. Those villages that were complaining about the costs of social welfare, and wanted them to be deported, now had to pay even more, and the more people who were deported, the more people the villages ended up having to pay for, because the elderly and the children were not deported until 1941. In 1941, the children were deported in the big deportation to Auschwitz-Birkenau.

This is the Gypsy camp Lakenbach, which was established in 1940 and then comes Litzmannstadt. Five thousand people were deported, 60 percent of them under the age of 12. They came to Litzmannstadt in November; the Jewish ghetto

administration said: "We are responsible for lots of people, but not for these 5,000 Gypsies. You have to feed them yourselves." Which meant that for ten days, they did not get anything, no water, nothing, not from the Germans, and not from the ghetto administration. Typhoid fever broke out; 630 people died and were buried in the Jewish cemetery in Budz, and the rest were deported to Chelmno, and probably to Gest or Schöttingchelmno, we do not know. There was only one survivor, who was a cobbler, who was taken to an army workshop outside Litzmannstadt and survived.

This is the photograph of the camp, the largest tragedy of Austrian Roma. There will be a memorial constructed by the city of Budz. The Roma of Burgenland owned 1,357 houses in their 130 settlements. Most of these were built on common land – the house belonged to the Gypsy family, the land belonged to the community. This is in legal terms called *superedificatum*. When the survivors came back, they had no way to prove that they had ever had a house because it was not entered in the land register. The Roma mostly did know about the possibility of entering their houses into the land register. The community did not do it because it was not interested in doing so. Most of them were, therefore, not compensated.

Compensation legislation for the Austrian Roma started rather late. The first laws of 1947 did not recognize the Roma as victims at all. Only in 1964 they were really recognized and given a little bit of money for the times spent in concentration camps. Mostly, they were excluded because one of the prerequisites for compensation was that an applicant could not have a criminal record and many of them had been fined in the 1930s and 1920s for things like loitering, petty theft, vagabondage, or carrying out trades without permission.

To give you one example, a famous Austrian socialist representative, Rosa Jochmann, came to the village of Unterwald in 1957 on an election tour, and she found her campmate from Ravensbrück living in a hole in the ground. It became a major scandal then. But nobody had been trying to help them and the local administration had banned her from compensation payments on the grounds that she had received these fines, not convictions, but fines from before the war.

Finally, I have to mention two things: Austria has set up three major funds for the victims. In 1995, the National Fund, in 1998 the so-called Forced Laborers Fund and in 2001, the General Compensation Fund. The head of the National Fund, Hannah Lessing, is here at this Conference. I think that Kurt Wegscheidler from the Austrian Ministry of Social Welfare is also here. They have been financing a lot of the research that we have been doing on this.

To conclude: If you look at my pictures, the most important thing is the people there. For about 60 years, we did not even have the names of the victims. Five years ago, we were able to start a project with the support of the funds and the Ministry of Social Welfare to determine the names of these 12,000 Austrian victims. We are nearly there and have established about 8,000 of them. Now, we will be able to put names to these faces. When you look at this last photograph, which was taken in 1936, remember that more than 90 percent of the Austrian Gypsies perished. Out of these eighteen children, only one had a statistical chance for survival. And whenever I look at it, as a parent, it breaks my heart.

Thank you.

► Edward Serotta

CENTROPA, AUSTRIA

FROM PRESERVING JEWISH MEMORY TO BRINGING JEWISH HISTORY TO LIFE: THE OLD-FASHIONED ART OF STORY TELLING, ORAL HISTORIES, AND SEARCHABLE DATABASES OR, HOW WE BUILT A DIGITAL BRIDGE BACK TO A WORLD DESTROYED

Centropa was born in 1999, when I was working in Arad, Romania, making a film for ABC News Nightline (USA) about a small and struggling Jewish community. Although the film was about the wonderful meals they were preparing in their soup kitchen, each afternoon I went home with the elderly Jews who worked and ate there.

As I sat on their sofas, and while they plied me with tea and poppy seed strudel, these last survivors of a world destroyed showed me their family albums and regaled me with stories of stiff-backed uncles in the Austro-Hungarian Army, grandparents who had been deeply religious, parents who were less orthodox and who had run small shops; and there were a great many pictures of brothers, sisters and cousins on hiking holidays, in school, and in Jewish youth clubs.

Every picture they pointed to had a story. Every story led to another. Even though the majority of the people in those family albums had been murdered during the Holocaust, that was not what they wanted to talk about. It was as if they had a need to share these stories, if only to keep alive a tiny flame of remembrance.

Sitting there, however, it was clear that these stories, like so many others, would die with the people I was sitting with, and

we would all be the poorer for it. I decided I had to do something. But what?

Soon thereafter, while editing my film in Budapest, I met two young historians, Eszter Andor and Dora Sardi. Their grandparents were Holocaust survivors. Their parents had been Communists – until 1956. Their children were attending Jewish kindergartens. And Eszter and Dora wanted to make sure that their children, who would be graduating university in 2020 or thereabouts, would know something of their great-grandparents' lives.

Eszter and Dora had watched their grandfathers' Shoah Foundation video interviews. They felt not only deeply moved by what they had seen; they told me they were proud that these interviews, along with so many others, would help document mankind's single greatest crime.

But that was not enough, they said. "We cannot just show our children how their families were murdered. Once they are old enough, and once their great-grandparents are no longer here, they will want to know how they lived."

I thought back to the sofas I had sat on a few months earlier in Arad.

That is how Centropa was born: with the clear goal of preserving the memories of an entire century, and of doing so by using new technologies to marry old pictures to the stories that go with them.

Our Methodology

Having worked in both print media and in television news, I have never been convinced that video was the only way to conduct an

interview. We decided to use audiotape and build a methodology that would revolve around our respondents speaking about their lives. We divided every life story, as best we could, into a series of chapters, all of which can be found in our online oral history tool kit, accessible from www.centropa.org. For photo and data capture, we used Filemaker, a low cost, sturdy database that allows great latitude when it comes to creating keywords and cross referencing.

Time and space does not permit me to go into detail about how we conducted our interviewing, but here is a brief summary.

First, we have to thank Kim Simon of the Shoah Foundation, for Kim set us right from the start: do not rely on interviewers to coordinate their appointments and all the technical follow-up work. We would need a strong coordinator, and the success of our project in each country would depend exactly on this person.

Rarely have I received such excellent, life-saving advice, and where we had strong coordinators, we succeeded brilliantly. Where we did not, I fired them and shopped around until I found the right ones.

Second, Centropa never used volunteers. That is because our methodology is murderously complex and time-consuming. It took an interviewer a minimum of thirty hours to complete each interview:

- ▷ Spending four to twenty hours with each respondent;
- ▷ Transcribing every word in the original language into an MS Word file;
- ▷ Entering the data into Filemaker databases we created for capturing the data;

- ▷ Going back to the interviewee after the editor read the interview;
- ▷ Taking the entire transcribed interview, knocking out all the questions and putting the life story into chronological order; and
- ▷ Working with the scanner, the translator and the coordinator.

No volunteer would dream of spending 30 to 40 hours on any project – at least we never met one who would. And so, we had to pay the going rate which, even in Central Europe, started at EUR 100 per interview and quickly climbed to EUR 300 to EUR 400, depending on the country.

When you add in the transcription, translation and editing costs, plus fees for scanners and all the data entry time and work by the coordinator in each country, interviews ended up costing between EUR 800 and EUR 1,500 each.

Third, we began by holding a training seminar in St. Petersburg for prospective interviewers in 2001. We asked historians and college professors as well as local and international Jewish organizations for names of prospective interviewers.

More than forty-five people were happy to accept free trips to St. Petersburg, eat good food, and take part in our seminar. When they saw how difficult and complex our methodology was, all but four dropped out.

Eszter and Dora then devised a plan. In order to take part in a Centropa seminar, each participant would have to submit a

very basic Centropa interview beforehand. They would receive EUR 50 for their trouble, and if we ended up working together, they would receive the full amount.

Our next seminar was in Budapest. Seventy-five people applied. Thirty sent in test interviews and were invited to attend. Of those, twenty stayed with us for more than two years.

As for how we found our interviewees, that was easy. Since most of our interviewers were Jewish, the first people they interviewed were their grandmothers. The very next day, our interviewers would get a telephone call from someone who played bridge with their grandmothers. “Darling, you know I love your Oma and you know I love you. But with all due respect, your grandfather, may he rest in peace, was a butcher. A wonderful, honest butcher I can tell you – and that is no small feat – but darling, my husband was an attorney, one of the most famous...”

That is how we found the majority of our interviewees.

Lessons Learned

This list is by no means complete but it gives an insight into some of the more ironic and downright funny things we learned.

- ▷ When phoning elderly Jews to ask for an appointment, they will invariably say, “But I don’t have any pictures.” Go visit them anyway. Sitting on their sofa, they will immediately start telling stories, and suddenly they will get up, go into the bedroom and lay a picture before you. They will continue, and in a few more minutes, they will dig into a draw and pull out a second picture. This will go on until they pull out at least a dozen.

- ▷ Our best interviewers proved to be women in their 40s or older. In fact, we can be even more specific: married women with children. Why this is I cannot tell you, but in general, women with a couple of children are invariably geniuses at organizing. They also have the patience to listen, and listen, and listen. Further, while these women are not generally adept at using our Filemaker databases, we must say they displayed an almost stubborn attitude toward learning it, and by and large, this subset of our interviewers did a marvelous job.
- ▷ Resist, if you can, interviewing the most famous Jew in town. This is invariably someone who is used to presenting their story exactly as they want to present it. They do not like needling questions, and questions that double back or dig down past their standard presentation. They will get angry. You will not succeed.
- ▷ Always check dates, facts. We are not concerned if they get a date or fact wrong, but we always try to spot the errors and then place an editor's comment in brackets [] next to the error.
- ▷ Check the Jewish references, especially if the interviewer is not Jewish, or it is not knowledgeable about Jewish traditions. That is because often, respondents will want to sound like they remember their Jewish backgrounds even when they get a bit confused. My favorite, which we heard in Belgrade: "Of course I remember Yom Kippur! That's the night my parents would put on their very best clothes and go to synagogue for gambling night!" In a very few cases, like this one, we deleted such comments.

- ▷ Be extremely careful when mentioning children and grandchildren. It is better not to mention them by name in the published versions at all. Try to get their permission. And do not print negative comments about daughters-in-law, of which, I can assure you, we could fill a book.
- ▷ Obviously, you need a contract written by a rights attorney in each country. We have done this. It does not always protect you from relatives calling and claiming "My mother never told you that." Even though we have their words on tape, we generally remove the offending comment.
- ▷ Never allow your interviewers to purchase photos. This would open a Pandora's box that we made sure stayed closed.

Putting the Database Online

Between 2000 and 2008, we interviewed 1,300 elderly Jews in fifteen countries. We digitized 25,000 old photos. We have around 55,000 pages of MS word documents in the way of biographies.

Since no one has ever done just what Centropa has done – using new technologies to combine oral histories with family photos in a searchable online database, our search engines and databases have been in a constant state of upgrading and adapting since the launch of our English language website in 2002. Our Hungarian language site was launched in 2005 and our German language site was launched in 2006.

More than 260,000 unique visitors come to the English language site annually and return at least 3.5 times each year for a total number of nearly 900,000 visits. They register nearly 4,000,000 hits per year.

We have created special search engines not only for each country, but special thematic ones as well: Jewish soldiers in the Soviet Army, Jewish families that fled to Central Asia, Jewish family stories of those who survived the Stalinist purges.

The site needs continual upgrading and adaptations but with the current economic situation as it is, we are being quite cautious. At this stage, we have around 700 family stories online in English with 12,000 photographs. The final edits are costly and time consuming but we are adding a few more each month.

Education

Centropa has three distinct audiences for whom we are developing our pilot educational programs, and all of them are inter-linked:

- ▷ Jewish high schools in the USA;
- ▷ Jewish high schools in Austria, Germany, Hungary, Bulgaria, and the Czech Republic; and
- ▷ Non-Jewish high schools in Austria, Germany, Hungary, and Romania.

These will soon expand to non-Jewish high schools in the USA, Jewish congregational schools in the USA, and high schools in Israel. By the fall of 2009 we will also be working in non-Jewish schools in Bulgaria, the Czech Republic, and later in other countries as well.

Our largest potential market, obviously, will be the non-Jewish schools in Europe, and as of June 2009, we are piloting the

program in one form or another in nearly sixty schools (ten of them in the USA) in seven countries.

The Genesis of Our Educational Project

No sooner had we launched *www.centropa.org* in 2002, than we began receiving emails from teachers in American Jewish high schools telling us how much they liked our approach to 20th century Jewish history. They wanted to know what sort of educational program we were offering.

At the time, we had none, so we began visiting these schools to query teachers and students on what they liked about Centropa. The answer: stories! Personal, human stories that the teachers and students were drawn to, could learn from, and relate to.

In 2006 and 2007, we hired Ulrike Ostermann and Wolfgang Els, star graduates of Austria's best film schools. They began making short "films" comprised of old family pictures and biographies and used special effects and music composed specially for the films.

We took the films back to the USA and, in the course of visiting these same schools and conducting focus groups in them, we asked nine history and Holocaust teachers to become our sounding board as we developed the educational program. The idea was to use them all during the pilot, or beta phase, of our project, which is now at the end of its second year.

To help professionalize the program, in 2007, we hired two California-based educational consultants, Eileen Soffer and Nechama Tamler, who have been working closely between us and our core teachers ever since.

This has been the key for developing our program. Since 2007, we have conducted two eight-day international seminars, bringing together American, Hungarian, Romanian, German, Austrian, and Bulgarian teachers.

During these seminars, our teachers worked in small groups to watch our films, and then presented these same films, and their ideas for teaching them, to the rest of the group. At each of our seminars, the teachers gave us a list of improvements we needed to make so that they could more easily use the programs in their classes. For instance: Teachers told us they needed “one stop shopping” – a single website to which to send their students to dig down deeper into each story. We therefore created an online study guide in six languages that teachers in many countries can use.

Students and their teachers both asked for a more interactive program, so that students can add their own content. In response, we created Border Jumping, which allows the students to photograph Jewish sites in their towns, upload them onto a page we make for them, and then describe those sites – in English.

Teachers in Germany and Austria asked us to make available to them our Slovak, Hungarian and Romanian films with English, not German subtitles. This allows them to use the program in English class, not in history class.

In other words, by having listened to teachers on both sides of the Atlantic, we have created a cross competency program – one that that students not only learn from, but also participate in, by using the social media programs they love.

We pay our teachers to write their own lesson plans for each of the films. We post these lesson plans online so that when

Kristallnacht is approaching (for instance) teachers can find a lesson plan for one of our films to use waiting for them online.

We have also established a model for shorter seminars, which we have now conducted in Cologne, Hannover, Berlin, Vienna, Budapest (three), Timisoara, Arad, and Bucharest. The photo above was taken in June 2009 in Budapest, with teachers from Slovakia, the Czech Republic, and Hungary.¹

These weekend seminars bring teachers together to exchange best practices after watching our films in small groups, and they also visit Jewish sites, listen to lectures by well-known historians, and return to their classes committed to using our material. We even follow up with *Kaffee und Kuchen* roundtables to make sure that the networks we are establishing will continue.

Evaluation

Because we test our program at every stage, much of our evaluation is built in as we move our pilot program from beta to alpha. We have developed two low cost methods that provide an acid test of sorts of the project’s attractiveness.

First, we ask each teacher to write up an honest assessment of the program and we ask each a simple question: Will you use Centropa next year? Considering how busy teachers are, and how much they have to get through in a single year, this is far and away our most effective question.

We also ask students to fill out surveys rating each film and the effectiveness of the course itself. We ask the students for their

¹ The speech was accompanied by the PowerPoint presentation.

frank and honest opinion of the program, and we ask them what else we need to do to make it more engaging.

It was, in fact, students who suggested we put the films on the Apple iTunes Store as free video podcasts, and it was a group of American students who asked if we could develop an online micro-philanthropy project, so that they could send flowers, tea, and cakes to some of Centropa's senior citizens, who meet regularly in Vienna and Budapest.

Further Development

Regrettably, during these very difficult economic times, we are hampered from developing the program as quickly as we would like, but these are the programs now in development:

- ▷ The aforementioned online micro-philanthropy project;
- ▷ An online homework form, so that after each film, students will find a set of questions waiting for them. They fill in the answers, add their teacher's email address, and then send the teacher the answers;
- ▷ More films on Jews from the former Soviet Union, which will include stories of being imprisoned in the Gulag, fleeing to Central Asia during the war, and more Soviet Jewish soldiers' stories;
- ▷ More films from Poland and the shtetls of the Baltics;
- ▷ More films from Sephardic communities; and
- ▷ An online grid for teachers to use, in which they can

choose an event or year or theme, and a menu of films fitting that description will pop up for them.

Finally, there is another project we are now beginning to develop: a set of films from Bosnia, Bulgaria, Serbia and Turkey, all created from Centropa interviews that show Jews, Muslims and Christians getting along remarkably well – Serbs saving Jews during the Holocaust; Bulgarians saving the country's Jewish population from deportation; Jews, Muslims and Serbs and Croats all helping each other in Sarajevo in the 1990s war; and finally, the story of a woman in Istanbul who converted from Judaism to Islam to Judaism and back, while her children are Protestants in Scotland.

These are films that accent civil society and we call the program *Living Together; Standing Together: The Sephardim, the Ottomans, Turkey and the Balkans*.

We will aim toward those schools in Germany and Austria with high populations of students from these countries, especially those students in technical schools.

A Surprisingly Effective Teaching Tool: Our Exhibitions

We are now creating exhibitions based on our interviews. We simply take the best pictures and stories, color-code them by theme: at work, in school, portraits, Holocaust, in the army, religious life, etc., and print them on two-meter tall roll-ups.

Although we made two smaller exhibitions in 2005, our Romanian team created an exhibition of these roll-ups for Sibiu 2007, EU Capital of Culture. This exhibition, consisting of 93 posters, proved to be so popular it was not only shown in the national

parliament, but has since traveled to six cities throughout the country and has now been seen by an estimated 5,500 high school students.

Dr. Felicia Waldman, director of the Jewish Studies department at Bucharest University, and Anca Ciuciu, our coordinator there, devised a teacher training program that brings dozens of teachers to the exhibition when it arrives in each city, and they spend an entire day with them. By watching Centropa films online, and then reviewing Romanian Jewish history, teachers begin to establish ownership of the exhibition, and look forward to bringing their students.

Further, teachers and their students are encouraged to interview their own grandparents and bring their pictures to the exhibition as well, where they also tell stories.

This exhibition has now been replicated in the Czech Republic for the EU Presidency, 2009; for Linz 2009 (the EU Culture Capital); and a special exhibition is being made for the Swedish EU Presidency.

For further information about our educational programs, please contact me, Edward Serotta, at Serotta@centropa.org or the director of our education programs, Fabian Ruehle, at Ruehle@centropa.org.

► **Denisa Haubertová**

OFFICE OF THE GOVERNMENT, CZECH REPUBLIC

PROPOSAL FOR A EUROPEAN INSTITUTE FOR LEGACY OF THE SHOAH

Dear Friends:

The small town of Terezín lying in the middle of Bohemia could have been just a sleepy unimportant place. No one would hardly have noticed its existence and even the tourists might not have known about it, with the exception of those who were interested in the art of military fortification. The worst catastrophe that could have affected it might have been the terrible floods that hit this region in 2002. Unfortunately, this was not so. On the contrary – this natural catastrophe, how tragic and devastating it might have been for the inhabitants of Terezín – is almost nothing in comparison with the shadow that lies over this city even today. It is the tragedy of the Shoah and the so-called Final Solution of the Jewish question. This shadow has to disappear one day. But the legacy should remain. Therefore, we are coming to you with the idea of the European Shoah Legacy Institute in Terezín.

It is the Czech government's initiative, in line with the Terezín Declaration and with the Czech–EU Joint Declaration, to establish the European Shoah Legacy Institute in Terezín (the Terezín Institute). The Institute should serve in broad terms as one of the instruments in the fight against racism, xenophobia and anti-Semitism in Europe and the rest of the world and call on other countries and institutions for support and cooperation.

The Institute will follow up on the proceedings of the Prague Conference (both the Terezín Declaration and the Czech–EU Joint

Declaration). It will serve as a voluntary forum for countries, organizations representing Holocaust (Shoah) survivors and other Nazi victims, and NGOs to note and promote developments and to share best practices and guidelines in the areas covered.

It will operate within the network of national, European and international institutions and organizations, ensuring that duplicative efforts are avoided, for example, duplication of the activities of the Task Force for International Cooperation on Holocaust Education, Remembrance, and Research (ITF).

In order to facilitate the dissemination of information, the Institute will publish regular reports on activities related to both Declarations.

The Institute will extensively use cyberspace for its activities, will develop website to facilitate the sharing of information, and will maintain and post lists of websites in order to become an index website of websites on Holocaust issues.

What are the general objectives of the Institute in the areas covered? Education, Remembrance and Research, Holocaust-Era Assets, Caring for Holocaust Survivors and Other Victims of Nazism:

- ▷ To conduct research and issue reports on achievements;
- ▷ To encourage cooperation and the sharing of experience, best practices, and recommendations at the national, European, and international levels;
- ▷ To make every effort to maximize funding, which could come from the resources of the EU, individual countries and international organizations and foundations.

The Institute will also, in a second phase, develop its own educational programs using modern educational methods in several languages. It will be equipped with multimedia technology and a film library and will offer multimedia exhibitions. In general, the Institute will promote the systematic education of all age groups and their awareness of the unique history and legacy of the Shoah and its relevance to modern conflicts. On the other hand, the Institute will be focused on social care for survivors.

One of the first practical tasks would be the facilitation of an intergovernmental effort to develop *non-binding* guidelines and best practices for restitution and compensation of wrongfully seized immovable property to be issued by the one-year anniversary of the Prague Conference, and no later than June 30, 2010. Another task will be to develop the idea of establishing an international association of provenance researchers and other such mechanisms.

Venue

The Institute will be headquartered in Terezín.

Form

Nationally: association of legal entities – the ministries in cooperation with the Jewish community.

Internationally: linked to EU institutions, international organizations and national governments.

Patronage/Board of Directors

Governance of the Institute will include representation on the national, European, and international levels.

Staff

In addition to staff directly hired by the Institute, the Institute will cooperate with public and private organizations; activities will be outsourced and provision will be made for relevant organizations to second their staff to the Institute.

Funding

- ▷ Investments – Funds to be provided under the Integrated Operational Program as a project of the Ministry of Culture of the Czech Republic
- ▷ Operating costs – Funds to be provided by:
 - Czech Republic: provided by Government Decision (expected Autumn 2009, annual contribution to operating costs);
 - European Commission: support could come from EU programs requiring calls for proposals, such as: Lifelong Learning Program, Europe for Citizens, Structural Funds, Culture 2007–2013, PROGRESS, The Year 2010 – the European Year for Combating Poverty and Social Exclusion;
 - Foundations: proposals to be made to relevant restitution foundations and organizations;
 - Member States: voluntary annual contributions by individual governments.

It is a matter of fact that there are several institutions all over the world dealing with these issues. The Institute is not going to substitute for these, but to establish a link between them, to

promote education about this tragic historical period at all levels, to monitor existing activities, such as social programs, to focus on the needs of survivors, and last but not least, to provide information to people, institutions, governments, and the European Union about the above-mentioned activities.

► Jan Špringl

TEREZÍN MEMORIAL, CZECH REPUBLIC

THE TEREZÍN MEMORIAL'S NEW APPROACHES TO EDUCATION PROGRAMS

Ladies and Gentlemen:

In my presentation, I would like to first of all talk very briefly about the history of the educational department at the Terezín Memorial and then I will inform you about our new activities and approaches to our educational work.

The educational department at the Terezín Memorial was established at the end of 1992. Its principal aims are: to offer accurate information about the Holocaust and the role of Terezín during the Second World War; to work with younger generations and to prepare seminars and other activities for them; and to organize seminars for teachers and design study materials for them. The main aim is simply to educate younger generations about the dangers of Nazi ideology and to improve education through connection with teachers.

The structure of seminars for Czech teachers has four levels. The first and second levels take place in the Czech Republic (in

Terezín and Prague). We cooperate very closely with the Education and Culture Center of the Jewish Museum in Prague and the Museum of Romani Culture in Brno. The third level takes place in the Ravensbruck Memorial, or State Museum, in Auschwitz. And participants of the fourth level have a great chance to visit and study in Yad Vashem in Jerusalem. The main aim of these educational seminars is to expand teachers' knowledge and to inform them of ways, approaches, and methodologies to teach this very difficult topic.

Teacher-training seminars indirectly educate younger generations. I have to say that a very important activity of the Terezín Memorial is to directly educate younger generations by organizing seminars especially for pupils and students. Programs include short lectures, tours, workshops, individual works, presentations and movies. We specialize in teaching pupils more than 14 years old and students from high schools; the reason for this being that there is a demand for organizing seminars for children of this age.

We have carried out some activities with children for many years. We are always trying, of course, to improve our work. At this time we have an excellent opportunity to do so, because one year ago we established a new seminar room with 20 computers. We can now develop educational products to fully utilize this facility.

Now I would like to present our new activities and projects relating to this new opportunity.

The first one is the production of new educational tools, including the testimonies of survivors. We cooperate with the Shoah Foundation Institute for Visual History and Education in Los Angeles. The archive of this Institute contains over 50 thousand

filmed testimonies gathered in 56 countries and 32 languages. Some testimonies are connected with the history of Terezín. For educational use, it is very important that survivors speak not only about the tragedy that befell them, but also about their childhood and their experiences and day-to-day life. They often broach questions of fairness, justice and other issues, which we all confront in our daily lives.

The creation of the project has included three main parts: The first one has been enriching the existing lectures of our seminars. During lectures we can use clips of testimonies that we have created. The second part has been creating a new workshop called Effect on the Bystander. The methodology of this lesson is the following:

1. Opening of the lesson, formalities, introduction (3 minutes)

Brief introduction of the topic to the students

2. Who is a "bystander"? (5 minutes)

Brainstorming on the topic "bystander." The lecturer writes answers in keywords on the blackboard or on a flip-chart. The lecturer initiates a directed discussion, inspired by the remarks on the blackboard or flip-chart and, together with the students, looks for answers to the questions: Who is a bystander? Am I or was I a bystander too, or you? How does a bystander behave? Why does not she or he actively engage herself or himself in the situation, as she or he stands by?

3. Transports from Terezín (10 minutes)

Brief explanation of the ghetto of Terezín and transports – why it was founded, when, and what function it fulfilled.

4. Working with the clip called “On the Way to Terezín” (10 minutes)

Watching the clip “On the Way to Terezín”

The lecturer gradually asks the following questions: Who was the bystander in the clip? Have you noticed some people other than bystanders? What would you call them (victims, perpetrators)? Did the bystanders have a chance to intervene? Why or why not? What would you do in the same situation?

5. Model of an intervention (10 minutes)

Students get a chart of Latané-Darley’s five-step model of intervention. Students fill out the chart, answering the questions as they suppose the bystanders in the clip would, and try to explain when the so-called moment of “stopping” could occur. The lecturer gradually asks questions: What influences the decision making of the bystander? When they stop at step 1, 2, 3, 4, 5? Or when she or he does not stop at all? Is she or he in this case still a bystander? Do we agree with the motivations of a bystander?

6. Conclusion and final summary (10 minutes)

The third part of the project has been the creation of model lessons for schools. We created a team that includes four teachers who have had many experiences in schools; they knew how to present these lessons created in relation to effectiveness,

atmosphere at schools, limits of schools, etc. Every teacher in the team has already created his or her own project. We have prepared a book containing these lessons. It is going to be printed in a few days and we will distribute it to some schools.

This has been information about our project with the Shoah Foundation. In concluding, I would like to speak very, very briefly about our last, but not least, new workshop called “System and Me – or Holocaust Denial.”

We practice this activity in our new facility with computers and we use the Internet and websites on Holocaust denial and neo-Nazis as a weapon against them. The steps of this activity are the following:

- ▷ Introduction of the websites¹ – Websites supporting Holocaust denial, nationalism, and Nazism, educational websites aimed against anti-Semitism, prejudice, and racism.
- ▷ Discussion – Confrontation of the two types of websites; discussion of the contemporary ideologies of Holocaust denial, anti-Semitism, nationalism, and racism; recognizing the ideological structure of anti-Semitic movements.
- ▷ Presentation – Students’ presentations of a chosen anti-Semitic website: students point out characteristic designs of the website, words, phrases, dogmas, talk about things they found surprising, etc.

Finally, if I could say something universal about the challenges and direction of our educational work: it is very necessary

¹ e.g., Holocaust.cz; YadVashem.org; United States Holocaust Memorial Museum (ushmm.org); etc.

to cooperate with teachers and other representatives of institutions, with whom I am very pleased to sit at this table.

► **Mirka Ludvíková**

JEWISH MUSEUM, PRAGUE, CZECH REPUBLIC

**THE PRAGUE JEWISH MUSEUM'S NEW
APPROACHES TO EDUCATION IN THE
EDUCATION AND CULTURE CENTRE**

In contrast to the Terezín Memorial, the Education and Culture Centre of the Jewish Museum in Prague is not only focused on the Shoah or on anti-Semitism, but on the overall aspects of Jewish culture, Jewish life, Jewish history, Jewish society – so not only on the Shoah, but on Jewish culture as a whole. The purpose of the Education and Culture Centre is to educate and to expand awareness of Jewish culture, the history of the Jews, especially in the Czech lands, the history of the Shoah and the contemporary manifestations of anti-Semitism. In a broader context, the activities may also be seen as a part of the struggle against racism, anti-Semitism and/or xenophobia.

The Education and Culture Centre was founded in August 1996, and today we have three lecturers and several freelancers or Holocaust survivors. In Brno, there is a very similar office that was founded in 2006 and there is one lecturer and several Holocaust survivors. Because we are an education centre and not an academic or professional research department, we have not published academic books or articles; however, the Education Centre produced several textbooks and materials for educational

purposes. We also closely cooperate with the Shoah department of the Jewish Museum in Prague.

The Education Centre can offer several lectures or workshops for all kinds of schools, including universities. We also organize one-day or multi-day trainings for teachers and students. Some of them are held in cooperation with the Terezín Memorial. We also organize several touring exhibitions and projects. I will talk later about these. As for the general public, we offer lectures and workshops, including evening programs and lectures or Sunday workshops for children. Here I would like to mention that the majority of those who visit our evening lectures or Sunday workshops are not of Jewish origin.

Here is a very short and brief overview of lectures and other programs that can be attended in our Centre by schools; all programs are also complemented by a visit to a related exhibition of the Jewish Museum in Prague. The Terezín Memorial might have, let's say, a certain advantage, because of its authentic status as a Shoah/Holocaust site. However, the Jewish Museum has a Shoah memorial in the Pinkas Synagogue and the students can see the names of all 77,297 Holocaust victims from the Czech lands. And that can impress or shock them as well.

Here is only a very brief statistic. On average, educational programs at the Jewish Museum or in the Education Centre are visited by one thousand students per month. In the year 2008, the number of visitors to the educational programs amounted to almost 15,000 students and about 200 teachers.

Our workshops are not special or unique workshops; nevertheless they offer an alternative to the traditional lecture style. Students work in five working groups and at the end they have to

present their research to their schoolmates. What might be seen as unique are the objects they can use during the workshops. They can work with real objects, with real Judaica; they can role play, for example, a Jewish wedding or Sabbath supper and other similar events.

I would also like to mention our Holocaust workshops. We have three of them in total. Let me briefly explain about the first one. Maybe some of you know the book by Karen Levine called *Hana's Suitcase*. Our workshop was made according to this book and has the same name. The main character of the book or one of the main characters of the book, the director of the Holocaust Centre in Tokyo, is searching for Hana, a disappeared girl, and students in our workshops are searching for the lost fates of Holocaust children and Holocaust victims as well. The research is done in five groups again. They have documents, personal materials and photos of chosen survivors and have to present the fates of these children. Included in the workshop program is a debate with a survivor. It is a very important part of these workshops. It is very impressive for the students to talk with a Holocaust survivor and to meet a hero in person.

Our second workshop is called "Holocaust in Documents." Its concept was taken from the House of the Wannsee Conference in Berlin. Again, it is research done in five groups working with documents connected with the five phases of the Shoah.

The last workshop, called "Reflections – Perpetrators, Rescuers and the Others," deals with these three groups and tries to identify them. It again includes debate with the survivors. Debating with the survivors and meeting these heroes and unique persons is one of the central topics of Shoah education.

As I have already said, the Jewish Centre organizes several touring exhibitions. Here I would like to mention only two that were created by the Centre. The first one is called *Do Not Lose Faith in Mankind, the Protectorate of Bohemia and Moravia Through the Eyes of Jewish Children*. It is a project designed for students of higher grades of grammar schools and all types of high schools. It consists of touring exhibitions and several educational materials, such as textbooks, DVDs and web pages. The touring exhibition presents twenty posters depicting the fates of six children and their families connected by their Jewish origin, which is related by persecution during the Shoah.

We want to present the topic of the Shoah in a way that is acceptable and comprehensible to young students; therefore the exhibition is based on children's stories because it is more approachable. The Shoah is presented from the point of view of their peers – they can realize what it meant to be a Jewish child during the thirties, during the Second World War and what it means to be a Jewish minority. The story of every single person is based on diaries, memoirs, and photos that make the visitor curious and are more varied than enumerations of facts, numbers, and data.

The children are introduced as ordinary children with their desires and dreams, who live their comfortable lives within their families. Every single child has different fate. One of them survived Auschwitz as one of the youngest boys, one survived Terezín, one was born into a mixed marriage and was deported to Terezín in February 1945, one was sent to Great Britain by Nicolas Winton on a train due to the foresight of her parents, one went through the ghetto in Terezín and through Auschwitz and in the end she managed to escape from the death march and survived in hiding until the end of the war. Only one story, one fate has a sad

end. It is the fate of Petr Ginz, a boy from a mixed marriage, who was sent to Terezín alone as soon as he reached fourteen years and later he was sent to Auschwitz, where he perished. Different fates illustrate and reflect the various aspects of the Shoah. There is a web page in both Czech and English linked to the project where teachers can find and download methodology information, as well as archival materials, photographs, and documents dealing with the persecution of the Czech and Moravian Jews. The exhibition is also accompanied by textbooks based on the posters. These contain even more materials, more memoirs, more photos, and a better methodology. Recently, a DVD was finished, which contains five stories of survivors, documenting the Second World War from different aspects, different points of view.

Although I said that we make these exhibitions ourselves, in the following case, the authors are the students and we, the Education Centre, only coordinate them. The project *Neighbors Who Disappeared* invites young people aged between 12 and 18 to search for their neighbors who disappeared during the Second World War from their vicinity. It started in 1999, so it is ten years old now. The project *Neighbors Who Disappeared* is not only an educational project, it forms part of the Czech society. It is a certain phenomenon present in the Czech Republic – a reflection of the Czech society during the very painful era of the Shoah and the situation of minorities in Czechoslovakia in the pre- and post-war period.

The dark shadow of the communist regime between 1945 and 1989 was very devastating for the Jewish monuments. Searching for lost traces of a nearly destroyed minority could be incredibly fascinating and motivating for young people and could also open a door to further exploration of their own surroundings, families or themselves in extreme moments, when life is bad.

The goal of this project is not only to offer students an opportunity to formulate new questions based on firsthand information gained within a certain locality, but also to acquire memories of their neighbors who were witnesses to and survivors of the Second World War events, and to gather archival documents, archival photographs, diaries, letters, and so on. The outcome of this effort is a literary and research work, which will become an extraordinary authentic testimony of a tragic chapter of history.

The second phase of this project, called *Tribute to the Child Holocaust Victims*, was launched in 2005. Its aim is to focus on young victims of the National Socialist regime, on pupils and students coming from the same schools, towns or areas as the researchers. The students can find not only information about the disappeared people of the same age but also new and interesting information about their schools. The results of these inquiries can be presented to other classmates or schoolmates or to the general public living in the area. The results are various. On the floor above us, you can see posters, on the second floor there is an exhibition of this project. Other outcomes are for example web pages, memorial textbooks, video documents, and so on.

The posters were turned into a touring exhibition, which has travelled for many years not only in the Czech Republic but also around Europe, Italy, Germany, Great Britain, and around Canada and the USA as well.

This project can be incorporated into the educational framework at all educational levels, meaning grammar school, high school, training centers, and so on. It deals with three cross-sectional topics – modern history, the period of the Second World War, and the historical situation of the Jewish minority. It also reflects the ethnic aspects – the implementation of the Nuremberg laws,

the reaction of society, how precious the help was, and who was there to give it.

However, the most precious value of this project is the fact it will save the stories, the documents, the photos of lost fates for the next generation. Without this activity, the stories would be lost, definitely lost.

In 2008, the project was awarded the Golden Star of Active European Citizenship, an award given by the European Commission to unique and useful projects.

► **Oded Breda**

BEIT TEREZIN, ISRAEL

THE ROLE OF BEIT TEREZIN, EDUCATION AND REMEMBRANCE¹

I am now in the fifth month of my job as director of Beit Terezin, as we say in Israel, or Beit Theresienstadt. I myself am second generation; I was an associate in this house for the last five years. And then, for all kinds of reasons, I started to run and manage the research institute. My family comes from Brno, they all ended up in Auschwitz, except for my father, who was granted a certificate in December 1939 and went to Palestine and to Israel, and that is why I am here. I came from a completely different background; I did not work in education or history. I spent the last 25 years in the high-tech industry and the last position I held in my professional life was a VP for sales at HP.

¹ The speech was accompanied by a PowerPoint presentation.

As I have said, the Breda family comes from Brno. I will not teach you history, but as you can see, in December 1939, they went to take the last photo of the family. You can see my father Moshe, Moits, my grandfather Otto, whose name I bear, the name is Oded, Pavel, the younger brother – he was about fifteen at that time – and my grandmother Olga. The reason they went to take the photo is because my father got the visa. I have the original passport at home. He left on December 31 from Brno and went to what is now Israel.

The second picture that we have of the family came from a screenshot from the film that was shot in Theresienstadt. One of the relatives of my family, I think it was in the 1960s, came to our home and said, “this is Pavel.” There is quite a difference between the face in 1939 and 1944; they may look alike, but it is five years in a boy’s life. Therefore, we did not know if it was right or wrong. We did not investigate it until five years ago. I came to Beit Theresienstadt to start investigating about this picture. It was quite easy. Immediately, they found a couple of survivors who knew Pavel and who told me that this really was Pavel Breda. I will talk about that later.

Beit Theresienstadt, or Beit Terezin, as we say in Israel, was established on a kibbutz in Israel – Kibbutz Givat Chaim Ichud – in 1975. It was established by members and survivors of the ghetto. They were in Israel, some of them on Kibbutz Givat Chaim Ichud, most of them not; however, this is the place that was agreed upon, and we are very thankful for that. They agreed to found a museum, a Shoah museum, in the middle of the kibbutz. Those of you who understand what it actually means to put a Shoah institute in the middle of a kibbutz see that it is not an easy decision. But this is what they did, and today we have the museum, a small museum; we have art exhibition halls, a library, an

educational centre, and an archive with a computerized database of the 160,000 inmates of the prison coming from several countries in Europe. We also dedicate 90 percent of our time to educational activities. Compared to the educational work of other institutions presented at this Conference, we do more or less the same, and sometimes naturally also very different projects.

We arrange activities for schools, but also for soldiers, tourists, students and teachers. We host exhibitions of works related to the ghetto. We help researchers. We also hold an annual meeting of the members. Unfortunately, those meetings are attended by fewer and fewer persons each year. This is why we are now trying to focus more and more on the second, and especially the third generations. We also take care of our archives – there is quite a bit of collection coming from the ghetto. And we also, of course, keep people up to date with what we call *Dapei Keshet* newsletter.

Usually, when I start to talk about Theresienstadt, I give numbers that are updated almost every week because every week we find some new evidence about a survivor or new evidence about people who perished. On this we also cooperate with the institute here in the Czech Republic.

As for our other activities: When I came on board in February 2009, we already had a plan which I am now trying to execute and which was carried throughout the year. I am also trying to put Beit Theresienstadt on the map. We are a small museum, but I think we have a lot to say. We have a special and a unique story in the country. We are trying to get more and more visitors and more and more audiences. We also invested a lot more this year into what I call infrastructure, which is the archive, digitization of everything that we have, creation of a new website; and we also have a new team on board.

In March, we opened an exhibition in Manhattan in the Anne Frank Center in New York. I saw it as a kind of a meeting between the children of Theresienstadt and Anne Frank. What I mean by that is the heritage, because when I started to learn about the children of Theresienstadt, I think there were fifty, sixty or seventy children like Anne Frank in Terezín. Lots of diaries, lots of paintings, etc. It was very interesting meeting them. What we started in April is something that started a few years ago, a project called Liga Terezin. Liga Terezin is about football. Since I am in Europe, I can say football this time; for Americans, by football I mean the game played with the foot and a ball.

The Liga Terezin project was first started as an art exhibition, which, as planned, was closed two weeks ago. There was a symposium about Jewish sports and football, which took place at the opening of the exhibition. At the moment, the project is entering its third phase focused on education and exhibition. We are now moving this entire exhibition to Terezín, and we are building it as an educational tool for all kinds of subjects that our schools and our soccer teams would like to learn about the Shoah – about violence, about racism and other issues that relate to football and of course to the Shoah. The opening of the exhibition will be in September. We will open it with an actual football match, hopefully with some attendance of the survivors themselves.

Why Liga Terezin, what happened? When you look at Terezín from above, you can see there is a football field. Today Terezín has a football team; it is rather low in the Czech league, but anyway. Their football field is located very close to the ghetto wall. And in the area of the Dresden Barracks is the field where the inmates played football as well.

Guy Raz, a photographer and artist, was wandering around about two years ago in Terezín. He was visiting like every other visitor, but he started to wander around with his camera, and he found himself at the actual present-day football field. He found a picture in which you can see all the T-shirts of the football team with their numbers, the names of Terezín and even Adidas – and all these T-shirts are hanging on the ghetto wall.

Guy Raz started to shoot a couple of pictures from that field. When he came to Beit Terezin, he found me, and I told him that for the last two years I had been doing a couple of things on the Terezín football project. And the result of this was an art exhibition. The art exhibition was put in an art gallery in Tel Aviv and Golden Street. One of the things that Guy Raz did was a kind of memorial wall, you can see here all of the teams that we could locate with the names of the players. Out of the total of 84 players, there are probably five or six still alive. We installed video – video evidence and testimonies, and the video of the game, 3.5 minutes of a football match that was played, and the survivors talked about it. There were also pictures – screenshots from the movie. You can also see pictures that were drawn by adults and by children at the site of the football in Terezín.

We opened the art exhibition with great success; a lot of people came and saw it. We held a symposium – Professor Zimmerman had a speech about sports, Jewish sports, and football, and why, in his opinion, the Nazis let football be played in the ghetto. In the pictures, you can also see one of the football players, Peter Erben. He was interviewed by the Israeli IDF Radio on that day. We got quite a lot of media attention. We got five TV reports including a 12-minute spot on primetime news on Channel Two on the evening of Yom HaShoah. We got more than 20 articles in newspapers; we got dozens of links on the internet searching

information on Liga Terezin in Hebrew and in English. And also, three families have identified people or evidence about their relatives.

If you want to see more about this, you can visit our website and check all of it out. Many unplanned things happened after we launched the project and in a way I think that is the power of our work, of the project.

The symposium was also attended by the chairman of the Maccabi Tel Aviv team, one of the top three teams in Israel. The symposium took place four days before Yom HaShoah, and the chairman sent the whole team, the whole Israeli team including the foreign players, to the gallery. We did not know about it, but we were told later and of course everything was on the news again – TV, newspaper. Then, about three weeks later, Maccabi Tel Aviv invited two survivors, Peter Erben and Yaakov Tzur, to the pitch, and in front of the whole audience, the full stadium, they asked them to tell the Terezín football story. They also explained to the audience why the Maccabi Tel Aviv uniform was yellow that day. It had to do with a decision taken in 1942 as a reaction to the yellow star. Until then, Maccabi Tel Aviv had played in a white and blue uniform. And you can see pictures showing Peter Erben on the pitch that day and others showing him on the pitch in 1944. That is a symbol of it all. It is very moving, very exciting, and Peter Erben of course is very pleased. So that is our project Liga Terezin.

As for our activities in 2009: Each year we arrange Yom HaShoah, an annual meeting in May, which is the month of the liberation of the ghetto. We are working on the education centre, spending quite a lot of time on the preparation of educational programs. Every year in August we organize an activity dedicated

to history, music and memory. It is about the music of the ghetto, in the ghetto, by the musicians of the ghetto. Each year the seminar concludes with a concert organized in cooperation with Yad Vashem.

In September, we will continue with the Liga Terezin project. Together with Beit Berl and Lohamei Haghetatot we will also arrange two biannual seminars on Women and the Shoah, and in November 2009, we will work with The Association of Israelis of Central European Origin and will join the walk that they do each year on the night of the November pogrom, called Kristallnacht by some.

During 2009, I have focused on improving cooperation between the institutes that deal with the heritage of Terezín, with Yad Vashem, with institutes here in the Czech Republic. My other focus may be related to my background as a person who not only worked in technology, but also did not know until five years ago what occurred in the Holocaust, and what was going on with education about the Holocaust although I was a second-generation survivor myself. What I am trying to say is that the new generation should have as much information as possible; everything should be out there, on the web, accessible, and not buried deep in the archives out of the eye of the public.

We are trying to renew our website, and we have also started our own profile on Facebook without investing almost anything in it; now we have over fifty fans. This is something that we call the viral effect. People call other people and more people join. And we can see people from the Czech Republic, from the USA and of course from Israel joining. And everything that you want to share and let them know, you just write it as a member on the Facebook profile and immediately they get the information.

I see my mission now as being focused on the second and the third generations; mainly on the third one. The second generation is partly interested and partly not. In almost every family you can see that there is a son who is interested in what happened to his parents in the Shoah, and his brother does not even care. I see it often. But I think the second generation should not cut the ties to the past because we are the last people who can talk to our parents or grandparents. Talk to them and take all the information from them, and if we are not interested, that is okay. But let us not cut the tie. And I believe my mission is to reach out to all of the members of our first generation and second generation and just ask them not to cut the ties because sometime in the future someone will be interested in their stories. We are trying to do this of course by saving documents, saving photos, building family albums. You can find and open family albums on our website even by searching for the family name on Google, and I think the web is a new and easy way of commemorating the families today. Not driving to some wood in the Jerusalem Mountains to see a stone over there. They do not do it. Today, it all happens at the computer. That is the mission for the third generation and maybe the fourth generation. Of course we give them traditional education – schools, museums – that is happening all the time. But what we are trying to do, and what I think we all need to do, is bring the heritage to the keyboards, to their screens and let them touch this piece of information. After that, they decide if they want to learn more or leave it as it is.

The challenge today, even in Israel, is that not everybody is related to the Shoah by family and some are but are disconnected, because their parents decided that they would be disconnected. So, I think this is our challenge of today.

To conclude, I would like to show you a book, a Czech book called *Football Under the Yellow Star*, published two weeks ago.

It was written by a sports journalist, František Steiner, who actually had much better resources than we did about the topic. In the future, we may start the translation of this book. As the very last thing, I would like to say that we will be more than glad to help arrange a showing of the Liga Terezin exhibition anywhere in the world.

► **Karl Bernd Vogel**

FOUNDATION LEO BAECK TEREZÍN, GERMANY

LEO BAECK CENTER IN TEREZÍN

Introduction

On March 14, 2007, over 120 citizens of the Czech Republic and the Federal Republic of Germany, members of the International Terezín Initiative, the Terezín Memorial and the associations of the friends and supporters of Terezín in Saxony, Berlin, Brandenburg, and Lower Saxony signed the following appeal:

- ▷ In grievous but indelible memory of the 140,000 people who were imprisoned in Terezín and deported to death camps and murdered;
- ▷ In respect of all victims of the Holocaust and in solidarity with survivors and those who were liberated;
- ▷ In awareness for all the people who are persecuted and discriminated against today;

- ▷ In knowledge of the importance of actively shaping the education of succeeding generations in democracy, human rights and political memory;
- ▷ Realizing that the prevention of xenophobia, right-wing radicalism, racism and the general use of violence will be more successful if supported by international, trans-border cooperation; and
- ▷ If all administrative and judicial authorities concerned continually work together with the police and schools to politically and materially support the Foundation Leo Baeck.

On Tuesday, September 30, 2008, and on Thursday, October 2, 2008, the *Foundation Leo Baeck Terezín* was founded by:

- ▷ Mr. Zdeněk Bárta, Rooseveltova 7, 412 01 Litoměřice, Czech Republic;
- ▷ The registered association “Förderung der Jugendbegegnung in Theresienstadt e.V.,” Am oberen Bach 5, 01723 Grumbach, Germany, Pastor Heiner Bludau, First Chairman;
- ▷ Mr. Friedemann Bringt, Bürgerstraße 51, 01127 Dresden, Germany;
- ▷ The city of Terezín, nám. ČSA 179, 41155 Terezín, Czech Republic, IČ 00264474, represented by its Mayor, Ms. Růžena Čechová;
- ▷ Mr. Alexander Černý, Skolni 27, 41155 Terezín, Czech Republic, Chairman of the Foundation Terezín;

- ▷ The Federation of Jewish Communities in the Czech Republic, Maiselova 18, 11001 Praha 1, IČ 00438341, by Dr. Tomáš Kraus;
- ▷ The registered association “Freunde und Förderer von Theresienstadt e.V.,” Riehlstraße 6, D-14057 Berlin, Germany, former minister Mr. Wolfgang Birthler, First Chairman;
- ▷ The Evangelical Church of Czech Brethren, Jungmannova 9, P.O.Box 466, 11121 Praha 1, Czech Republic, represented by its Moderator, Mr. Joel Ruml;
- ▷ The city of Strausberg, Hegermühlenstraße 58, 15344 Strausberg, Germany (sister city of Terezín), represented by its Mayor, Mr. Hans-Peter Thierfeld;
- ▷ The association “Niedersächsischer Förderverein Theresienstadt,” Belitz 9, 29482 Küsten, Germany, Mr. Jürgen Winkel, First Chairman;
- ▷ Mr. Bernd Karl Vogel, Riehlstraße 6, 14057 Berlin, Germany; and
- ▷ The Jewish Community Teplice, Lípová 25/333, 41501 Teplice, Chairman Mr. Michael Lichtenstein and Chairman of the Board Mr. Oldřich Látal.

The patrons are:

Senator Dr. Alexandr Vondra, Deputy Prime Minister for European Affairs and the Minister-President of Brandenburg, Mr. Matthias Platzeck.

History

The future requires the remembrance and visualization of history. Full of vicissitudes, Terezín represents the common history of Germany, Austria and the Czech Republic. Founded as a fortification of the Habsburg monarchy against Prussia at the end of the 18th century, Terezín looks back on a complex and tragic history. In 1882, the fortification statute was abolished; Terezín remained a garrison, a free city and a military prison. The assassins of Archduke Franz Ferdinand of Austria were imprisoned in the Small Fortress, which served as a prisoner of war camp during World War I.

On June 10, 1940, a Gestapo prison and concentration camp was set up in the Small Fortress. In 1941, the Main Fortress was turned into a ghetto (transit and concentration camp) for Jews from the Protectorate of Bohemia and Moravia, Germany, Austria, Denmark, the Netherlands, and other European countries. All in all, over 35,000 people lost their lives in the Terezín concentration camp, and an additional 90,000 people were deported to other concentration camps in the east, particularly Auschwitz, where most of them were murdered.

But in spite of it all, Terezín was a place of self-assertion and the fight for the dignity of man; artists, musicians and scientists together established a vivid cultural life in Terezín and organized schooling for the children, which was forbidden under penalty of death. Their paintings and poems later made up the collection “Butterflies don’t fly in the Ghetto.” The boys wrote a newspaper “Vedem” – “*We are the avant-garde*” – each of them one copy – as a testimony of their courage and hope for liberation.

Between 1949 and 1994, Terezín was once again a garrison and a free city, as well as the ČSSR’s central memorial site for the

victims of the Third Reich. The Soviet army's departure from the city in 1992 had a somewhat catastrophic effect on the social infrastructure of Terezín.

In August 2002, Terezín and its surroundings succumbed to the one-hundred-year flood of the Ohře and Elbe rivers. But as catastrophic as the damage caused by the flood was, it led to an important turn in the Czech government's fundamental political decisions. Flood aid from the European Union's structural and cohesion funds were mobilized for the repair of the most urgent flood damage. These funds were augmented by grants from the Minister-President of Brandenburg and donations by German booster clubs. Simultaneously, the Czech government commissioned a master plan for the revitalization of the city and the region.

Abiding by the wishes of the survivors, as early as 1966 – though with a break until the peaceful revolution of 1989 – German and Austrian groups and volunteers worked together on-site.

Leo Baeck

Born in 1873 in the German province of Lissa, now Poland, Rabbi Leo Baeck became one of the most important German-Jewish figures in the first half of the 20th century. Considered a founder of modern studies of Judaism, he was a professor of Jewish studies before he was forced by the Nazis to take over the presidency of the *Reichsvertretung der deutschen Juden* (Reich Deputation of German Jews) in 1933. Thanks to his position, he was able to help many Jewish people to escape – although he himself was deported to Terezín in 1943. Saying, “We Jews know that God commands us to live,” Baeck unwaveringly believed that the tormented and persecuted would

survive the Nazi regime and that the good would overcome the bad, even under such horrendous circumstances. Because of this belief, he steadfastly refused to escape. He committed all of his energy to conveying comfort and spiritual care to the persecuted, to keeping his fellow inmates together and to lifting their morale.

After his liberation from the ghetto, he relocated to London, where he devoted himself to the question of compensation and continued his studies of Judaism. There he worked with Anna Freud, among others. Together with Albert Einstein, he called upon Arabs and Jews to reject terrorism and to jointly rebuild the country in peace and democracy.

Leo Baeck died in London in 1956.

Points of Departure

More than 64 years have passed since the liberation of the fascist concentration and detention camp and the collapse of the National Socialist Third Reich. The number of survivors and contemporary witnesses able to give authentic accounts of their experiences from the time of suffering and persecution as well as to tell their stories of self-assertion and resistance is continually decreasing. At the same time, the number of people with no biographic relation to the events of the fascist dictatorship, to World War II, the Holocaust or to Stalinism's persecution and oppression is increasing.

Moreover, the number of people who bear a special responsibility to educate the succeeding generations – in schools, youth employment, job training, or in universities – and yet do not have the proper qualifications to do so is also continually rising.

Following the collapse of the communist dictatorships in Europe, and despite the non-violent dissolution of the old order, the peaceful reunification of Germany and the enlargement of the European Union through the accession of ten new member states, political extremism, racism, xenophobia and the general propensity to violence among children and adolescents in particular are drastically increasing in almost all European countries. Civil wars, ongoing streams of immigration of many ethnic and religious groups, e.g., Jews, Muslims, and Romani, as well as the increase in trans-border crime and terrorism, are severe signs of this development.

Simultaneously, ignorance, a lack of personal concern, and the unwillingness to bear responsibility for one's own history lead to an ever-increasing danger of the politicized exploitation of historic legends, lies and falsifications, as the discussions prior to Poland's and the Czech Republic's entry into the European Union have clearly shown.

The process of rapprochement and reconciliation is meanwhile stagnating – regardless of dedicated efforts and encouraging partial successes. The question of reparation for Czech forced laborers during the fascist dictatorship was finally solved only after a very long period of stop-and-go policies.

At the same time, other open questions still strain the Czech-German relationship, such as claims to individual restitution of formerly German-owned property in the Czech Republic, the compensation of German forced laborers from 1945–1948, and discussions on the legal validity of the Beneš decrees.

The city and the Memorial of Terezín are facing tasks that exceed their current capabilities:

- ▷ The costs of the maintenance, reconstruction and preservation of the building stock of the architecturally and historically unique ensemble of fortress and city;
- ▷ The preservation and development of the city and region of Terezín, especially the creation and protection of jobs, the provision of housing, and the necessary social and cultural infrastructure; as well as
- ▷ The rebuilding effort after the flood of 2002. Despite enormous efforts from the Czech government and considerable international aid programs, there is still much work to be done;
- ▷ It is vitally important to establish partnerships with Terezín's sister cities, such as the cooperation with Strasbourg regarding the conversion of former military facilities, or the collaboration with Komárno and Jachymov as fortresses, and with Oswiecim as a memorial city; in order to
- ▷ Further develop the Memorial and the city as a regional and international research and documentation center serving the education of professionals, for education in schools, for social work, and for specific public administration tasks concerning culture and urban and regional planning.

The goal is the expansion of the city and the Memorial of Terezín into a meeting place and a place of European cooperation. The neighboring European countries both see the need for this expansion and are interested in this undertaking. What is missing is a suitable institution that is able to fulfill these tasks on a long-term basis. Such an institution would constitute a valuable

addition and create and expand the work and opportunities of the existing and approved institutions of the Terezín Memorial.

Aims of the Leo Baeck Center Terezín

In the speech that EU Commissioner Margot Wallström gave on September 30, 2004, on the occasion of her second visit to Terezín, she called for the foundation of a *Volkshochschule* in Terezín. The Leo Baeck Center will meet the requirements of an international and interdisciplinary institution of ongoing education for different professional groups. The Leo Baeck European Education and Meeting Center is part of the strategy to revitalize the city of Terezín.

It should have a capacity of at least one hundred beds in order to reduce the existing deficit for seminars, conferences, and workshops, meeting international standards for interested parties from the Czech Republic and its neighboring countries, and strengthening Terezín's image as a destination for study trips and as a place of international cooperation.

The European Leo Baeck Center Terezín shall be an interdisciplinary center of advanced education for different professional groups such as:

- ▷ Employees of communal ministerial administrations and NGOs working in fields such as conversion, urban and regional planning, and historic preservation;
- ▷ Administrative, judicial and police officers working toward trans-border cooperation in the prevention of xenophobia, racism, violence, and political extremism;

- ▷ Employees of education authorities and youth welfare services, particularly facilities that engage in social work, social therapy, and political educational work, both in school and out of school.

The Leo Baeck Center Terezín will organize international and national seminars, courses and volunteer services, especially:

- ▷ Internships, classes, advanced education workshops, and intercultural training;
- ▷ Academic conferences concerning studies on the Holocaust and anti-Semitism;
- ▷ Support for appropriate study projects;
- ▷ The promotion of cooperation between the Czech Republic and the neighboring European countries in the aforementioned areas.

The Leo Baeck Center Terezín is a non-profit organization and will cover its operating costs through:

- ▷ Financial contributions of participants;
- ▷ Public project grants;
- ▷ Financial support of NGOs;
- ▷ Individual sponsors.

Experience with other comparable institutions shows that they are able to finance themselves with an average capacity rate of sixty percent.

Fields of Activity of the Leo Baeck Center Terezín

Democracy and human rights education, European integration and trans-border cooperation concerning *youth employment* call for:

- ▷ Organization of international volunteer services (brigades) and youth employment camps in Terezín and Northern Bohemia in social, cultural and therapeutic facilities as well as institutions of professional training involving appropriate tutorials that not only consider the historic importance of the city and the Memorial of Terezín but also allow participants to explore Northern Bohemia;
- ▷ Organization of classes for professional youth workers, especially child care and social workers;
- ▷ Advanced education for international professional social workers and social therapists working with children and adolescents;
- ▷ International seminars for children and adolescents, particularly concerning long-term and trans-border partnerships with social education institutions and schools.

Teacher training will concentrate on:

- ▷ International internships for students teaching in schools and educational institutions in Northern Bohemia, especially

in the context of trans-border partnerships and the cooperation of teacher education institutions and schools;

- ▷ International seminars and other academic activities for degree programs such as history, political education, Slavic studies, German language and literature studies, music, visual arts, and special areas such as Holocaust and anti-Semitism studies, in cooperation with Czech teacher education institutions and other corresponding European institutions;
- ▷ Organization of classes for the second stage of teacher training (teaching practicum, IUFM studies (teacher training), and comparable training stages);
- ▷ International advanced education activities in the context of teacher training, e.g., for the following subjects: history, political education, Slavic studies, German language and literature studies, music, visual arts, and civil engineering;
- ▷ Interdisciplinary activities for the further education of teachers with an emphasis on contemporary history, international relations, German-Czech relations (rapprochement and reconciliation), and trans-border cooperation with European neighboring countries.

Interdisciplinary advanced education will concentrate on the development of activities and the organization of international academic conferences and the execution of study projects:

- ▷ In the context of suitable degree courses with an emphasis on the conversion of former military buildings for civil activities;

- ▷ Urban planning;
- ▷ Regional development, architecture, historic preservation and protection;
- ▷ Music and visual arts;
- ▷ For community administration officers and employees of regional planning authorities, local governments, ministries, and NGOs;
- ▷ Provision of consulting services and technical assistance for applicants and the operating institutions and organizations through EU funds (sponsors and supporters), particularly in the areas of conversion, urban planning, area development, architecture, historic preservation and protection;
- ▷ Degree courses with an emphasis on suitable areas of studies, such as the National Socialist dictatorship or Stalinism.

The primary goal of *European cooperation* is the prevention of political radicalism, racism, xenophobia and the general use of violence, which will be more successful if supported by international cooperation, particularly:

- ▷ Trans-border European cooperation among the responsible administrative bodies (not only concerning educational and youth employment);
- ▷ The inclusion of historically and politically relevant subject areas, such as the National Socialist regime or Stalinist and post-Stalinist dictatorships, in the advanced

education of all trainees entering relevant public administrative bodies and offices, i.e., specific extracurricular activities in political and historical education and including such professional training for those public servants working in general administrative bodies, police and border protection offices, judicial authorities and prison services, and the military;

- ▷ In the second stage of education (teachers' training and comparable training stages), the organization of international classes with an emphasis on contemporary history, accounting for the critical analysis of the European past and present;
- ▷ Trans-border cooperation with national institutions such as the BstU (Office of the Federal Commissioner Preserving the Records of the Ministry for State Security) of the GDR, in Berlin, and the respective authorities in neighboring European countries;
- ▷ Regular advanced education activities with an emphasis on trans-border migration and the prevention of racism, xenophobia, and youth violence.

Realization of the Project

In agreement with the municipal administration of the city of Terezín, the Leo Baeck Center shall be housed in the so-called Wiesersches Palais. A study carried out with the architectural offices of Cajthaml in Prague largely confirmed that the Leo Baeck Center can be located in the building, provided that structural damage and alterations due to the use of the building by the Czechoslovakian army are repaired. Expert members of the

friends and supporters of Terezín, who fulfill similar tasks in their professional work for the Brandenburg Ministry of Education, Youth and Sports, judge the Wiesersches Palais to be functional, alterable, and expandable.

Joint Use with the Future Shoah Institute

On April 21, 2009 participants in a preparatory committee meeting in the municipal offices of the city of Terezín came to the conclusion that, based on the existing plans, the joint use of the Wiesersches Palais by both the Leo Baeck Center and the future Shoah Institute would indeed be possible, as long as the responsible municipality, Ústi nad Labem, includes the projects in its plans and that appropriate written agreements concerning the use are drawn up together with the municipal office of the city of Terezín.

Terezín – formerly a place of suffering and persecution – shall be a center of European cooperation for peace, democracy, and human rights.

Holocaust Education: Experiences Gained and Challenges Ahead

► Wolf Kaiser

HOUSE OF THE WANNSEE CONFERENCE, GERMANY

OVERVIEW OF THE FIELD OF EDUCATION

The genocide of the European Jews was committed during a war that tore the European continent apart like no other military conflict since the Thirty Years' War and evolved into a World War. The Holocaust, however, caused an even deeper abyss, different in its implications from the antagonisms that emerged from Germany's aggression against other countries. The common ground between the nation whose government organized the industrial mass killing of men, women and children and its allies on the one hand and those who fell victim to the Holocaust as well as the anti-Hitler-coalition on the other seemed to be destroyed for an incalculable period of time, if not for ever. Who could have imagined that, half a century later, scholars and educators from countries with antagonistic positions in World War II and the Holocaust would work together on concepts of Holocaust education? And that this effort would become a long-term cooperation? We had the privilege of participating in this very astonishing development. When I joined the International Task Force eight years ago, I did not take it for granted that this would be possible. And I think it is worthwhile to analyze the basis on which our close cooperation and international network was able to emerge.

The history of the Holocaust cannot be dealt with as a history of winners. The voices of the victims must be heard first. And it is equally essential to analyze the motivations and the behavior of perpetrators, collaborators and bystanders. Here, a self-reflective and self-critical approach is a precondition for every attempt to come to terms with the past. It is worth remarking that, even in countries whose armies liberated the Nazi camps, the Holocaust-related discourse is not focused on victory and liberation, but on the question of why victims of persecution were denied refuge and why an early intervention against the Holocaust was not launched and if it would have been possible. The Holocaust discourse is part of a cathartic approach to history; it cannot be based in a concept of history serving national pride.¹ This has enormous implications for education.

Holocaust education is paradigmatic for teaching history with the aim of questioning national myths. But when we try to explore why the Holocaust happened, we must transcend the boundaries of national history. Anti-Semitism and the ideology asserting an alleged “inequality of the human races” found their most extreme and destructive expression in the Nazis’ idea of a master-race and supremacy according to race and nation, based on terrorist repression and military power. But these ideologies did not only exist in Germany; they were deeply rooted in Western culture. We can define our educational goals as the very antithesis of these traditions. In general, there is no doubt about the lesson to be learnt: Who could deny when analyzing the Holocaust and the other Nazi crimes that we desperately need a political culture and social relations based on respect for the dignity of every human being? However, Holocaust education should not be misunderstood and misused for preachy teaching,

¹ Sabrow, Martin: “Erinnerung” und “Aufarbeitung” – zwei Leitbegriffe deutscher Geschichtskultur in der Gegenwart. *Psychosozial* 31 (2008), No. 114. pp. 89–97.

oversimplifying history in order to better serve moral lessons. The history of the Holocaust must be taught with all of its dilemmas and contradictions.

If we understand historical learning primarily as a process of reflection and self-reflection, it cannot be organismic in the traditional manner of teaching: the teacher simply conveying historical knowledge to the students. The students must have an active role in the process. They should be given the opportunity to take a multi-perspective approach, critically analyzing intentions and actions of perpetrators and collaborators, exploring the contribution of bystanders who allowed the crimes to be committed and juxtaposing their attitude with that of rescuers, and – last but not least – comprehending the behavior of the victims.

For assistance in the conception of such a multi-perspective approach, educators can gain a lot from international cooperation, because Holocaust-related discourses differ from one country to another and they change over time with changing societies. Therefore, a great variety of concepts for dealing with the Holocaust exists. For good reasons, public arguments as well as scholars and educators focus on different aspects of the Holocaust and practice different approaches.² Just to mention two examples: Not by chance, research on perpetrators attracted great interest in Germany in the last decades, whereas in Israel more attention was given to the victims. Broadening perspectives, not leveling the differences, should be the aim of international cooperation.

The opportunities to give broad and balanced coverage to Holocaust history were considerably improved by the following developments:

² The Holocaust. Voices of Scholars. Edited by Jolanta Ambrosewicz-Jacobs. Krakow 2009.

- ▷ Numerous diaries of Holocaust victims and testimonies of survivors were published;
- ▷ Archives were established collecting tens of thousands of video testimonies;¹
- ▷ Audio and video testimonies were made accessible through transcriptions and annotations and plans for educational use are currently being developed;
- ▷ Historical research provided biographical data of perpetrators on all levels of the Nazi hierarchy and in many spheres of their grim activity, in various cases associated with a sophisticated analysis of their ideology, their motivations and their scope of action;²
- ▷ Endeavors to explain the behavior of bystanders were made;³
- ▷ Biographies and actions of helpers and rescuers were documented.⁴

Historians, psychologists, archivists, and pedagogues from many countries participated in these efforts. Based on the results of

¹ The Fortunoff Video Archive, established in 1982, and the Visual History Archive, which document Holocaust testimonies on video since 1994, are the largest collections worldwide.

² e.g., Herbert, Ulrich. "Best. Biographische Studien über Radikalismus, Weltanschauung und Vernunft. 1903–1989." Bonn 1996. Wildt, Michael. "Generation des Unbedingten. Das Führungskorps des Reichssicherheitshauptamtes." Hamburg 2002. Summary in English: Wildt, Michael. "Generation of the Unbound. The Leadership Corps of the Reich Security Main Office." Jerusalem: Yad Vashem, 2002.

³ For the discussion on bystanders, see "Bystanders" to the Holocaust: A Re-evaluation. Edited by David Cesarani and Paul A. Levine. London 2002.

⁴ The Encyclopedia of the Righteous Among the Nations. Rescuers of Jews During the Holocaust. Editor-in-Chief Israel Gutman. Jerusalem 2003–2007, 8 vol. Paldiel, Mordecai. "The Righteous Among the Nations." Jerusalem 2007.

their work, Holocaust education can and should address victims and perpetrators, bystanders, rescuers, and liberators.

During the last decade, international cooperation in Holocaust education developed in several ways:

The Education Working Group of the International Task Force agreed upon a set of recommendations under the headlines of: *Why teach about the Holocaust? What to teach?* and *How to teach about the Holocaust?* In addition, recommendations for study tours to Holocaust-related sites were formulated, as were suggestions for preparing Holocaust remembrance days. These guidelines are not meant as directives. The authors were aware that the historical and actual context of Holocaust education is not the same in all countries and that there are great differences concerning the predominant teaching and learning styles. The guidelines on "How to teach about the Holocaust" explicitly refer to this fact stating: "There can be no single 'correct' way of teaching any subject, no ideal methodology that is appropriate for all teachers and students. What is offered here are guidelines and advice that might prove useful to schoolteachers in constructing their own schemes of work, taking into account the learning needs of individual students."

Experts in Holocaust education were invited to conferences and teacher training courses in many countries. Thus, participants became acquainted with different approaches and didactical concepts. And experts could learn from each other by attending workshops and lectures of their colleagues. The International Task Force, as well as the Council of Europe, the United Nations, the Association of Holocaust Organizations, the Claims Conference, and other organizations contributed to this endeavor.

Exchange programs for teachers and for students offered them opportunities to challenge what had previously seemed self-evident and to develop new ideas when they were confronted with questions they had not raised before. By addressing and explaining differences and looking for similarities and consensus, participants in these programs amplified their perception of the Holocaust and took part in intercultural education at the same time.

Which are the main challenges ahead? In spite of all that has been achieved, there are quite a few. They imply difficulties that cannot easily be managed.

1. To start with a simple one that nevertheless demands considerable resources: Materials needed for a multi-perspective approach must be made accessible in many languages. Even if a teacher in a non-English speaking country reads English fluently, he or she cannot use material in the classroom if it exists only in English or in another language not understood by the students. And we should not expect teachers to have time to translate the material themselves. International cooperation is very helpful for exploring which materials used by colleagues in various countries are the most appropriate and educationally most effective. But translation must be organized and funded on a national level.
2. Making use of all of the brilliant educational ideas and excellent materials that are available needs time. Given the dense curricula of history lessons and other subjects in which the Holocaust can be studied, it will not be easy to make sure that the Holocaust is taught in an appropriate timeframe. Decision makers will have to cope with

this task on a national level, too. But they should be made aware of international standards.

3. Ties between education at school and education at memorial sites and museums should be strengthened. More reflection on the specific tasks at these different sites of learning and better cooperation between the actors at school and at the sites visited by school groups are urgently needed.
4. If a self-reflective attitude towards our own history is the basis of Holocaust education as I argued in the beginning, promoting a critical and self-critical approach cannot be limited to children and youths as target groups. Adults should also be given the opportunity to deal in depth with Holocaust history based on the most advanced historical research. This may have consequences for their perception of actual tasks and problems and their response. Moreover, it might have repercussions for the education of students, too, since adults influence youths in many ways, not the least by deciding the framework and conditions of education.
5. Let me finally mention what I consider to be the most demanding challenge. We are used to assuming that Holocaust education does not only denote historical learning, but has the potential to contribute considerably to human rights education. But what does this mean exactly and how can we make sure that it really happens? Human rights education does not only mean education *about* human rights, but also education *for* human rights. When studying how Jews were deprived of their rights as citizens and as human beings, ultimately culminating in their physical destruction,

we implicitly or explicitly refer to human rights by emphasizing the outrageous injustice and brutality of the measures taken by the Nazis and their collaborators against the Jews. And obviously the emergence of the Universal Declaration of Human Rights and the crucial role of the Holocaust for this endeavor could (and, I think, should) be part of a Holocaust curriculum. But does this automatically contribute to education *for* human rights? Or do we need specific didactics and particular methods to enable our students to actively participate in defending human rights or to strive for the implementation of regulations allowing people to assume human rights at all? Should this be integrated into Holocaust education? Or should we consider Holocaust education and human rights education as two important fields of education that should exist separately, but be co-coordinated in one way or another? These are still open questions that need to be discussed both among experts in Holocaust education and among specialists in human rights education. A common effort seems to me the most promising way to achieve progress in this respect.

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HOLOCAUST EDUCATION: EXPERIENCES GAINED AND CHALLENGES AHEAD WITH SPECIAL EMPHASIS ON EDUCATION ABOUT THE HOLOCAUST IN RUSSIA

Mankind faces many threats today, and one of the most serious of these is the growth of inter-ethnic dissension, manifestations of racism, xenophobia and anti-Semitic moods in dozens

of countries. After World War II, it seemed to many people that the death of millions of people and primarily the experience of the Holocaust – the mass elimination of six million Jews by the Nazis – would become a lesson for mankind and a mighty antidote to racial and ethnic hatred and anti-Semitism. In November 2005, the UN officially recognized January 27 as the Day of Holocaust Remembrance: on this day in 1945, the Soviet Army liberated the death camp Oswiecim (Auschwitz). The resolution was signed by representatives of 26 countries.

But life demonstrates clearly that the lessons of war and the Holocaust have not yet been completely learnt. The growth of radical misanthropic moods among young people seems to be especially dangerous. This is connected in many respects with the fact that generations of children have grown up in Europe and around the world knowing practically nothing about the Holocaust. This concerns Russia – a country that played a principal role in the victory over fascism and where xenophobic and racist moods unfortunately grow particularly quickly – especially. But despite this concern, human rights organizations' attempts to have Russia join the ten countries of the world that have established January 27 as a national Day of Holocaust Remembrance have all failed.

Early in the 21st century, the problems of the combat against xenophobia, nationalism, anti-Semitism and racism became aggravated in various regions of the world. They are urgent both for countries with stable democratic traditions and institutions and for countries with a totalitarian past. Globalization of the world economy, migration of millions of people from a great variety of countries to the regions with higher levels of economic development (primarily to the countries of Western Europe and the USA), dissemination of nationalist and religious views of an

extremist orientation and the increase in international terrorism connected with these views, all cause the growth of xenophobia to be a characteristic of even the most developed states. Most often, these nationalist tendencies are based upon an ideology that was already tested in the past. The most misanthropic ideology that caused innumerable suffering and claimed millions of victims around the world – Nazism – is taken from the grievous baggage of the 20th century. People walk along the streets of various cities calling themselves differently but their essence is similar – hatred towards people of different races, different skin colors and different religions. They beat, kill, and burn. The regions of the world without some manifestation of neo-Nazism hardly exist.

Attempts to rehabilitate Nazism and the persons who fought on its side are evident in Russia, the Baltic countries, Ukraine, and Europe.

Meanwhile, the history of the Holocaust is a convincing example of what tragic consequences such attitudes may cause. This circumstance dictates the necessity of studying the history of the Holocaust and of its humanistic comprehension.

Russian citizens should realize that the Holocaust in the USSR is an integral part of the Great Patriotic War rather than a particular problem concerning only the Jews. The Holocaust must be discussed in the context of world and Russian history, starting from the events that took place long before the Holocaust. Most people do not have sufficient information about the history of the Jewish people, or about their contribution to the development of human civilization. It is important to explain to schoolchildren the difference between facts and their interpretation; between legitimate criticism and defamation. Using such

an approach allows them to be able to learn to make independent conclusions. Children must understand that the Holocaust directly concerns our lives today because the roots of the Holocaust – ethnic phobias, distorted stereotypes, intolerance, nationalism of an extremist orientation – all still exist. Lessons of the Holocaust could promote the formation of a critical style of thinking in pupils, an ability to think independently and to differentiate between the manifestations of good and evil. Many experts think that the most acceptable form of teaching is a personalized narrative about individuals who became victims of the Holocaust. In their opinion, this makes a stronger impact than simply giving general information and showing photos illustrating the terror of concentration camps. Such narration permits the teachers to discuss with children the models of human behavior in various situations including that of the victims, eyewitnesses, and those who saved others.

The educational activity in the field of studying the history of the Holocaust on a relatively large scale started only in the late 1980s to early 1990s on the territory of contemporary Russia. But these past 20 years have been sufficiently long to permit the summarization of accumulated experience.

At the beginning, no structures involved with enlightenment in this sphere existed; no textbooks on the Holocaust were available that would meet local historical and cultural realities; and no state policy concerning the studying of the Holocaust was pursued.

Some serious changes have taken place during these past 20 years. In 1991, the first specialized public organization involved in the educational activity of Holocaust history studies appeared – the Scientific-Educational “Holocaust” Center (led

by A. Gerber and I. Altman). This Center has been active since its foundation in arranging numerous activities on the subject of the Holocaust, including international scientific conferences such as “Lessons of the Holocaust and Today’s Russia,” and workshops for teachers (in which a total of more than 2000 teachers have taken part).

In September 2008, the exhibition of the Stockholm Jewish Museum entitled “Raul Wallenberg: One Man Can Win a War Too” was shown at the Museum of Sakharov. During the exhibition, the Museum arranged a workshop for teachers entitled “How Children Can Be Told About the Dark Sides of History: Methods and Means.”

One Moscow school opened a website called “the Holocaust”¹ in connection with its participation in the “International Education and Resource Network” program. The following words are cited on the main page of the website: “The memory of the Holocaust is necessary so that our children will never be either victims or hangmen or indifferent observers.” The website is devoted to everyone who cares about the history of the mass genocide of the Jews, its reasons and consequences; the fates of victims, saviors, hangmen; and the courage and the resistance of people doomed to inevitable death. The urgency and relevance of such websites is not just in the comprehension of history but also in understanding their current expression in modern world events, the threat of chauvinism, fascism, and anti-Semitism.

The Jewish communities are quite active in the field of Holocaust education, e.g., through meetings conducted in city public libraries devoted to the memory of Holocaust victims; such meetings

¹ See: <http://Holocaust.ioso.ru>.

are usually attended by university students specializing in Judaica, students, pupils of Jewish secondary schools, volunteers and veterans.

In the city of Novorossiysk, 37 lessons on the subject of “the Holocaust of European Jewry” were conducted with the efforts of the city’s Jewish community – more than 670 pupils of schools and students listened to the lectures and participated in workshops and debates.²

In St. Petersburg, the project of studying the subject of the Holocaust in Poland was implemented with support of the organization Joint.

In September–December 2007, a group of scholarly experts from leading institutes of the Russian Academy of Sciences led by A. Lokshin conducted a complex study of 34 textbooks, tutorials and reading books on the history of Russia created after 1991 and admitted or recommended by the Ministry of Education for studying in secondary schools. It was discovered during the study that some subjects are either suppressed or interpreted most tendentiously. For example, in some textbooks the Holocaust is not mentioned at all. In other cases, the Holocaust is not interpreted by the authors as the single instance in world history in which one state made an attempt to eliminate another nation completely.

The experts agreed that the legacy of Soviet historiography is clearly seen in some contemporary textbooks as the subject of the Jews, pogroms, and the Holocaust is completely lacking.

² See: http://www.aen.ru/index.php?page=brief&article_id=36448.

Unfortunately, except for some achievements in familiarizing the society with the problems of the Holocaust, several unsolved tasks still remain. In recent years, the use of cinema and TV for educational activity on the history of the Holocaust has begun. The documentary film "Brest Ghetto" shown in 1995 was the first film of this kind. In 2002, various Russian TV channels showed the film by Pavel Chukhrai "Children from the Abyss" created using video footage of the Spielberg Fund. In autumn 2008, the first channel of Russian TV showed the film "Heavy Sand," based upon the novel by A. Rybakov of the same name; it tells among other things of one of the Jewish ghettos on the territory of the USSR. Foreign films devoted to the Holocaust are periodically shown on Russian TV channels.

Human rights and Jewish organizations arrange meetings with people who lived through children's death camps. Schoolchildren visit memorial sites under various programs and familiarize themselves with the evidence on the Holocaust. The work for the immortalization of the memory of the Jews who perished is conducted perpetually, though it does not always face understanding on the part of local authorities. The initiative for the creation of Holocaust museums came from "Heseds" (Jewish charitable organizations). Young people were actively attracted to this work. In recent years, memorial expositions and halls have been opened in many Russian cities.

Russian human rights activists cooperate with the "Yad Vashem" international school in studying the memory of the Holocaust. Its objective is to teach the memory of the Holocaust and its lessons all over the world.

The most important condition for preserving the memory of the Holocaust is the introduction of this subject into the educational

programs of schools and colleges. One of the items of the Declaration of the Stockholm Conference (January 2000) signed by 47 heads of state from around the world and their representatives, stated the necessity of teaching a class on the Holocaust in secondary schools and institutions of higher education. This item was established in a document during the meeting of the ministers of education of the member countries of the European Council that took place in October 2002. The Minister of Education of Russia signed this document. This created a regulatory base for teaching the Holocaust in educational institutions.

In 2008, the Educational Department of Moscow sent the letter to all of the city schools with a recommendation to conduct a lesson of tolerance on the International Day of the Holocaust. The Moscow Institute of Open Education prepared the methodological instructions, and as a result the lessons took place in 107 of 146 schools in the central district of Moscow. The teachers either talked about Auschwitz and its prisoners or showed a documentary film about the Holocaust to the children according to their personal preference. Many teachers and methodologists of Moscow schools think that the children should learn about the victims of the Holocaust as well as the names of Jewish combatants of the Resistance; they should also be told about the Righteous Among Nations. During conversations about the Holocaust, empathy is more important than analysis: children would understand the terror of the Holocaust better by imagining themselves in the place of Anne Frank or a Jewish boy from Berlin.

Educational work on the subject of the Holocaust is one of the most important aspects of the work of the Moscow Bureau for Human Rights (MBHR). In 2006, MBHR, in cooperation with the "Holocaust" Center, conducted monitoring of websites; 80 websites were revealed to contain anti-Semitic statements and denial

of the Holocaust. In 2006–2009, MBHR, in cooperation with the International Task Force, implemented a project entitled “Teaching Journalists of Moscow Periodicals to Deal With the Subject of the Holocaust in Mass Media,” dealing in this manner with a target group that was basically uninvolved in earlier educational programs. The project told the journalists about the history of HFive regional training workshops, which were held under the project for representatives of mass media in Yaroslavl, Samara, Volgograd, St. Petersburg and Ivanovo. These workshops were also attended by representatives of human rights and juridical organizations, regional authorities and scientific circles.

MBHR successfully implements the project “Russia Without Hatred and Hostility” in various regions of Russia. Legal schooling is conducted within the project with the purpose of overcoming anti-Semitism and extremism. The project’s task is to attract press employees to the subject of the Holocaust. It was also important to provide exhaustive information on how this subject is developed and presented in other countries of the world.

The project was tasked with influencing public opinion on the issue of attitudes towards the Holocaust through journalism. A shortage of information about this tragic page of history and the appearance of revisionist myths in Russia are based upon traditional anti-Semitism, and MBHR considered its duty to provide corresponding educational information for the journalists so that they could affect the society in their turn. Journalists have a real opportunity to influence the formation of a tolerant attitude towards minorities and other vulnerable populations in Russia. Many radical organizations in Russia publish mythological and false versions of the history of the epoch of Nazism; they assert, for example, that the elimination of the Jews is an invention of the Jews themselves. Such interpretations should be equated

with Nazi propaganda. Journalists must track down such materials and provide an evaluation of them.

The subject of the Holocaust and its interpretation in Russia are closely connected with the problem of anti-Semitism. In the opinion of human rights activists, anti-Semitism should be counteracted through a system of regular monitoring of interracial, interethnic and inter-religious relations – it is desirable for this to be done on a nationwide basis. It is necessary to develop the special Federal Target Program (a kind of a national project) for counteracting xenophobia, ethnic and religious intolerance and aggressive nationalism.

As discrimination against Jews during the period of Nazism was a part of the state policy, journalists should recognize any manifestations or signs of such a policy during its earliest stages, when nothing seems to point out the forthcoming danger. The project envisaged telling journalists about the events of the Holocaust, about the ideology of anti-Semitism and neo-Nazism and about the problems of today’s xenophobia and racism. Anti-Semitic moods are still a deeply internalized element of the Russian ethnic conscience. This conscience, weighted by a burden of traditionalist atavisms, continues to treat the Jews exclusively as some solitary group, and to associate certain cultural and religious stereotypes with that group.

Thus, the term “Holocaust” was absent from the federal program to form a tolerant conscience that was implemented in 2002–2005 with governmental support (though several tutorials were published during its implementation that touched upon this subject immediately).¹

¹ Altman, I. “Memorialization of the Holocaust in the Russian Federation: State, Problems, Tendencies”. *Euro-Asian Jewish Yearbook of 5768* (in Russian).

The attitude of official educational structures towards the teaching of the Holocaust and the training of teachers is negatively affected by the fact that Russia is not a member of the International Task Force, which implements programs for teachers in this field, and does not show proper interest towards the activity of this Organization, unlike some of its neighbors. The establishment of cooperation between Russian educational structures and the International Task Force seems most desirable.

In many respects the position of officials can be explained again by the fact that the Holocaust is understood by them exclusively as a “particularly Jewish problem” and as an attempt to gain undeserved privileges for one nationality (a phrase that was coined by one high-ranking Russian official in a conversation with a representative of the Russian Jewish community, is the harshest expression of this tendency: “Why do you trouble us with your six million – we have 27 million dead.”).

The subject of the Holocaust is also brought up quite seldom in the mass media. This usually takes place on January 27, on the Day of Remembrance of Holocaust Victims and in April when the anniversary of the beginning of the uprising in the Warsaw ghetto is marked. Such publications are mostly banal and dry. Attraction of the attention of the mass media towards this problem is a complicated task, as some journalists and editors justify their unwillingness to write about the Holocaust by claiming that this subject is “not interesting” and “not up-to-date.” The more important matters are the educational workshops, as they break these stereotypes.

There is still no museum/educational center in Russia devoted to the Holocaust. The available expositions in the Memorial Synagogue at Poklonnaya Hill, the Museum of the Great Patriotic War

and the “Holocaust” Center are insufficient, and schoolchildren's visits to these places occur mainly at the personal initiative of the teachers. Perhaps the Museum of Tolerance being built by the Federation of Jewish Communities of Russia can undertake the function of such a museum. The inclusion of such a museum on the lists of those recommended for visiting by schoolchildren and students is necessary anyway. Cooperation with Steven Spielberg's “Shoah” Fund and the “Tolerance” Museum in Los Angeles would help to equip the coming museum with the most up-to-date technologies. The coming museum is also necessary for Russia and Moscow as a permanent place for meetings of the representatives of various countries, primarily young people and pedagogues studying Holocaust history and problems of tolerance. The State Museum of Holocaust History could unite the educational center and museum project and serve to propagate ideas of tolerance and search for mutual understanding in contemporary Russia.

Speaking about cinema and TV, their potential is used to an extent that is far from complete. A considerable number of films devoted to the subject of the Holocaust are shown not during primetime or on local channels that are not always available to a mass audience.

Russia needs the development of a state program to immortalize sites of mass extermination of Jews on the territory of Russia. The international cooperation of students and schoolchildren should be developed – through the arrangement of trips around the sites of the Holocaust on the territory of Russia, visits to foreign memorials and the holding of international conferences and contests. Unfortunately, the so-called phenomenon of “Holocaust fatigue” has been observed in the public conscience of Russia in recent years, however similar to that of the subject of the

Gulag and many other painful subjects of history. In the opinion of sociologist Boris Dubin, this is explained by the immaturity of the public conscience, which seriously complicates the work of maintaining the memory of the Holocaust. However, such work must be continued in Russia, which suffered from totalitarianism most seriously and where the civil society must withstand the oblivion of one of the most terrible tragedies of the 20th century.

Another problem that began to appear in the 1990s and attained a large scale is the activity of so-called Holocaust deniers, who attempt to underestimate its scale or present the Holocaust as a “Jewish invention.” While, in the 1990s, these “deniers” were mostly interesting to a narrow circle of so-called national patriots, at present their books are published by outwardly respectable publishing houses and the articles appear on official websites. (The most famous case of this kind is the appearance of an article by the young activist of the “Young Guard of United Russia,” N. Tomilin, on the YGUR website in February 2009, which stated that “under the influence of Israeli lobbyists, the Holocaust turns into a religion with all the signs of a totalitarian sect.”)¹ At present, the activity of educational organizations in the sphere of combat against Holocaust deniers is considerably low. Publication of a popular scientific book in Russian would be key to refuting the arguments of “deniers” in an understandable manner.

We must remember that the Holocaust is our history and our tragedy. Anti-Semitism and anti-Israeli sentiment is our present.

We have to remember that genocide prevention is indeed within the capacity of humankind.

¹ See: <http://www.zaks.ru/new/archive/view/54140>.

► **Nancy Petschek-Kohn**

HOLOCAUST AND HUMAN RIGHTS EDUCATION CENTER,
USA

HOLOCAUST EDUCATION OVER THE PAST 10 YEARS

Over the past 10 years, I have seen two significant changes in Holocaust education. During this time, I have been running a program for youth (ages 13–19) involved in non-violent bias incidents, e.g., spreading hate graffiti and internet harassment. The program was developed by the Anti-Defamation League (ADL) and is offered through what used to be named the Westchester Holocaust Education Center but has recently been renamed the Holocaust and Human Rights Education Center.

The Center’s new name reflects the biggest change I have seen in Holocaust education over the past ten years: a move from making sure that the Holocaust itself is being taught in the schools, to not only teaching about the Holocaust, but using it as a lens through which one teaches issues of human rights. This means, on a basic level, to teach mutual understanding and respect for all people; and on a grander level, to make students aware that our cry of “never again” has not been heard. Human rights violations and even genocide still occur in our world. But as valid as it is to use the Holocaust as a lens through which to discuss other events, there has been and continues to be a debate about whether making the change to include the words “Human Rights” or “Genocide Studies” into a Holocaust organization’s name takes away from the singular event of the Holocaust. I will not focus on this debate, as it would take much more than my allotted 10 minutes!

By using the Holocaust model of dividing those involved into the groups of victim/perpetrator/bystander/rescuer, one has a tool

with which one can begin to teach the above-mentioned lessons. These lessons can be learned from a very young age on up. With younger children one can begin by focusing on bullying, which we all know is rampant in schools. With older students one can apply the lessons of the Holocaust to more recent genocides, which occur in the world when the systematic erosion of civil rights is tolerated.

Children are bullied for many of the same attributes that we protect by enacting hate crimes legislation: because of their perceived race, ethnic origin, sexual preference, religion, etc. With younger students, one can use the above-mentioned model by changing the groups into ones they are more likely to understand: victim/bully/bystander/helper. Now let's try something quickly. I want you to think of a time when you were a victim of bullying.

Now, if we were in a classroom, I would do this a little differently. We would turn this into a much longer activity, dividing you into pairs to discuss your answers and then leading a discussion with the class. With a class of older students I would change the activity slightly.

As you can see, we have changed the focus to that of prejudice and discrimination.

I would like to share with you another useful tool, the "Pyramid of Hate," which was developed by the Anti-Defamation League. It helps you to visualize how prejudice can grow into discrimination, institutionalized discrimination and even genocide if left unchecked. The key to combating this trend is to inspire as many students as possible to move from the role of bystander to what we are now calling *upstanders*. This means that each person has

the responsibility to act when he or she witnesses an act of bullying, prejudice or discrimination so that the behavior of the perpetrator does not escalate.

Now that you have had a short chance to participate in a little interactive learning, we come to the second change in Holocaust education I have noticed over the past 10 years: the growth of interactive education and service learning. As the years pass, I have seen more and more teachers eager to engage their students in an interactive way. Rather than teaching didactically, teachers use exercises like the one we just tried in lesson plans. More and more teachers and schools have begun to incorporate Service Learning into the curriculum. There has also been a growth in the establishment of human rights clubs and youth leadership programs, which extend learning into the community.

Though the most effective teachers have for many years involved their students in experiential learning, the term "Service Learning" has only over the last 10 years become the umbrella term for this type of interactive learning experience. It marries classroom content and leadership skills to benefit the school, community and/or world. What defines "Service Learning?" Cathryn Berger Kaye, a leading US Service Learning Trainer, says it can best be described by the way it allows to students to:

- ▷ Apply academic, social, and personal skills to improve the community;
- ▷ Make decisions that have real, not hypothetical, results;
- ▷ Grow as individuals, gain respect for peers, and increase civic participation;

- ▷ Experience success no matter what their ability level;
- ▷ Gain a deeper understanding of themselves, their community, and society;
- ▷ Develop as leaders who take initiative, solve problems, work as a team, and demonstrate their abilities while and through helping others.

You can see why these educational formats have become more common in the United States, and are beginning to come to Europe as well! For example, a US curriculum, “Hands Across the Campus,” which was created by the American Jewish Committee as a means to teach core democratic values to help students become respectful, pluralistically open and civically involved people, has recently been translated and revamped for use in the German educational system. Where needed, new lesson plans were created, structured around German history and values. The program also encompasses a youth leadership component, something totally new to German schools. There are many other curricula available to teachers who have no time to create their own.

This is just one example of many. In fact, the Conference planners had to add a new topic to the program to address the development of new educational projects in the Czech Republic and abroad. Actually, had I known this as I was preparing my abstract, I might have written about the educational project I am preparing with my Czech partner, Martina Štolbová, entitled “Children & Artists of Terezín.” This project is being created to:

- ▷ Preserve the history and stories of the children and artists who were imprisoned in the Terezín concentration camp

and present them in ways which promote their relevance to and lessons for today’s world and future generations;

- ▷ Create vehicles for today’s children to understand how the arts and education became “resistance of the spirit” for those imprisoned, using the lens of the Holocaust;
- ▷ Dispel and overcome prejudice, intolerance, hatred and bigotry through the educational vehicles and programs produced from the oral histories, documents and artifacts we gather;
- ▷ Make the educational programs and archives available to scholars and educators by distributing them widely via the internet and to schools and museums.

There are still many aspects of the Holocaust that remain little known to the general public. Not only is it important for the information to be disseminated, but this provides opportunities for Service Learning. Students can develop research, writing and math skills by researching little known events, and can also engage with survivors in their communities.

Interactive, experiential and service learning are an answer to this statement of Simon Wiesenthal, engaging students and making them active and involved participants in their schools, communities and the world.

Thank you.

Remembrance, Memorials and Museums

► **Richelle Budd-Caplan**

YAD VASHEM, ISRAEL

THE EDUCATIONAL SUSTAINABILITY OF HOLOCAUST REMEMBRANCE

On June 1, only a few weeks ago, a special concert of Leonard Bernstein's Symphony Number 3, "Kaddish," was performed by the Israel Philharmonic Orchestra in the Warsaw Ghetto Square of Yad Vashem on the Mount of Remembrance in Jerusalem. This special performance highlighted a text written and narrated by Holocaust survivor Dr. Samuel Pisar entitled, "A Dialogue with God," which accompanied the music.

In this artistic expression integrated into the symphony, Pisar, wrestles with the Divine in an outpouring of the heart, "lamenting with grief and anger, welled up from his own traumatic past, and the deluge of hatred, violence and fear that is engulfing him again." In the second movement of this powerful musical piece, he cries to heaven, "Now one of the last living survivors, of the greatest catastrophe, ever perpetrated by man against man, my life is no longer entirely my own. They also live within me. And my memory is the only tomb they have."

Almost exactly two years ago, Elie Wiesel gave the opening address at an international conference on the occasion of the 60th anniversary of the founding of the Auschwitz-Birkenau State

Museum. As he reflected on the question of Holocaust remembrance for posterity, Wiesel noted, "Houses, buildings, stones: all these can disappear... A decision in a high place can come a hundred years from now, and whatever is now here will not be here."

As Holocaust survivors like Pisar, Wiesel and others pass on the torch of remembrance to the next generations, we are faced with the challenge of fostering Holocaust awareness. It seems as though bricks, as well as books and films, although inadequately, will ultimately replace survivors relating their personal stories.

Holocaust memorials and museums have been built at the sites of Nazi German concentration camps and extermination centers – as well as in various places where the actual events took place – but they have also been erected around the globe in locations far away from Nazi-occupied Europe. For example, a couple of years ago an educational center focusing on the Holocaust was established in Wellington, New Zealand, and even a small-scale Holocaust museum (*Museo de la Shoa L'chayim*) has been created in Morovis, Puerto Rico. According to what we know, Holocaust-related museums and memorials may be found on almost every continent, with the exception of Antarctica, such as in Tokyo in Asia; Cape Town in Africa; Buenos Aires in South America; Melbourne in Australia; Montreal in North America; Budapest in Hungary; and the list goes on.

Clearly, these memorials and museums have been established to commemorate the Shoah, an unprecedented event that fundamentally challenged the foundations of Western civilization – as stated in the Stockholm Declaration signed in January 2000. However, are we building memorials to remember for the future or to put the past behind us? We must honestly ask ourselves

whether building museums and memorials will ensure that Holocaust remembrance will be sustainable.

The term “sustainable,” which has become rather trendy in some circles, has been applied in various different contexts throughout the past few decades. For instance, the United Nations Division for Sustainable Development has listed more than forty areas that fall under the category of “sustainable development,” with a strong emphasis on ecology and the environment. This term denotes that we are concerned about the future and that we need to put a system or process in place with a view to promoting cross-sectional cooperation to achieve our goals – even though they may not always be realistically attainable. Moreover, this term underscores our responsibility as human beings to plan ahead in the long-term for the generations of tomorrow.

In the context of Holocaust education and remembrance, we are clearly concerned about the future, especially as Holocaust survivors become older and often frail. We recognize that as educators we have a responsibility to impart this history in an age-appropriate, interdisciplinary way to youngsters. As part of our common objective, we coordinate teacher-training programs, seminars and workshops as well as produce lesson plans, textbooks, films, internet sites and other resources to provide aids for educators in formal and informal frameworks.

The name Yad Vashem is based on a biblical passage from the Book of Isaiah, Chapter 56, Verse 5, “And to them will I give in my house and within my walls a *memorial* and a *name* (a “*yad vashem*”)... that shall not be cut off.” Established in 1953, Yad Vashem has been committed to four pillars of remembrance: commemoration; documentation; research and education.

The order of these cornerstones of remembrance is not coincidental, but rather reflects a shift in the development of Yad Vashem over the past two decades. In the early years, Yad Vashem’s main mission was to collect information, especially names of Jewish victims who were murdered by the Nazis and their collaborators. The building of our archives evolved in parallel with Holocaust research and the development of scholarship in this field. Yet, until the early 1990s, educational activities at Yad Vashem were rather limited in scope.

The International School for Holocaust Studies was established in 1993 under the direction of the Chairman of the Yad Vashem Directorate, Avner Shalev. Reflecting on the creation of the only school of its kind in the world, in the summer of 2008, Shalev relates, “When I came to Yad Vashem, I found it was full of memorials, plans for more memorials, all kinds of stones, which were very important because they wanted something tangible, something that would stay forever. And I tried to convince them that the most important thing would be to construct a school.” The School is part of a larger educational complex including an immense archive, modern museums and a world-renowned research institute, and on a daily basis, School staff draw upon the expertise of their colleagues in other departments.

Building a school in the heart of the Yad Vashem memorial was unquestionably a significant statement, indicating that the new administration had chosen to make education one of its first priorities. Moreover, by calling it a school, it became evident that Yad Vashem was seeking to embark on a sustainable process of building a staff of professional educators and creating a discipline – not academics in a university but rather experts in pedagogy.

It is important to emphasize that Holocaust education as defined and developed by the School is multi-disciplinary, multi-faceted and multi-directional, focusing on how individuals lived before, during and after the Holocaust as well as the “choice-less choices” they were forced to confront during this period. Our educational approach encourages learners to focus on personal stories and the dilemmas of those who lived during the Shoah, wrestle with questions, and reflect.

Our aim for educational sustainability of Holocaust education and remembrance is rooted in the subject matter. We must ensure that teachers and their students have a secure grounding in the history of the Shoah. Learning about the Holocaust can sensitize young people to modern-day examples of hatred and racism, but moral lessons will not be well founded unless they are based upon an accurate and objective understanding of the historical context.

The School, including more than 100 staff members, organizes educational programs and produces didactic materials for a number of target populations and educational organizations in Israel and abroad. In 2008, over 300,000 young people participated in programs developed by the School. More than 60 seminars for educators from abroad were coordinated on the campus, and over 100 teacher-training courses for Israeli educators were organized in conjunction with local partners. In addition, School staff presented educational tools and techniques in a plethora of languages in 26 different countries.

In recent years, we have witnessed a growing interest among European countries to educate about and commemorate the Holocaust. Many of these countries have formally instituted Holocaust remembrance days and educational programs, thus

increasing the need for accurate, relevant lesson plans and pedagogical guidance.

Since we are attending an international conference focusing on Holocaust-era assets, it is only fitting to focus on the path-breaking work of the European department of our School, encompassing 38 countries from across the continent, made possible through the generous assistance of the International Commission on Holocaust Era Insurance Claims (ICHEIC).

The content of each and every seminar is tailor-made according to the country of origin of the participants. To help facilitate a constructive learning process, preparatory and concluding meetings are also organized. Educational materials in a variety of European languages including Hungarian, Romanian, Polish, Lithuanian, German, French, Russian, Italian, Croatian, Czech, and others may be found on our website. Our objective is to create a network of educators committed to undertaking Holocaust-related projects in their own regions and to develop an open, professional dialogue with them.

The work of the European department represents an attempt to integrate all of the facets of the Yad Vashem campus, including historical lectures, pedagogical workshops, museum tours, survivor testimonies, and debriefing sessions, in an effort to develop a deep educational process among learners.

In our effort to strive for educational sustainability, we also seek to develop strong partnerships with international bodies, ministries of education and non-governmental organizations at bilateral and multilateral levels. For example, the Task Force for International Cooperation on Holocaust Education, Remembrance, and Research, established in 1998, now has 27 member

states—including those outside of Europe such as the United States of America, Canada and Argentina. Additional nations have also officially indicated their interest in buttressing their efforts to further Holocaust education and commemoration, requesting to work in partnership with the Task Force’s international umbrella of experts, policy makers and diplomats. In our view, our active participation in the Task Force, as well as our projects with the OSCE, the European Union, the Council of Europe, the United Nations and other international organizations, is key to developing educational sustainability of Holocaust awareness and remembrance.

Before the new Holocaust history museum opened in March 2005, there were those who noted that Yad Vashem has a big school and a small museum attached to it. Clearly, visiting a Holocaust-related museum or memorial does not yield instantaneous educational results. Education is invariably linked with changes in social behavior and cognitive understanding, yet we must be realistic in our expectations though continuously aspiring to develop long-term processes based on partnerships to ensure a lasting impact.

In his narration of Kaddish, Pizar affirms, “I must honor their tragic legacy, and warn the living – of every race, color and creed – against the new catastrophes that may still lie ahead. For the unthinkable is again possible – a relapse into the dark ages, as a leap toward a radiant future.”

Pizar’s words underscore our responsibility for a better tomorrow and our need to implement Holocaust education through sustainable educational frameworks and networks.

► **Thomas Lutz**

TOPOGRAPHY OF TERROR FOUNDATION, GERMANY

MEMORIAL MUSEUMS AND THE ITF

Dear Ladies and Gentlemen:

In the following brief presentation, I will relate some facts about memorial museums in Germany with respect to the depiction of the Nazis’ victims. Based on these facts, I will then point out the advantage of working together on the international level through the ITF. After that, I will add two chapters about how to deal with actual challenges in the work of memorial museums on authentic sites in Germany and Europe and the importance of “eyewitnesses” in memorial museums and the struggle over the politics of memory regarding victims of “totalitarianism” in Europe.

Special Features of Memorial Museums in Germany

The actual culture of memory differs a lot, if you compare it with the “old, typical” way the World War I was commemorated in Germany and also with the commemoration of state crimes and genocides in many other countries. Because Germany was divided after the World War II for 40 years, two different cultures of memories developed.

In the German Democratic Republic (GDR), we had the traditional model: the culture of memory was invented and organized by the state. The commemoration was focused on our “own” victims. In this case that meant the communist resistance fighters. The aim was to create a tradition celebrating the new state, its government and political system. Because this was based on the

communist idea, the resistant fight of communists against fascism was placed in the foreground – and it did not have much to do with the history of the historical sites. Many sites were neglected while the other groups of Nazi victims were never explained or valued in the proper manner.

Because the political and economic system of the GDR was different, so the story went, the roots of German fascism had been eradicated. In the GDR, it was not considered necessary to deal with the perpetrators. The perpetrators were the “others:” members of capitalist countries – like the Federal Republic of Germany (FRG).

In the FRG, dealing with Nazi crimes and their victims was suppressed for decades. In the wake of the student movement, another movement started to uncover the history at authentic sites connected with Nazi crimes and where victims suffered and were buried, many of them without the dignity of a gravesite. Such historical sites were important for different reasons: First, these sites provided evidence that these crimes indeed had happened and it was no longer possible to deny them. Second, the realization dawned that different groups of victims had been persecuted at all of these sites. It was the task of the newly developed and still small memorial museums to explain the reasons why these groups had been persecuted – with all the complexity that goes with that kind of discussion including the differences in the treatment of the various victim groups by the Nazis and the ways people survived the state’s crimes and the genocide. Because 90 percent of Nazi victims came from foreign countries, and because the German victims of Nazism had been first expelled from the mainstream German society before they were persecuted and killed, the commemoration of the Nazi victims in the post-war FRG was typically a commemoration of the “other” victims. This was a real social advancement. The commemoration of the

Nazi victims came to be combined with the civil rights movement in West Germany and the endeavors for reconciliation with the states that had been attacked by the Wehrmacht during the World War II.

The research conducted into memorial sites, organizations and institutions was so close to the interested young historians, social workers, teachers etc., that they became frightened about how close the murderous Nazi regime was to a normal society and how many people had supported it in a variety of different ways. In connection with the commemoration of the “other” victims, a self-critical examination of our “own” German perpetrators began. It was crucial that this process was started by civil action groups. They demanded that society and its political decision-makers act. Without the support of the public authorities it would have been simply impossible to run a museum in Germany. These social demands were so strong that most responsible governments decided to support the new memorial museums being created across the country. On the one hand, this marked an important development in society and it has become mainstream in German society. On the other hand, the institutions are still small and behind all the nice words and political correctness it is an everyday struggle to generate support for these institutions.

From my point of view, the opening of the debate about the Nazi crimes, the commemoration of the different groups of victims – and especially of the Jews as the group which became the central target of persecution due to the Nazis’ racist-biological definition of society – facing the social responsibility that comes with the legacy of the perpetrators became “new” and “unusual.” But it also contributed to the democratic development of society and to the self-reflection about the quality of the development of a democratic society in Germany – especially to the question of

how minorities and weak persons could have a chance to live a normal life in Germany.

The International Cooperation in the ITF – Especially in the Memorial and Museums Working Group

Speaking generally about the history of Nazi crimes and the affiliated culture of memory, we have two countries on opposite sides: Germany – the country that killed the Jews in Europe – and Israel – the country where the most survivors live and whose tradition is based on the oath to prevent such a mass murder of Jews from occurring in the future. All other countries fall somewhere in between. The countries that were occupied by Germany and its allies should be especially considered victims of the Nazi regime. The history of these countries is quite different; nevertheless one can see in all of their histories a mixture of opposition, resistance, opportunism, support and cooperation, both on a national and on an individual level, with the Nazi occupiers. And without the different levels of collaboration, the deportation of Jews, as well as of forced laborers or political opponents, would have been impossible. Dealing with this history has also been very different from country to country. Quite often, one finds specific myths inherent in the national narratives of the World War II era. Quite often, only one's "own" victims are commemorated, and in some countries the culture of memory is divided between groups who were treated differently during the war or who have dissimilar political opinions today. Only recently has it become more usual to speak openly about the system behind the persecutions and how one's "own" countrymen acted within that system. The perpetrators are usually considered to be "others."

The cooperation within the ITF, and among its different Working Groups, shows its understanding for the reasons for different

approaches to the same historical period in various countries. The view across borders also helps to recognize the strength, weaknesses and myths concerning the interpretation of World War II – at least in its European dimensions – in one's own country. This could be a starting point from which to scrutinize one's own interpretation of events. From my point of view, a self-critical and pluralistic wrestling with the history of this period represents an important step not only toward understanding this history (which is important for all of us) but also as a way toward developing democratic and open structures for negotiating important topics in a civil society.

The Importance of Eyewitnesses for Memorial Museums

Nearly 65 years after the liberation from the Nazi regime, it has become an international trend to point out that, in the near future, survivors of Nazi persecution will no longer be alive to contribute to the explanation of this history or to tell their own stories. In my eyes, this argument is a bit short-sighted. For it is necessary to see this development from a greater perspective:

1. For many people who work in the field of Holocaust education, the encounter and friendship with survivors is a great motivation to do their work. I believe there is no other profession in which professionals have to so regularly face the loss of people with whom they work – and often become friends – as do professionals in memorial museums. The death of an eyewitness often represents a distressing personal situation for many of us.
2. Many people were killed during the Nazi period and thus never had the chance to tell their story. And even if not one survivor had been left among us, it would still be our task

to teach about the Nazis' crimes and to commemorate the victims. We have several areas of Nazi crimes where the work of memorial museums had to happen without eyewitnesses from the beginning – for example, the 70,000 handicapped persons and institutionalized patients who were killed during the “*Aktion T 4*” in gas chambers between early 1940 and the autumn of 1941. One might also keep in mind that Primo Levi characterized himself as a “second-hand eyewitness.” In his eyes, the true eyewitnesses of Auschwitz were the human beings killed in the gas chambers and shot by the SS.

3. Over the decades, the nature of eyewitness testimony has changed.
 - (a) First, because of their age, the eyewitnesses who are left to speak up now were only teenagers or children when they were persecuted by the Nazis and their allies. Some decades ago, we were able to hear quite different kinds of stories from older survivors. Many of these consciously observed the rise of the Nazi regime and had a different relationship to this history.
 - (b) Moreover, the personal stories of eyewitnesses are affected by the politics of memory. One important occasion was the end of the communist regimes in Middle and Eastern Europe. I know many survivors whose personal story changed with the political and social changes and the change in the level of attention paid to them and to their stories.
4. Germany: Only a very small number of visitors to memorial museums have the chance to encounter survivors of

these special historical places. Despite the decreasing possibility of meeting eyewitnesses, interest in learning about the Nazi-era history and the crime sites has in fact increased. Also, if one compares the present-day situation of many memorial museums with the situation two decades ago, one must draw the conclusion that the importance of these institutions, and the conditions of research and learning at them have increased in magnitude – from the US Holocaust Memorial Museum to the many new or advanced memorial museums in Germany, new Holocaust Museums in France and Hungary and the extension of Yad Vashem.

5. Even if we sadly lack the possibility of encountering survivors of the Nazi crimes on the professional level, the ability to explain their fates during the Nazi-era persecutions and after their liberation is much better today than it was before. We can explain the fates of different groups who were persecuted by the Nazis and their allies much better – on a group as well as on an individual level! The reasons for this are as follows:
 - (a) There is much more historical knowledge available regarding this period.
 - (b) There is much more material from eyewitnesses (evidence, testimonies, pictures, audio and video records, objects used by them during the persecution, etc.) to explain the history from the perspective of the survivors.

The curators and educators are much more sensitive now in how they explain this history and have much more experience in how to teach the personal stories in their historical context.

To summarize my point of view in a positive way: the memorial museums and other related institutions have now gained the expertise and the capacity to explain the history of Nazi persecution from the standpoint of those who suffered under the Nazi regime. This history is so important that it will continue further than the third generation. In Maurice Halbwach's theory about the development of cultural memory, this is possible only if, on the one hand, social interest in the field remains vivid while, on the other hand, institutions continue to provide information about this history. In recent years, one has noticed an increasing level of interest in dealing with the history of the Holocaust and in the Nazi crimes at an international level.

I am confident that memorial museums for the victims of the Nazi regime will be able to fulfill the task of commemorating the victims and teaching about this history. Without eyewitnesses these "stone witnesses" will become more important. The question is how far governments and societies support them in the performance of their tasks based on their scientific expertise and in dialogue with civil society as a whole.

The Struggle Over the Politics of Memory and the Efforts to Combine Different Dictatorships in Establishing August 23 as a European Commemoration Day

On April 2, 2009, a resolution passed the European Parliament promoting August 23 as a common day of commemoration for "all victims of totalitarian and authoritarian regimes." I assume that if many parliamentarians are unaware of the problems of commemorating this day, such a commemoration day will inevitably minimize the remembrance of Nazi crimes. I offer the following arguments for my presumption:

Employing August 23 as a Europe-wide day to commemorate every state crime at the same time thoroughly combines completely disparate phenomena;

Commemorating this day symbolizes that Germany and the Soviet Union are equally responsible for World War II. This is a political statement, but has nothing to do with the true reasons why the World War II began. New myths will be created!

It conflates two totally different aims of the war: The Holocaust, the genocide against Roma and the "*Generalplan Ost*," the ideological basis for the German war of extermination against Poland and the Soviet Union, are totally different aims from the occupation of Europe by the Soviet Union.

This symbolism presumes that the states that were occupied by Germany and the Soviet Union during World War II or were satellites of the Soviet Union after the end of the war, were simply innocent victims of two dictatorships and only the foreign powers are to be held responsible for everything bad that occurred. (An excellent example for this statement is the "House of Terror" in Budapest.)

The historical situation was quite different in the different states, cities or regions – and it is necessary to look at each situation in detail. Generally speaking, states and their civilians were victims – no doubt about it – and they often offered resistance. But they also at times collaborated, profited, or at least looked the other way as the crimes against humanity and genocides happened. Not only was victimhood part of European history, but the perpetrators also came from every European country. It is undoubtedly the case that the starting point of the World War II was the German occupation. But without the support of

local institutions and persons, the Holocaust, the deportation of forced laborers, or the incarceration of political opponents would have been impossible.

My fear is that these facts could be forgotten through the selection of August 23 as the combined European commemoration day. Another aim of August 23, the mourning and commemoration of all victims of all dictatorships together, may well be impossible. To the contrary, using this day for such a purpose is an affront to Nazi victims. Most Holocaust survivors today would clearly reject being commemorated together with victims of the Soviet regime. The complicated connections between Nazi crimes and the post-war situation make it possible that people who were perpetrators during the Nazi period could have become victims themselves afterwards. If they are commemorated together, one dignifies the victims and their murderers at the same time.

Beyond that, it does not make sense to commemorate all victims on the same day. If one does so, one has only rituals without content. Especially with the passage of time, it will become more important to combine information about the commemorated groups and the historical context in which they suffered. Otherwise it is impossible to understand why they suffered.

I am astonished that an old theory which has long been scientifically obsolete is now used politically to equate the public crimes committed by the Nazis in Germany and in occupied countries during World War II with the public crimes committed by the Stalinist Soviet Union and in their satellite countries. This leads us back to an equalizing and revanchist political debate that was conducted during the peak of the Cold War in the 1950s.

The promotion of August 23 is also dangerous for the politics of remembrance. Establishing a unique European culture of commemoration will create new myths and taboos. The histories of the various nations are too different. The first step must be to handle the history of different countries in an open and pluralistic way. And this includes commemorating all the victims, but also elaborating on who was responsible for the suffering of each group of victims, what the historical situation was and what the attitudes of state agencies and individuals were in relation to the situation. Second, one should learn why the cultures of memory in different countries are different, try to reach a mutual understanding and think self-critically about one's own approach to history, what is correct about it and what still needs to be improved.

After taking these two steps, it may be possible to think more about a European culture of remembrance. But to me, this would mean bringing together a variety of opinions instead of imposing one single point of view. If Nazi victims and the victims of Stalinism were to be commemorated separately, it would be very difficult to have a similar acknowledgement of the unique groups of victims on the international level. It would be impossible to commemorate every group of victims for every single dictatorship especially for the victims of the Nazi regime and of Stalinism.

My conclusion is this: The only lesson that can be learned from commemorating August 23 as a symbolic day is that dictatorships are evil! But with this date alone, it is impossible to either commemorate the victims of the different historical situations in a proper way or to learn anything from history!

My question is: Why is it that some politicians and governments are so eager to put something together that for personal, historical and scientific reasons makes no sense?

► **Sara J. Bloomfield**

DIRECTOR, UNITED STATES HOLOCAUST MEMORIAL MUSEUM, USA

THE MISSION AND IMPACT OF THE UNITED STATES HOLOCAUST MEMORIAL MUSEUM

As the USHMM thinks about Holocaust education in the 21st century, we are mindful of the need to be relevant to an increasingly diverse American public but also that teaching the Holocaust should not be just about facts and statistics but about meaning. In our 16 years of experience, we have learned that the debate about the universal vs. the particular turned out to be a false and unnecessary one. Good Holocaust education teaches the particular history of the Holocaust and does so in ways that help people easily understand its universal lessons. We have also learned that good Holocaust education can be meaningful, influential and enduring. In order to do this, it is necessary to think carefully about whom you are educating, why and how. Training every single teacher you can find may sound great but may not be the best utilization of resources.

Over the past few years, the Museum has developed a more strategic approach to education. First, with respect to secondary school teachers, we have decided to invest our resources primarily, but not exclusively, in those truly exceptional teachers who are committed to both Holocaust education and the profession of education for the long term. Harnessing their expertise and dedication, they become extensions of the Museum and are deployed as leaders in their school systems and communities, training other teachers and serving as an on-site, permanent resource for them.

But today I want to talk about another important aspect of our work. As we have developed our programs at the Museum, we have gone back to Holocaust history itself, which began not with mass murder but with gradual social collapse in a highly advanced, educated society. The Holocaust was made possible because the elites, the professions and the citizenry all acquiesced in their roles and responsibilities upholding democratic values. And that is the basis of our programming. So we see our teacher training model as a way to help shape an informed and engaged citizenry.

Likewise we have developed a variety of programs for the professions. Our goal is that the professions that safeguard society will understand the lessons of the Holocaust and the implications for their own roles and responsibilities and act on them.

Let me share with you one model. Our program for law enforcement.

In 1998, Charles Ramsey, the new police chief of Washington, DC visited the Museum at the suggestion of the Anti-Defamation League. He found it a deeply moving experience not only as a human being, but also as a law enforcement officer. During the course of his tour, Chief Ramsey discovered to his great surprise many photographs with police officers – and that once ordinary law enforcement officials had a role in the Holocaust.

Ramsey was also surprised to see that the looks of fear and intimidation on concentration camp victims' faces in images bore a resemblance to expressions he had observed on some of the people on the streets he had encountered in the line of duty. As he looked at them he realized that at times he himself had judged people by their "dehumanized" appearance.

Chief Ramsey had been brought to the Washington Police Department to address what the media had called a “pattern of reckless and indiscriminate shootings” on the part of the local police throughout the 1990s. He was looking for ways to increase his officers’ understanding of their relationship to the people they served and their role as protectors of the Constitution and individual liberties. Because of these unexpected connections with a history he had initially thought to be very much separate from contemporary life, Ramsey thought we could help with the huge challenge he faced. He asked the Museum and ADL to create a program for police recruits, which was almost immediately expanded to include all officers on the force, a program we ultimately called *Law Enforcement and Society: Lessons of the Holocaust*.

We agreed and shortly thereafter groups of 35–50 police officers began coming to the Museum twice a week. There were many discussions among Museum and ADL staff about how to structure the program. We knew it was important that the officers have a good grounding in the history of the Holocaust, so an in-depth tour of the Museum’s permanent exhibition was the core to the program.

We also developed a program component that dealt specifically with the role of law enforcement during the Holocaust. One of our earliest experiments used biographies of law enforcement officials who had taken different paths during the 1930s and 1940s as a launching point for discussion. The discussion revolved around the officials’ career paths and choices as well as an exploration of what choices were actually open to them and what consequences they would have faced had they made other choices. At first this seemed like an effective activity as the officers debated the motivations behind different decisions as well

as the pressures brought to bear on the individuals at different points in time. All this seemed very recognizable to the officers many of whom acknowledged how difficult it can be to stand up to pressures and motivations that can lead one to behavior that runs counter to deeply held values. However, several made a leap from this conclusion to decide that the “lesson” of the program was that they should begin following their own conscience in carrying out their duties. Some officers determined that they should avoid, for example, protecting the rights of groups they did not agree with, or protest by calling in sick or even take up arms against those they felt were carrying out immoral acts such as abortion doctors.

This was not the result we expected or desired. While law enforcement professionals have the right to disobey orders that they believe to be illegal, the purpose of this training was not to teach officers that they needed to refuse to carry out orders or enforce laws. After all, the program was initiated to create a more responsible police force dedicated to protecting the local community while at the same time upholding the law and respecting the rights of individual citizens. We recognized that we needed to revamp this part of the program. So, we dropped the biographies.

Instead we focused on the role of the profession during the 1930s and 1940s and the incremental changes that drew *ordinary* police – many of whom had not voted for the Nazis – into the Third Reich’s agenda. We did this through a close examination of a various photographs that show how a step-by-step series of changes in the nature of policing began in 1933 and culminated for some police in participation in deportations or in outright killings. For example, we begin with a photo taken soon after Hitler assumed power in 1933 that shows an older police officer

patrolling the streets of Berlin. He is doing ordinary police work, most likely covering the exact same beat he walked a couple of months before in the Weimar Republic. What is different is that he is now accompanied by a young member of the SA. The Washington officers understand this pairing implicitly: the older officer, a police professional, knows the community and knows his profession. Even though the content of his job responsibilities has not changed, its meaning has: he lends legitimacy and expertise to the new order. Another image, taken a few years later, shows a large group of police arriving in a Berlin neighborhood in a truck. Officers also understand this photograph: it is a raid and, given the show of force, there must be armed and dangerous criminals. But in actuality the raid, another typical police assignment, is on a Jewish neighborhood where no crime has been committed. Policing has now been directly harnessed to the Nazis' anti-Semitic goals.

In addition to this deconstruction of the ways policing was corrupted during the Third Reich, the ADL developed a segment to conclude the program that examines the nature of policing in a democratic society. The discussion begins with the facilitator asking the officers to list stereotypes about police. Over the many years of the program, the officers always have the same answers: racist, abusive, trigger happy, uneducated, brutal, etc. The officers are then asked how they would like to be perceived. They always respond: professional, fair, unbiased, compassionate, courageous, protectors, etc.

Later in the program, we ask the officers to define what makes law enforcement professionals in the United States today different from police under the Nazis. Both performed certain basic police duties – enforcing laws, gathering information, deterring crime, arresting suspects, writing reports, etc. We specifically

ask the officers, “What prevents you from engaging in the kind of abuses so comprehensively documented in the Museum?” Over the course of the discussion that follows, the participants recognize that the core values of American law enforcement, which they listed earlier – professional, fair, unbiased, etc. – are derived from the American Constitution, define their relationship to the American people and help insure that members of their profession do not abuse their power. Through the juxtaposition of this discussion of the role of law enforcement in our nation today, with an examination of the Holocaust and the abuse of power by police under Nazis, the officers come to a clearer understanding of the central role that their professional values play in insuring the strength of our democracy.

From 1999–2001, we trained the entire Washington, DC Police force of some 4,500 officers. An independent investigation conducted by the US Department of Justice at the end of this period found that “serious use of force including shootings and canine bites decreased during the period without impairing the department’s ability to fight crime.” The number of canine bites decreased by 70 percent and the number of fatal shootings dropped from c. 16 per year to four in 1999 and two in 2000. The Justice Department report credited four factors for the change: Revised firearms training; Improved hiring practices; Honest reporting; *Law Enforcement and Society* program. *Law Enforcement and Society* has now been expanded to all the police departments in the Washington, DC region, including Virginia and Maryland. We also train every new FBI agent. This model of leadership training has been developed for judges, prosecutors and the military.

The success of the program is a result of several factors. First, a strong grounding in Holocaust history. Second, clarity of goals that made sense to all three partners – the Museum, the

Anti-Defamation League, and the Washington, DC Metropolitan Police Department. This meant shaping the historical and contemporary segments of the program curriculum to contrast the role and values of policing during the Third Reich with those in our own democratic society. This allowed us to reaffirm the values that Chief Ramsey wanted to emphasize. And finally, the relevance of the content – and the richness of the discussion – was enhanced when we shifted the emphasis of the curriculum’s content away from individual decision making on the part of exceptional actors during the Holocaust towards an examination of the role of ordinary street police in Nazi Germany.

In conclusion, I would like to share with you part of what Chief Ramsey has said about this program.

“The Holocaust didn’t happen overnight, although there were major milestones... Rather it was a gradual process of marginalizing, dehumanizing fellow human beings and of the larger community closing its eyes to the warning signs and eventually to the brutality. So today it is incumbent upon all of us, especially our police officers and other public officials, to always keep our eyes open for any warning signs of profiling, discrimination, unequal treatment. And, it is incumbent upon us when we see those signs to step in and take action. Our vigilance and our commitment are probably more important than ever before, in this post 9/11 world of uncertainty and, yes, fear.

True community policing does not define police officers as a line, thin, blue or otherwise. We are not now, nor should we ever be, something that divides and separates our communities. Rather, I like to think of the police as a thread, a thread that is woven throughout the communities we

serve... indeed a thread that holds together the very fabric of democracy and freedom... If the police begin to unravel, then our very democracy begins to unravel as well. That image – much more than the thin blue line concept – captures the true role of the police in protecting and preserving a free society.”

► **Baruch Shub**

ORGANIZATION OF PARTISANS UNDERGROUND AND
GHETTO FIGHTERS, ISRAEL

Honorable Chairman, Ladies and Gentlemen:

My name is Baruch Shub, Chairman of the Partisans, Underground and Ghetto Fighters, and Member of the Board of the Centre of Survival Organizations in Israel and the Claims Conference.

We are not a museum, not a research center and not a teaching institution. But we are the source of hundreds of witnesses to the Holocaust. We are the last Mohicans of the survivors. We believe that it is of utter importance to collect our memories and document our pasts.

I wish to concentrate on a unique area of the Holocaust, which I think should be memorialized and taught. It is the case of the Jewish Resistance, its morality, its consciousness. I am sure that introducing the Resistance saga into the education of the Holocaust will enable young people – our future students – to absorb the knowledge much more easily. After all, young men are more attentive to cases of heroism. This I learned from the many years of lecturing in schools and academies.

Ten years of the “Thousand Year Reich” brought havoc and disaster, burying 50 million human beings in the process. The free nations fought back, defending their freedom and democracy. Many of the fighters and victims are honored and cherished in their homelands. We teach and remember the Paratroopers – heroes – who assassinated the SS men, Heydrich in Czechoslovakia, and the Lidice Village massacre. We praise the Underground Machis in France, the Red Orchestra in Belgium, the hundred of thousands of partisans in Russia, Belarus, Ukraine, the Polish and Slovakian uprisings, the Yugoslavian struggle and resistance.

The Jews did not have a homeland. Without the populations’ support, without arms, lacking food and medical help, they were totally exposed to the enemy. Their resistance was an impossible task.

But the Jews resisted and their story of the fight against the Nazis is a remarkable saga for future generations.

We, the survivors, have a unique moral authority, and must do our utmost to remember, memorialize and spread the truth about the Jewish struggle against the Nazis. We must tell the world of the moral, religious, organized or spontaneous anti-Nazi resistance. Armed or mostly unarmed, under the worst conditions, the Jews stood up for dignity and humanity. Many of the Jewish-populated cities, towns, or villages, mainly in Eastern Europe, had their own underground anti-Nazi organizations. Communities rose up or resisted when the Gestapo and its Einsatzgruppen – the killing squads – came for the kill.

The Warsaw ghetto provides an example, but resistance, fighting back, burning their own hometowns and escaping occurred in many other settlements. Ninety-two thousand Jewish partisans fought in the forests. Many families made the forests and

swamps their home, sometimes with a single rifle to protect themselves. The draconian laws to suppress their religion were mostly ignored, with death penalties daily.

I wish to tell you of an episode of Nazi murder and cunning. It happened in a small town in Eastern Europe called Radoshkovice near Minsk, the capital of Belarus. More than 1,000 men, women, small and young were dragged from their homes on a winter day, the March 11, 1942. They were ordered into a single line, ending in a barn on top of a hill. They were destined to be shot, thrown into the barn, and finally burned. They waited, all day long, cold, miserable and hopeless. The shots continued; the line shortened. Why did not they rebel? Why did not they storm the executioners, and try to escape to the nearby forests? The answer was given the next day. Two hundred Jews returned from the execution line. They were released at the top of the line by a group of SS and Gestapo officers, who pointed out the professionals, cobblers, mechanics, tailors etc, with their families. And so, the 1,150 Jews lining up were hoping until their last moment, that they and their families would be rescued. Sixty years later, I visited the town, looking for a sign of their mass grave, where my twenty-year-old sister was a victim. Very few residents knew where the grave was or about the people buried there.

When I found finally the spot, the stone erected in 1945 by some survivors, was completely covered with weeds.

We must teach our future generations and not only the Jewish one, of the many ethical and moral problems encountered by our youths:

1. Would you leave your closest family, head to the forests to fight the Nazis, knowing that your dearest are to be killed?

2. Would you escape from the ghetto or death camp, knowing that the next morning during the roll call, your absence will be a reason to execute the others?
3. Is it morally justified to call for a ghetto resistance, knowing that all of the population will die? The inhabitants might have had a tiny chance of remaining alive, if not for the uprising.

These and many other problems, universal and not unique only to us, were encountered by our Jewish youths at every step.

It is my honor to present our project called “Anti-Nazi Resistance” – an internet site, both in Hebrew and English, which encompasses 300 essays, supported by maps, films or pictures, telling of the locations and personalities of the Jewish Resistance in all its forms. The site is enhanced by historians and writers. The well-known ORT chain of schools in Israel and around the world (70,000 students in Israel) developed a pedagogic system, which is taught in their schools and academies and spread out worldwide. The next phase will be enlarging the number of schools and translating the system into more languages. This project is partly supported by the Claims Conference. We believe that the moral and conscience problems, which our youth stood for during the Holocaust, are important to all people of the universe, today and in the future.

Allow me to finish with a few sentences on anti-Semitism and Holocaust denial.

Some nations claim to be “double victims,” calling for “equal evaluation of totalitarian regimes,” meaning that they suffered equally from the Nazis as well as from other totalitarians

governments. It is not for us to judge, so long as they stick to the truth. But when they accuse the Jewish resistors (Partisans, etc.) with fighting and suppressing their nationals and murdering their citizens, this is when their anti-Semitism comes to light. The above-mentioned nations who partially collaborated with the Nazis use anti-Semitism and Holocaust denial as a tool to hide their pro-Nazi past. Accusing the Jewish resistors through their media and with the help of their legal authorities is an act of dishonesty and distortion of history. It is by blaming the others that they hope to cleanse themselves of their sins.

Thank you for your attention.

Researching the Holocaust and Access to Archives

► Steven T. Katz

ELIE WIESEL CENTER FOR JUDAIC STUDIES, USA

UNDER-RESEARCHED AREAS OF THE HOLOCAUST

I am delighted to join in today's conversation about present needs and future directions in Holocaust research.

As time is short, I will move directly to describe the seven areas at the top of my list that I feel require new and deeper study.

Russia and the Former Soviet Union

The top priority must go to future research in Russian archives and those of other areas of the former Soviet Union. As a result of Soviet policy, the relevant archives were hidden until the 1990s and since then, while the relevant work has begun to be done, it is still relatively in its infancy.

So, for example, we really have only superficial understanding of what occurred in Dniepropetrovsk or Mogilev. And, as Father Desbois' enormous project on the shooting of Jews in the Ukraine indicates, we still have much to learn about that area. Also, subjects like the role of the Soviet Army, or of Jews within the Army during the war, needs study, as the recent work of Prof. Zvi Gitelman on these last two topics indicates.

Also, there is the large area of Jewish participation in, and relations with, Soviet partisan groups in nearly all areas. For example, there is almost nothing of real depth known of the Partisan movement in Belorussia. The recent work of Prof. Yehuda Bauer on Jews and Soviet partisans is a small step towards filling this gap – but also serves to point out all that remains to be done. In addition, research on the numerous *shtetlach* – small Jewish communities – is very, very underdeveloped.

Under-Studied Western European Areas

Despite all the research that has been done on various western European countries there are still large areas that remain under-researched. Here I think, for example, of Greece. The research on Greece has rightly focused on Salonika. But what about the Jewish communities spread across the rest of Greece? Very little work has been done on them.

Local and Regional Studies

There has been important new work done on Norway, in the form of a study of Norwegian volunteers in the Waffen SS, which has been made possible through the use of heretofore-untapped local archival resources. The possibility of doing a more detailed study of the local history of the Holocaust in Norway – and other Scandinavian countries – has thus become recognized. I would urge, by extrapolation, the need to do similar local historical studies for other countries, cities, town and regions. For example, we need local histories of the Catholic churches in the Balkans; of Russian and Greek Orthodox Churches throughout Eastern Europe; and of the Catholic Church in Hungary. Also still to be studied is the murder of Jews in Lithuania and Latvia outside of the cities of Vilna, Kovno and Riga. This includes local

complicity in the murder of Jews in many places, for example, in Zloczow (Zolochiv) in the Ukraine, where the Jewish community was murdered by the local population. The debate touched off by Jan Gross' study of the event in Jedwabne, Poland, in his book *Neighbors*, is just the tip of a large iceberg that needs researching. Holly Case's book on *Transylvania* and Simon Redlich's work on *Brzezany* both reinforce this point, i.e., the need for more local studies, especially on regions and cities in Eastern Europe. Local studies might also help us to understand the crucial issue of why the "Final Solution" succeeded more fully in some areas than in others.

This reminds me to remark that the entire category of "bystanders," employed since the end of the war by historians and other scholars, needs re-examination and more profound exploration. Here I would remind everyone of the involvement of local populations in such actions as robbing corpses, looting Jewish homes, and taking over Jewish property and businesses. The discussions of the trade in clothes taken from Jews at Ponary (Lithuania) that are given in the eye-witness memoir on this subject by Kazimierz Sakowicz are both chilling and essential reading. Also, we need to revisit – or really, to visit for the first time – those locals who protected Jews for money and then denounced them.

Jewish Resistance

The subject of Jewish resistance throughout Europe, and especially in Eastern Europe, continues to be a highly controversial subject continually energized – in my view in a highly distorted way – by the reading of the otherwise remarkable work of Raul Hilberg (and others, such as the very poorly informed Hannah Arendt) by new generations of students.

We still lack major studies on the issue of resistance in the Polish ghettos outside of Warsaw, in whole segments of Eastern Europe, and in relation to partisan activity in both Eastern and Western Europe. This is a crucial element in an understanding of the Shoah – and a source of enormous misunderstanding – that urgently needs study and redress.

The Camp System

The publication of the first volume of the USHMM's series on Nazi camps of all kinds reminds us that all of occupied Europe was a prison in which forced labor, terrible violence, and mass death, occurred in many, many places. The Camp system, in its totality, is little known and little studied, especially in terms of the variety of experience it represented. Thus, while we know a lot about Belsen and Buchenwald, and Auschwitz and Treblinka, we know very little about the hundreds of work camps that were affected by local conditions and circumstances and where conditions and routine varied over time. The considerable value of investigating these camps individually is indicated by the few studies of this type that we possess, e.g., Bella Gutterman's work on Gross-Rosen, Felicja Karay's work on Skarzysko-Kamienna, and Chris Browning's forthcoming study of Starachowice that Chris has shared with me. But, in general, this is a much neglected, but crucial, story that needs to be filled out camp by camp.

Internal Jewish Life

Historians continue to write – and teach – about the Holocaust from the side of the perpetrators. Thus we have a large, and certainly rich and important, body of literature on Nazi policy and on all things related to the running of the Nazi State, from studies of Hitler down to the activities of his lowest bureaucratic

functionaries. At the same time, however, there is a dramatic paucity of studies of the life of the victims. Very little work has been done on life in the Jewish communities in the various countries during the war, or on Jewish reactions to their persecution. For example, we lack studies of Jewish religious reactions; of Jewish political life between 1939 and 1945 throughout Europe; of Jewish reactions to local and Nazi anti-Semitism; of the interaction of Jews, local populations, and Nazi overlords; and of the mass of Jewish memoirs and *Memorbuchen*. As to the latter, there are thousands of Jewish testimonies, many written just at the end of the war, being held in the Jewish Historical Institute in Warsaw, in Yad Vashem, in the Spielberg Archive, and in the Fortunoff Video Archive, that are very little used but that contain a veritable treasure trove of primary material. Scholars write the history of the Holocaust without any real knowledge of – or any real interest in – the people, primarily Jews, who were murdered. While no competent historian of, for example, American slavery, would today write the history of slavery solely from the perspective of the masters, historians of the Holocaust feel it permissible to write the history of the destruction of European Jewry without learning anything about those Jews who perished.

Comparative Study

There has been a good deal of work on comparative genocide. However, for the most part, this work has been poorly done because it has been done mainly by social scientists who have not done justice to the historical details of the events they are comparing. To do this sort of research properly one must, as a methodological requirement, not begin with an assumption that all mass murders are instances of genocide and are comparable to the Holocaust. One then has to engage the many details that reveal the actual phenomenological character of the historical

events being studied and compared. Only then, after long and technical research, will one be able to write the type of informed and sophisticated comparative history that is so much needed.

Given this brief inventory – that could be extended very easily – it is clear that there remains much research, of an absolutely basic nature, to be done for generations and generations to come.

► Paul Shapiro

CENTER FOR ADVANCED HOLOCAUST STUDIES, USA

RESEARCH RESOURCES PRIORITIES AND OPPORTUNITIES FOR THE COMING DECADE

The simple passage of time – 65 years since the end of World War II – and the dramatic political changes that took place in this part of the world some twenty years ago have created a situation in which the opportunities for important new research regarding the Holocaust, far from diminishing, are greater than ever. The critical importance of taking advantage of those opportunities, as we survey the world around us, has also never been greater. For the Holocaust, which was the defining event of the 20th century, while a particular tragedy for the Jewish people, was also a tragedy for millions of others who were targeted by the Nazis and their allies for racial, religious or related discriminatory reasons, affected the lives of tens of millions of others, and remains of universal relevance today.

One need only read the newspapers during any week to see the manner in which the long legacy of the Holocaust continues

to have an impact on our lives. The fact that representatives of nearly 50 countries are gathered here in Prague in 2009 to map out strategies to address Holocaust-era assets issues illustrates this point dramatically. This Conference also serves as a potent reminder: We continue to live in a world of genocide, and our children and grandchildren will have to confront the consequences of our action or inaction in the face of genocide today.

What I would like to do in the few minutes available to me is discuss briefly the avalanche of new research source material regarding the Holocaust that has become available over the past two decades, and then suggest some opportunities and priorities for new research. As an overall rationale and statement of purpose, however, I would like to posit the following moral, political, social and intellectual imperative: We have an obligation to pursue research that lays open for educators and for our societies the full magnitude of the Holocaust – its full geographic reach; the diversity of the Jewish communities destroyed and the significance of the loss; the consequences of the Holocaust for those targeted by the perpetrators and for the societies in which the victims lived and died; the postwar experiences of the survivors; the relationship between anti-Semitism and murder, that is, between word and deed; the particular problems posed by study of the so-called “bystanders,” as well as collaborators, whether they be individuals, organizations, or states; the ethical, social and political lessons posed by this mass murder and by the manner in which the international community has addressed or failed to address its consequences and the needs and concerns of its survivors; and the multiple ways in which the legacy of the Holocaust remains relevant both within national societies, in a united Europe, and in the global arena.

Archives

Twenty years ago, the communist regimes of Eastern Europe, and then of the Soviet Union itself, disappeared. One dramatic result was that archival materials relating to the Holocaust, which had been largely inaccessible since the end of the war, began to be searched for, identified, and in some cases micro-filmed or otherwise copied and made available for research. This body of material is immense, including records created by Soviet authorities, the wartime governments of East European states that collaborated with Nazi Germany, German occupation authorities, as well as all kinds of captured records seized by the Red Army as it advanced toward Germany, by the postwar Allied Control Commissions that operated in several states, and the records of Jewish organizations that had been seized by the Nazis only to be taken by the Soviets at war's end. Our collections of newly accessible records from the former countries of the Warsaw Pact at the United States Holocaust Memorial Museum number millions of pages.

Simultaneously in the mid-1990s, an equally momentous change was taking place in the archives of Western Europe and even in the United States. The expiration of fifty-year archival restrictions in many Western European states, the commitment to open archives made by states that sought entry to the International Task Force on Holocaust Education, Remembrance, and Research, and a Congressionally-mandated Working Group on Nazi War Crimes Records in the United States that required all Federal agencies to identify and declassify Holocaust-related materials in their archives, produced a second avalanche of new Holocaust-related research resources, enhancing our ability to understand what happened, how, and why.

Special category archives also became more easily accessible: the records of the World Jewish Congress, for example, collected from each of the major offices this organization maintained in Europe and North America; and the records of the International Tracing Service, about which more in a moment. Following the special dispositions given by Pope John Paul II to open documents relating to Germany and Jewish affairs during the first six years of Nazi rule in Germany, courageously overcoming Vatican tradition to wait for all records of a papacy to be ready before opening any segment of the collection, we have some reason to believe today that similar positive action may be taken by the current Pope, His Holiness Benedict XVI, regarding Holocaust-related sections of the Vatican archives from the papacy of Pius XII. While progress toward such an outcome has been painfully slow, it is positive that the Vatican has sent an observer to International Task Force meetings and equally positive that a representative of the Vatican Secret Archives is attending these meetings in Prague. The deliberations at this Conference make it clear that the actuarial table of Holocaust survivors demands immediate action.

When one adds to these paper resources the thousands of recorded testimonies that have been added to repositories like our Museum, the Shoah Foundation Video Archive in Los Angeles, and most recently the *Yahad in Unum Association* in France, it is clear that after decades in which the majority of Holocaust research was based on captured German documents microfilmed by the Allied Powers after the war, and thus focused principally on the perpetrators and their “machinery of destruction,” it is now possible to investigate and understand with a degree of clarity not possible earlier the Holocaust from Normandy to the depths of the Soviet Union; sensitive issues of collaboration and complicity that require authentic documentation to explore; the

responses of those who found themselves under assault; and a more nuanced understanding of the role played by those whom we have called “bystanders,” by those who defined themselves as “neutral,” and those who accepted the benefits of genocide even if not ever confronted directly with the brutality of the deportations and killing.

Let me turn now to some research priorities. I will not address the need for additional research on assets issues. In the context of this Conference, that need is self-evident.

The International Tracing Service

As you perhaps know, the archives of the International Tracing Service, or ITS, contain more than 50 million pages of original documentation relating to the fates of 17.5 million people who were victimized by the Nazis or otherwise displaced as a result of World War II. Until the end of 2007, ITS was the largest collection of inaccessible records anywhere that shed light on the fates of people from across Europe – Jews of course, and members of virtually every other nationality as well – who were arrested, deported, sent to concentration camps, and murdered by the Nazis; who were put to forced and slave labor under inhuman conditions, calculated in many places to result in death; who were displaced from their homes and families, and unable to return home at war’s end; and who tried to reunite with missing family members or, at least, learn the fates of lost loved ones after the Holocaust ended. These were documents that Allied forces collected as they liberated camps and forced labor sites in the last months of the war, and during their postwar occupation and administration of Germany and Austria. They include also the records of displaced persons (DP) camps run by the allies and additional thousands of collections that continued to be

deposited at ITS right up until 2006. Sometimes archival collections were placed there precisely because governments knew that if the documents were at Bad Arolsen, no one would ever see them.

The archives contain five major categories of documentation. First, approximately 13.5 million concentration camp documents, transport and deportation lists, Gestapo arrest records, and prison records. Second, approximately 10 million pages of forced and slave labor documentation, revealing thousands of government, military, corporate and other users of forced labor, how the system worked on the ground, and the consequences of treating human beings merely as assets to be used up and discarded. Third, a postwar section that includes over 3.2 million original displaced persons ID cards and approximately 500,000 displaced persons case files – often family files – from DP camps in Germany, Austria, Italy, Switzerland and the United Kingdom... and also resettlement and emigration records on many thousands of DPs and their families. The total document count in this section in terms of digital images reaches nearly 30 million. Fourth, there is also a small, million-page set of collections that did not fit neatly into the other categories – Gestapo order files, cemetery records for deceased prisoners and forced laborers, analytical studies, as well as testimonies taken by American and other liberating forces from concentration camp prisoners who were asked, immediately after liberation, to describe what had happened to them in the camp, and who had committed crimes. The final category includes over 2.5 million postwar inquiry and correspondence files, the so-called T/D files, which are extremely rich sources of both historical and genealogical information.

In 2007, the eleven governments on the International Commission of the ITS and the International Committee of the Red Cross, which

had kept the documents sealed for decades, agreed to open the archives to survivors and researchers, following a long campaign spearheaded by our Museum. Since then, we have given priority to assisting Holocaust survivors find information in these massive collections that relates to their own families and to their own experiences. But there should be no doubt that scholarly exploration of these miles of archives has the potential to enhance our understanding of the Holocaust, its consequences, and its relevance.

In order to stimulate this exploration, our Museum and ITS agreed to jointly sponsor a two-week research workshops for scholars in Bad Arolsen in 2008. A second two-week workshop will take place in Washington this year. Here are some of the research topics and projects suggested by the participants in last year's workshop, based on the two weeks they spent in the six buildings that house the ITS archives.

The group that worked in the incarceration collections emphasized the significance of the fact that the collections covered the entire period from the spring of 1933 to the spring of 1945, that is, the entire period of Nazi rule. The records were astonishing in their detail regarding individual prisoners, relations among different groups of prisoners, prisoner functionaries and the "gray zone." The researchers felt the material would allow the creation of social histories of some of the camps and open new understanding of prisoner categorization practices and the use of categorization as a control technique. One member of the group suggested a study on violence in the camps over time, and specifically, when the perpetrators followed orders and when violence was used or not used contrary to existing orders.

The group that explored the forced labor records produced a list of over twenty-five categories of forced laborers and suggested

fluidity in the system, as laborers moved or were moved from one category to another, with fewer or greater privileges or risks, according to a variety of factors. The Holocaust has often been described as a dynamic process. This applied to the forced labor system as well. Members of this group suggested unique opportunities for micro-studies of forced labor in particular towns or regions, and described case files in which forced laborer complaints about users of forced labor – a valuable and increasingly scarce asset – resulted in detailed SS investigations not of the laborers, but of the users.

The group that worked in the displaced persons material was “overwhelmed” by the research possibilities. They found records on 2,500 camps for survivors, including camps that operated for a time in what became the Soviet zone of Germany, and massive information about the stages through which DPs passed on the path from prisoner to a future, from “inhumanity to rehabilitation.” The records went far beyond the Holocaust, they asserted, to the broadest European and global impact of the waves of people who moved through the camps and on to somewhere else – not just Holocaust survivors, but forced laborers, perpetrators and collaborators, as well as people fleeing the Soviet advance or seeking to escape some aspect of their prewar and wartime lives. This group suggested that ITS archival materials could serve as the basis for a new field called “aftermath studies,” to explore the long-term consequences of genocide and mass displacement. Studies of postwar allied behavior; of the abuse of the system by war criminals and those who found little objectionable in what the perpetrators had done and therefore helped them; and of the impact the post-World War II experience had on later humanitarian efforts – all of these were possibilities opened up by this one archival section.

The group that worked in the postwar inquiry files stressed the potential in that material for refugee compensation studies and for study of the institutional history of ITS as a case study of the management of the needs of survivors of genocide and mass displacement. They proposed studies of post-Holocaust emigration and resettlement patterns, that is, a post-Holocaust geography of displaced humanity and of memory.

In summing up, the groups identified many opportunities for comparative study. They also called for longitudinal studies – studies over time – and in particular study of behaviors in the “chronological gray zone” or “fluid temporal space” from late 1943 to 1948, from the time when Axis defeat grew more likely to the advent of the Cold War, when perpetrators, survivors, forced and slave laborers, labor users, bystanders, DPs, Allied authorities and the populations of the defeated Axis states all lived in a situation of rapidly changing prospects and perspectives, and great uncertainty.

After 60 years when the massive collections held at the International Tracing Service were closed to researchers and educators, mobilizing them for scholarly purposes and for use in Holocaust education should be a research priority.

Holocaust in the USSR

I made reference earlier to massive documentation that has become available from the countries of the former Soviet Union, from the Baltic States in the north to Moldova in the south, from Ukraine in the west to Kazakhstan in the east. We have also witnessed the extraordinary effort and remarkable impact on public consciousness already made by the French Catholic priest Father Patrick Desbois, who for the past several years has been

making his way from village to village in Ukraine to locate unmarked mass graves of Jews who were murdered there by shooting and other “non-industrial” methods from 1941 through the conclusion of German occupation of Soviet territory. Father Desbois has taken video testimony from hundreds of eyewitnesses to these killings and is assembling that material to be opened to researchers in the fall. His book, *The Holocaust by Bullets* (Palgrave, 2008), recently won the National Jewish Book Award in the United States.

Hundreds of thousands of Jews from a number that would grow quickly to over 1.5 million were murdered by the Germans, their Axis allies and local collaborators in the towns and villages of Ukraine, Belarus, Russia and other republics of the USSR. They were not transported in cattle cars to secluded sites far from their homes. These victims – mostly women, children and the elderly – were taken from their homes, on foot or by cart or truck, to locations just outside the towns and villages in which they lived, if even that far, and were murdered, usually by shooting, and often in the presence of local residents, the victims’ non-Jewish neighbors, even friends. The names of the locations where they died fail to resonate with most students of the Shoah. This, of course, was just as the Nazis and their collaborators had wanted. Their goal was to make it as if their innocent victims had never existed.

We have an opportunity today, through the use of documentation from former Soviet archives, testimonies such as those being gathered by Father Desbois and others, and in partnership with an increasingly talented and interested group of young scholars from the countries of the former Soviet Union, to undertake new research on this understudied part of the Holocaust. Intellectually this is a research area that we must pursue. Morally, we owe

at least that much to the victims. Politically, this is a subject area where East and West will find much common interest.

The Sephardic World and North Africa

More work is also needed on the fate of Sephardic Jewry during the Shoah and on the experience of Jews in Arab lands that fell under control of the Nazis and their allies. I cannot review here the agony of the culturally rich communities of the Sephardic world during the Holocaust. But I need to at least speak the names of some of them, because we often fail to give them sufficient attention. Their agony included both deportations to death camps and mass murders at the local level by German forces and their collaborators.

The Jews of Northern Greece, and in particular the Jews of Salonika – a community of 56,000 before the war and the Jerusalem of the Sephardic world – were deported to Auschwitz between March and August 1943. Few survived. During the same period Bulgarian authorities delivered to the Germans the Jews of Thrace, Macedonia, and a small piece of Eastern Serbia that Bulgaria had occupied – their destination, Treblinka. In 1944, German forces deported most of the Jews who had survived in the Italian occupation zone of Greece to Auschwitz. Approximately 87 percent of Greek Jewry was murdered during the Shoah.

The important Sephardic community of Belgrade, Yugoslavia – some 10,000 to 11,000 people – was robbed, degraded, and sent to forced labor and detention camps. By 1942, Wehrmacht and SS forces had murdered the men in labor units. Sajmiste camp, near Zemun saw the killing by gas-van of the women, children and elderly. In Croatia, it was the Ustasha-led Croatians who murdered both hundreds of thousands of Serbs and also the 9,000-strong

Sephardic community of Sarajevo. Seven thousand to 10,000 Jews from Yugoslavia, including Sephardim, were turned over to German authorities by the Ustasha regime in Croatia and sent to Nazi extermination camps as well.

The Sephardic community of Bulgaria proper – 50,000 strong – survived the Shoah, but just barely. Its property was stolen. It was subjected to anti-Semitic legislation that included the wearing of the yellow star. It was subjected to forced labor under extremely harsh conditions. And the large Jewish community of Sofia was forced to leave the city and live scattered across the country in the homes of local Jews. At war's end, the majority of the community chose to emigrate.

In short, the Sephardic heartland in Southeastern Europe was destroyed. This history requires further study. Many archives in the region are open, and even in Turkey, where progress has been slow, there are signs of progress.

Our understanding of the lands of North Africa during the Holocaust is even less satisfactory. Important archival materials remain to be surveyed and made accessible, more scholars with appropriate language skills need to be encouraged to research and write, and productive dialogue and eventual cooperation between researchers and educators from Europe, North America, Israel and the countries of North Africa are just beginning to develop. In July, the United States Holocaust Memorial Museum will host a two-week workshop composed of scholars from Morocco, Tunisia, Algeria, France, Germany, Israel and the United States, who will debate and discuss research resources and our current state of knowledge about "North Africa and its Jews during the World War II." More such endeavors are necessary.

Jewish Source Materials – Archives

A final focus of research that I want to address is study of the responses of Jews to the assault they were under. Seeking to study and understand the ways in which Jewish organizations, communities and individuals responded to the threat they faced, mobilizing whatever resources they had at their disposal to combat the fate the perpetrators planned for them, can be a way to return their humanity to these people – the humanity the perpetrators sought to take from them. This work will require greater access to Jewish source materials – organizational records, communal records, personal papers, etc. – that have been scattered across the world through emigration from Europe and that have come to rest in local or municipal or regional archival repositories in many localities in which there are no longer any Jews, and where no one has sought to use these records for a very long time. In many repositories, both east and west, these archival collections are literally rotting and will soon be lost entirely.

I have heard at this Conference a number of appeals to the governments in attendance to systematically identify all archival collections in their respective countries that relate to the spoliation (theft) of Jewish property during the Holocaust. If we are going to rescue for future generations the cultural and institutional heritage of the Jews of Europe and the rich civilization they represented, then it is equally urgent for every country represented at this forum to undertake an immediate effort to identify all collections of Jewish cultural assets (Jewish source archives, libraries, etc.) that have come to rest in governmental or other institutional repositories, and to make public within two years national catalogs of all such Jewish cultural heritage collections, with a report on their state of preservation or decay, and addressing whether the individual

collections have been catalogued, microfilmed, digitized, or otherwise content-preserved.

This effort would be in keeping with the language of the Terézín Declaration regarding archives, and would be well within the capability of every state represented at this Conference. It would enable us to prioritize urgent conservation and/or micro-filming or digitization activities based on a full understanding of the archival record of European Jewry that survived the Holocaust, even if the communities that created the records did not. It would allow the planning of important research and educational activities to enhance our understanding and future understanding of the immensity of what was lost in the Holocaust.

Final Thoughts

Other areas also offer rich opportunities for research and require attention. Deepening our understanding of anti-Semitism must command our attention, at a moment when we are witnessing a resurgence of anti-Semitism in Europe, in the Islamic world, and in North America that should frighten us all. Anti-Semitic hate speech has moved increasingly from the margins of our societies to the mainstream, with anti-Semitic expression gaining increasing acceptance as legitimate expression in public discourse. The history of the Holocaust provides ample proof that while anti-Semitism starts with persecution of the Jews, it rarely ends with the Jews. It is extremely dangerous for everyone else as well.

Research resources, priorities, opportunities? They are many, varied, urgent, and awaiting our attention.

Thank you.

► **Susanne Uslu-Pauer**

ARCHIVE OF THE JEWISH COMMUNITY OF VIENNA,
AUSTRIA

ARCHIVE OF THE JEWISH COMMUNITY OF VIENNA

Historical Overview

The Archive of the Jewish Community (IKG) of Vienna was officially founded in 1816, when the Council of Representatives of Vienna's Jews voted to establish an archive in order to gather and process regularly produced official documents.¹

However, it took another thirty years for it to become an institutional archive. Since the 1840s, most records have been kept continuously, depicting institutional concerns of a religious community with increasing educational and social functions. The Archive's oldest patents and decrees date to the 17th century.

During the 19th century, the Archive was professionally organized and until the 1920s the records were catalogued by subject terms and individual names.

In 1901, the Historical Commission was established and began to assist with these activities. However, the main focus of the

¹ Concerning the history of the Archive of the Jewish Community of Vienna see Susanne Belovari, *Continuity and Change: Record Creators and Record Values*, Proceedings ICA-SUV, Annual Seminar of the Section on University and Research Institution Archive: Shared Concerns and Responsibility for University Records and Archives, Reykjavik, Iceland: 2006. Online publication at <http://www2.hi.is/Apps/WebObjects/Hi.woa/swdocument/1010347/Susanne+Belovari.pdf>, accessed May 2009. See also Gerhard Milchram, Christa Prokisch, *Entropie oder vom vergeblichen Versuch, Ordnung zu schaffen*. In *Ordnung muss sein. Das Archiv der Israelitischen Kultusgemeinde Wien*, published by order of the Jewish Museum of the City of Vienna by Felicitas Heimann-Jelinek, Lothar Hölbling, Ingo Zechner, Exhibition Catalogue, Vienna 2007, pp. 24–28.

Commission was on research concerning the history of the Jews in Austria, and on the collection of many different kinds of sources from all of the archives in Austria.¹

After the *Anschluss* in March 1938, the National Socialists forced the IKG to relinquish its Archive. Extensive archival records, manuscripts, incunabula, and prints of Jewish organizations and individuals were seized by the Protective Squadron (SS) in 1938 and 1939 and transported to Berlin to the Reich's Main Security Office (*Reichssicherheitshauptamt*). How and why other records were kept in Vienna under very difficult conditions remains unknown. During the air raids on Berlin in the summer of 1943, the Nazi authorities transferred these records to Silesia. After the end of the war the Red Army discovered the records. The materials were secured, moved to Moscow, and stored in the Special Archive (*Osobyi*).

Excursus: Today, the entire archival holdings of the Jewish Community of Vienna are located in the Russian State Military Archive (RSMA) and in the Manuscript Division of the Russian State Library (RSL). In May 2009, the classification and determination of the provenance of the archival material in Moscow was completed. The majority of the archival records (more than 2,580 fascicles) and 66 Jewish manuscripts were identified as material of Jewish organizations and individuals. In cooperation with the Austrian Foreign Ministry, the Jewish Community of Vienna has been taking all necessary steps to realize the return of the archival holdings to Vienna.

¹ Concerning the Historical Commission see Merete Aagaard Jensen, *Traditionen der Forschung – Die Historische Kommission der Israelitischen Kultusgemeinde Wien 1901–1938*, in: *Ordnung muss sein, Exhibition Catalogue*, Vienna 2007, pp. 35–38.

The Archive After 1945

After 1945, the Archive was initially not reopened.

The Jewish Community that was re-established after June 1945 was a religious organization with typical responsibilities for the Jewish population, which had become very small due to persecution by the National Socialists. But it was also responsible for returning and newly-settled Jews, for Holocaust survivors in Austria and abroad, and for compensation and restitution issues.

The Jewish Community had to face enormous challenges in the postwar period and the Archive was a matter of less importance. Besides, it was thought to be impossible that a Jewish community would re-establish itself in Vienna after the war. About 120,000 Jews had emigrated, 48,000 had been deported to concentration camps, and 65,000 had been murdered by the National Socialists.

In the beginning of the 1950s, thousands of archival records were transferred to Jerusalem and given to the Central Archives for the History of the Jewish People as a loan. This procedure was repeated in the beginning of the 1960s and again in the beginning of the 1970s.

For a long time, it was assumed that the complete archival records had been deposited at the Central Archives in Jerusalem. But the IKG authorities seemed to have overlooked numerous records, indices, and books relating to the periods before, during, and after the National Socialist era.

The Rediscovery of the Archive

During the renovation of the synagogue in the first district of Vienna in 1986, the cellar beneath the synagogue had to be cleared out. During the inspection of the cellar, innumerable records, prayer books, and furniture from the synagogue were found.¹ Among this material was the card index of emigration – dozens of wooden boxes in a cabinet.

Although the discovery of the material was very precious, the entire archival holdings were removed from the cellar and brought to a place that remained unknown until 2000.

The representative for restitution affairs, Ms. Erika Jakobovits, could not accept that the location of the archival holdings was unknown, and consistently investigated the allegedly missing Archive. She could not imagine that an archive could disappear that easily. Not even the Secretary General of the IKG could help at this time, as he was convinced that no more archival holdings had been preserved in Vienna. In the autumn of 1998, Ms. Jakobovits was informed that several boxes had been found at the sanatorium of the Maimonides Center. And indeed, archival holdings were found in one of these boxes. So it was obvious that the rest of the archival material must have been deposited somewhere in Vienna as well.

In 2000, Ms. Jakobovits heard about a storage room in one of the buildings of the IKG at Herklotzgasse in the 15th district of Vienna. She intuitively felt that the archival material could be stored in this house. She informed the President of the IKG, Mr. Ariel Muzicant, and visited the storage room together with the IKG's

¹ "Überraschende Funde in den Katakomben des Stadttempels". In *Der Bund*, no. 95, March 1986, p. 1, p. 5.

Vice President, Oskar Deutsch. The room was filled with 800 cardboard boxes, index cards, and large books stacked from the floor to the ceiling. On closer inspection, the majority of the documents were identified as dating from the National Socialist era in Austria – pages of reports, letters, emigration and financial documents, deportation lists, card files, books, photographs, maps, and charts. They were commingled with more recent materials as well as with older material from the 19th and early 20th centuries.

On the initiative of Ms. Jakobovits and Mr. Deutsch, the archival holdings were transported to the former Holocaust Victims' Information and Support Center of the Jewish Community, an institution of the IKG that represents the interests of Holocaust victims and their families and performs historical research on this matter.

Restoration of the Archival Material

Unfortunately, the documents had been stored improperly in the storage room at Herklotzgasse; they were disordered, incomplete, scattered, deteriorated, crumbled, and dirty. Besides, there were no inventories or search aids.

A process of sorting and categorizing the material began. Records relating to the National Socialist era were separated from other holdings. The Historical Commission of the Republic of Austria – implemented in 1998 – was granted access to the records in order to conduct historical research into the expropriation of Jewish assets in National Socialist Austria.

Some material obviously had suffered greatly from the storage situation. Some of the documents were actually falling apart. So

the main question was: How could the information contained in the documents be secured and how could further deterioration of the materials be prevented?

In 2001–2002, the Archive restoration project started. After the conservational treatment, removing harmful staples and paperclips, the staff of the Archive organized, sorted, registered, inventoried and categorized the materials. In many cases – especially regarding card indices – the documents had to be reorganized alphabetically or numerically. After the process of sorting and identifying was completed, the holdings were wrapped in acid-free paper and stored in acid-free boxes.

With the financial support of the United States Holocaust Memorial Museum, the IKG was able to start to microfilm Holocaust-related records in Vienna in 2002 and in Jerusalem in 2003. About two million pages have since been microfilmed.

The Archival Holdings in Vienna

The records of the IKG that were discovered in Vienna in 2000 and those deposited in Israel represent the world's largest preserved archive of a Jewish Community still in existence. In addition, they are the most extensive collection from the National Socialist period regarding the IKG and its members.

Registry Books

The Archive in Vienna owns dozens of registry books concerning birth, marriage, and death – the most important events in a person's life. Among them there are also records of marriage announcements or contracts, and announcements concerning

births or deaths. These archival holdings were microfilmed between 2004 and 2006 and are essential for genealogical research projects as well as for restitution claims.

Emigration Card Index

The most important documents are those dealing with social welfare, emigration, and deportation. Immediately after the *Anschluss* in March 1938, the IKG was temporarily shut down. After its reopening in May 1938, the Jewish Community was forced to organize emigration on the basis of its own files and records and in February 1941, when mass deportation started, the Jewish Community was forced to participate in the deportation of the remaining Jewish population.

The most remarkable discovery was that of the Emigration Card Index. It is one of the most extensive holdings of the personal data of Austrian Jews from 1938–39. The Index was produced by the Community's Emigration Department and contains the names and essential information of about 118,000 Jews.¹

There are three card indices, one sorted numerically, one alphabetically and one arranged by professions. As I mentioned before, it is not known why the cards remained in Vienna. All three indices are incomplete but correspond to the emigration questionnaires that are stored in Jerusalem. Each head of household had to fill out a detailed questionnaire which included the applicant's name, address, birth date, birth place, profession, languages, financial circumstances and monthly

¹ *Report of the Vienna Jewish Community – A description of the activity of the Israelitische Kultusgemeinde Wien in the period from May 2, 1938 – December 31, 1939*, p. 75.

income, as well as comprehensive emigration-related information, the ability to obtain the necessary documents, destination, relatives and friends living abroad, and passport information.

The card indices and files provide the basis for investigating the fate of Jews who were expelled or killed. In connection with compensation programs, these files also help survivors and their descendants to assert claims for compensation and restitution of property. Furthermore, they provide researchers and private persons with information about the fate of victims and survivors. They are also very important for tracing the rightful heirs or successors. In some cases, it is possible to reconstruct every administrative step, from someone's first contact with the Emigration Office to the moment the family boarded a train or a ship to flee the German Reich.

Deportation Lists

The Archive preserves the complete set of deportation lists: 45 folders, each containing about 1,000 names of individuals who were deported to ghettos, concentration camps, or death camps.

List of Deportation to Opole, Archive (photo by IKG): This photo shows an example of a deportation list dated February 15, 1941 to Opole, in the South of Lublin in Poland. At the end of March 1942, the prisoners of the ghetto in Opole were transported to Belzec and in May and October 1942, to Sobibor. Only 28 of the 2,003 Viennese Jews survived.¹

¹ See: <http://www.doew.at/projekte/holocaust/shoah/opole.html>, accessed May 2009.

Special Archival Document

Unlike other disbanded Jewish communities in Germany and Austria, the IKG Vienna continued to exist during the National Socialist era until the end of October 1942, when it was finally replaced by the *Ältestenrat der Juden in Wien* (Jewish Council of Elders).

Probably by order of the *Zentralstelle für jüdische Auswanderung* (Central Office for Jewish Emigration) in Vienna, the Technical Department of the Jewish Community of Vienna had to produce several large-sized wall-charts concerning *Jewish Migration from the Ostmark*.

The wall-chart shows in a unique manner the expulsion of Jewish women and men from the territory of the former Austria – a horrible but perfect system developed by Adolf Eichmann and the *Zentralstelle*.

At the center of the wall-chart is a diagram that might accurately be termed the escape switchboard. It consists of the various agencies, National Socialist authorities and government departments to which Jews had to turn in the course of the forced emigration process. By centralizing expulsion, the National Socialist rulers made sure that unpaid taxes such as the *Reichsfluchtsteuer* (emigration tax) and the *Judenvermögensabgabe* (tax payable on Jewish property) were paid by those “willing to emigrate.” Organized looting and systematic expulsion became intertwined.

Recent Developments and Future Plans

Due to changes regarding the contents and a substantial reorganization, the Archive of the Jewish Community of Vienna was founded as a new department in January 2009.

At the moment the Archive is not open to the public. The archival holdings are initially accessible by the staff of the Department of Restitution Affairs of the Jewish Community. We also assist the members of the General Settlement Fund for Victims of National Socialism and the members of the Commission for Provenance Research in researching documents and personal data regarding compensation and restitution.

In addition, the staff of the Archive tries to answer all kinds of requests relating to the archival holdings from researchers and scientists from all over the world as well as from descendants or relatives of Holocaust victims. We also support scientific projects of public and private communities and institutions. We regret that individual research requests cannot be answered immediately. There are currently waiting periods of up to two months.

Many projects are planned for the future. It is one of the most important interests of the Jewish Community of Vienna to rebuild the Archive and to continue with the proper storage and conservation of the archival material as well as to inventory, arrange, and record such material. Furthermore, we are working on standardizing archival tools and the practical utility of inventories. This work has not been completed yet but it is of high priority.

In this context, the accessibility of the Archive and usability of the holdings will be ensured.

The Vienna Wiesenthal Institute for Holocaust Studies (VWI) is another matter of particular importance to the IKG. We plan to loan substantial holdings of the Archive of the Jewish Community of Vienna to the VWI.

Conclusion

The Archive is the world's largest preserved archive of a Jewish Community.

The holdings of the Archive are of immense relevance not only regarding research on the Shoah, but also regarding the history and development of the Jewish Community in Vienna and its members since the 17th century. The holdings span three hundred years documenting the community's organization, its religious, educational, scientific, and cultural affairs and its charitable facilities.

More than six decades after the Shoah, it is evident that the Archive of the Jewish Community is not only the institutional memory of the Jewish community but also a place of remembrance and collective memory for future generations.

The Future of Holocaust Remembrance

▶ Warren Miller

US COMMISSION FOR THE PRESERVATION OF
AMERICA'S HERITAGE ABROAD, USA

I am honored to have been invited to participate in this important Conference. I want to tell you about the work of the US government agency I am privileged to lead, and discuss the broader significance of Holocaust memorials, education, and remembrance in today's world and in the future.

The US Commission for the Preservation of America's Heritage Abroad was established by the US Congress for a simple purpose: To protect the cultural and historical legacy of the thousands of communities that were wiped out by the Holocaust, and to encourage European governments to memorialize those communities and their heritage in active and meaningful ways.

Scattered throughout many countries here in Europe is the physical evidence of once-thriving Jewish communities: Synagogues, cemeteries, and community buildings that survived the burning and looting of the Nazi occupation. Yet even after the Nazis were defeated, during nearly five decades of communist rule, these sites – and the memories of the people who once built and sustained them – were ignored and neglected. Then there are the killing sites; the places where Jews, Roma and other victims of the Nazis were herded, brutalized and murdered. Some of these sites are known and visited by millions.

Others remain hidden, or even when known, are ignored and not marked.

Soon no living witnesses will remain to tell us where these sites are located. Only the determined pursuit of historic truth by governments, and a focused effort to restore memory, can reclaim these sites for posterity.

For nearly twenty years, our Commission has done exactly that. We have built memorials at massacre sites and concentration camps ... preserved cemeteries and synagogues ... and worked with European governments to assist museums, publish books, conduct site surveys, and advance the cause of Holocaust remembrance.

Through this work, we honor those who were victims of the Nazi onslaught, and seek to prevent such genocide from occurring again. We know that where the Holocaust is remembered and historical truth is respected, freedom and human dignity are more secure.

Since its inception, the Commission has concluded on behalf of the United States 24 bilateral agreements with other nations to protect and preserve cultural sites. Because of these agreements, we have seen increased support for historic preservation, and a greater willingness by governments to deal with their pasts – however painful and embarrassing it might be.

Poland is one example of this progress. Many of you know about the pogrom in Kielce, where in 1946, a year after the Holocaust, as many as 70 Jews, mostly Holocaust survivors, were murdered throughout the city in one day by a mob incited by a false rumor that a Christian boy had been kidnapped by the Jews. During the

following decades of repressive communist rule, the pogrom at Kielce was covered up. But that period of denial has ended. Today, if you go to Kielce, you will see in the town square a memorial that our Commission constructed. In Poland, they are recognizing what occurred there, and confronting the virulent anti-Semitism that made this horrific event possible – and that is progress.

In Latvia, our Commission was a partner in building a memorial at Rumbula, a site where 25,000 Jews were murdered in two days. Municipal officials objected to mention of complicity by the Latvians. We requested help from Latvian President Vaira Vīķe-Freiberga. Thanks to her personal intervention, the full truth of what happened at Rumbula appears on the memorial's inscription – and that is progress.

Another example of progress is found in Germany, at the site of Buchenwald's notorious "Little Camp." When I visited Buchenwald and saw that the "Little Camp" site had been totally obliterated and its history ignored, we proposed the creation of a memorial. Over the course of seven years, our Commission raised funds, convinced an architect to donate his services, coordinated implementation of the project, and provided the text inscribed on the wall of the memorial in six languages. Now visitors to Buchenwald – including President Obama earlier this month – see the Little Camp memorial and can fully comprehend the horror of what happened there.

Romania is another example of progress. In 2003, the President of Romania at the time, Ion Iliescu, stated that, "there was no Holocaust in Romania." Although Romania had streets named for and monuments honoring that nation's dictator during World War II, Ion Antonescu, no significant memorial was built for the hundreds of thousands of Jews killed by him and his countrymen.

Our Commission lobbied the Romanian government for a Holocaust memorial in Bucharest. With the formal recommendation and active involvement by members of the International Commission that was appointed to determine Romania's role in the Holocaust, that memorial will be dedicated this October. It will acknowledge Romania's significant role in the Holocaust and remind all who visit it that ignorance and bigotry can cause catastrophic consequences – anywhere, anytime!

I would be remiss if I did not also mention that we partnered with the American Jewish Joint Distribution Committee and the Terezín Memorial in restoring its Hidden Synagogue.

Our Commission has also honored heroes of the Holocaust – those who had the courage to act when most did not. Recently we created memorials and exhibits in Vienna, Shanghai, and Washington that posthumously honored Feng Shan Ho, a Chinese diplomat who defied his superiors and issued exit visas in Vienna that allowed many Jews to emigrate and survive. And in 2007, we dedicated plaques at Hungary's national Holocaust memorial to honor Monsignor Angelo Giuseppe Roncalli – later Pope John XXIII – for his efforts to save the lives of Jews across Europe.

When working with governments on these memorials, our Commission has insisted that the memorial include an inscription that accurately relates what happened. We also urge that the memorial be placed in a prominent location where it will be viewed by as many people as possible. By following these principles, we insure that these memorials will educate future generations, and will serve as catalysts that force visitors to confront what happened in the Holocaust.

Looking to the future, Holocaust memorials will continue to be relevant and important, for several reasons. First, they serve as places for communities to gather and commemorate on occasions such as Holocaust remembrance days. They also have a powerful impact on those who view them. When visitors read the memorials' inscriptions, they not only react emotionally, their intellectual curiosity is engaged, and they are motivated to learn more about what happened and why. And from a practical standpoint, not every nation or community has the resources to establish a Holocaust museum. But most have the capability to create memorials which are less expensive to construct and do not require a staff to operate and maintain. Such memorials are a cost-effective way to enable governments and communities to remember the Holocaust and its lessons.

Finally, these memorials take on increased significance in an era of rising anti-Semitism and Holocaust denial. More than a century before the Nazis came to power, Heinrich Heine wrote: "Wherever they burn books, they will also, in the end, burn human beings." The German-Jewish poet could foresee the fate of his country and his people.

Today, instead of book burnings, we have historical revisionism, subscribed to by anti-Semites who often have a level of hatred not much different than Hitler's. That is why the work we do to preserve the memory of the Holocaust – the historical, truthful record – is more urgent than ever. But our work is about more than just the preservation of evidence. We are also trying to preserve the lessons of that event, so modern societies will understand that allowing prejudice and hatred to flourish can only lead to barbarity. The Holocaust is a moral reminder of the need for resolve and action in an age when some doubt the motives or words of evil men. When evil men state their intentions to destroy those

who stand in their way, we must take them seriously, because history has shown – and here in Europe, the reminders are everywhere – that these evil men will try and they can succeed.

Thank you.

► **Astrid Messerschmidt**

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EUROPE'S CHANGING DEMOGRAPHY

As are most European societies, the German society is an immigrant and multicultural society. But it has taken a long time to recognize this structure as a real and normal fact. For decades immigration was set at a distance from German democracy and considered to be a temporary exception. Immigrants were thought of as people who would leave the country after they had earned enough money in the German industries. Until 2000, integration was not on the political agenda. After the reform of the Immigration Act, the problem of integration is now discussed in public. In this discussion, minorities within German society are seen as strangers. The dominant perspective focuses on the largest immigrant group, the people with a Turkish background, and their religion. Being a Muslim seems to be an element of segregation. The differences between individual Muslim people and their individual approaches to religion and tradition are neglected when they are considered as a homogenous group, which does not fit in to German culture.

We need to revitalize a multicultural consciousness to achieve equal participation in the process of learning from history and in the educational work of remembering the Holocaust – which

means to remember and reflect on persecution, victims, and perpetrators in a very complex correlation. In my statement, I will try to point out some aspects of education in an immigrant society after the Holocaust.

National Self-Perceptions Related to the National Socialist Ideology

The Weltanschauung and ideals of society and community that were ideologically established during National Socialism continue to have an impact in modern, federal German society. They are particularly apparent in Germany's self-perception as a homogenous national community. This perception implies the impossibility of Germans being Jews, blacks, or Muslims. On this basis, immigration and inner heterogeneity are negated and repressed as components of German history. This has resulted in the development of an ambivalent relationship towards immigrants: on the one hand, the state of "belonging" is denied to them and, on the other hand, integration is expected of them; proof of this integration also includes a morally unambiguous position towards National Socialism. Furthermore, this suggests that a collective overcoming of the ideological foundation of persecution and mass destruction already has taken place.¹

The discussion so far on collective memory with regard to the Holocaust in Germany has been widely self-referential. It has been limited clearly to national identity, i.e., to a relationship towards history that still is described by categories of national affiliation. Adolescent immigrants report that they experience contemporary history as an exclusively German affair and detail the manner

¹ Messerschmidt, Astrid. "Repräsentationsverhältnisse in der postnationalsozialistischen Gesellschaft." In Broden, Anne; Mecheril, Paul (eds.). *Re-Präsentationen. Dynamiken der Migrationsgesellschaft*. Düsseldorf: 2007, pp. 47–68.

in which educators communicate to them that they do not belong and presumably are not interested. At the same time, identification with German history is demanded, as if this were proof of national loyalty. Immigrants encounter a paradoxical situation, which complicates their own access to reflection on history.

From the Critical Whiteness Studies, we can learn something about the problem of dominant social positions: whiteness in relation to the Holocaust denominates a dominant perspective, which only represents the descendants of the perpetrators. If the primary focus is on the problems faced by the descendants of the perpetrators, the perspective of the descendants of the victims and the persecuted vanishes. In addition, the perspective of those who are defamed and attacked through anti-Semitic practices even today is hardly considered. Therein lies perhaps one of the most neglected aspects, which also touches my own involvement, originating from a limited, hegemonic, non-Jewish perspective. Much reasoning within educational work on anti-Semitism in a German context has been developed from experiences with non-Jewish participants and remains therefore, in this view, one-sided.

As long as no change of perspective results through the experiences of those who are recipients of anti-Semitic discrimination and who experience the social split between Jews and non-Jews on a daily basis, the reflection on perpetration will also remain within the dominant anti-Semitic structure. Only when this disregard is considered, can a critical approach towards anti-Semitism be developed with regard to normalcy within a society that takes Jewish non-presence for granted. This is a problem of dominance within the society as a whole. For the future of work on Holocaust education, I plead for a reflection on dominant social positions, which are based on racism, anti-Semitism, and on anti-Muslim stereotypes.

Images of Perpetrators – Between Dissociation and Fascination – Aspects of Gender in Memory Processes

Educational work on National Socialism has concentrated strongly to date on the relationship to the victims. Educational aims are the development of empathy towards persecuted groups and an explicit distancing from the perpetrators. However, educators increasingly report that male adolescents in particular are fascinated by National Socialist perpetrators. These adolescents resist an identification with the victims that seems to display little attraction to them. Thereby, representations of masculinity play a more important role than do differences in the context of immigration and ethnicity. The fixation on ethnic differences is far too one-dimensional and neglects perceptions of history that are influenced by gender stereotypes. An intersectional approach must be developed that considers diverse social positioning. An openly articulated identification with the perpetrators by male adolescents in particular serves the need for unequivocal masculine self-representation. Furthermore, it assists in distancing oneself from the perception of history that is the aim of education and is an instrument of provocation towards educational programs that have been experienced as patronizing and moralizing with regard to “good” victims and “bad” perpetrators.

Within the educational work associated with memorials, it is noticeable that “boys seem to react less emotionally (on the outside)” and show “more of an interest in techniques, or technical details and procedures”.¹ Girls and young women show much more empathy with the victims and fulfill thereby an important

¹ Frohwein, Pia; Wagner, Leonie. “Geschlechterspezifische Aspekte in der *Gedenkstättenpädagogik*.” In *Gedenkstättenrundbrief*. Berlin: Stiftung Topographie des Terrors, 2004, vol. 8, no. 120, p. 16.

concern of the memorial, i.e., that of respectful remembrance towards the victims. In contrast, the fascination of boys and young men with power, violence, the SS, and technical procedures is morally sanctioned, curbed and not made into a topic of instruction (see above). Both responses fundamentally conform to traditional gender expectations, but elicit different responses. A starting point for educational work would be the introduction of gender-differentiated means of access in order to enable reflection and the processing of issues in a gender sensitive manner. Unequivocal attributions of masculinity and femininity must be questioned, in order to prevent the assignment of masculine or feminine attributes to perpetration and to enable the tracing of political and social requirements for committing crimes. The aspect of gender in historical educational work illuminates the marked dubiousness of addressing perpetration from the standpoint of identities. Rather, social circumstances should be viewed. Educational work cannot secure a morally distinct dissociation from the perpetrators but can mediate differentiated information on, and reflection of, the social, cultural and political-ideological initial conditions for crimes against humanity.

Education for Remembrance in Historical Relationships

How can varied links to remembered history be facilitated, in order to transform the social practice of collective memory into a field in which multiple social affiliations are not regarded as a disruptive factor, but as a reason to deepen the examination of the cultural meaning of the story/stories of crimes?

Newer approaches in historical civic education regard the heterogeneity of access points to history and facilitate the representation of National Socialist history as a European and global

“relational history”.¹ They counteract tendencies to communicate memory work as an exclusively German affair. In its effort to include multiple perspectives and controversy², educational work is doubly challenged: on the one hand, perpetration is not to be made relative and on the other hand, the complexity of the extent and implementation of the Holocaust in Europe is to be communicated. The aim is to allow room for heterogeneity in educational work without identifying diversity according to specific differentiating characteristics. The above-mentioned approaches facilitate varied perspectives on this historical subject matter and, in the educational processes, do not focus on the assumed cultural or national identities of participants. In light of the European extent of the National Socialist context of dominance and an increasingly globalized Holocaust memory, it is important for educational memory work to make clear that this history does not simply belong to the Germans but is a history beyond national identities. It must be kept in mind that this insight also can be used elegantly to eliminate the problem of German identity if everyone is now expected to address the history of the crime to the same extent. A relativizing and relieving form of “multiculturalization” in the appropriation of history must be counteracted. In an immigrant society, the work of memory and the analysis of perpetration need a variety of points of access, of which national affiliations are only one.

The culture of memory in an immigrant society must be regarded not as a measure of integration that conforms to a specific

¹ Kux, Ulla. “Deutsche Geschichte und Erinnerung in der multiethnischen und religiösen Gesellschaft.” Perspektiven auf interkulturelle historisch-politische Bildung. In Behrens, Heidi; Motte, Jan (eds.). *Politische Bildung in der Einwanderungsgesellschaft*. Schwalbach: Wochenschau Verl., 2006, vol. 37, pp. 241–259.

² Behrens-Cobet, Heidi. “Erwachsene in Gedenkstätten – randständige Adressaten.” In Behrens-Cobet, Heidi (ed.). *Bilden und Gedenken. Erwachsenenbildung in Gedenkstätten und an Gedächtnisorten*. Essen: Klartext-Verlag, 1998, vol. 9, pp. 7–21.

national perception of history, but as a process of intercultural communication about a history of crime that is globally significant and is remembered in a variety of ways. An intercultural praxis of historical learning must accommodate heterogeneity and must acknowledge the claim to social affiliations without appointing them to an identity. By doing so, views of history become more complex for all involved. Immigration thereby will no longer be looked at as a special case for educational interventions, but as an integral part of one’s own cultural and social history.

Postcolonial and Post-National-Socialist Perspectives – Differences and Relations

The postcolonial present is a present of migration; it is the present of migrant workers and fugitives who look for a better possibility of survival in the centers of economic prosperity. They tell stories about the postcolonial experience – about attempts to step out of neocolonial dependence and to take the promises of freedom seriously: the promise of wealth through work, the promise of equality and the announcement of having overcome racism and of only seeing it as a historical relic of a blinded age. They have to realize that these promises are not equally valid for everyone and, finally, that they are not as universally meant as they are propagated.

Postcolonial discourses are also discourses of remembrance and historical assessment. They add a new theme to the necessary discussion on the remembrance of crimes against humanity, a theme that leads a shadow existence especially in the historical consciousness here – the remembrance of the crimes of the colonial age. It is not easy to combine postcolonial aspects with aspects related to the Holocaust. Both have

to be reflected on with a sense for differences and special historical backgrounds. For our work in education, we need to analyze the history of racism and the history of anti-Semitism as two different things. Both have their special historical backgrounds and both include ideologies of discrimination, which is experienced today.

For the future of Holocaust remembrance, we have to integrate educational work into the context of globalization and immigration. In the traditions of “critical theory,” I am looking for syntheses in “constellations” of different remembered histories. Hybridity is perhaps a key concept to use in this, not to indicate a simple diffusion of cultures and confirmation of the idea that “pure cultures” or “pure identities” are a reality, but to elucidate the necessity of a sublimation of different identities, in need of reworking of remembrances. The specific issue of remembrance can be used as a lens for understanding broader aspects of integration, globalization and community dynamics.

Recommendations for the Future of Holocaust Education – Reflecting Differences and Relations:

- ▷ Awareness of multidimensional differences like gender, ethnicity, national and cultural backgrounds;
- ▷ Skills for professional educators in intercultural social spaces;
- ▷ Awareness of discrimination today – social justice training;
- ▷ Singularity and characteristics of the Holocaust and its circumstances;

- ▷ Different social, cultural and national relations to the Holocaust.

It seems inadequate to relate the Holocaust to other phenomena of mass murder – but on the other hand, it might be an important approach for education in pluralistic societies to build relationships to the Holocaust from different backgrounds and experiences.

► **Monique Eckman**

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HOLOCAUST EDUCATION AS A HUMAN RIGHTS TOOL?

The topic given to me was “Holocaust Education (HE) as a Human Rights (HR) Tool;”¹ however I prefer to write it with a question mark, as there are so many open questions: Is HE presently a HR tool? Should HE be a HR tool? Can HE be a HR tool?

As a member of the EWG of the ITF² and as its current Chair, I can attest that this question is very broadly discussed, and that the answers differ in the various national and regional contexts.

And as a member of the Swiss delegation at this Holocaust Era Assets Conference, I would like to mention three scientists and

¹ The following abbreviations will be used in this text: HE for Holocaust Education; HR for Human Rights; HRE for Human Rights Education.

² Education Working Group (EWG) of the Task Force for International Cooperation on Holocaust Education, Remembrance and Research (ITF), see: <http://www.holocausttaskforce.org>.

pedagogues who lived in Switzerland, Rousseau, Pestalozzi and Piaget, two of them even in Geneva, the town where I live and work. Why these three scholars? Rousseau for his view on education to citizenship, Pestalozzi for his concept of learning by *head, heart and hand* and Piaget for his revolutionary view on the evolution of moral judgment in stages (conducted further by Kohlberg) as well as for seeing one's peers, rather than one's parents or teachers, as the main source of moral development. All three of these pedagogues struggled throughout their lives for humanity and citizenship.

But that was long before HE existed.

The concept of "Holocaust Education" is very ambiguous – in fact, it is an expression which I should not use, as it is so undefined: primarily because the expression "Holocaust" has a theological connotation which risks contributing to mystification rather than to clarification, as it has no analytical meaning; in French the expression "Shoah" is preferred, which may not be much more analytical, but at least does not have a Christian meaning. And as for "Holocaust Education," it does not state clearly whether it denotes historical learning, literature, or moral learning; nor whether it means to learn about the Jews, about the Nazis, or about other victims of Nazi politics. But it is used in recognition of a field and it has an institutional dimension even if the term does not explain its subject exactly.

Often, in the words of politicians, education planners, and ministries in charge of memorials, it seems as if it were obvious that HE should be a tool for Human Rights Education ("HRE"). There is a certain pressure on memorials, educational programs and memorial days, for them not "only" to be learning opportunities about the past, but to have an impact on the future, i.e., in

human rights education and in education for democratic citizenship. Educators who deal with such issues on a daily basis experience day after day that students – as well as they themselves – have strong expectations in this regard; nevertheless such educators often say that it is very difficult to do both HE and HRE in one school program, during one visit, or within one project.

I. LEARNING ABOUT THE HOLOCAUST TODAY

The Difficulty of Answering the Question "Why Teach About the Holocaust?"

What is the situation today? Let us start by quoting some findings of a study we conducted in Western Switzerland, in which we interviewed history teachers about their experiences in teaching about the Holocaust.¹ Our research question was not especially linked to HRE – but rather to citizenship education, and it explored how these teachers felt, and what their experiences in teaching the topic of the Holocaust had been. They declared that for them it is one of the most important, if not the most important, topic to teach: "[...] it is important to show that it is an unavoidable topic, something difficult but decisive, something that shows a turning point in the reflection of human beings and history." The Shoah is the culminating point of the program and for some of the teachers it was the reason for having studied history as such.

¹ Eckmann, M.; Heimberg, C. (2009, in press) "Die Vermittlung der Shoah im Unterricht aus den Erfahrungen und der Sicht der Lehrpersonen". In Hodel, J.; Ziegler, B. (eds.). Forschungswerkstatt Geschichtsdidaktik 07. Beiträge zur Tagung "geschichtsdidaktik empirisch 07". Bern: hep.

But they are also aware that precisely this strong conviction could weigh too heavily on the students: “For me it is not a topic like the others, and that is the danger; but I am careful not to focus all of my teaching to this point.” And they are aware of the risk of their own, possibly too strong, identification with the victims: “I am afraid to overdo it; in the direction of the victims (...) I don’t want to depress the students, so I also show the aspect of resistance, to give some hope.”

These and other testimonies show that for history teachers the Holocaust is a crucial topic in the curriculum. They are concerned that students might object to studying the Holocaust, even though this in fact seldom happens, and occurred overtly mostly in 2005, the year of commemoration of the 60th anniversary of the liberation of Auschwitz-Birkenau, when the topic was very present in the media.

They also deal very carefully with didactic and pedagogical approaches, and think deeply about *How* to teach this topic. But although they are deeply convinced of its importance, they feel it is difficult to explain *Why* it is so important to teach about the Holocaust.

The EWG of the ITF developed guidelines – or rather recommendations – on *Why to teach about the Holocaust, What to teach about the Holocaust, and How to teach about the Holocaust*.¹ It appears clear – and other studies show similar results – that the most difficult thing is to articulate *Why* to teach about the Holocaust.

Teachers also find it difficult to answer questions such as, “Why are you always speaking about Jews?”, “Why not speak about

¹ See: <http://www.holocausttaskforce.org/education/guidelines-for-teaching.html>.

Rwanda, about slavery or about the Roma?” or, as it might occur in post-Soviet countries: “Why not speak about the Gulag?” In Western European contexts, we observed that this leads teachers to adopt new strategies. Usually in the lower grades the Holocaust is taught within the context of WW II and the rise of Nazism. But more and more educators, especially in the upper grades, tend to teach it within the context of comparing genocides, or within the context of the topic of racism, colonialism and post-colonialism.

Focusing on History or on Memory?

In Latin countries, the distinction between history and memory is often emphasized. Learning about the Holocaust has to focus on history, not on memory; as the first aim is knowledge, not commemoration. It might be a different thing when visiting a memorial, exploring the local area or interviewing witnesses. Of course, up to a certain extent, the teachers want to create a sense of empathy with the victims in their students – something that is a basic requirement. But mainly it is about the historical facts concerning the Holocaust, consisting of three parts that should be present in every program:

- ▷ The overall picture or historical framework;
- ▷ The specific history of one’s own national context;
- ▷ Detailed knowledge about a place, a person, a memorial, etc. – in other words, something tangible, linked to a specific territory or to a community.

But learning about the Holocaust also means dealing with the perspectives of all the other groups, the perspectives of

victims, of perpetrators and of bystanders, of rescuers and of opponents – as well as with their memories. Often this means dealing with competing memories, and even denying the memory of others.

This leads to the question of memory: A community of memories keeps the memory of the community's members alive, and promotes the commemoration of one's own people. However, in Europe the various national or social narratives differ, ours is a Europe of divided memories – divided along the lines of different historical experiences. Even within each national memory the narratives of specific groups may differ. To address divided memories as educators we must, however, share memories and listen to all of the various stories. We have to build a complex, multi-perspective vision of the past based on a dialogue of memories, between communities of remembrance, and with a mutual recognition of victimhood and of suffering, yet always with the limit of refraining from any kind of denial – something which is not easy to handle in groups composed of a diversity of narratives.

In this context, a common misinterpretation seems important to counter: HE is not above all a duty of memory, but it is first and foremost a duty of history: the duty to transmit and to teach/learn the history (*Du devoir de mémoire au devoir d'histoire*). Too much emphasis has been put on the duty of memory and of commemoration, and some students react negatively to this. Even if one of the aims of HE is to keep alive the memory of the victims, commemoration does not have the same meaning for everyone: for some it means to keep the memory of the death, to preserve one's group identity, and for others it means taking responsibility for one's own history. My intent is not to oppose memory and history, nor to choose between them, but rather to underline the

necessity of distinguishing between them, and focusing on both, according to the educational context.

But nevertheless the *history of memory* has to be studied too; it is important to understand the context and the history of the creation of a memorial, of a commemoration day. Which pressure groups created a memorial place or a commemoration date, when and for whom? What were the groups involved in memorization politics? What victims are named, who is mentioned in the official memory, and who is not comprised in it?

Focusing on History or on Lessons of History?

Another misinterpretation is what is called in French "*Trop de morale, pas assez d'histoire*" – too much moralizing and not enough history – i.e., putting the *lessons* of history before the knowledge of the history itself. Precisely because it is such a crucial topic, many teachers or educators want to draw out moral lessons. And these lessons are not always correct.

Also, the transposition of history to the present cannot be done in a linear way: For example, in connection with teaching about Nazism and the Holocaust, students deal with modern stereotyping, concluding: "now I can see where stereotyping leads to." This is too simple, because stereotyping alone does not necessarily lead to genocide; it is too rapid a conclusion to draw from personal feelings to arrive at mechanisms of state-sanctioned murder.

There is a risk in trying to draw lessons without knowing the history; to compare and conclude without precise, concrete historical elements. It is impossible of course to know everything about the Holocaust, but what is taught has to be taught precisely and

based on sources wherever possible. Then one can go and compare, if one is clear about what, how and... why to compare! Comparison is *per se* a scientific method that requires knowledge and tools to be conducted properly. And comparing is not equating. But it is important to know *what* to compare – i.e., compare facts such as legal dispositions against the targeted group, ideological settings, means of exclusion or identification of targeted groups, etc.

II. WHAT DOES HRE IN HE MEAN?

Now, with this background – and keeping in mind that learning about the Holocaust is a very complex field in and of itself – we ask: can HE be HRE?

HRE is also a complex topic, which includes many different aspects such as the history of the idea of human rights and the history of the Universal Declaration of Human Rights; the more legal dimensions of the various conventions and their implementation and the institutional aspects; the philosophy and culture of human rights; as well as a pedagogical and motivational dimension such as understanding and standing up for human rights and against their violation.

Usually scholars distinguish two main options in Human Rights Education:¹ *Learning about human rights* and *Learning for human rights*. Yet recently a third dimension has been added to the debate, which seems just as crucial to me: *Learning with (or within) the framework of human rights*.

¹ Lohrenscheit, C. "International Approaches in Human Rights Education." In *International Review of Education*, 2002, Vol. 48, No. 3–4.

Learning About/Learning for/Learning Within the Framework of HR

Let's take a closer look into these three dimensions:

1. *Learning about* HR refers to the cognitive dimension. It includes knowledge about the history, about the institutional dimensions of the Human Rights Council, the various conventions, the responsibility of states and the possibility of intervention by civil society, the state reports and the shadow reports of civil society, the lobbying, the media work, etc. It includes awareness of the legal and institutional system as well as of the violations of human rights. In this approach the emphasis is put on knowledge, understanding and valuing.
2. *Learning for* HR includes a motivational aspect and the development of competencies to act, such as advocacy within the environment where each of us lives, in one's own community or city. *Learning for* human rights implies knowing about such rights, recognizing their violation and learning to protect and to reestablish these rights. It also means to know about one's *own* rights, as part of knowing, respecting and defending the rights of others, it requires an attitude of dignity and of solidarity. Thus, the motivation to act is part of the education *for* human rights, but is not limited to the motivation, including the development of competencies to act and learning about strategies such as lobbying and advocacy. The emphasis is put on *Respect, Responsibility and Solidarity*.
3. *Learning within a framework* of HR includes not only the content, but also the learning process and the learning

conditions that have to be framed by HR considerations. The learning process has to show coherence between the content and the pedagogical methods of the process on the one hand, and the learning conditions on the other. Pedagogically, this requires active methods such as learning by experience, and peer education (here we find Piaget again.) As for the educational process, it has to guarantee the respect of HR and the rights of the child as a framework for learning, for all children or students. This includes, for example, students' and children's rights of access to all sectors of higher education, a right that is not guaranteed for children of undocumented workers.

Possibilities and Limits for Implementing These Dimensions Within HE

The first dimension, learning about HR in the context of HE, certainly offers many possibilities. Here are some of its aspects:

- ▷ The link between WW II and the UN decision regarding the Universal Declaration of Human Rights; to learn about the Genocide Convention, its history and institutional, juridical and philosophical aspects; to learn about the protection of children's rights, their violation and actions taken to protect them. The associations founded in memory of Janus Korczak, for example, deal extensively with children in the Holocaust and with children's rights.
- ▷ The philosophical and historical dimensions, the three generations of individual, social and cultural rights.
- ▷ In the field of awareness-raising, the study of the Holocaust brings numerous examples of extreme violations of

HR by the Nazis, such as extreme state violence, the denial of rights, expropriation, the violation of the right to protection by or from one's own state, the denial of citizens' rights and the betrayal of one's own citizens. It also includes violations by bystander countries, such as the refusal to grant asylum or protection, the lack of protection of dignity, or the denial of access to citizenship and of the right to be protected from persecution by other states.

HE can also bring up the idea of the necessity of HR as a consequence and a positive outcome of the Holocaust, together with the recognition of the necessity of HR. This linear conception can, however, be considered to be too narrow, as the debate on human rights started a long time ago, and certainly includes the French *Déclaration des droits de l'homme et du citoyen* and the United States *Bill of Rights*.

We could sum up this dimension of learning *about HR* with Hannah Arendt's expression regarding the recognition of a crucial right: *the right to have rights*. Indeed the destiny of the Jews shows the extreme vulnerability of stateless persons who are denied the possession of any rights at all. Only states are able to ensure the right to have rights and to protect people, their rights and their dignity. This shows the necessity for all people to hold full citizenship.

But all these topics can only be touched upon within HE. It seems difficult to delve into them more deeply within the timeframe of teaching about the Holocaust or while visiting a memorial.

The second dimension, learning for HR in HE, would mean learning and exercising advocacy and intervention for the protection of

HR, as well as establishing or re-establishing rights which have been denied. This requires the students to experience attitudes and patterns of action, to work on precise cases, to document violations, to create networks, to learn to lobby, etc. Here we find Pestalozzi's idea of *head, heart and hands* – the idea of acting.

But this dimension of learning *for* the protection or the reestablishment of HR seems to me very limited and more difficult to fulfill within HE, and this is for several reasons: As the worst violation of HR, the Holocaust is not merely a lesson in learning how to prevent discrimination or how to fight against HR violations or how to protect HR. Also, HE does not directly give opportunities for experimenting with the various competencies required for action and intervention, such as lobbying or advocacy. Of course, examples of resistance and opposition can be studied, but they have to be put in the context of the political situation of the rise of state violence and state terror. Also, some pedagogues deal with the dilemmas of HR or situations in which HR dilemmas arise, based on events of the time of National Socialism, promoting reflections on acting *for* HR. Confronting different perspectives on such dilemmas – such as the perspective of perpetrators, victims, bystanders, and rescuers and resisters – is a way of dealing with moral judgment and a first step to considering action.

The third dimension, learning within HRE in the context of HE refers to the process, the atmosphere, the pedagogical framework – but also the legal and civic framework which has to be set in accordance with HR principles: on the one hand, children's and students' rights have to be protected, the access to education for every child has to be guaranteed, the educational system has to be constructed accordingly to HR principles and to ensure equal opportunities and a democratic structure.

On the other hand, learning within a framework of HR also means ensuring HR attitudes in learning systems, active learning settings and a democratic pedagogical approach. Peer education is also a basic tool for HRE – and as Piaget pointed out – especially for the development of moral judgment. These pedagogical approaches need to offer space for students to deal with their personal or family experiences with rights and discrimination. Building on personal experiences is a powerful instigation to learning, be it of experiences of one's own discrimination, or having witnessed discrimination against others. Such incidents and experiences often emerge in teaching the Holocaust, visiting a memorial or watching a movie about the Holocaust, and enable students to establish links between past and present kinds of discrimination.

III. CAN HE BE A TOOL FOR HRE AND SHOULD IT BE?

Can HE Be a Tool for HRE?

My impression is that HE cannot fulfill *all the requirements* of HRE, but that it can contribute to it significantly and be a powerful mind-opener. However, HRE can be present in HE, mainly through the dimension of *learning about HR* and *learning within the framework of HR*.

HE offers opportunities and is a starting point to confront HR. But even if it seems difficult to really learn *for HR* in the context of HE, it is nevertheless crucial to learn a few things about HR and learn within a framework of HR. Mostly, when teaching about the Holocaust, the human rights dimensions will only be addressed marginally, and should be more closely looked at either before dealing with the Holocaust or at a later stage, in another place or at another time. So HE constitutes a motivation

and a starting point for an interest in HRE, as a tool of awareness-building; it can also include numerous valuable elements of HRE, but it cannot be considered as its true core.

Nevertheless, there are possibilities to be explored and new approaches to be experienced. Currently, several studies and projects in Europe are attempting to start initiatives and to discover more about this question; their results might bring us new insights. I would like to mention in this regard a European study conducted by the FRA and carried out by the Living History Forum in Sweden with an international expert group on the role of Holocaust commemoration sites and memorial for HRE. There is also an action-research study led by a group of *Gedenkstättenpädagoginnen* in Germany that has developed new training modules for guides at memorial sites. There is also a program carried out by the Foundation EVZ which should be mentioned – a program which supports projects linking “history” and “HRE.” A first evaluative study of the projects supported by EVZ¹ has shown that this link is not easy to handle in an integrated way: either one topic or the other tends to dominate; often, the other topic is more a pretext than really dealt with appropriately. This shows the need for concepts, research and experimentation if we intend to link these topics in an articulated way.

Should HE Be a Tool for HRE?

Some people take it for granted that HE is HRE – maybe too much for granted. It is not an easy task, and it does not represent the same kind of challenge in every context. It depends on the learning context as well as on the context of national history and

¹ Scherr, A.; Hormel, U. *Evaluation des Förderprogramms “Geschichte und Menschenrechte” der Stiftung “Erinnerung, Verantwortung und Zukunft.”* Berlin: Stiftung EVZ, 2008.

experience. In Switzerland, some teachers link HE to citizenship education, especially when organizing memorial days. Besides, the aims of HRE or citizenship education are mostly addressed by history teachers. But HRE means not dealing mainly with the past, but clearly addressing HR violations today in one’s own national and social context.

However, at memorial sites this link might be more difficult to achieve: some memorial places are cemeteries, places to mourn, places of memory. We have to remember that even the best HE or HRE cannot “repair” the Holocaust, cannot undo what has happened, and cannot bring those who have been murdered back to life. This may lead us to say: let us try to forge this link, but let us be modest with our ambitions for HRE.

We can consider HE and HRE as being organized within a triangle where we find again Pestalozzi’s “*head, heart and hand*”:

- ▷ Learning about the history of the Holocaust (“*head*”);
- ▷ Memory and commemoration (“*heart*”);
- ▷ Human Rights Education including the dimension of acting for HR (“*hand*”).

These three cardinal points stand in complex tension to each other. They can be placed on a continuum; various connections between them can be shown, depending on combinations found in learning settings. Each teaching module, each project or program dealing with the Holocaust, each memorial place or museum deals has a specific potential and deals in a specific way with a specific combination of these three dimensions: closer or more distant to history, to commemoration or to HRE, according to its

specific context. However, no educational approach can fully deal with all three of them at once; choices must therefore be made.

IV. FURTHER CHALLENGES

Within the possibilities and limits sketched above, a number of further challenges exist and new projects and experiences should be promoted in the future.

Reinforce Links to Neighboring Topics

The Holocaust is an important topic in the teaching of history; as such, it is linked to the European history curriculum. But it can also be put under the umbrella of other frameworks or neighboring topics, and it would benefit both sides to build closer links. Here we dealt with Human Rights Education, but neighboring fields such as intercultural education, antiracist education, and education for democratic citizenship (or citizenship education) should also reinforce their linkages to HE. For example, antiracist education is impossible to carry out without giving space to the Holocaust; yet on the other hand, antiracist education is not limited to the topic of the Holocaust, as it includes present forms of racism. Intercultural education targets the question of the coexistence of diverse cultural, national or religious group, or even bigger questions that underlie relationships between minorities and majorities, as well as the protections of minority rights. Of course, this can also include the study of aspects of the processes leading to the Holocaust. Citizenship education, as it deals with the rights of every person living in a given territory, addresses the active participation of all members of the society in which they live and work. These fields evolved quite separately, and to bring them together would benefit all of them.

Reaching Out to New Target Groups

HE as HRE is particularly promising when addressing adult target groups in their professional training or in service training, such as policemen, social workers, medical staff, etc. It is also important not to limit it to formal or school education, but to address informal education as well, such as municipal or community initiatives, community work and neighborhood initiatives.

Yet even if we want to focus mainly on schools, we could reinforce our action by addressing not only in-service training for teachers, but by focusing on teacher training institutes, and on pre-service training, reinforcing cooperation with the pedagogues and specialists responsible for training history and citizenship teachers in universities or professional colleges.

Experimental Joint Projects Bringing Together HRE and HE

HE and HRE are both complex fields requiring a high level of competency from educators. It is rather doubtful that one person can master both, so it is necessary to bring actors from both fields together in person in order to exchange their knowledge and their experiences. We need to experience models and methods which can bring the two topics together more closely; this also means bringing together the persons as well as the organizations involved in the two fields. Concretely, we need to:

- ▷ Promote collaboration by organizing conferences or joint seminars, activating networks of the two fields and building coalitions;

- ▷ Sponsor experimental projects and research studies, in order to develop new pedagogical concepts and materials, as we do not know enough about the methods and outcomes of joint learning;
- ▷ Promote experimental projects and actions in school, as well as in municipalities and neighborhood or communities.

To Conclude

HE as a tool for HRE offers many possibilities, but it also has some limits. It is, however, important to keep in mind some fundamental elements of HE and of HRE. Indeed, without these elements the basic requirements of HE and HRE cannot be met. Thus it seems crucial:

- ▷ To learn the historical facts, and to know about the process leading to the Holocaust;
- ▷ To give space not only to what happened during the time of National Socialism, but also to address what happened afterwards, to address the history of memory, and to be aware of the diversity of historical narratives;
- ▷ To address current violations of HR, especially those occurring in our own society and in our own national contexts;
- ▷ To challenge and deconstruct national myths present in our own countries about this history, and to reflect on how to come to terms with each country's past.

► Wesley Fisher

CONFERENCE ON JEWISH MATERIAL CLAIMS AGAINST GERMANY, USA

FUNDING NEEDS OF A SUSTAINABLE BASIS FOR HOLOCAUST EDUCATION, REMEMBRANCE AND RESEARCH

Funding for Holocaust education, remembrance and research comes from a variety of sources. The budgets of ministries of education, local school systems, and universities generally pay for the salaries of teachers and professors. Ministries of culture and other relevant government authorities often pay for the maintenance of memorials and museums. Private donations by individuals and families play a great role. But an important additional source of funding for educational and scholarly publications, teacher training, archives, films, visits to memorial sites, and remembrance activities has come over the years – particularly since the 1990s – from collective claims negotiated with industry and government, as well as from the recovery of heirless and unclaimed Jewish assets.

The first and overwhelming priority in the use of monies from collective claims and the recovery of heirless and unclaimed assets has always been the social welfare of Holocaust victims.

But there has always been a sense that at least a small part of such funds should be used for Holocaust education, remembrance and research. Some of the original funds collected beginning in 1947 were utilized for education programs. The 1952 Luxembourg Agreements increased the amount of available funds, and these funds provided by West Germany to the Conference on Jewish Material Claims Against Germany (Claims

Conference) were also partly used to support cultural and educational programs, largely with the aim of training communal leaders for surviving European Jewry.¹ “With aid from the Claims Conference in its first dozen years, victims of the Nazis produced more than 400 books written in a dozen languages, including general and religious literature, children’s stories, Jewish social studies, and textbooks... The Claims Conference, also committed to documenting what was then known as the ‘Jewish Catastrophe’ (the word Holocaust was not yet in vogue), gave an important allocation to help found Yad Vashem in Jerusalem.”² Support was given during the 1950s and early 1960s for cultural and educational programs in 30 countries.

When some thirty years later, in the mid-1990s, property settlements began to substantially increase the funds available to institutions assisting Holocaust victims, the sense in all instances was that such funds should, at least to some small extent, also go to Holocaust education, remembrance and research. Thus, when the Claims Conference began receiving proceeds from the sales of unclaimed Jewish property that it recovered in the former East Germany, the Board of Directors decided to allocate a portion of the funds toward research, documentation, and education of the Shoah. Similar decisions have been made by the various organizations and persons involved in almost all the collective claims and property settlements over the past decade. Some of the monies from the slave labor fund were designated for education, and in the French banks settlement a portion of the settlement was utilized for the memory of the Shoah.³

¹ Henry, Marilyn. “50 Years of Holocaust Compensation.” In Singer, David; Grossman, Lawrence (eds.). *American Jewish Year Book. The Annual Record of Jewish Civilization*. 2002, Vol. 102, pp. 43–46.

² *Ibid.*, p. 47.

³ Bazylar, Michael. “Holocaust Justice: The Battle for Restitution in America’s Courts.” New York: New York University Press, 2003, pp. 278–279.

The principal reasons have been a sense of obligation to preserve the memory of the six million killed, in order that the world does not forget both how they lived and how they died, and a desire to help ensure that future generations learn of the Holocaust. In part the motivation has been to see a measure of justice also for the dead. Thus, in the Swiss Banks Settlement, the sense was that no matter how well the settlement funds were apportioned and distributed, there would nonetheless still be persons who should have benefited but for a variety of reasons – including that many of them having passed away – would not. The Court, therefore, established the Victim List Project to assemble and make available all the names of the victims of the Nazis and their allies and thus to ensure that at least the names of all would be remembered.

Similarly, it is noted on the website of the International Commission on Holocaust Era Insurance Claims (ICHEIC) that: “All organizations that have a mandate to allocate humanitarian funds received from restitution programs struggle with the proper balance of funding welfare programs for needy Nazi victims versus programs which goals are Holocaust remembrance, education or strengthening Jewish identity through exposure to the rich history and tradition of the Jewish culture, particularly that of the European Jews in the early 1900s... Most of the funds available for humanitarian purposes, other than the funds used to pay humanitarian claims awards, were designated to benefit needy Holocaust victims worldwide. However, it was ICHEIC’s view that allocating some amount of humanitarian funds to support the strengthening of Jewish culture and heritage in recognition that the Nazis attempted to eradicate Jewish culture as well as the Jewish people, was a legitimate way of memorializing those Holocaust victims who did not survive.”⁴

⁴ See: <http://www.icheic.org>, accessed June 16, 2009.

At the present time, the principal funds for Holocaust education, research and remembrance that result from collective claims negotiated with industry and government and from the recovery of heirless and unclaimed Jewish property are as follows, along with their respective websites:

CLAIMS CONFERENCE: Rabbi Israel Miller Fund for Shoah Research, Education, and Documentation, Conference on Jewish Material Claims Against Germany (Claims Conference)	http://www.claimscon.org
AUSTRIA: Nationalfonds der Republik Österreich für Opfer des Nationalsozialismus	http://www.nationalfonds.org
BELGIUM: Fondation du Judaïsme de Belgique	http://www.fjb-sjb.be/fr
CZECH REPUBLIC: Nadační fond obětem Holocaustu	http://www.fondholocaust.cz
FRANCE: Fondation pour la Mémoire de la Shoah	http://www.fondationshoah.org
GERMANY: Stiftung Erinnerung, Verantwortung und Zukunft	http://www.stiftung-evz.de
FYROM: The Jewish Holocaust Fund in Macedonia	http://www.ushmm.org/assets/macedonia.htm
THE NETHERLANDS: Stichting Collectieve Maror-gelden Nederland (COM)	http://www.maror.nl
NORWAY: Fund established by the Government of Norway and the Jewish Communities of Norway	http://www.hlsenteret.no/0m_HL-senteret/301
SLOVAKIA: Fund established by the Government of the Slovak Republic and the Central Union of Jewish Communities in the Slovak Republic	http://www.HolocaustSlovakia.sk

Others include, but are not limited to, the International Commission on Holocaust Era Insurance Claims (ICHEIC¹); the Victim

¹ See: <http://www.icheic.org>.

List Project of the Swiss Banks Settlement; and the Hungarian Gold Train Settlement.²

What has the impact been of this partial use of funds from collective claims negotiated with industry and government and from the recovery of heirless and unclaimed Jewish property on Holocaust education, remembrance, and research?

First and most importantly, there has been enormous progress in many aspects of Holocaust education, remembrance and research in the last decade partly as a direct result of these funds. Review of that progress is being done by others at the Prague Conference, but just a cursory glance at the listings on the websites above of the many projects assisted makes clear how much has been accomplished in recent years with this support. Many – indeed, perhaps most – of these projects have been directly beneficial to Holocaust victims as well as to educators and researchers, such as the enormous work of Yad Vashem, the United States Holocaust Memorial Museum, the *Mémorial de la Shoah* and others in opening archives and making them accessible that has been accomplished with the support of the Claims Conference, the *Fondation pour la Mémoire de la Shoah*, the Victim List Project of the Swiss Banks Settlement, and others.

Secondly, since many of the settlements have been national in character, programs in Holocaust education, remembrance, and research within given relevant countries have benefited in particular. Thus funds from the Czech settlement have been utilized for programs and institutions within the Czech Republic. Funds from the Austrian, Belgian, French, and Norwegian settlements, as well as from the German slave labor settlement, have mostly been allocated

² See: <http://www.hungariangoldtrain.org>.

for programs and institutions within the respective countries, but grants have also been made to programs and institutions abroad.

Thirdly, some of the settlements have focused on support for a particular institution. Thus, the Claims Conference is one of three major founders of Yad Vashem (along with the Government of Israel, and the Friends of Yad Vashem). Approximately 80 percent of the budget of the Mémorial de la Shoah in 2007 came from the Fondation pour la Mémoire de la Shoah.¹ The Center for Studies of Holocaust and Religious Minorities in Oslo is financed from part of the settlement worked out between the Norwegian State and the Jewish Communities.²

However, it should be noted that, as important as they are, these funds constitute only a small part of the totality of financing of Holocaust education, remembrance and research throughout the world.

The total annual budgets of institutions listed in the Directory of Organizations of the Task Force for International Cooperation on Holocaust Education, Remembrance, and Research³ that applied for grants from the Claims Conference in 2004 and 2009 were examined. In both years, the total of Claims Conference grants made to those institutions equaled no more than approximately 5 percent of those organizations' combined total budgets.

It seems likely that this percentage is characteristic of the contribution of all settlements taken together to the financing of

¹ See: http://www.fondationshoah.org/FMS/IMG/pdf/Chiffres_cles_2007.pdf, accessed June 16, 2009.

² See: <http://www.hlsenteret.no/Mapper/ENG/page/background.html>, accessed June 16, 2009.

³ See: <http://www.holocausttaskforce.org>.

the field as a whole worldwide. Obviously the proportions vary greatly for individual institutions and from year to year as well as for different settlement funds. But if all of the total annual budgets of institutions in Holocaust education, remembrance and research were to be compared to the total amount of funding coming from collective claims negotiated with industry and government and from the recovery of heirless and unclaimed Jewish properties, the proportion would likely be the same as it is for applicants to the Claims Conference. In other words, perhaps no more than about 5 percent of the funding of Holocaust education, remembrance, and research worldwide presently comes from collective claims negotiated with industry and government and the recovery of heirless and unclaimed Jewish properties.

General Observations and Recommendations for the Future

- ▷ Funds from collective claims negotiated with industry and government and the recovery of heirless and unclaimed Jewish properties are needed first and foremost for the social welfare of Holocaust victims. But even if modest parts of such funds are made available for educational and related purposes, they will not be nearly sufficient. There is no substitute for governmental support of Holocaust education, remembrance, and research.

- ▷ There is a continuing need for grant programs to support innovative projects in teaching, curriculum development, archives, research, exhibitions, and the like that goes beyond the base budgets of most or many of the Holocaust-related institutions. The large number of applications received in recent years by the Task Force shows that there is a clear demand for such grants, a demand that

is to a large extent unmet. Funds created from collective claims negotiated with industry and government and the recovery of heirless and unclaimed Jewish properties can help, but by themselves they will not be enough.

- ▷ Some of the funds that have resulted from collective claims negotiated with industry and government and from the recovery of heirless and unclaimed Jewish property have been made endowments in perpetuity and can be expected to generate support for Holocaust education, remembrance and research for many years to come. Others, however, have not. Thus, unless additional settlements are reached, the total amounts that will be available from such funds in future years can actually be expected to decrease. Yet the need for Holocaust education is, if anything, growing.
- ▷ While it is understandable that country-specific settlements may wish to concentrate on programs and institutions within the given country, it is important for such settlements also to support, at least in part, programs and institutions outside the country. For example, one of the biggest challenges at the moment is Holocaust education in the Muslim world, which for the most part lies outside the countries where settlements are most needed or likely to happen.

The Terezín Declaration notes “the need to enshrine and to remember forever, for the benefit of future generations, the unique history and the legacy of the Holocaust (Shoah), which exterminated three fourths of European Jewry, including its premeditated nature as well as other Nazi crimes.” The Participating States further “encourage all countries as a matter of priority to include

education about the Holocaust and other Nazi crimes in the curriculum of their public education systems and to provide funding for the training of teachers and the development or procurement of the resources and materials required for such education” and are “committed to including human rights education into the curricula of [their] educational systems.” The Terezín Declaration goes on to say that, “Countries may wish to consider using a variety of additional means to support such education, including heirless property where appropriate.”

A variety of additional means will indeed be necessary.

Working Group: Immovable Property (Private and Communal)

Opening Remarks

► Nigel Ross

WORLD JEWISH RELIEF, UK

Honorable Guests, Ladies and Gentlemen:

Allow me to welcome you all to what I sincerely hope will be both a memorable and a productive working session.

As well as being the Joint Vice Chairman of World Jewish Relief, I chair the American Joint's Property Reclamation Committee and represent World Jewish Relief on the Claims Conference Board.

I would like to use my opening remarks to make four very important points.

First, it is inequitable and totally unacceptable that, whereas certain countries, such as our host country, the Czech Republic, have dealt with restitution in a prompt and exemplary fashion, others have still done little or nothing. In particular, I must single out Lithuania whose government, over the last seven or eight years, has made us a series of broken promises, but where no real progress whatsoever has been made. The Lithuanian government's latest proposals are, in my opinion, a total farce, and

represent an unsubtle attempt to avoid making any real compensation to the Lithuanian Jewish community at all. I, and fortunately many others, will not stand idly by and let this occur. I sincerely hope that this conference sends a loud and clear message to them that this will no longer be tolerated.

Similarly, I had hoped, after my recent visit to Latvia, to be able to report some positive steps towards restitution from the Latvian government. Regrettably, progress has not been forthcoming. Continuing failure in this regard will only lead Latvia to be placed in the same category as Lithuania. And in Poland, although communal restitution has, to a great extent been dealt with, no real progress has been made on the question of personal restitution.

This leads on, very neatly, to my second point. It is absolutely essential that this conference be more than just another forum for discussion. In another 10 years' time, there will be very few survivors still with us. Therefore, this must be the start of a concerted push to finalise the many outstanding issues. If the institute to be set up at Terezin spends all of its time debating the wording of resolutions, rather than working to actually implement them, it will be a waste of time and, quite frankly, we may as well not bother. Now we need actions, and not just words, with support, hopefully, from all those countries participating here today – support that is of sufficient strength to convince those remaining countries that they have no option but to comply.

Third, at the same time that we demand countries' compliance and resolution of outstanding issues relating to restitution, we have to realise that that the current severe economic downturn makes it politically even more difficult for those countries who have yet to effect restitution to do so now. To ask their citizens to pay out many, many millions to minority groups when, at the

same time, these citizens are seeing their amenities and benefits severely curtailed, can well be electoral suicide and can stir up unrest. Even though these countries have only themselves to blame for having delayed implementation for so long, we must work with them to find ways of achieving restitution in a more politically acceptable way, such as the transferring of existing governmental property assets, rather than the deploying of governmental funds.

Fourth and finally, I must make the point that achieving restitution is by no means the end of the task. Many communities need help in maximising the potential of the assets that are returned to them. Often, it is easier for suitably qualified outsiders to avoid internal political agendas and to see the bigger picture. Certainly, our aim at JDC is to make each and every Jewish community that obtains restitution financially self-sufficient, and our hope is that, one day, these communities will be able to help their fellow Jews in countries where restitution is still not a real possibility.

Thank you.

Overview and Political Context

► Andrew Baker

AMERICAN JEWISH COMMITTEE, USA

REVIEW OF POLITICAL COMMITMENTS

It is good to be here, and it is good to be here among many friends and leaders of Jewish communities, who have been part of this struggle. And I say struggle: I think we never anticipated, twenty years ago, a year when this was a scene of great change, this part of Europe, that two decades would pass and still, we would be addressing issues of, in many places, just the basic return of Jewish communal property, or the establishment of basic laws governing the return of private property and the like.

Perhaps we should have known, during the years following those changes, that we would have been in more difficulties than we had at first hoped. And I can recall an issue not related to the restitution of property, but something that, at one time, we thought was perhaps more elemental and certainly more achievable: Questions of extending benefits to Nazi victims, the Holocaust survivors in these countries of Central and Eastern Europe, who during the years of communism simply had no ability to appeal to Germany for the same sorts of benefits that Germany had extended to Holocaust survivors in the West.

There are people here that were part of those efforts too. The present German government sends compensation, payments,

and some benefits to the Holocaust survivors in this region. And I can recall, perhaps about twelve years ago, one of the German television stations broadcast a show focusing on the anomaly that existed. Essentially, Waffen-SS veterans, who served in the German Army, were eligible for disability payments. That eligibility was automatic. Those programs had never been closed.

And yet their neighbors, in some cases survivors of Auschwitz, could achieve no benefit, could receive nothing at the time from the German government. In this case, German television producers thought that once you showed this picture to the German public, you would naturally lead to change; that essentially, the population itself would recognize the absurdity of this, the inequity of this. And so they travelled to Latvia, they displayed the fact that Latvian legionnaires, some parading around in their former Waffen-SS uniforms, were able to sign up for German benefits. And here they were, elderly survivors of Auschwitz and other death camps, receiving nothing.

And I recall speaking to the producer of the show the morning after it aired on the German national television. And he told me this story, he said: You know, after the show ended, the most phone calls that came in, actually came in from the Netherlands, which was also part of the viewing audience. Who was calling? They were Dutch Waffen-SS veterans. They wanted to know: How do we apply for these pensions? So you have a story like this, that demonstrated that even with a sense of outrage, a sense of purpose on the part of segments in society, it would be a very difficult process, and it was. And people here know, even to extend some of these compensation benefits to these elderly victims from Germany, which never tried to avoid at least responsibility for this.

But we speak here today about the restitution of property, and what commitments we have received from governments. And we have already alluded to a feeling, at times, that those commitments have been deferred, denied, reversed. I think we recognize and we have to acknowledge that, in these first years, in the 1990s, there was a lot of difficulty, a lot of uncertainty and a lot of change in the Jewish communities as well. On the part of our own organizations, the international organizations, as well as local Jewish communities.

What was being claimed, what could be claimed? Tensions between the emerging local leadership and international organizations over who would be the beneficiaries of property that would be returned; expectations that, even then, countries would be willing to come forward to discuss private property, heirless property as well. The Jewish communities themselves, as we all know, defy the normal model of what some countries would use in identifying returning property to religious communities. Yes, we are religious communities, but we are more than that. We are not talking about just synagogues, or cemeteries, or prayer houses; we are talking about schools and hospitals, other communal institutions as well.

Some countries moved rather quickly and without prodding to return at least some of these communal buildings to their Jewish communities. But they, we know now, were really the exception. In most cases, the individual Jewish communities did not represent, small as they were, a significant interest group or political group that could make a claim in the way Catholics in Poland or other groups in different countries could. In some cases, the models that we use for religious communities were, by design or by accident, employed against these Jewish claims. If you had a policy that said religious property would be returned to

the local religious communities that were the former owners of those properties, that might work fine for other groups. But for the Jewish communities, which were decimated in the Holocaust, for those communities that no longer existed, the notion that you are going to return properties on a local, case-by-case basis meant effectively that most Jewish property, even if a law or policy was being implemented, had no recipient. And therefore, the governments felt no obligation to return it.

We went through almost a decade of frustration, of struggles, of incremental achievements, and I think we recognized that what was necessary was really a global approach, trying to put pressure in whatever way we could on these governments; pressure to say: "This government needs to do the right thing." The right thing was to help in the revival of these communities. They have written off any Jewish future, that there were people, there were community leaders that helped re-establish Jewish life. So the idea of restituting property became a critical piece of the essential need of these reviving communities. Without some resource, without the buildings, without the income, they would be at the mercy of seeking a handout from others abroad, or would simply not be able to do the kind of basic work, elemental work that we all would recognize is necessary.

At this same time, many of these countries, quite naturally, were seeking partnerships, were seeking a role within various western umbrellas. Naturally, they were looking west, establishing or re-establishing democratic societies, open societies, free market, freedom of press, and the like. Essentially, NATO became a desirable goal. The European Union, an obvious goal. In the evolution toward anticipation and membership, there was an interest on the part of many of these governments to show that they were ready, they were ready for these western organizations,

these democratic organizations, these transatlantic security organizations. And we had good fortune.

I think, to start to speak frankly, in the United States, we have administration officials who are government leaders able to say: These western alliances, NATO, are more than just questions of strategic partnership; it is also a question of shared values. So what can you bring forward, what can you show that demonstrates that you are committed, that you are moving in this area of shared values? Here is the civil society. In Poland, in Slovakia, in Lithuania, in Romania, etc., etc. One measure was, how were they dealing with these reviving Jewish communities? How were they dealing with the issues confronting these communities? What were they doing in terms of confronting the resurgence of anti-Semitism in dealing with these countries' Holocaust histories? And yes, how are these countries dealing with the question of restituting Jewish properties?

We had a window, we had a period, when we had the attention of these governments. And we had strong voices in the United States, but also echoes in places in Western Europe that said: This must be one of the measures by which we will determine your membership, your place in NATO, in these umbrella groups. Commitments were made. In some cases, governments followed through. In many cases, they moved halfway. And yes, we accepted that they were engaged in a process, and we often provided, even with reservations expressed, basic support.

These countries are now part of NATO; these countries are now part of the EU. On the one hand, it is also remarkable that we can gather only twenty years after the fall of the Wall in Prague, to be hosted by the President, or the Presidency of the European Union, and with neighbor countries being equally part of this.

But I think, on this issue of pushing these governments to follow through, we clearly lost that level, we have lost that ability to say: If you are going to show you are ready to join, you have to show you have dealt with your Jewish community and with these claims.

So what do we do now? This Conference today and tomorrow provides one more opportunity. As Stuart Eizenstat said at the opening session to the press on Friday and repeated today, we have a remarkable Declaration, but we know it is not a Declaration that obligates governments to do anything. It remains an issue of emphasizing the moral obligation to complete this.

Twenty years ago, even ten years ago, one might have said Jewish communities are at odds with each other, they might have been divided. International Jewish organizations were insisting on one thing, local communities on another. Our divisions are often used by governments as one more excuse to defer or delay resolving this problem. I think today, international Jewish organizations and local Jewish leaders are really united. They are cooperative in the efforts of almost all countries that try to move these issues to some satisfactory completion.

It is a tragedy that the heirless properties, the properties of large Jewish communities remain unreturned. We would hope it has been expressed, but I think we know the difficulty of even achieving some measure of restitution of those properties to assist Holocaust survivors around the world. We know how difficult it is now even to achieve restitution of some fraction of those former communal properties to provide a certainty and security of basis for today's small Jewish communities that function openly and independently. But this is our goal, this is what we need to focus on today, tomorrow, this is why we need to make as much as we

can of the Declaration that all these countries participating have accepted, and to keep pushing forward on this. To tell governments, they must do more, to look to our allies and our friends to help deliver that message along with us. And we will see in the presentations that follow, that we can look country by country to identify what needs to be done. This provides the opportunity to move and to at least realize some of those needs.

Thank you very much.

► **Herbert Block**

WORLD JEWISH RESTITUTION ORGANIZATION, USA

STATUS REPORT ON COMMUNAL PROPERTY

Thank you very much Tomáš and Nigel and Andy and Gideon and everyone who was up here and worked together with all of you, many of you in this room on these issues. We have had a process of this working group on immovable property that hopefully will result in some positive outcomes, as Andy expressed, and will lead to the ability to move forward on a number of important issues that remain unresolved. I am going to try just to provide an overview and my remarks, a little more detail on the issue of what is the communal side of the immovable property issue.

And as Tomáš said, I am here really wearing two hats. One is that I am here with my home organization, the Joint Distribution Committee, and the other is the World Jewish Restitution Organization, and I want to acknowledge two people from those organizations, with whom I know you will continue to work in Europe,

Alberto Senderey, the director of JDC in Europe, and ambassador David Peleg, the newly appointed director-general of the WJRO, which will be playing a more active role in many countries in the coming years.

When we speak about the return of communal and religious property, we, as Andy said, can ask why we are dealing with this now. And I really frame it in two ways. There is the moral responsibility of nations to return or compensate for that which was wrongfully expropriated, that which was stolen or looted from our people, and this has been essentially the focus of the World Jewish Restitution Organization. But there is the human and community side of these properties, as Andy also mentioned. And these properties and settlements are not just about buildings, but they are about helping people and helping survivors and Nazi victims and communities rebuild their lives. And the properties that were returned, or the compensation that is paid, or income that can be derived from properties in the countries in Central and Eastern Europe and the former Soviet Union can both help the communities to have the facilities they need, and to become financially self-sustaining, financially independent, and most importantly, help them to have additional resources to meet the needs of the survivors in their countries.

We must never forget, when we are talking about property and buildings, that we are here to help those who survived the horrors of the Shoah, and to use these properties to help them live out their lives with a great measure of dignity, and to help the Jewish communities in Europe rebuild to the extent that they can, after the tragedies of the Shoah. Many of the Jewish communities here, in this room, have worked hard on preparing issues and materials for this Conference and compiling data on where things stand in your countries, and lists and issues and papers

about all the problems on property restitution. And this is going to be critically important for the follow-up that we have all been talking about because this Conference is really just the beginning of what we need to do from now on and not just the end of a process of reaching this Conference.

And we hope that all the material, that you prepared and worked on, can be the basis for continuing to move that effort forward. What are we talking about when we are referring to communal and religious property? First, it is not, parts of it are a Jewish issue and parts of it are not only a Jewish issue. Communist governments nationalized, as we all know, the property of most, of all faiths and churches in their countries. But the looting of property of the Jewish communities has a special nature because it began before that period and began with the property that was confiscated, stolen, taken, destroyed during the period of the Shoah by the Nazis and their allied regimes throughout the region.

What kind of property are we referring to when we talk about communal and religious property? Basically any property that was owned by a Jewish community or a religious community or a Jewish entity, not private property of individuals in this case and I know Gideon will speak more about that, but these are properties of the communities.

What does this include? This includes basically everything that formed the infrastructure, the physical infrastructure that sustained Jewish life throughout thousands of communities in Europe, including synagogues, whether they are formal large buildings that we see, or smaller houses of worship; *batei midrash* – study halls; educational institutions; yeshivas; different schools; elementary schools, some religious, some not;

mikves – ritual baths; social institutions such as old age homes, orphanages, Jewish hospitals, cemeteries; and also related facilities, such as *chevra kadisha* buildings, funeral chapels, pre-burial chapels; rabbis' houses; the offices and headquarters of Jewish communities. And communities also owned land, buildings, apartments, and other properties that had been donated to them over the years, which they had accumulated through different means during the period before the Shoah. So it is an extensive list, and it is not just limited to synagogues or the more prominent buildings, but really consists of the entire infrastructure of what supported the Jewish life in this part of the world before the Holocaust.

Many of you will say, "How many properties existed?" We do not really know exact numbers; there are no central records of all these properties in all the different countries, and in the fifteen to eighteen countries or more where this issue is current today. Our best estimate from a lot of data, and that I use, is that there were at least 21,000 properties that were owned by communities, and let me put a caveat that there were many properties in countries that were used by Jewish communities, but were not actually owned by them. Anything from a *shtiebel*, small prayer house, that people may say, I know there was a synagogue on this corner and people worshipped there, but you find out it was not actually owned by a Jewish community, but was used by a community, and may not be eligible under restitution law as for communal and religious property. But maybe it was the property of a private individual.

So for this issue, we are talking about properties that were owned by communities. There may have been others that were leased or rented or donated by a private individual to a community to use, but were not formally owned by that community. These 21,000,

some approximate numbers of what they are. Probably about six or seven thousand synagogues, prayer houses and study halls. About three thousand yeshiva and school buildings. About five or six thousand cemeteries. And four to six thousand other institutions, other properties, buildings, land, that were owned by communities.

And sometimes, it is, you know, not clear how one person counts a synagogue as ten properties because it was on ten plots of land; another person says it is one property. Or one government will say, as we have seen recently in Latvia, that they gave back sixty-three properties, but on closer analysis, it is really about twenty because most of those properties consist of more than one plot of land. So the numbers are sometimes fluid in this issue, and can be interpreted in different ways for the number of properties and what was taken.

What has been done so far? Let me make a note that, in Western Europe, property, communal property and religious property of Jewish communities, was generally returned or dealt with during the period after the war. This issue here, as we are talking here, and we have representatives of Western Europe here as well, focuses today mainly on the Central and Eastern European countries, and we hope will be dealt with in greater detail, with great effort in the coming years by the countries in the former Soviet Union.

While the laws and situations in each country are different, each country has its unique legal structure for dealing with this, and the exact data is not necessarily available regionally on every property. By my estimate, so far only about 16 percent, or roughly 3,500 of the communal and religious properties of the 21,000 I mentioned before, have been either returned or covered under

some sort of compensation agreement. In some countries, there have been settlements that covered many properties under one agreement, and those restitution and compensation agreements have been either to the local Jewish community alone or to foundations set up between the Jewish communities and the World Jewish Restitution Organization. Therefore, there is another 84 percent – at least 17,000 properties – that have not been restituted or compensated for in some way, and that shows that there is much work to be done. If you look at it, and you know the current rate and how this issue has been dealt with, especially in the last decade, we will have the conferences in the next fifty years until this issue is resolved.

So clearly coming out of this gathering in Prague, there has to be a greater push to address this issue in a more expeditious way. What are some of the problems and issues that communities have faced while addressing restitution of communal and religious property? As well, let me highlight some solutions, as I go along, as to how these can be addressed, and they are dealt with in further detail in the working group recommendations that I think you have in your materials and in your expert conclusions. And they may be called, where we have tried to address things that we think government should do to move forward with this, and these are also highlighted in abbreviated form in the Terezín Declaration. And we hope it will be part of the principles that will come out of the Shoah Institute to be formed hopefully in Terezín as a follow-up mechanism for this Conference.

As Andy mentioned, the laws that were rendered to cover church and religious property of all faiths, in many cases do not apply to the Jewish reality, do not cover really adequately the Jewish property situation, the ownership of Jewish properties before the war. We have seen in some countries, such as Latvia

and Lithuania, which are currently dealing with this, that the way a law was written was to cover property that was owned by a central diocese or the central church or under the control of a central bishop. This does not apply to the Jewish communal structure, the way Jewish life was organized before the Shoah. Jewish communal and religious property was not owned by a central church in every country. It was owned by a multitude of different organizations and religious communities, secular organizations, religious organizations, social organizations, sports organizations, there was not one central body that owned everything, that we would call part of the Jewish community with a small “c”.

And therefore, laws need to address that, and be ready, in a way, to provide for the restitution or compensation for the breadth, the wide breadth of properties that were owned by Jewish communities, including the cultural, educational and social properties that were used and owned by Jewish communities, and not just narrowly defined as those religious institutions. Some countries are trying to say religious property meant synagogues, and that is basically all they would return. There needs to be a broader definition in countries.

Second, there needs to be access to archives to be able to document property claims and defend them in the different tribunals and mechanisms in each country. I know this is essential for private property as well. Third, there needs to be flexibility in documentation of properties. Community is now, and if there is anyone from the Jewish community here, you know that you spend a lot of time and effort to prove, what everybody knows already, to prove really, what was obvious. That the old *shul* in the center of town, that is now a town warehouse, was the old *shul*, and if you probably go to that town and ask any person in the street where the synagogue

was, they will tell you where the synagogue was. But it may cost you thousands of dollars and dozens of trips to court and lots of documentation to prove that point.

And governments have been, unfortunately, too bureaucratic and too restrictive in trying to, even when a law is passed, not expedite the process, but slow it down, whether intentionally or not, but there needs to be a flexibility in that process. The confiscation date is important. It may be different for Jewish properties than for church properties because Jewish properties and the properties of the Jewish communities were taken or looted at the beginning of the period of the Shoah in that country, and not only in the “second taking,” the second confiscation during the communist period.

In many towns, in most towns, no one came back after the Shoah. There was no one from the local Jewish community or the organization there who returned after the war, and there were many properties that were “donated” to governments or sold or returned under duress or some kind of forced sale by, in many cases, unofficial representatives or individuals, and the government uses those as an excuse to say, well, we do not have to give it back because someone signed it over to us or donated it to the government. And these cases need to be addressed as well.

As I think Nigel mentioned, the conditions of the properties are generally deplorable. These are properties that in many cases have been neglected for sixty years by governments. If they were used, they were used for storage, for a garage, for a swimming pool, for all sorts of purposes and not maintained properly. Many properties, Jewish buildings, especially synagogues, other religious sites were neglected totally, and are now in a total state of disrepair. And governments are often eager to give them back and say: You want your

heritage, well, here are the properties. And communities cannot effectively deal with the burden of being given properties that are in a state of neglect and disrepair without the resources to deal with them.

Sometimes these properties then come with the addition of landmark status or historical monument status for preservation of monuments, which limits what communities can do with them, or whether they can sell them if they are not needed, or derive income from those properties, or even what they can do to maintain them. And there needs to be flexibility in that, when governments are returning properties as part of the settlements, to deal with that issue as well, as we have seen in many cases. And I know from personal experience in the foundation in Poland, where properties were returned, and then a few months later, the government, the same government, the municipality that owned the property, that kept it for sixty years, then sent a note, a violation notice to the Jewish community, that this property is in a state of neglect, and you have to fix the roof, and you have to fix the corners, which are about to fall down and injure somebody, and you have to repair the sidewalk. When they owned it for sixty years, and did nothing to do that, and now the burden is placed on the community, that is unfair.

And that situation has to be addressed as a part of the settlements because you cannot own the property, neglect it, and then return it to the community with no means to expect them to pay money to fix what the government has done while they owned it. If original buildings cannot be returned, or because they are either used for a legitimate public purpose, you know, none of us would suggest throwing out a public school that is currently using, what had been a former Jewish school. You would not want to evict the students out into the street.

If that building cannot be returned, or if these are properties that are in such a poor condition, then there needs to be an appropriate mechanism for substitute properties to be given to the community, whether to a foundation, or by means of payment of compensation in lieu of those properties. And the issue of cemeteries, and I know this will be dealt with in the last session, is a critical part of the communal property infrastructure. Again, governments are often eager to return cemeteries to Jewish communities, and place the burden of maintaining these cemeteries, which again had been neglected, on communities without the means to deal with that. The real issue, as I am sure you will hear later, for cemeteries is preservation and maintenance more than a solution of restitution in all the cases.

Let me just quickly give a brief summary in a minute or two on where things stand in a couple of categories, to conclude this issue. Actually before that, I will make one point. The issue does not end only with restitution of property. For many communities, I will not get into this now, that is really the beginning of the second phase, and that is what Nigel has dealt with, in many countries, where the communities then become a landlord and owner of property, they have assets to manage, and that equates to a set of new challenges for communities to do that in an effective way that will benefit the Jewish communities, and not burden them. So the issue should not be seen only as ending, when we have got back a number, we will say twenty billion will be returned in this country. That is really for the communities the beginning of a new phase of their responsibility.

There are couple of countries, where basically the issue was finished, and there is nothing further being done – Estonia and Macedonia. There are couple of countries where not all the properties have been returned, but the issue, I would say, is effectively

dealt with. There may be as well individual cases here and there, such as Hungary, Czech Republic, Slovakia.

There are countries, Poland and Romania, being the most prominent, where there have been laws that were passed. Then thousands of claims have been filed, but the issue has been dealt with very slowly, the bureaucracy has weighed down on the issue, and the return of property in those countries in particular, Poland, Romania, will take decades at the current pace, and though they may be congratulated for passing a law before other countries, the process has results that we expected, but not as quickly as we would have hoped. There are countries where the process is just starting, for example in Serbia. There are countries where most of the properties have been returned, but the most valuable ones remain to be dealt with, such as in Croatia or Bulgaria. There are countries where there is no law yet – the former Soviet Union countries, Belarus, Moldova, Ukraine, Russia, Bosnia and Slovenia, the Former Yugoslavia.

And then two countries that have been mentioned before, and I am sure will be mentioned again today. Latvia, which attempted a lot a few years ago, but failed in the Parliament, and there was created a working group to try to move the issue forward, but there has still been no progress. And as Ambassador Eizenstat and others mentioned, Lithuania, where many of us have been involved for eight years, and there have been many promises, failed promises and inadequate proposals. And we hope that that issue will be addressed expeditiously.

So, as you can see, this is a very broad and comprehensive issue affecting, in many different ways, different communities across the countries. There are many common streams that I think all the communities have been dealing with. And you will hear

reports today from many representatives of Jewish communities elaborating on this and sharing the unique perspective on what is going on in their country.

Thank you very much.

► **Gideon Taylor**

CONFERENCE ON JEWISH MATERIAL CLAIMS AGAINST
GERMANY, USA

OVERVIEW OF THE RESTITUTION PROCESS

The murderous assault on European Jewry that was the Holocaust included the greatest robbery in history.

Jewish families and communities were systematically targeted and sustained immeasurable damage due to illegal seizures and destruction. It is a reflection of how thorough the Nazis and their allies were that, by the spring of 1943, hardly any Jewish victims remained alive in Poland and the countries of the Soviet Union. By that same time, there was almost no private property remaining in Jewish hands in occupied Eastern Europe. In addition, before the Holocaust, in nearly every city or town in Central and Eastern Europe, there were properties owned by Jewish communal or religious entities that were used by local Jews, for whom the institutions they housed were an integral part of daily life. Virtually all of these buildings as well were looted, confiscated or destroyed by the Germans or their allied regimes during World War II.

After the defeat of the Nazis, during the period of communist control in parts of Europe, confiscated private property was not

restored to its former owners but, typically, nationalized. Nor was communal or religious property – critical to the revival of Jewish life and to promoting the preservation of Jewish cultural heritage, returned to what remained of the devastated Jewish communities, or their successors.

We cannot change any of that; we cannot change what happened. But the measure of the true values of a country, as it is for individuals, is how they respond to injustice. Thus, we can ... and must ... urge countries to take a hard look at the still unresolved issue of stolen assets, including real or immovable property, not yet returned to their rightful owners.

And this Prague Conference provides all of us with a significant opportunity to deal with such unfinished business from the Holocaust era. Here, we can provide the impetus for further, necessary action by laying the framework for the return of, or compensation for, confiscated property that has not been restituted.

What we say in Prague – in terms of the Declaration that will be issued on the principles and importance of restitution – will reflect the aspirations of the Participating Nations, not only to democratic principles and to the rule of law, but also to honor the memory of the six million Jews, and millions of others, who perished at the hands of Nazi persecution.

But what we do after Prague – in terms of the mechanism we are willing to develop and support, to follow up, to make sure that we actually implement the principles that are promoted here – will ultimately reveal whether we are truly committed to justice and fairness and to honoring those who were murdered by the Nazi regime.

In other words, we cannot allow the extensive interest this meeting will attract to the issue of restituting confiscated property to shine brightly for a few days in June; then fade away as we return home. The follow up to this Conference is as – if not more – important than this gathering, or its statement of restitution principles. Thus, when we leave here, it is our responsibility, collectively, to press for permanent, ongoing monitoring of the principles declared here, and to convert aspirations into actions.

We realize that, as we seek to bring a greater degree of justice, the results, for sure, will be imperfect and, no doubt, inadequate to the survivors. We should – and do – seek the return of all that was illegally taken. Nothing will bring back those who perished. Restitution is ultimately symbolic. But symbols count – as a matter of facing history; and as a matter of remembering those who were forced to endure the unspeakable. The symbols are part of the effort to link the survivors to what was theirs; to what was.

While there have been positive steps taken, in certain places, relating to the restitution of immovable property seized during the Holocaust, progress in many Central and East European countries has been slow at best. Moreover, numerous countries have yet to enact meaningful legislation or, in the case of Poland, any legislation, that could restore stolen properties to former owners or their heirs.

Poland was home to the largest pre-war Jewish population in Europe. It is a member of the EU, as well as the Organization for Security and Cooperation in Europe, both entities that stress the importance of property rights and the rule of law as pillars of democracy. Yet, to this day, Poland has been conspicuous in its failure to enact any restitution legislation regarding the return of, or compensation for, the private property that was seized during

the Holocaust era and/or subsequently nationalized by its communist regime. Last month, Poland published the latest in a series of draft laws dealing with compensation for nationalized private property. The proposed legislation is wholly inadequate. It is unclear whether all property seized during World War II is covered; it provides for virtually no *in rem* restitution; it does not include any Warsaw property; it does not specify the amount of compensation that will be paid to eligible claimants and, if they are eligible, payments will be paid in installments over a protracted period of time. It cannot be that, so many years after the Holocaust, and after the emergence from Communism, Poland cannot do better than that.

Nonetheless, efforts in this area in recent years show that, though the task is arduous, it can bring positive results.

In facing their responsibilities and addressing the issue of the restitution of confiscated real property, we will encourage countries to pass legislation and implement claims processes that incorporate certain basic principles.

▷ Firstly, laws must be non-discriminatory.

There should be no citizenship or residency requirement; if a person, or member of his/her family, owned property, s/he should be eligible to claim it, regardless of where that person lives or what passport that person carries.

▷ Secondly, laws must cover property confiscated during the Holocaust.

Often, restitution or compensation laws include only property nationalized during the period of the communist

regime. Most formerly Jewish-owned property, however, was taken prior to communist nationalization and must be covered by restitution laws.

- ▷ Thirdly, restitution should be *in rem*.

The actual property in issue should be returned whenever possible, particularly when the government (at whatever level) holds the property.

- ▷ Fourthly, substitute property or fair compensation must be provided when *in rem* restitution is not possible.

In the past, countries have often claimed that, because property has so often changed hands and buildings have so often been rebuilt, renovated or otherwise modified, it is impossible to reconstitute to the former owner.

It is incumbent, therefore, for governments to provide alternate property of equal value and, if that too is not available, to pay compensation to the former owner.

Moreover, compensation should not mean a minimum token amount. It should mean the fair market value of the property.

- ▷ Fifthly, heirless formerly Jewish-owned property should be used to help Holocaust victims.

Many of the Jewish property owners and their family members were murdered, leaving much immovable property confiscated during the Holocaust era heirless. Such assets must be identified and used primarily to assist Holocaust survivors in need.

- ▷ Finally, the Claims Process:

- Should be non-bureaucratic: The process should be simple, making it easy for all potential claimants – many are elderly, live in foreign countries, and are of modest means – to apply without legal obstacles and at no or low cost.

- Should be fair: Minimal documentation should be required, especially when limited compensation is offered. In addition, rules relating to privacy, archival confidentiality and establishing that one is an heir must be simple, enabling claimants to establish property ownership and the right to claim quickly.

- Should be easily accessible and transparent: An easily identifiable, centralized system should be established and/or designated to accept and process claims. This will also maximize uniformity of decision-making, as a complaint often heard in countries with restitution processes has to do with inconsistent decisions.

Claims should also be accepted over the internet and in multiple languages. Decisions should be made within a reasonable time after the claim is submitted and the reason(s) for the decision should be clearly stated.

- Should be efficient: Claims should be decided within a reasonable time after submission and restitution or compensation should be delivered quickly. Too often, restitution legislation sets out a lengthy, protracted payment schedule, sometimes taking longer than a decade to complete. This is unacceptable, especially when so many of the claimants are elderly and in immediate need.

Restitution of property remains an essential piece of unfinished business for many of the newer democracies of Central and Eastern Europe. And the effort to have such countries enact fair and comprehensive restitution schemes remains a priority for world Jewry. Applying the principles which will be adopted during this Conference will not only allow governments to resolve outstanding immovable property issues meaningfully, but will go a long way toward facing their histories by addressing past injustices. Ultimately what we seek today is not the restitution of money: it is the restitution of history.

► **Moshe Sanbar**

CENTER OF HOLOCAUST SURVIVORS, ISRAEL

**PROPERTY RESTITUTION FROM
A JEWISH PERSPECTIVE**

Since the fall of the communist regimes in Eastern Europe three major agreements have been reached in connection with the resolution of Jewish property restitution:

1. The legislation regarding East Germany;
2. The Swiss banks – WJRO agreement of USD 1.25 billion;
3. The International Holocaust Era Insurance Committee's agreements with the major European insurance companies of USD 550 million.

I would like to elaborate on the understandings on which these agreements are based. In each case, both sides accepted:

► That the *original* Jewish owners must receive restitution of or compensation for the Jewish properties, without regard for the assets' current possessors. Serious efforts have to be taken so that the original owners, or their legitimate heirs, are able to prove their legal rights regarding these assets. Since most of the original owners are not alive anymore, this effort must have the utmost importance. Therefore, access to archival reports is necessary and governments should facilitate such access. Reasonable alternative evidence should be permitted if archives have been destroyed. Privacy protection laws that interfere with re-searching the ownership history of the property should be modified and liberalized for the interested parties.

► If the heirs or the original owners cannot be found, the unclaimed or heirless assets should be transferred into a special fund for assisting needy Jewish Holocaust survivors. It is not acceptable, for example, that the insurance company that issued the policy should continue to keep its unpaid value and, in fact, become its heir. In the case of unclaimed property of all kinds in East Germany, the German law decided that the Claims Conference would be the legitimate heir. Regarding the Swiss settlement, the Federal District Court in Brooklyn will decide upon the exact uses of the unclaimed residual funds for the benefit of Jewish Holocaust survivors. In the case of ICHEIC, a special humanitarian fund was established for the same purpose.

I mentioned all this since I believe that this Conference should accept the same principles, and that afterwards, each state should develop a similar system. That means, first of all to try to re-stitute the property *in rem* to the original Jewish owners, or their heirs, and if that is not possible, to pay them fair compensation.

In the case of unclaimed or heirless property, each state should establish a special fund for supporting needy Jewish Holocaust survivors of its own country, regardless of whether those survivors currently live in that country or elsewhere. In other words, the heirless Jewish property in a country should be used only for the benefit of needy Jewish survivors of, or from, that country.

The scope and the total value of the unclaimed Jewish property can be calculated by estimating the total Jewish assets before WW II, and then deducting from that estimate the actual payments made (on the same terms) to the owners or heirs for their properties. This process must take time, but if we believe, and we should, that the assistance for needy survivors is urgent, since they are old and of poor health, each state should establish, as soon as possible, a special fund and start the assistance process. This special fund will be much less than the total amount of the estimated heirless property. The remaining amount should be paid, during a relatively long period, taking into consideration the financial ability of the state. This system is based on justice and moral values on the one hand, and on the economic strength of the state on the other.

Restitution of Jewish properties commenced in East Germany only after the fall of the communist regime. The first major legislation for achieving the return of nationalized properties to the former owners was enacted in 1990. That means, if a Jewish property was taken, or lost, or forcibly sold by the Nazis, and later taken over by the communists, these assets would be returned to the so-called "owners" during the Nazi reform. In order to avoid such injustice, the German law clarified that in such cases the property should be returned to the original Jewish owners or their heirs. I assume that the general situation in other former communist countries is similar, and therefore also the actions to be taken should be similar.

Although the situation in Germany is morally totally different from that in the other countries, since Germany was the perpetrator of the Shoah, the greatest crime known to humanity, the comprehensiveness of the legislative program can be used as a model for property restitution elsewhere. The Nazis took over the Jewish properties illegally by disregarding international law. This is generally not the case in the other countries. But even so, the original Jewish owners were never paid by the so-called "new owners," and, therefore, they are entitled to receive at least fair compensation when *in rem* restitution is not feasible.

National governments should take the necessary steps to ensure that their restitution policies are implemented at regional and municipal levels of government, which often control the bulk of the property.

Restitution laws and procedures should apply to both private property owned by individuals or corporate entities, and to communal property owned by communities or religious organizations.

The legal procedures used to evaluate specific claims should be clear, simple, transparent and non-discriminatory.

All of us must remember, that during the Shoah 6 million Jews were killed, out of the 8 million who lived in Europe prior to WW II. But the wealth and property were plundered from every one of the 8 million Jews! This extraordinary phenomenon makes the Shoah so unique. This is why extraordinary measures are needed to deal with its terrible results.

This Conference should encourage governments to introduce changes in their legislation, if it does not follow the requirements of morality, justice, and conscience expressed here.

The legislation should be based on the following principles:

- ▷ Un-restituted Jewish property of all kinds (immovable property, financial assets, looted art, Judaica, etc.) should be returned to its original owners or their heirs.
- ▷ Where *in rem* restitution is not feasible, fair compensation should be paid.
- ▷ Heirless property should be transferred to a special fund designed to help needy survivors from that country.
- ▷ In each country, a special committee should be established in order to decide upon the principles and method of compensation. Such committees should consist of high-level state officials, of representatives of the local Jewish community and of WJRO, representing members of the local Jewish community presently living abroad.
- ▷ Because the survivors are aging, many of them suffering from poor health and requiring immediate help, the committees should determine the establishment of a special fund, financed by the government, in order to start the operation as soon as possible. This payment will be considered as a part of the fund for heirless property.
- ▷ An international standing committee should be established to follow up on the implementation of the resolutions, and to advise national committees if necessary.

Our main message should be, “Never again!”

Not to the Jewish people, nor to any other ethnic group!

Works in Progress: Examples from Communities

► Faina Kukliansky

JEWISH COMMUNITY OF LITHUANIA, LITHUANIA

THE CASE OF LITHUANIA

Dear Ladies and Gentlemen:

I am from a nice country called Lithuania. Litvaks from all over the world come to visit this country and walk in pine tree forests, smell the aroma of the Baltic Sea. They also come to see their buildings and lands that are not theirs any more, because they were seized and have not been returned.

Historically, Lithuania was home to a large and influential Jewish community, which was almost entirely exterminated during the Holocaust. Before the Second World War, there were over 110 synagogues and 10 yeshivas in Vilnius. Before the outbreak of the war, the Lithuanian Jewish population was approximately 160,000, about 7 percent of the total population. Vilnius (then a part of Poland) had a Jewish community of nearly 100,000, about 45 percent of the city's total number of residents. However, during the 2005 census, only about 4,000 Jews were counted in Lithuania (0.12 percent).

Let me mention the legal acts under which property was taken from Jews in Lithuania.

1. On the 10th of March 1939, Germany's Foreign Minister, Joachim von Ribbentrop, demanded return of the Memelland to Germany, citing the ethnic German population of the city as the ground for the return. The part of Lithuania near the Baltic Sea was annexed by Germany, all the Jews escaped; their property was transferred to the German authorities.
2. A portion of the real property of the Jewish people was nationalized or otherwise expropriated in 1940–1941, that is, during the period of the Soviet occupation. The majority of these unfortunate people were exiled together with their families to Siberia. I will mention only one number: out of 1,593 enterprises that were nationalized during the period of 1940–1941 and that had an annual turnover of 500 million Litas, 1,320 (83 percent) were owned by Jews.
3. During the period from the 23rd of June 1941 until the 5th of August 1941, Lithuania was ruled by the Provisional Government. During a discussion of the Declaration on Economic and Social Issues at the meeting of June 30, 1941, the said Government declared the necessity to carry out nationalization and restore private ownership, though not without exceptions. "The property which belonged to and was owned by Jews or Russians shall remain under undisputed ownership of the State of Lithuania" — this is an extract from the above-mentioned Declaration. At the Government meeting of July 4, the wording of this statement was somewhat corrected and revised, namely, the provision for discrimination against citizens of the Russian nationality was removed, but members of the former Soviet authorities were included. The Jewish property, as well as the property that belonged to other persons who had

acted against the interests of the Lithuanian nation, which had been formerly nationalized, was recognized as belonging to the State of Lithuania, and was to remain under the State's ownership.

4. In compliance with the Decree of October 13, 1941 passed by the Reich Commissar for the Eastern Territory¹, "the whole real property as well as movable property of Jewish people shall belong to the German Reich."

Furthermore, the following instructions were given in the same document: "Prior to the issue of the executive regulations of the Reich Commissar (Article 5 of the Decree of 13 October 1941), the land of Jews shall be administered by the Apartments (Flats) Division." The administration of apartments, houses and property was defined. Thus, ownership and administration of Jews' property came under the competence of the county governors and burgomasters of Lithuania, in other words, was transferred to local authorities.

The majority of the Jews in Lithuania was killed during the first half of 1941. As of December 1, 1941, the number of Jews who had been shot amounted to 133,346, while those who remained alive were distributed as follows: 4,500 in Šiauliai, 15,000 in Kaunas, and 15,000 in Vilnius.

In the aftermath of the massacres of the Jewish people, entire small towns remained empty. The matters pertaining to the property held by Lithuanian Jews were solved in various ways: movable property was most often distributed or

¹ *Reich Kommissar's Gazette* ("Verkundungsblatt des Reiche Komissars"), p. 27.

sold to the local population, however, museum and archival valuables were taken to Germany. A considerable number of real properties held by Jewish people remained in the possession of the local administration and were used for its own needs. Some were also transferred to private owners.

The cultural valuables of Lithuanian Jews were registered by the staff of the Rosenberg headquarters, whose branches were established in Vilnius and Kaunas. The most valuable manuscripts, incunabula, museum pieces, collections of Jewish folklore, photographs, newspaper collections and other items were moved to Germany. Less valuable Jewish items were destroyed on the spot; they were burnt and taken to paper mills. The archives of Jewish communities, their libraries were also registered and expropriated; the synagogues were registered all over Lithuania. They fell under the control of local administrations, i.e., local district administrators, elders, burgomasters and other officials; some of them became temporary storehouses of the remaining Jewish property or were transferred to schools and other institutions.

The Commissar General in Kaunas passed a decree according to which the remaining property of Jews had to be recorded. Information was collected about the former Jewish farms, their size, the livestock and other property and about the new owners. Most Jewish farms were taken over by private individuals. Houses were made available for rent by various institutions, the local residents who had suffered from the war, and other private individuals.

Personal property was most frequently transferred to individuals by auction. The property was also acquired by

institutions and/or given to war refugees and to the poor. The most common goods were clothes, house wares, furniture; less common things included sewing machines, bicycles, chandeliers and pianos. Even though the valuables needed to be registered and kept until a special order was issued, they were often misappropriated. The money received from the sale of Jewish property was sent to a special account of the Commissar or head of the district. Jewish medical instruments were given to local dispensaries and hospitals.

5. Today it is quite difficult to guess the exact number of the Lithuanian Jews who managed to survive the war. It is believed that approximately 5 percent survived. Some Jews who remained alive by a real miracle escaped and came back to Lithuania from concentration camps, however the majority of them, either legally or illegally, moved to Palestine.

Some of those who came back to Soviet Lithuania after the war escaped in the course of the Soviet occupation. During the period of 1947–1951, several hundreds of Jews were convicted of attempting to illegally cross the USSR state border. That figure includes a certain number of Lithuanian Jews. A number of the Lithuanian Jews who sought to leave the USSR, seized the opportunity offered by the repatriation of Polish citizens that took place in 1944–1949. Some young Jewish women left for Poland as wives of Polish citizens.

Consequently, in practice, all of the property formerly held by Jews either remained ownerless or was held by new owners. After the war, the ownerless property was entered into records. Following the decisions, decrees,

and minutes of meetings as passed by the executive committees of separate cities and towns, the houses that remained ownerless were to become the property of the municipalities in which they were located.

Taking into account the foregoing circumstances, it is possible to conclude that Jews' property in Lithuania was expropriated in the following ways:

- ▷ It was confiscated during the 1939 German annexation of the Klaipeda land (the Memelland).
- ▷ It was nationalized or otherwise expropriated in compliance with laws of the USSR (LSSR) – during the Soviet occupation;
- ▷ It was confiscated following the resolutions passed by the Provisional Government of Lithuania;
- ▷ It was appropriated under the decrees and other orders passed by the German occupational government and local administrations;
- ▷ It was declared ownerless and was taken into the ownership of the State.

Are there any legal means for Jews to restore their rights to the looted property? My answer is “no.”

Under the law, private property can be returned only to citizens of Lithuania and only to those citizens who were issued their passports before December 31, 2001. That is in contradiction with the decision of the Constitutional Court (of November 13, 2006), which

recognized that the provision “provided they have not repatriated from Lithuania”¹ of subparagraph 1 of paragraph 1 of Article 17 of the Republic of Lithuania Law on Citizenship was in conflict with Article 29 of the Constitution of the Republic of Lithuania and with the Constitutional principle of a state under the rule of law.

Thus, all the survivors who, after escaping from the Nazi concentration camps, settled in Israel, were considered repatriated according to the Law on Citizenship and could not obtain citizenship prior to December 31, 2001 are not entitled to regain their property.

I do not know how many of them are still alive, but I will mention only a few of my clients:

1. Liza Alisa Noz Umansky (b. October 25, 1919). Her father had a building in Vilnius. He was murdered in the Vilnius Ghetto. Mrs. Umansky lost her entire family, husband, parents, brothers and sisters in the Vilnius Ghetto. She herself was exiled to Estonia, later to Schutoff. Mrs. Noz is actually a citizen of Lithuania, but she was not able to obtain the citizenship of Lithuania prior to December 31, 2001, because of a legal restriction. After she applied to the court asking to extend the time limit within which to submit an application for the return of property, the Vilnius municipality wrote a number of complains to the Ministry of the Interior of Lithuania requesting it to cancel her Lithuanian citizenship in order to avoid returning her property.
2. A professor of the Johns Hopkins University. His father, Dr. Elhanan Elkes, a personal physician to the Prime Minister

¹ Official Gazette *Valstybės žinios*, no. 36–977, December 5, 1991.

of Lithuania, built a building in the centre of Kaunas in the 1920s. Dr. Elhonen Elkes was the chairman of the Juderat of the Kaunas Ghetto, who died in Dachau. On the building, there was a sign affixed saying that it belonged to Dr. Elchonen Elkes. The Kaunas municipality did not return the property.

3. Property has not been returned to Mr. Zilberman, who was exiled to Siberia together with his Lithuanian neighbors. Mr. Zilberman succeeded in making *aliyah*. Therefore, he was considered a repatriate and did not get his property back.
4. Property has not been returned to families who were large property owners such as the Salamonas, Israelit, and Mordels, because they were not only exiled to Siberia, but also later left for Israel; property has not been returned to the Frankel family because they got their passports too late, etc.

No law is in force in Lithuania that would permit the return of communal and ownerless property.

It is well known what an enormous effort has been made by international Jewish organizations to encourage Lithuanian authorities to return the property of Jews. We all know the contents of the resolutions of the Washington Conference, the Stockholm Forum declaration, the Vilnius Forum declaration, the Helsinki Commission report, etc.

Sixty years later, Lithuania does not have any ideology regarding the Holocaust and looted property. We have to admit that the Holocaust restitution does not exist in Lithuania in any form. No legal and ideological conceptions of restitution of Holocaust

victims (private, communal and ownerless property) have been created.

Officials emphasize that restitution of the Jewish property will incur bad consequences and that it will raise anti-Semitism. That is stated in the explanatory note to the draft Law on Compensation for the Existing Real Property of Jewish Communities. This means that the homework has not been done and Lithuania's society is not ready to accept Holocaust restitution. This means that Lithuania's society is not aware of what happened in the past, of the fact that property was looted, afterwards people were killed and their belongings were stolen, and that property owners were killed only because they were Jews.

We, the Jewish community of Lithuania, together with our international partners were on the wrong road ourselves. We had made a claim only with respect to communal property. We had tried to amend the entire Law on the Restoration of the Rights of Ownership to the existing religious property by amending a few articles of the law; in trying to obtain property, we had divided into religious and secular communities; we had never required the government to return to Jewish owners their private property; we had never claimed the right to the return of the ownerless property; we had played all kinds of games; we had been conformists and in the end we got nothing. As a lawyer, I myself applied to the European Court of Human Rights in Strasbourg on behalf of my clients and I also applied to the Constitutional Court of the Republic of Lithuania stating that the requirement of the Law on the Restoration of the Rights of Ownership of Citizens to the Existing Real Property to be a citizen of Lithuania to be entitled to return of property is in conflict with the Constitution of Lithuania and with international law.

There is not too much hope that the small Jewish community, which constitutes only 0.12 percent of the population of Lithuania, will succeed in having a favorable law passed. I can also see that over the past 20 years, international Jewish organizations have been asking, begging, encouraging, calling on governments without any tangible results. Unresolved issues concerning Holocaust restitution exist in many post-communist countries.

Therefore, I suggest that our Prague Conference should apply to the European Union with the initiative to adopt a regulation or directive that would obligate all of the EU Member States to return the confiscated Jewish property – private, communal and ownerless – to its former owners. As you all know, regulations or directives of the European Union have direct effect in the legal systems of the Member States and override the national legislation.

We, Lithuania's Jews, want to be equal among other people in Lithuania. We do not require any special attitude. However, Holocaust restitution is a special issue. We were robbed in a special way as Jews, so we have to be satisfied in a special way as Jews.

► **Joseph Zissels**

EURO-ASIAN JEWISH CONGRESS, UKRAINE

THE CASE OF UKRAINE

The recognition of property rights is one of the most important components of social relations. What evidence is there that the inviolability of property rights in the sense of biblical heritage is very important for the entire history of Judeo-Christian civilization?

In the 20th century, as a result of the wars, revolutions, mass repressions and genocides, the majority of Jewish-owned private and communal property in the territory of Ukraine was destroyed, looted, or confiscated illegally. Thus, it was lost for the owners.

In the present article, the author tries to examine the different aspects of the theme of ex-Jewish property in Ukraine, and the problem of its restitution, i.e., the restitution to the rightful owners or, what is more relevant, to Jewish individuals and Jewish communities which represent their heirs and successors.

Types of Property

It is possible to classify all illegally seized Jewish property that could be an object of restitution by its different characteristics, the most important of which are listed below.

Valuables and Real Property

The real estate which belonged to Jews and now constitutes a potential category for restitution includes not only synagogues and dwelling houses, but also buildings in which different public institutions were housed, such as: shelters, hospitals, educational institutions, libraries, archives, theaters, clubs, cemeteries, and so on. The problem of land ownership, which becomes complicated in Ukraine with the absence of the full legislative basis on real property, must be mentioned separately.

As for the movable property, it is necessary to distinguish:

- Scrolls of Torah required for religious purposes;

- ▷ Documents kept in the Jewish communities' buildings and archives and also by individuals;
- ▷ Works of art, ritual categories, museum exhibits, musical instruments, furniture, and utensils;
- ▷ Money, precious metals, jewels and semiprecious stones;
- ▷ Shares, bonds and other securities, and insurance policies;
- ▷ Books, newspapers, magazines and other library belongings.

Private Property and Communal Ownership

Private property is that personal property of Jews and the members of their families that was bought them, created by them, received by right of succession, or given as a gift.

In this context, under the category of communal property we mean plots of land, buildings and constructions that were lawfully bought and/or constructed by Jewish communities, received as an inheritance or gift, or rented.

Concerning Jewish communal heritage, the following can also be added: iconic objects, furniture and other property located in communal buildings, pieces of art, books and archival materials, and also other property which belonged to communities.

The purpose of this article is, first of all, to assess the situation with regard to communal property, e.g., in the situation of modern Ukraine, the restitution of private property is a much more complicated task than the restitution of communal property.

Property Which Has, or Has Not, Heirs

In the context we are interested in, such a division does not seem to be important, since it is implied that the conventional heir of any communal property is the Jewish community of the state, as are Jews native to the country represented by a community of the country, or by any other similar association. Certainly, in practice such an approach causes many problems, primarily connected to the problem of the legitimacy of numerous modern Jewish organizations. Which of them can apply for the restitution of property confiscated from the Jewish community in the beginning of the 20th century? The question of private property that has no lineal heirs is even more confusing.

Property discarded as a result of flight or expropriated on the basis of Soviet decisions about confiscation and nationalization.

This section, due to the above-mentioned thesis, does not seem important for us.

The History of the Question

At the end of the Second World War, even before the end of military operations in Europe, the World Jewish Congress (WJC) raised the question of the restitution of Jewish property illegally confiscated by the Nazis and their allies. In November 1944, the first president the WJC and the co-chairman of the Board of the Jewish Agency of Israel (Sokhnut), Nahum Goldman, presented the research of Dr. N. Robinzon on the subject at the conference in Atlantic City.

After the negotiations between some Jewish organizations, the State of Israel and the government of the Federal Republic of Germany, in September 1951, Chancellor Konrad Adenauer addressed

the Bundestag with a proposal to create an international structure for the consideration and solution of the problem of indemnification for Jewish property lost during the Second World War.

A month after K. Adenauer's speech in the German parliament, Dr. N. Goldman organized a meeting which was held in New York, of representatives of 23 basic Jewish national and international organizations, during which the decision on the creation of the Conference on Jewish Material Claims Against Germany ("Claims Conference") was made.

The founders of the Conference included the following organizations: Agudath-Israel, the American Jewish Committee, the American Jewish Congress, the American Jewish Incorporated Distributive Committee ("Joint"), the American Zionist movement, International B'nai B'rith, the Canadian Jewish Congress, the Israeli Centre of Associations of Holocaust Survivors, the Executive Council of Australian Jews, Sokhnut, the World Jewish Congress, the World Committee of Progressive Judaism, and other organizations.

Dr. N. Goldman was elected president of the new organization; Sol Keigan became the executive secretary.

On the 10th of September, 1952, Protocol #1 regarding allocation of restitution to Jews who had been through the Holocaust was signed between the Claims Conference and the government of Germany, for the first part of reparations in the amount of DM 450 million. The same year the government of Israel signed a separate contract with the government of Germany for DM 3 billion.

During the 50 years of its activity, the Claims Conference received from Germany and subsequently distributed to Jews and

members of their families, and to Jewish organizations, the sum of more than DM 100 billion in the form of one-time reparations for approximately 300 thousand people, and in the form of monthly "pensions" for 130 thousand others who had been through the Holocaust.

The government of the USSR has refused to make any reparation on behalf of East Germany. The decision of the government of the USSR thus far denies reparation payments in DM to 5,000 Jews who survived the Holocaust and who now live in the territory of the former USSR. Jews who have emigrated from the post-Soviet states receive the specified reparations in the countries of their emigration.

In 1992 at the Conference on Jewish Material Claims Against Germany, the World Jewish Restitution Organization (WJRO) was formed, the purpose of which is the coordination of property restitution claims on behalf of world Jewry and local Jewish communities in different countries, as well as negotiations with government bodies. The founders of the WJRO are leading Jewish organizations: the WJC, the Joint, Sokhnut, the World Zionist Organization, B'nai B'rith, the American Society of Jews Who Survived the Catastrophe, and the Israeli Centre of Associations of Holocaust Survivors. The WJRO was registered in Israel as a non-commercial organization and officially began its activity in April 1993. It is especially important to emphasize the representation of natives from Eastern European countries among the WJRO founders, as they, along with the local communities, possess the contingent right to receive property and reparations.

The president of the WJC, Edgar Bronfman, was elected to be the Chairman of the WJRO Council. Later, in 1997, Dr. Avraam Burg,

who at that time was the Chairman of the Board of the Jewish Agency, was elected to be the Co-Chairman of the WJRO.

In November 1992, E. Bronfman signed a memorandum with the Minister of Finance of Israel, Avraam Shohat. The memorandum emphasized the interest of the State of Israel in the *restitution* of Jewish property. It was noted that Israel considers itself to be the one and only legitimate heir of Jewish property in Central and Eastern Europe, both communal and private. The specified document completely ignored lineal heirs of property – modern local Jewish communities. Despite this, the WJRO has also contracted with local Jewish communities to coordinate the restitution activity.

Efforts undertaken for restitution have received the official support of the governments of the United States of America and Israel. Warren M. Christopher, then the Secretary of State, declared the American support at a meeting with the directors of the WJC on the 7th of February 1994. The position of the State of Israel on this question was established in a resolution accepted by the Knesset on the 21st of December 1994.

In April 1995, the representatives of the US Congress appealed to the governments of Eastern European states to consider the requirements of the Jewish communities. In a letter written by eight senators to Warren M. Christopher dated April 10, 1995, it was stated that the policy of the USA was to pave the way for a legal framework in Eastern European states, sufficient to guarantee the restitution of the property confiscated by Nazi and communist regimes, or indemnification for lost property. “It is necessary to explain to the interested states,” – it says in the letter – “that their answer on the issue will be considered as a test of their attitude to fundamental human rights and the leading

role of the law, and also can have practical consequences for their relations with our country.”

Even before this appeal, legislative acts related to the restitution of lost property had been accepted in some Eastern European countries. In 1991, the Czech Republic passed a law on the restitution of personal property (in 1994 some amendments to it were added).

The government of Bulgaria decreed their regulations (passed in three laws during the period from December 1991 to February 1992) in 1992.

In 1993, the decision of the Constitutional Court, which stipulated the fulfillment of reimbursement for confiscated Jewish property in Hungary, and the law on the restitution of Jewish and other religious communal property in Slovakia, was accepted.

The legislation of Latvia and Lithuania provides for restitution of iconic buildings only. The citizenship of applicants has become an obstacle for claims settlements for restitution of private property in some countries. The law allows only persons who are citizens or residents of these countries to demand restitution.

A special situation has arisen in Poland because of the huge number of categories of property that are subject to restitution. After long discussions with the participation of the WJRO and international associations of Jewish citizens of Poland, the law on restitution nevertheless was passed in 1999.

The WJRO has a somewhat clouded relationship with many Jewish communities in Eastern Europe. During negotiations with state bodies concerning restitution, the WJRO developed and suggested to the communities in post-communist countries the

following model of interaction. In each country, a fund should be created, and its founders, on the one hand, should be the local community, represented by a “protection racket” organization, and, on the other hand, the WJRO. On issues of restitution, these funds would represent the Jewish world as a whole and, in particular, would represent the citizens of the above-mentioned countries. Furthermore, these funds should negotiate with the governments of their respective countries, lobby for acceptance of the laws of restitution, sign contracts, approve schedules of property restitution, finance preparatory work from the funds of the international organizations and, subsequently, finance repair and restoration of the retrieved property.

It is obvious that, even after reaching agreements with the WJRO, both parties have disagreements and different interpretations. Besides, not all of the communities of Eastern European countries have signed corresponding agreements with the WJRO. For example, the community of the Czech Republic has not signed such a document and has not passed a law on communal property restitution. Instead, it made an agreement with the government of the Czech Republic for the restitution of 200 buildings that had previously belonged to the Czech Jewish community. The conflict between the Czech community and the WJRO is still going on, thus the government of Czech Republic has not carried out its obligations for 10 years, and the WJRO, not having the agreement with the local community, cannot put adequate pressure upon the Czech authorities concerning this problem.

In September 1995, the Head of the WJRO, E. Bronfman, received a letter from the President of the United States, Bill Clinton, testifying that the government of the USA placed a lot of significance on the restitution process, which was treated as the rectification of an injustice. It was also said in the letter that the American

Ambassador Stewart Eizenstat was entrusted to aid in the resolution of the problem.

At the tenth plenary assembly of the WJC which took place in January 1996 in Jerusalem, S. Eizenstat reported on the results of his trip to Eastern European countries, during which he had meetings with many officials. Within the framework of the mission, S. Eizenstat also visited Ukraine, where he held a number of negotiations. The main attention in his report was paid to the restitution of communal property. There, some success was achieved in this area. The resolution of the issue of private property has been recognized as presenting a much more difficult situation.

On December 11, 1995, the European Parliament passed a resolution (4-1493/954) on the restitution of plundered property to Jewish communities. The document contained an appeal “to all countries of Central and Eastern Europe which yet have not done this, to pass corresponding legislation on restitution of property plundered by communists or the Nazis and their accomplices, to its legal owners.” The resolution was directed to the Council of Europe, the governments and parliaments of the countries participating in the Council of Europe, and the countries that had submitted an application to enter into the European Union.

On September 1, 1997, in Basel during a session of the General Council of the European Jewish Congress, a resolution in support of the European Parliament decision was passed.

The History of the Question in Ukraine

In the summer of 1993, in Kiev, during a meeting between Leonid Kravchuk, the Head of the Ukrainian State, and E. Bronfman, the

president of the WJC, a preliminary arrangement on the beginning of the restitution process in exchange for investments into Ukraine was reached. The agreements have not been fulfilled.

During the same visit on July 1, 1993, the Memorandum-Agreement between the WJRO and representatives of the Jewish organizations and communities of Ukraine on joint actions relating to restitution was concluded. Israel Singer and Avi Beker signed the memorandum on behalf of the WJRO; Ilya Levitas, the chairman of the Jewish Council of Ukraine and Joseph Zissels, the Chairman of the Association of the Jewish Organizations and Communities of Ukraine (Vaad of Ukraine) signed it on behalf of the Ukraine.

In furtherance of the specified agreement, at the beginning of 1994, the WJRO and Vaad of Ukraine signed a currently operating contract concerning joint activity on the definition and restitution of Jewish communal property. The contract stipulates that, if property is restituted, a special fund will be created, and in the board of directors of the Vaad on behalf of the Jewish community of Ukraine will have the right to veto decisions on the future of the restituted property. Actually, Vaad is the current representative of the WJRO in Ukraine.

In 1995–1996, negotiations on the restitution of Jewish communal property were held between the Ukrainian Vice-Premier, Ivan Kuras, and a representative of WJRO, Ambassador Naftali Lavi. Based on the available data, in January 1996, I. Kuras was ready to declare the eagerness of Ukraine for property restitution at the Assembly of the WJC in Jerusalem, but at the last minute he refused to go on the trip on the pretext of illness.

During the last ten years, Vaad of Ukraine and other organizations addressed the question of restitution in a few writings to

the Administration of the President of Ukraine, the commissions of the Parliament of Ukraine, the Cabinet of Ministers of Ukraine, the Fund of the State Property of Ukraine, and the Ministry of Culture and Arts of Ukraine. The answers to these letters were either negative, or were not been received.

In the spring and autumn of 1997, during his private meetings, the President of Ukraine, Leonid Kuchma, promised the leaders of the Jewish organizations of the USA (Israel Singer and others) to create a joint commission of representatives of the Ukrainian government and the Jewish community for studying the problem of restitution. The promise has not been kept.

The Legal Aspect

The list of statutory acts of Ukraine referring to the restitution of various properties to private individuals and religious communities, and the corresponding comments include the following:

- ▷ Decision of the Ministerial Council of USSR # 83 dated 5.4.91, “On the register of listed building which are not subjects for restitution for permanent use by religious organizations” (with amendments and appendices) – became invalid on 14.02.02;
- ▷ Law of Ukraine “On rehabilitation of victims of political reprisals” dated 17.04.91 (with amendments and appendices);
- ▷ Law of Ukraine “On freedom of worship and religious organizations” dated 23.04.91 (with amendments and appendices), article 17;

- ▷ Decree of the President of Ukraine # 125 dated 04.03.92 “On measures for restitution of iconic property to religious organizations;”
- ▷ “Regulations on the indemnification payment order, restitution of property or indemnification of its costs to rehabilitated people” in the edition approved by the Decree of the Cabinet of the Ministers of Ukraine No.112 dated 18.02.93;
- ▷ Ordinance of the President of Ukraine # 53/94-rp “On restitution of iconic property to religious organizations” dated 22.06.94;
- ▷ Order of the Cabinet of Ministers of Ukraine # 357-r dated 16.06.95 “On the transfer of iconic buildings where the states archives are, to religious organizations;”
- ▷ Order of the Cabinet of Ministers Ukraine # 290-rp dated 07.05.98 “Providing for stage-by-stage restitution of iconic buildings to religious organizations which are not used or being misused;”
- ▷ Order of the Cabinet of Ministers of Ukraine # 137 dated 14.02.02 “On conditions of passage of iconic buildings – outstanding monuments of architecture to religious organizations.”

In March 1992, the President of Ukraine, Leonid Kravchuk, published the decree on restitution of iconic property that was being misused. Such property should have been transferred to religious communities by the local authorities then in possession of or managing the property, by December 31, 1997. The transferred property could be used only for its direct purpose, i.e., for holding

religious ceremonies and rituals. The decree has been prolonged twice and is valid until the present day; however, local authorities practically paid no attention to it, did not provide restitution of iconic property being misused to religious communities, and did not even make the necessary list of religious buildings and the constructions that were being misused.

Fifteen years after the statutory act’s validation, the religious Jewish communities of Ukraine have been given about fifty buildings of former synagogues out of several hundreds known to us now, which is less than 10 percent. Together with the synagogues that remained open during Soviet times, they total about 60 buildings. At the same time, according to the Law of Ukraine “On freedom of worship and religious organizations,” more than two hundred religious Jewish organizations have been registered in the country, which means, that about 150 communities do not own or use any iconic buildings. The transfer of iconic constructions to Jewish communities is being carried out even more slowly than transfers to representatives of other faiths who also retrieve buildings of their temples or mosques with great difficulties. We live in a country of legal nihilism, and we constantly collide with a situation where execution of the law on privatization is supervised by the Office of the Public Prosecutor, and restitution of iconic property, even in such a miniature variety, is not supervised by anybody; hence, anyone can force municipal authorities to transfer such property.

Meanwhile, the process of privatization of the property that was in the hands of the state before threatens the fulfillment of restitution. In 1995, when the Law of Ukraine “On privatization” went into effect, there was an opportunity for privatization by commercial enterprises of the buildings that had previously belonged to Jewish communities, including synagogues. Since,

during Soviet times, there were various state organizations, enterprises, sports halls, and so on carrying out activities in buildings of former synagogues, during privatization the above-mentioned establishments were transferred into private hands and buildings. Local councils or executive agents, in giving their authorization for privatization of property, did not trouble themselves with archival searches for the ownership title of the buildings to a religious community in the past.

We know about a number of categories of former Jewish communal property (for example, the building of the oldest synagogue in Chernovtsy, on Barbjus Street) that are already privatized, and now attempts to restitute them to Jewish communities face serious additional problems. Despite the fact that privatization has been accomplished in contradiction with the above-listed statutory acts, the procedure of judicial consideration concerning the change of ownership pattern of these categories seems very complicated to us, if not unrealistic. The legislation in effect does not provide an opportunity to raise questions on gratuitous restitution of iconic constructions that have been privatized to religious communities. The statement of the corresponding statutory act would contradict the Constitution of Ukraine, the Law of Ukraine "On property," the Civil Code and a number of the international agreements which have been ratified by Verkhovna Rada, and are a part of the national legislation, because new owners are considered to be diligent purchasers.

Legislation registered in Verkhovna Rada of Ukraine for the present moment provides no direct opportunity for restitution of property nationalized during the Soviet era to national communities. Neither are any changes being planned concerning an order of property restitution to citizens persecuted for political reasons during those times.

It is possible to make certain changes concerning the order of iconic property restitution to religious organizations. So, in the Verkhovna Rada, there are four legislative proposals that are registered including "On alterations to the Law of Ukraine" and "On freedom of worship and religious organizations." Actually, all of them are completely new editions of the above-mentioned law, and in particular, differ on the procedure of iconic property restitution to religious organizations.

It is even more difficult in reference to non-religious communal property, the restitution of which is not currently regulated at all by any statutory acts. In 1998, on the initiative of Vaad of Ukraine, the heads of 17 national communities addressed the President of the country, Leonid Kuchma, and the Chairman of the Commission of Verkhovna Rada on Human Rights, National Minorities and Interethnic Attitudes, Gennady Udovenko, with the request to work on, and put into effect, a moratorium on privatization of property that belonged to national communities before. As a result, the corresponding document came out only in 2000, and forbids the privatization of categories of building of iconic character only.

Thus, neither the statutory acts in effect, nor the registered legislative proposals give an opportunity to guarantee the fair right of restitution in full of previously expropriated property to a national community. For this it is necessary to develop separate general legislation directed towards restitution of all nationalized property to a community, regardless of its modern status. As examples, it is reasonable to mention the laws approved in Eastern European countries over the last decade. With the purpose of the coordination of a necessary procedure within the Constitution of Ukraine and principles of justice, two key amendments in the legislation under development are suggested:

- ▷ Property which is in state or municipal hands, should be retrieved gratuitously;
- ▷ The state is obliged to redeem the property that has been privatized from present owners at a price agreeable to both parties (or at the cost at the moment of privatization), and gratuitously pass it over to a community, i.e., the state bears the responsibility for prior lawless actions.

Objectively speaking, it is practically impossible to get reparations for citizens or communities from the state for destroyed property. However, with some foreign policy pressure from international organizations and lobbyists' activities inside parliament, the acceptance of such legislation seems quite possible.

Inclusion of the Restitution Question in the Range of Issues Concerning Human Rights

In the last 15 years, the essential elements of the concept of human rights originally formulated in the Universal Declaration of Human Rights, were elaborated. The specified declaration accepted in the General Assembly of the United Nations in 1948 developed the concept of individual human rights and did not mention corporate rights, in particular the rights of religious and national groups. After the downfall of communist regimes and the disintegration of the Soviet empire, the essential concept of human rights was expanded. In the 1990s, a number of international documents regulating the rights of national and religious groups were ratified. Naturally, founders of the new expanded concept of human rights could not have paid any attention to such an essential factor as the rights of national and religious groups to their property. The

American senators, the President of the USA and the European Parliament all base their appeals to the countries of Eastern Europe and the former USSR for property restitution, on the new concept of human rights, including the right of a community to the restitution of illegally expropriated property.

With reference to the countries of the former USSR, recently the problem has concentrated around the well-known, but frequently partially understood "Jackson-Vanik Amendment," which was passed by the Congress of the USA in 1975. According to this Amendment, the countries of the communist block lost the status of most-favored nations in trading with the USA because of numerous infringements of human rights, in particular the right to freedom of movement, i.e., in reference to the USSR – to freedom of emigration and repatriation. It is clear that, at that time, the Amendment mostly referred to Jews, although the Amendment had a universal characteristic. For the past thirty plus years, even among many diplomats and lawyers of foreign affairs (basically, in the post-Soviet countries), there was a steady and rather widespread stereotype that the given Amendment referred exclusively to Jewish emigration, which is incorrect by definition.

As the "Jackson-Vanik Amendment" connected the granting of the most-favored-nation trading status with the observance of human rights in a number of countries, it is quite logical that, since the expansion of the human rights concept, the Amendment is connected with a wider spectrum of rights now than it was 32 years ago.

From the beginning of the 1990s, the specified Amendment ceased to apply to many countries of the former USSR, but it has also not been cancelled completely. The moratorium on

its application is valid for a year, and consequently, authorities within the post-Soviet countries must apply to the American authorities every year with a request to prolong the moratorium for another year.

The desire to liberate oneself from the Amendment is not an end in itself, but serves as means for the countries to enter into the World Trade Organization, which includes a lot of tax and customs relief benefits. All countries, including the post-Soviet states, aspire to WTO membership.

Thus, it becomes clear to any unprejudiced person that today, the canceling of the “Jackson-Vanik Amendment” is not connected with the right to freedom of movement at all, thank God; this right is not limited in the post-Soviet countries by anything, which has resulted in a four to five time reduction in the number of the Jewish communities in our region in the last 18 years. Today the White House, the Department of State of the USA, and Congress, at least theoretically, connect cancellation of the Amendment exclusively to communal property restitution and to displays of anti-Semitism.

However, in practice the USA’s policy varies. So, in March 2006 the Amendment was cancelled as to Ukraine. The promise of the current President of Ukraine, Victor Yushchenko, to promote restitution of Jewish communal property, which was made during his visit to the USA in 2005, preceded the cancellation. However, as far as we can judge, political pressures (the necessity to support the new Ukrainian authorities who came to power after the Orange Revolution, facing the parliamentary elections 2006) were a more likely cause of the cancellation. Thus, concerning the Ukrainian government, one of the major external stimuli for the real actions directed towards restitution

is no longer in force, and, in fact, authorities always react more actively to pressure rendered from the outside, than upon pressure of their own civil society, an integral part of which are the national communities.

Certainly, the Jewish community of Ukraine was interested in a cancellation of the “Jackson-Vanik Amendment,” but it is just as interested in the restitution of communal property.

Restitution is not only an act of historical justice, but is a way to the self-sufficiency of a community, to its independence and sovereignty in the widest sense of this word. Through the examples of the Czech Republic, Hungary and Slovakia, we see how a community to which even a part of its property has been transferred literally blossoms. The community ceases to be a “beggar” in front of the international Jewish organizations which finance and thus control up to 70 or 80 percent of communal activity in the post-Soviet countries today, including such prominent aspects of community life, as education, social welfare, youth programs, scientific research, and so on. Our Jewish leaders cannot even imagine that, in Eastern Europe, all the necessary work could be carried out by a community using its own means rather than by the Joint and Sokhnut.

Restitution of property leads to the revitalizing of the moral atmosphere in a community, to the birth of a new generation of leaders, not applicants or dependents, but active and independent managers with self-respect.

And, even more importantly, the restitution of communal property leads to improvement of the moral atmosphere in the state and its society, aligning with the natural and all-encompassing system of universal values.

And, lastly, restitution of property restores trust in the country that is seen to share the attitude of the modern civilized world towards property, and by doing so incurs the obligation not to henceforth break the sacred right of its inviolability. Only thus the investment climate in the country improves, and it starts to dynamically participate in international economic activities. The example of our neighbors in Eastern Europe, where foreign investments per each citizen are exponentially one or two times higher than in our country, unequivocally testifies to the salutary influence of property restitution on the economy and the moral atmosphere in a society.

Legitimate Inheritance

From a purely legal point of view, the legitimate inheritance of modern religious and national communities is often disputable in consideration of the problems posed by the restitution of property, which was illegally confiscated or lost during evacuation or flight. Indisputable exceptions in the legal sense are the quite rare cases where the direct relationship of the modern applicants with those individuals who possessed the specified property can be traced. But even in such obvious cases, there are a lot of technical, documentary and moral problems from the legal point of view.

On the other hand, it is absolutely clear that phenomena such as the Revolution or the Second World War, reprisals of totalitarian regimes and the genocide during the Holocaust, cannot be stipulated by any state legal system. In such cases, mankind should search for solutions to the many problems that arise, including legal ones, on the basis of universal values and civil consensus.

Only in the western regions of Ukraine and infrequently even there, there are revived religious communities which have accepted people who used iconic property in a similar religious community before it was violently abolished by the Soviet authorities. In such cases, given the preservation of sub-confessional courses of religious activity by the new communities, it is possible to recognize, more or less concretely, direct communal inheritance.

In the majority of cases, synagogues were transferred to new communities that have no connection to their former owners in any way. For example, it is known that, before the beginning of the Second World War, Reform communities existed only in the territory of Western Ukraine. Lately, nevertheless, some local Reform communities have been granted the use of former synagogue buildings from local authorities (for example, in Kerch and Evpatoria), though the archival documents do not state that any of the Reform communities ever existed in these synagogues before. Similarly, the issue of communal legitimate inheritance arises as well when a Chassidic community is formed in place of a *Misnaged* one, not to mention that there are no less than a hundred Chassidic lineages in Judaism.

In some cases, there are claims for the same premises from different communities, which have nothing to do with former ones, and in such cases conflicts, for whose solution no normative basis exists, arise among communities. "Friendship" with local authorities solves everything, which under conditions of almost total official corruption can be solved in the well-known way.

It is known that the problem of legitimate inheritance has also arisen in the case of the fund set up by the banks and the government of Switzerland under pressure from the Jewish people

and the international community. The New York court that considered the claims of 500,000 people who had gone through the Holocaust, having come up against similar difficulties, treated the case as a class action suit. In this approach, individual claims are not considered; otherwise it would be simply impossible. The persons applying for reparations are divided into a limited number of groups, and each group receives a certain kind of individual reparations. In the case of the second Swiss fund, there were four such Jewish groups:

- ▷ Heirs of “dormant accounts” in Swiss banks (more than 50,000 possible accounts);
- ▷ People who could not escape to Switzerland during the fascist occupation because of the neutrality of the Swiss authorities, and their descendants;
- ▷ Prisoners of ghettos and concentration camps;
- ▷ People who lost their property during flight in the face of the approaching German or Axis armies.

Although numerous people were displeased with the decision of the New York court, the resulting approach, in spite of its “doubtful” legal character, seems to be the only possible one, especially considering present resources. It is necessary to note that the problem of the Swiss fund means that distribution has been transferred to New York just because US law provides for class action suits.

Thus, the decision of the New York court created the international precedent of “relative legitimate inheritance” when there is no direct communication between those who lost their property,

the property itself, and those who apply for its restitution or corresponding reparations.

Similarly, but not so very obviously, the Claims Conference, acting for nearly fifty years, has been allocating resources not only to the people who went through the Holocaust, but also to various Jewish organizations which carry on research or educational projects that are directly or indirectly connected with Holocaust topics.

There are also other examples of “relative legitimate inheritance”. Thus, more than 100 million dollars recently received by the Joint from the Claims Conference for developing and maintaining the system of *Hesed* charity centers, have been allocated by the government of Germany to pay reparations for Jewish communal property throughout East Germany. The more than 200,000 clients of the *Hesed* system, naturally, neither in the past nor in the present, have anything to do with the specified property in East Germany; nevertheless, they are entitled to this kind of indemnification.

Thus, despite a series of problems surrounding legitimate inheritance of lost property, the basic recipient of property and reparations is the Jewish world, represented by several international organizations. Yet, those organizations distribute immense amounts quite randomly, practically without any public control. It is notable that lately in the Jewish press there have been a number of articles criticizing the general and private aspects of such distribution and employment of means.

Highlights of the Situation of Restitution of Jewish Property in Ukraine

The problem of restitution in Ukraine is very complex in many ways. First, it is a question of a significant number of types of properties. For many years within the frameworks of activity of Vaad of Ukraine and the Eurasian Jewish Committee on Restitution, founded by EAJC, we have been able to conduct laborious work on the assessment of Jewish property. If we count not only synagogues, but other buildings that belonged to a community and are being misused as well, at present, there are 2,500 of such properties on our list, of which almost 1,400 have been fully inventoried. Thus, we have not yet started the assessment of plots of land that also belonged to the Jewish community of Ukraine. The number of such sites, by our calculations, varies from 10,000 to 15,000.

But the point is not only numbers. In Eastern Europe, the process of restitution was not easy either, and in the Baltic countries it was very complicated. As to the CIS countries, they do not seem to be ready to have a dialogue with the civilized world concerning the restitution of property. The Ukrainian legislators and the population as a whole perceive the idea of restitution negatively for many reasons. It took a long time and much effort to destroy moral universal categories in these countries, including the category of property. In Ukraine, the worst kind of “small village” mentality dominates society: what is lost is lost. New owners do not wish to recognize that they are using someone else’s property, which, as it was taken away from its lawful owners during reprisals and genocide, is therefore stolen property, the use of which is a crime equal to direct larceny by all civilized norms. And in this case, we are not talking about the “concepts” of some fringe element, but about the

dominant psychology in the whole society, including the political “elite.”

Unlike some Eastern European countries, where the property of the Jewish communities was expropriated during the Holocaust, and the modern governments are not the successors of governments allied with Hitler, on the post-Soviet territory, the majority of communal property was confiscated by the Soviet authorities in the 1920s and 1930s (in Western Ukraine, Western Belarus, Moldova and the Baltic countries in the 1940s). In the CIS countries, the present authorities and the societies are the successors of the Soviet authorities and societies. Many of those who served the Soviet system in good faith and fidelity, or their lineal heirs, still govern the post-Soviet countries. These circumstances are capable of confusing even those who have triumphed over the Swiss banks.

Thinking about the specifics of the destiny of communal property in the territory of the former USSR, it is difficult to refrain from the temptation to put forward the following thesis as a working hypothesis. Many international documents operate with the term, “property lost during the period of the Holocaust”, and the blame for the loss of Jewish communal property is assigned not only to Nazi Germany, but also to the countries that were its allies during the Second World War. In this context, it is possible to recollect that the Molotov-Ribbentrop Pact and its confidential minutes placed on record the allied attitude between Germany and the USSR between August 1939 and June 22, 1941. If it had not been for this Pact and the corresponding attitudes and agreements, the European history of those years would have looked absolutely different. The existence of the alliance between two totalitarian empires during that period is beyond doubt. The rest is a question of international legal theory and practice. In our opinion, there is good reason to assign to the USSR part of the

responsibility for the destiny of Jewish communal property during the period of the Holocaust that was lost in the above-specified period of the Second World War.

Another aspect of these complex problems is the informal position of the Israeli establishment, which plays a significant role in the WJRO. There is a point of view that seems ridiculous to us, but nevertheless influences the WJRO's position. In Zionist circles, there is the opinion that the process of restitution in the post-Soviet countries might essentially limit, if not stop, repatriation of Jews from these countries to Israel. This opinion claims that repatriation will be limited or stopped not because, having received the communal property, Jews will change their minds about emigrating, but because, in the opinion of some Israelis, the attempts to retrieve the lost property will inevitably cause outbreaks of anti-Semitism among authorities who, in their anti-Semitic impulses, will limit the right of the Jews to emigrate. It is difficult to refute this point of view, because it is based not on logic, but on emotions. Now that repatriation to Israel has decreased to a critical minimum, the absurdity of such assumptions is especially obvious. The other point of view is closer to that of the author of the article: anti-Semitism, however, as well as emigration, depends on fundamental factors of development of the state and societal systems. Anti-Semitism was, is, and will always exist while there are Jews, so it is necessary to make a choice between two possible realities: anti-Semitism without restitution of the property, or anti-Semitism with restitution of the property. The example of Eastern Europe shows that, even in more civilized countries, the process of restitution carries with it many problems, and is accompanied by some revival of anti-Semitism, but the state and a strong community (and a community with property is a strong community) are quite capable of dealing with the above-mentioned problems.

There is one more circumstance complicating the problem of communal property restitution: Soviet authorities illegally confiscated property not only from Jews and Jewish communities. In Ukraine, by initial estimates, property was confiscated from sixteen communities. The situation of restitution in Western Ukraine is especially dramatic – a huge amount of the property has not only Jewish, but also Polish, Hungarian, Czech, Romanian and Slovak roots. This fact essentially influences the solution to the problem of restitution, but should not discourage us from finding one. Certainly, tactics of restitution corresponding to specific circumstances should be developed and applied. The coordinated lobbying action for the moratorium on the privatization of communal property, which was crowned with partial success, was mentioned above. In the future, there should be a similar lobbying action for a moratorium on privatization of the plots of land that belonged to national and religious communities.

During the restitution process, it is necessary to consider that legitimate heirs of communal property that is subject to restitution include not only communities revived on the territory of Ukraine, but also communities and other organizations uniting Jews who emigrated from Ukraine. The Jewish communities of Eastern Europe faced similar problems in the 1990s, and in each case it was necessary to search for an uneasy conciliatory decision. For example, in Poland, an agreement was signed between the not-so-numerous local community and the organizations uniting Polish Jewish expatriates, who number one million people worldwide, after the acceptance of the law on communal property restitution.

The absence of a unified, coordinated point of view on the restitution of communal property in the Jewish community complicates

the problem of restitution in Ukraine. So, some religious associations declare that they need 20–50 synagogues, and they would be satisfied with that. At the same time, as was already mentioned, there are more than 200 religious communities in the country, three quarters of which have practically no premises of their own, and no one acts on their behalf. And besides, there are 400 non-religious organizations that also need premises of their own. Moreover, a number of the international organizations supervising these structures in Ukraine, before the Revolution or before the Second World War, owned property in Western Ukraine which is subject to restitution. For example, ORT had a significant number of types of properties before the Revolution and the Second World War; and the Joint was a proprietor of various charity establishments, schools and non-iconic buildings.

The problem of the coordination of a single Jewish point of view on the issue of restitution is very serious. Therefore, at the time of this article's writing, during the last working visit of the WJRO delegation to Ukraine in March 2007, an attempt to create a special committee for developing a common point of view on the problem of restitution in Ukraine was made. The delegation, which consisted of the Co-Director of the WJRO, Haim Chesler (Sokhnut), Andrew Baker (the American Jewish Committee) and Arie Bucheister (Claims Conference), offered a Memorandum of Mutual Understanding to the Ukrainian Jewish organizations for their consideration. It consists of five items and is presented to all interested "parent" and "umbrella" Jewish associations – religious and non-religious.

The essence of the Memorandum is the following. The Jewish community of Ukraine will take the most active part in the destiny-shaping decisions on the requisitioned property; a committee consisting of representatives of the Jewish community of

Ukraine (considering the principle of parity representation – 50/50) and of international Jewish organizations, will be formed. This committee will become the structure that is called upon to coordinate the existing points of view on the restitution problem. Subsequently, the committee will start a fund, the members of which will be representatives of the Jewish community of Ukraine and international Jewish organizations.

It is also stated in the Memorandum that, unlike in Eastern Europe, the WJRO in Ukraine will not apply for any part of the retrieved property, although it formally has such a right to do so, as some citizens of the countries of the former USSR currently living in the West are members of the Organization. Actually they, their fathers and grandfathers developed this property, and they could apply for it. But, considering that there is a large and active Jewish community in Ukraine, the WJRO has made a decision not to apply for this property, but to put it at the disposal of the Jewish community of Ukraine. The WJRO is also ready to provide the means necessary to assess properties and facilitate functional operation of properties already retrieved (repairs, etc.).

This simple and clear Memorandum has nevertheless caused resistance from some organizations. Some people have declared that restitution cannot concern only the Jewish community. It is impossible to disagree with this, but it would be strange to demand that the World Jewish Restitution Organization lobby for the interests of other national communities. Furthermore, the organizations that cannot count on having serious decisional weight in the committee that is to be created or on their influence on the distribution of this property, talk about the necessity of property restitution only to the religious organizations. But there is no unity in religious Jewish life in Ukraine either: there are some religious Orthodox associations and associations

of Reform and Conservative communities. It is obvious that the Jewish community of Ukraine should try, at least, to protect the interests of all these groups during the distribution of retrieved synagogues, as it is a common problem, and not only for religious communities. Another matter is that non-religious organizations without the consent of religious ones cannot apply for religious property. The legitimacy of claims of non-religious modern Jewish organizations on the property of pre-revolution religious communities is admitted by both the WJRO and the Ukrainian Jewish organizations; however, this problem should undoubtedly be solved together.

Most of the heads of the Jewish organizations, with whom the representatives of the WJRO met, have agreed to sign the Memorandum of Mutual Understanding that formed the first step towards the achievement of a compromise strategy in the field of restitution. The WJRO understands that some organizations are still deciding whether to sign the document or not. We hope that the majority of Jewish organizations, including religious ones, will sign the Memorandum in the near future, and then it will be possible to form a committee.

► Alexander Neca

FEDERATION OF JEWISH COMMUNITIES, SERBIA

THE CASE OF SERBIA

Brief Remarks About the Federation of Jewish Communities of Serbia

The Federation of Jewish Religious Communities was founded in 1919, and has existed under different names that changed with the changes of the name of the country. The Federation of Jewish Communities of Serbia is an umbrella organization consisting of ten Jewish communities in Serbia. The Jewish community in Serbia has about 3,000 members. We have survived as a community thanks to the solidarity of international Jewish organizations, primarily the American Joint Distribution Committee.

At the end of 1940, the Federation of Jewish Religious Communities and the Association of Orthodox Religious Communities in the territory of present-day Serbia included 46 Jewish religious communities and 9 Orthodox communities.

The Federation of Jewish Religious Communities at that time consisted of the following members:

Apatin, Bačka Palanka, Bačka Topola, Bajmok, Bela Crkva, Beograd (Ashkenazi and Sephardic communities), Bezdán, Čantavir, Čonoplja, Čurug, Debeljača, Horgoš, Kosovska Mitrovica, Kragujevac, Kula, Leskovac, Mali Idoš, Niš, Novi Bečej, Novi Kneževac, Novi Pazar, Novi Sad, Novi Vrbas, Pančevo, Parabuć, Petrovaradin, Pirot, Priština, Ruma, Senta, Smederevo, Sombor, Sremska Mitrovica, Stanišić, Stara Kanjiža, Stara Moravica, Stari Bečej, Stari Sivač, Subotica, Šabac, Temerin,

Titel, Velika Kikinda, Vršac, Zemun (Ashkenazi and Sephardic communities), Žabalj.¹

The Association of the Orthodox Religious Communities consisted of the following members:

Ada, Bačka Palanka, Bački Petrovac, Bačko Petrovo Selo, Mol, Senta (Ashkenazi and Sephardic communities), Sombor, Stara Kanjiža, Subotica.²

Eighty-five percent of the Jews living in the territory of present-day Serbia perished in the Holocaust. After World War II, in 1947, the surviving Jews, through the voluntary work of individuals and with the assistance of Jewish organizations, renewed the work of the Federation of the Jewish Communities of Yugoslavia. Work was re-established in 24 Jewish communities in the territory of present-day Serbia.

The Jewish communities in Serbia in 1947 (5707) included:

Ada, Apatin, Bač, Bačko Petrovo Selo, Beograd, Kikinda, Kosovska Mitrovica, Mol, Niš, Novi Pazar and Prizren, Novi Sad and its surroundings, Pančevo and its surroundings, Pirot, Priština, Senta, Senta (Orthodox), Sombor and its surroundings, Sremska Mitrovica and its surroundings, Subotica and its surroundings (Orthodox), Subotica, Šid, Vrbas and its surroundings, Zemun, Zrenjanin.³

Of the 46 religious and nine Orthodox communities that existed in Serbia in 1940, only 24 communities re-established their operations in 1947. In the period between 1948-1952, a major part of

¹ *The Jewish People's Calendar, 5700; 1939–1940*, pp. 154–157.

² *Ibid.*

³ *Chronicles 1919–1969*, p. 207.

the activities of the Federation focused on providing assistance and support to members of the community who wanted to emigrate to Israel. Emigration to the newly founded state of Israel further reduced the number of Jews in Serbia by about 4,000. This resulted in the extinguishing of activities of some communities due to a lack of members.

Presently, the Federation of Jewish Communities of Serbia is made up of 10 Jewish communities.

Present Jewish communities in Serbia:

Beograd, Novi Sad, Subotica, Pančevo, Zemun, Zrenjanin, Kikinda, Niš, Sombor, Priština (with the seat in Belgrade).

Seizure of Our Property

During the Holocaust, the occupation authorities in Serbia seized all Jewish property. On May 30, 1941, the chief commander of the German occupation forces in Serbia ordered Jews and persons married to Jews to report all of their property. The right of ownership of all Jewish property was registered in List "A" of the land registers as property of Serbia.

This seizure of Jewish property was sanctified by the Decree of the Council of Ministers (the quisling government) of General Milan Nedić, by Decree No. 3313 of August 26, 1942, signed by all members of General Nedić's Government. This decree seized all of the Jewish property without any compensation and transferred it to the Serbian state's control.

All movable and immovable property was seized from the 35,000 Jews (the number of Jews in Serbia before the

occupation), and the seizure also covered all of the Jewish community property, property of cultural, educational, religious, social, economic, youth and sports organizations. The seizure applied to synagogues, hospitals, old peoples' homes, children's institutions, etc.

The value of the seized property is difficult to assess. Documents and archives were missing, either completely or partially. Many Jewish communities after the war did not renew their activities because there were no more Jews in those towns. Numerous Jewish families perished during the Holocaust, and there were no heirs and it was not possible to identify all of their property. Some approximate assessments indicate that the present value of the Jewish property seized during the Holocaust in Serbia would be about EUR 500,000,000.

Restitution of Property Seized from Churches and Religious Communities (History and Explanations)

After WW II, property that was owned by physical persons, churches and religious communities, legacies, different associations, as well as foreign capital, was seized on several occasions and on different bases. Seizures of property happened on the bases of confiscation, land reform, nationalization, sequestration, etc. Property was seized, for instance, because the regulations adopted by the newly established state defined the maximum amount of agricultural land that could be owned, or because there was a decision that companies, factories, and other businesses could not be the property of private persons, or property was seized on the basis of cooperation with the occupiers, emigrants, or the inactivity of certain associations, religious communities, etc.

In certain cases, the state simply placed certain enterprises under its control, and subsequently such seized (sequestered) property became state property, later transformed into social property.

In certain forms of property seizure, the newly established authorities identified certain monetary compensation, which in most cases was inadequate and which subsequently either was not paid or was in the meantime so devalued that the sense of compensation was lost.

Agrarian Reform

Owners of agricultural land and forestland were among the first who were struck after WW II by the measures of the new Yugoslav state. The agrarian reform was implemented in two stages. The first stage, according to regulations adopted in 1945 covered the seizure of land from "big owners" – those whose total agricultural and forestland exceeded 45 hectares. During this stage, most of the agricultural and forestland was seized since, according to data from 1931, the number of estates in the Kingdom of Yugoslavia with more than 20 hectares was somewhat under 50,000. Through this reform, the agricultural and forestland of non-farmers, banks, companies, churches, religious communities, and all religious and secular legacies, citizens of the German Reich and persons of German nationality, national enemies, and other persons affected by specific laws, was transformed into state property.

The second stage of the agrarian reform was implemented according to regulation of 1953, whereby the maximum allowable ownership of agricultural and forestland was further reduced to 10 hectares for farmers and 5 hectares for non-farmers.

The seized agricultural land was distributed to persons for whom farming was the only profession, and who did not have agricultural land of their own, as well as to veterans and invalids of the national liberation movement, families of fallen war veterans, disabled persons after the Balkan wars, victims and families of victims of fascist terror, and, in rare cases, also to veterans, non-farmers, provided that they settle in that land and work the land with their families.

It often happened that these persons, unused to and unready for such work and the obligations resulting from it, left this land unfarmed or rented it to its former owners, and the state did not have adequate means to prevent this.

Confiscation

After the end of WW II, the instrument of confiscation of property was often used, as an accompanying sentence pronounced along with the main judgment, mostly on the ground of cooperation with the enemy. The specific nature of this measure as used in Yugoslavia after WW II is that it was not pronounced only as an accompanying judgment, but often also as the main judgment, and curiously very often on the basis of a general regulation, without criminal proceedings. The implementation of this measure resulted in the seizure of more private property than had nationalization.

Persons who were unable to meet the obligation introduced by the regulation on mandatory purchases of agricultural produce (wheat, corn, livestock, etc.) which they were obliged to turn in to the local authorities, were forced to give up their agricultural land and “give it as a present” to the state, or, in some cases, it was seized from them due to court judgments.

Through implementation of a regulation on confiscation, a considerable percentage of the property of foreign nationals was put under state control (sequestration) and was later transformed into state property.

The implementation of a regulation on confiscation often implied irregularities, different interpretation in different parts of Yugoslavia for different categories of persons and communities, which resulted in silent dissatisfaction, acknowledging the lack of the possibility of practicing the principles of legality and justice.

Nationalization

The Law on Nationalization of Private Enterprises adopted in 1946 was the basis for the nationalization and transfer to state ownership of private enterprises in 42 economic sectors. Nationalization covered all movable and immovable property of enterprises, all property rights – patents, licenses, rights of use, etc. Nationalization also covered all branches and subsidiaries of private enterprises, warehouses, shops, transport facilities, shares and stocks. Through the implementation of this nationalization, all nationalized enterprises became state enterprises and continued to operate according to the Basic Law on State Enterprises.

Nationalization practically transformed all of the remaining private property that was not covered by confiscation into state property, so that after nationalization the only remaining private property was some 30 percent of enterprises of local significance, which was also subsequently nationalized through the amendments to the regulation on nationalization in 1948. The regulation of 1948 also covered all credit and insurance

companies, mines and enterprises for mining surveys, railways, power plants, etc. After this, there was not a single enterprise in private ownership. All of these regulations also applied to the property of foreign nationals.

The implementation of the regulation on nationalization meant also the seizure of the property of all persons who emigrated from Yugoslavia and who gave up the Yugoslav citizenship, which was one of the conditions for emigration. The property of many former citizens of Yugoslavia was seized on this basis, most often without any legal proceedings and always without any compensation. Many Jewish citizens were affected by this measure of the state.

During 1958, with the adoption of the Law on Nationalization of Rented Buildings and Construction Land, the nationalization of construction land and buildings was implemented and thereby all rented residential and commercial buildings exceeding a certain maximum amount of residential space owned by physical persons, organizations, associations, etc. became social properties. Compensation was supposed to be paid to the former owners, but payment was never effected.

A specific form of nationalization was expropriation, a form of transforming private property into state (social) property with the payment of compensation, but the practice in Yugoslavia was such that the compensation was significantly lower than the nominal and market value of such property, so it is possible to say that the expropriated property was in fact nationalized. When we take into consideration here the fact that inflation in Yugoslavia was almost always two digits, it is clear that even when the state did pay compensation, it was in negligible amounts.

Seizure of Property on Other Grounds

Cooperative Property: The establishment of farmers' agricultural cooperatives meant that farmers entered all of their property into such cooperatives, excluding houses and apartments; specifically they entered their farming land, farming machines, livestock, etc. which thereby became property of the cooperatives. However, when these cooperatives ceased to exist, farmers received only their immovable property (which actually never changed owners), while the cooperatives retained the livestock, the farming machinery, and the profit resulting from the farmers' labor in the cooperatives, that was never returned to them, and no compensation was ever paid.

General Interest: Private property in the past was also subject to seizure in cases of proclaimed general interest, where the idea of "general interest" was very flexible and often was in fact particularly of local interest. Seizures were dictated by such local interests, and not by the public general interest under which it had been introduced.

There were also other forms of seizure of private property and transformation of private property into state property, such as the confiscation of property from perpetrators of criminal acts, or the seizure of property under regulations relevant to the origin of property, etc. Although the percentage of property seized in this way is not high, the very fact that there was a regulation regarding the origin of property illustrates the endless appetite of the state and its permanent aspiration to transform private property into state property.

Conclusion

The adoption of the Law on Restitution of Property to Churches and Religious Communities should at least partially remedy the injustice that has been done, and restitution can take three forms:

1. Restitution *in rem* (in kind)
2. Restitution of other (substitute) immovable property
3. Monetary compensation and regress

Certainly, *in rem* restitution is the most just and most favorable form of restitution, but the Law provides for much discretion for the state to avoid such restitution.

Restitution by substituting another immovable property for a seized property which, for reasons stated in the Law, can not be subject to restitution, is one form of restitution which can satisfy the principle of justice but it is unrealistic to expect that the state will be willing to give up property of which it can freely dispose and it should be expected in this respect that the state will attempt to compensate by payments of a specified monetary value instead. It is important to note that monetary compensation, in cases when the party obliged to compensate is the state, is paid in form of securities issued by the Republic of Serbia. If we speak of “just compensation” to former owners, we cannot avoid noting that the same model is implemented as for property seizures, and, considering inflation and the fact that, despite the Law’s having been adopted two years ago, the criteria for setting the amount of compensation are not yet defined, it becomes obvious that there is a real likelihood that parties entitled to restitution will once again be damaged.

Where Are We Today in Terms of Restitution of Jewish Property?

The Republic of Serbia has adopted the Law on Restitution of Property to Churches and Religious Communities. The Law was adopted in 2006, and it then took more than a year for the government to set up the directorate to receive claims. Although, due to the negligence of the state, more than a year has been wasted, our request for an extension of the deadline for the submission of claims was not granted.

This Law regulates the restitution of community property, including, among others, the property of the Jewish community in Serbia. The Jewish community in Serbia is classified as one of seven traditional churches and religious communities recognized by the regulation to which this law applies. The draft version of the law was published in February 2005.

The Federation of Jewish Communities contacted the relevant Committee on Privatization, the President of the National Assembly, Mr. Predrag Marković, and others, to present its suggestions, and submitted 36 proposed amendments to the proposed draft law.

We organized a seminar in Belgrade, on the topic of restitution, in cooperation with the Joint and the US Embassy in Belgrade.

Our comments were defined after a comprehensive round of consultations with the WJRO and the US Embassy in Belgrade, experts.

Regretably, none of the proposed amendments was accepted.

After the adoption of the Law, we had to accept the actual situation and within the given deadline (September 31, 2008) in accordance with the Law, we filed 513 claims for restitution of community property. As of today, two apartments have been returned to us, and one of them cannot be used because it is occupied by a non-Jewish family and its children. The Jewish Community cannot move out this family.

The restitution process stopped and we brought this to the attention of the Director of the Main Office for Restitution in a letter from the Minister of Finance, Mrs. Diana Dragutinovic. She suggested in her letter as follows: "In the forthcoming period, the Law on Denationalization which will be approved, will, in the public interest, foresee reducing compensation to the former owners of nationalized property in relation to the full value of the property, whereas compensation in the form of other estates will have the characteristic of compensation and not restitution, which will make indispensable simultaneous changes and amendments of the Law on Return (Restitution) of Property to Churches and Religious Communities. Therefore, as the Ministry in charge for proposing acts in relation to denationalization, we point out that, for the time being, the decisions on financial compensation, that is, the return of other appropriate property to churches and religious communities should not be carried out, taking into consideration that such decisions would be in discord with the above mentioned principles of the future Law, and would also have to be applied to other cases that will be regulated by the Law on Denationalization."¹

The Law on Denationalization and Construction Land that is to regulate the restitution of private property has not yet been

¹ Letter no. 021-01.42/2008-08 of August 19, 2008.

submitted for the adoption by the parliament. The draft version of this law was announced by the then-Minister of International Economic Relations and the author of the draft law, Mr. Milan Parivodić, on April 19, 2007.

The Federation of Jewish Communities has submitted a number of proposed amendments to the draft Law on Denationalization and Construction Land and has participated actively in roundtables organized by the Government of the Republic of Serbia.

The Law on Denationalization and Construction Land (Restitution of Private Property) has been discussed and changed on several occasions, so at this point we do not know which of our requests have remained in the draft of the Law, which still has not entered the parliamentary procedure for adoption. We have some evidence that our requests have been left out. That is why I turned to Minister Diana Dragutinovic with my letter no. 307 of 6.11.2008, and received from her a reply no.011-00-487/2008-01 of 10.11.2008, in which she stated that I would be informed in time on the text of the Law. To date, I have not received any information from the Ministry.

After the visit to Serbia by US Vice-President Biden, the Serbian Minister for Environment and Spatial Planning, Mr. Oliver Dulić announced the adoption of a new draft Law on Spatial Planning and Construction, which will regulate the restitution of private property (although the Ministry of Finance announced that the Law on Denationalization and Construction Land will be adopted by the end of 2009).

Minister Oliver Dulić emphasized that we cannot wait for the law announced by the Minister of Finance, Ms. Diana Dragutinović.

The Federation of Jewish Communities has asked for a meeting with Minister Oliver Dulić, wishing to present the requests of the Federation regarding the restitution of private movable and immovable property to him. We express our strong concerns regarding the manner in which the draft law that proposes to regulate the issue of the return of private property.

Serbia has not adopted a law on the restitution of private property. We have a vital interest in the adoption of a law on the restitution of private property, but not just any law – only a law that would be just and reasonable.

The draft law must take into account the fact that the looting of Jewish property resulted from the most tragic crime of the 20th century – the Holocaust. The principles of this law would have to take that into account because property was not lost only through nationalization, sequestration and confiscation by the state, but also because of the idea of destroying whole Jewish families during the Nazi occupation of Serbia.

The draft law should include also restitution of property seized during the most cruel occupation and quisling period from 1941 to 1945. The rejection of our just and reasonable request that the law should, in the case of Jewish property, also include the period from 1941 to 1945 is, in our opinion, motivated by ideological reasons – the rehabilitation of the quisling government.

By leaving out this period of time, the heirs are automatically prevented from claiming what was seized from them. As history professor Ranko Končar says, it is absurd to exclude the terror, destruction, looting, and seizure of all the property of the Jews who, during that time, were subject to genocide.

There are some who are against exposing the fact that the Nedić Government worked against the interests of the citizens of Serbia, in this case the Jews. As Ms. Olivera Milosavljević says, ignoring the right of Jews to the restitution of property can be interpreted as historical revisionism attempting to rehabilitate quislings.

We request that all Jews – citizens of Serbia, as one of the successor states of the former Yugoslavia, be given back their citizenship, which they were forced to give up as a condition of receiving a permit to emigrate to the newly established state of Israel, as of 1948.

We also request that immovable property which was taken from emigrants as a condition of their leaving the country, be returned to them or to their heirs, as we believe that this was a deeply unethical act which made Jews, victims of the Holocaust, equal to those who perpetrated crimes and cooperated with the Nazis, whose property was seized due to their having taken part in the war on the side of the enemy and were war criminals. We note here that this is property that was, despite nationalization and other forms of property seizure, in the Jews' rightful possession at the time of their leaving the country.

We note that we are in possession of information that, in recent years, organizations of ethnic Germans and their descendants who were expelled from Yugoslavia after WW II have been established and that their purpose is to request the restitution of seized property from the successor states of the former Yugoslavia. Since these are predominantly people who took part in the war directly on the side of the Nazis (the complete SS division Prinz Eugen consisted exclusively of them) and who actively cooperated with them, and were among the main perpetrators

of the “Aryanization” of Jewish property – communal and private, we request that this be prevented because the property that they would be claiming is mostly Jewish property that was seized from them after they were expelled and was then declared “enemy property,” which, as such, belonged then and still belongs now, to the state of Yugoslavia and currently to Serbia.

Conclusion

The survival of the Jewish community depends of the restitution of our property and is directly related to it. We therefore emphasize that our claims are just and reasonable. We must not allow ideologically motivated reasons to lead to the extinction of the Jewish community in Serbia.

We must not allow the requests of Danube Germans for the restitution of property that was seized from them in 1945 to be settled by giving Jewish property away again. We must reiterate that the Jewish property that was seized was in the German occupied area, in the beginning of the occupation of Serbia, and that the so-called “Final resolution of the Jewish issue” in that region was achieved by March 10, 1942, at the time when the last remaining Jews (women and children) who had been resettled and detained in the death camps on the Belgrade Fair Grounds were suffocated in special suffocating closed trucks (*Dušegubka*)¹.

Appeal

Ladies and Gentlemen, participants of the Holocaust Era Assets Conference, we appeal to you to support the reasonable and just

requests of the Federation of Jewish Communities of Serbia who represent the Jewish community of Serbia within the country and abroad.

We have requested and still request that the Law include the following:

1. That the property of Jews who were killed in the Holocaust and left no heirs, should be transformed into a fund that would serve the life and work of the Jewish Community in Serbia, and would be managed by the FJC Serbia.
2. That 1941, not 1945, should be counted as the year when the property was taken away from the Jews in Serbia.
3. That the Law should include all Jews who had to renounce their property when emigrating to Israel (Aliyah 1948–1952).
4. That before the Law goes to the Serbian parliament for discussion and adoption, the FJC Serbia should obligatorily be called and included in the public discussion.
5. That there should be no deadline for the submission of claims for restitution of movable property, as was the case with the Law on Restitution of Property of Churches and Religious Communities.

¹ Historian Professor Milan Koljanin, Ph.D.

► Maxim Benveniste

ORGANIZATION OF JEWS IN BULGARIA, BULGARIA

THE CASE OF BULGARIA

The restitution of Jewish immovable communal property in Bulgaria began in November 1992, when the first non-communist government adopted a decision that all the property was to be returned to the Organization of Jews known as “Shalom.” During these 17 years, Shalom has regained ownership of 17 properties in Sofia and four properties in the countryside. The regional branches of Shalom obtained restitution of 49 properties in 15 Bulgarian towns. During this time, Shalom was involved in 39 restitution court cases.

There are several key factors that are responsible for the success of the restitution of Jewish communal properties in Bulgaria. First, I will start with the considerable efforts of the leadership of Shalom and its regional branches. During these 17 years, we never gave up the fight to have our properties returned. We confronted many hardships, bureaucracy, inefficient courts and lots of different anti-restitution lobbies created by some of the businessmen who wanted to take our property. We also had to face the negative attitude of the Bulgarian society and the media towards the issue of restitution, and especially towards the restitution of Jewish properties. The negative attitude had nothing to do with anti-Semitism; it was a consequence of populism and public opinion that related restitution to corruption.

Second, a very important factor was the formation of an alliance between Shalom and international Jewish organizations – primarily with the American Jewish Joint Distribution Committee

and the American Jewish Committee. It is also necessary to recognize the considerable political support provided by the American Jewish Joint Distribution Committee, the American Jewish Committee, the World Jewish Restitution Organization and B’nai B’rith International.

Our friends from these organizations used every meeting with Bulgarian politicians, from both the government and the opposition, to raise the issue of restitution of the most valuable Jewish properties in Bulgaria. That process lasted years and years, with perfect coordination between the leadership of Shalom and our partners. During these 17 years, Shalom changed its president three times, however, all of them implemented a policy of close cooperation with the world Jewish organizations on the issue of the restitution process.

The third, but also very important, factor was the political will demonstrated by the Bulgarian authorities. The restitution could not have been successful without the political support of the Bulgarian prime ministers and president after the change. The political support helped us to overcome the unwillingness of some ministers and the state authorities to make restitution of the Jewish property.

As a result, the Jewish communal properties were restituted, with the exception of several valuable Jewish communal properties in Varna and with full compensation for the land on which the Rila Hotel in Sofia is built.

My colleagues in the leadership of the Bulgarian Jewish community and I drew some conclusions from the battles for the restitution of the Jewish property in Bulgaria.

Firstly: Be honest with the Jewish community and the society.

Secondly: Stay in close relations with your partners, the international Jewish organizations.

Thirdly: Involve all democratic, public, and political forces in the country to support the restitution of the Jewish property.

And, last but not least, support the authorities in your country – the president, the parliament, the government, the municipality – and they will support you in return.

► **Marta Malá**

THE FOUNDATION FOR HOLOCAUST VICTIMS,
CZECH REPUBLIC

THE CASE OF THE CZECH REPUBLIC

After 1989, the Czech Republic adopted approximately 10 so-called restitution and compensation laws whose aim was to at least partially alleviate injustices concerning property, which had been caused by totalitarian regimes. Since 1990, the Ministry of Finance of the Czech Republic has registered up to 90,000 restitution applications. The deadline for submitting an application depended on the given law. The last possibility for filing an application expired on June 30, 2001 within the scope of Act 212/2000 of the Collection of Laws (Coll.), concerning agricultural property. The Ministry of Finance provided applicants with financial compensation in the total amount of approximately CZK four billion. Around 12,000 to 15,000 people were compensated, of which about 2,500 were people who were compensated for

Jewish property in the amount of approximately CZK 700 million (according to the valuation provided by long-term workers at the Department for Paperwork Dealing with Compensation, Restitution and Damages).

The Podkarpatská Rus (“Carpathian Ruthenia”) Civic Association initiated the creation of a new law, which was approved by the Parliament of the Czech Republic in June 2009. At present, this law is waiting to be signed by the Czech President and it will form the basis for compensating citizens of the Czech Republic whose property remained in the former Carpathian Ruthenia as a result of the cession of that territory to the Soviet Union after the WW II. At the same time, the Association is also striving to have the citizenship proviso abolished.

Foundation for Holocaust Victims

The Foundation for Holocaust Victims was established in 2000 by the Federation of Jewish Communities in the Czech Republic. The Foundation was created on the basis of a recommendation of the Joint Work Committee on Property Injustices to Holocaust Victims. The Committee worked under the leadership of the then-Deputy Prime Minister, Dr. Pavel Rychetský (1998–2002). It was composed of representatives of the Czech state and the Jewish community, and it devoted itself to studying the history of Nazi persecution of the Jewish population, particularly the aryanization of property on what is today the territory of the Czech Republic. At the instigation of the Committee, the Czech parliament also adopted Act No. 212/2000 Coll., on the mitigation of certain property injustices caused by the Holocaust, on June 20, 2000. For this purpose, on the basis of a proposal by the government, the Czech parliament’s Chamber of Deputies decided on September 15, 2000 to transfer CZK 300 million for the benefit of the Foundation.

The Foundation soon went to work on its biggest task. It announced a program for the Compensation of Natural Persons for the Purpose of Mitigating Certain Property Injustices Caused to Victims of the Holocaust. The program was implemented in 2001–2005. The funds were intended for people who had had real estate seized as a result of racial persecution during the occupation of the territory that is now the Czech Republic and who were not otherwise afforded the possibility of having this property returned or of obtaining compensation through valid restitution regulations or an international agreement. The Government of the Czech Republic did not exclusively limit the regulations to Czech citizens, as was the case with restitution. The original owners, their surviving spouse or direct descendants could apply for compensation. By the time the program concluded on December 31, 2001, the Foundation had received a total of 1,256 applications from 27 countries around the world.

Because a large number of applicants did not fulfill the program criteria or were not included in the group of entitled persons or could not support their claims with certain documents, the Foundation's administrative board asked the Czech government in 2003 to expand the group of entitled persons and to relax the required conditions regarding the submission of documents. In Resolution No. 409/2003, the government relaxed the conditions for providing required documents, but it refused to expand the group of applicants.

In May 2003, the sum of CZK 100 million was divided among 516 applications that fulfilled the given criteria defined by the Czech government. In some cases, the administrative board canceled a Foundation contribution because the recipients had the real estate in question returned to them in restitution proceedings or they received financial compensation from the funds of the

Czech Ministry of Finance. Foundation contributions were calculated on the basis of a valuation of the individual real estate properties as of the year of their seizure in proportion to the CZK 100 million that had been set aside. The valuation of real estate was carried out by an institutional specialist appointed by the Czech Ministry of Justice. The minimum Foundation contribution had a value of CZK 26,800 (EUR 1,030) and the maximum contribution was CZK 2,500,000 (EUR 96,150). The Foundation provided compensation for houses, villas, blocks of apartments and spa buildings, farms, factories and other properties.

The Foundation cooperated closely with the Czech Ministry of Foreign Affairs, which distributed and provided information on the announcement of the program via its embassies. The Czech Ministry of Finance checked the applications that were received with an eye towards their possible settlement within the framework of international compensation agreements and financial compensation provided by the Czech Republic. The Czech Office for Surveying, Mapping and Cadastre helped to quickly retrieve hundreds of items of data from land registries. The Czech-German Fund for the Future provided basic expertise for the creation of an application form and a database of applications. A major contribution was also made by the active membership of Rabbi Andrew Baker, Director of International Jewish Affairs of the American Jewish Committee on the Foundation's administrative board, as well as by representatives of the state administration.

The compensation program was funded exclusively by the resources of the Czech state. It was the first initiative of its kind in the countries of Central and Eastern Europe. Thanks to excellent cooperation with state authorities, the Foundation managed to implement the compensation program very rapidly. Some of the

original owners of the aryvanized real estate also lived to receive compensation.

Formulated in cooperation with Dagmar Tyšerová from the Czech Ministry of Finance.

► **Jehuda Evron**

HOLOCAUST RESTITUTION COMMITTEE, USA

THE CASE OF POLAND

I sincerely want to thank the Czech government for organizing this important Conference and for giving me the opportunity to testify on the important issue of Holocaust restitution.

My name is Jehuda Evron, and I am the president of the Holocaust Restitution Committee, an umbrella organization of about 3,000 members. Our organization is at the forefront of fighting for the cause of property restitution in Poland for Holocaust survivors and their heirs.

So many years after the Holocaust, Poland has still not done what justice demands. As a matter of fact, Poland remains the only major country that used to be in the Soviet block, which has no law dealing with restitution or compensation for property that was confiscated during the Holocaust, or nationalized by the communists. Polish governments come up with different excuses for the lack of legislation in this area, but none of them stands up to justify the robbery that was committed. Admittedly, it was committed by others; however, Poland today keeps benefiting from it.

We expected that a nation like Poland, that suffered so much during the Nazi and the communist eras, would understand the suffering of other people. There are no words to describe the suffering of the Jewish people during the Holocaust. Thus, we do not understand why Poland continues to cause so much additional suffering by denying our right to our homes. The Polish efforts to provide property restitution have so far failed.

Every single year brings with it new reports that Poland is preparing comprehensive legislation to deal with the property restitution issue. Yet, even efforts to provide minimal, indeed insulting, restitution offers – symbolic 15 percent compensation of the value, payable over fifteen years – have been delayed again and again.

The latest Polish restitution or compensation proposal is no different, and hardly seems just. For example, the current draft of the legislation has these features: Absolutely no real property will be returned. It is not clear if all property confiscated during the Holocaust is included. A very small amount that is not even specified in the legislation will be offered as compensation, so the claimant, when applying, will not even know how much he or she is applying for. And fourth, whatever the amount of compensation, it would be paid over a period of fifteen years even if the claimant is in his eighties. The individuals that the Holocaust Restitution Committee represents are well into their eighties. Some have sons and daughters in their sixties. They all think of a very simple thing, something that any normal being would want – the return of what was theirs and was unjustly taken from them.

I serve on the Advisory Committee of an organization called Self Help. It is a major agency providing assistance to Holocaust survivors in New York. And through my work with Self Help over the past years, I have learned firsthand that there are many

survivors in need in the United States and worldwide. Many of them have properties in Poland, and getting them back or receiving compensation for them will help them pass their final years in dignity, and at the same time release large amounts of resources to assist others. There are also so many non-Jewish people in Poland and elsewhere who are old and poor, and their only asset is a home or a building in Poland that Poland refuses to return to them.

In the end, I urge this Conference to adopt an effective declaration, a mechanism to follow up, which will encourage or inspire Poland to enact meaningful property restitution legislation immediately. Poland's failure to do so until now has denied justice to all former property owners.

► **Dan Mariaschin**

B'NAI B'RITH INTERNATIONAL, USA

THE CASE OF ROMANIA, SLOVENIA AND CROATIA

I would like to start with a brief comment on the issue of access to archives in Romania – it continues to be an open question. We are calling for greater access to the archives to be able to provide documentation of claims. This is not an issue that is peculiar only to Romania, but it is quite an issue there, and we hope that it can be discussed and moved a bit further.

I have been asked to report on the ongoing efforts to engage the governments of Croatia and Slovenia in the restitution of Holocaust-era assets in those countries. For the past three years, I

have served along with Arie Bucheister of the Claims Conference as a representative of the WJRO for this purpose. Arie and I have met in Washington, New York, Zagreb and Ljubljana with Croatian and Slovenian ambassadors and elected officials to further the restitution process. Our interlocutors have included President Mesić and Prime Minister Sanader of Croatia, President Türk and former Foreign Minister Rupel of Slovenia, and justice ministers from both countries.

This Conference takes place three months after the Working Group on Immovable Property met in London, and drafted an important statement underscoring the failure of some governments to take the necessary steps to return seized properties. Among the Working Group's recommendations was the directive that each state should establish a claims process, which is simple, accessible, transparent, and expeditious. On this score, the respective records of Croatia and Slovenia are at best mixed.

Before World War II, there were about 30,000 Jews living in Croatia; approximately three quarters of them perished during the Holocaust. Many thousands of Croatian Jewish victims died in the Jasenovac complex, south of Zagreb. Jasenovac was the largest of many concentration camp centers built by the Nazi-allied Ustaše regime to incarcerate and murder Jews and other minorities. Today, what remains of the Croatian Jewish community is approximately 2,000 individuals, about half of whom live in Zagreb.

Croatia's property restitution law covers only properties seized by communist Yugoslavia between the end of World War II and Croatian independence in 1991. The position of the Croatian government has been that Holocaust era confiscations of communal property must be dealt with through direct agreements with

individual religious communities. But no agreement exists between the government and the Jewish community for the return of communal property. Not including cemeteries, the government has returned only 15 of the 135 properties for which the Jewish community has filed claims, and virtually no property in the past decade. Similarly, very little private property, less than 5 percent, has been returned to Croatian Jewry as most Jewish property was seized prior to 1945.

A Croatian court gave pre-1945 claimants some hope, when it ruled in favor of a non-Jewish woman in Brazil who sought the return of property confiscated prior to the end of World War II. The Supreme Court of Croatia is expected to hear appellate arguments on the case soon. If it upholds the lower court's ruling, the decision would open the door for more property owners and heirs in similar circumstances.

Croatian officials have made themselves accessible to Jewish community representatives, and they have shown a willingness to engage on these issues. Nonetheless, they have much work left to do. They should pass legislation affirming the operative principles of the court's decision in favor of the Brazil-based claimant. They could also modify the claims process consistently with the London recommendations of the Working Group on Immovable Property. Particularly, with respect to private property restitution, firm government measures are urgently needed.

In Slovenia, the Jewish community was and is much smaller than that in Croatia; the obstacles to restitution have nevertheless been substantial. Home to perhaps 2,500 Jews before the Nazi occupation in World War II, after the resulting decimation of the community of what today is the Republic of Slovenia, it boasts no more than 200 Jewish individuals.

Despite the presence of some initial barriers to progress, which included the government's change in the process for granting tenders for Holocaust era research, the Slovenian government and the WJRO each have undertaken research and inventories on all relevant properties in Slovenia. We expect the two parties will exchange reports and a commission will meet to compare the two studies towards the goal of establishing a satisfactory claims process.

Given the advanced age of Holocaust survivors, and even their children in many cases, the need for decisive action by the governments of Croatia and Slovenia is more timely and imperative than ever. Both countries have sought and attained NATO membership, Croatia just in the past three months. Slovenia is not only a full member of the European Union, but already has held the rotating six-month EU Presidency. While the EU put accession talks with Croatia on hold this week because of the border dispute between Croatia and Slovenia, EU membership for Croatia is a distinct possibility by 2011. But as these countries join prestigious multilateral alliances with western countries, their obligation to reconcile the unfinished business of their wartime history remains.

Adequate property restitution cannot be achieved without government intervention and it remains for the international community to hold the governments of Croatia and Slovenia accountable until this work is completed. Confronting a country's own often flawed past is the ultimate test for any emerging democracy, and Croatia and Slovenia must meet that task. While the human losses suffered by the Jewish communities in these countries can never be quantified, property can and must be quantified. And as Jewish communities and Jewish individuals struggle to establish themselves in Croatia and Slovenia, the

restitution of property or equivalent compensation would go a long way towards sustaining them. For Holocaust survivors and their heirs, it is an outcome they cannot afford to wait for any longer.

► **Philip Carmel**

LO TISHKACH FOUNDATION, BELGIUM

PROTECTION AND PRESERVATION OF CEMETERIES¹

My name is Philip Carmel. I am the executive director of the Lo Tishkach Foundation, which works towards the effective and lasting protection and preservation of Jewish cemeteries and mass graves throughout Europe. Rather than talking about cemeteries, I want to talk about burial grounds. I will use that as a term of reference because as Andy said, we are talking both about cemeteries and about mass graves.

What we are talking about could seem a little incongruous within the scope of a conference about Holocaust-era assets, because Holocaust-era assets do not include cemeteries. Cemeteries for Jews are never assets; they are responsibilities. Therefore, we are not trading in any other meaning. We are not demanding the restitution of all the cemeteries, because some communities, in particular, for example in Lithuania and the Baltic states, genuinely feel that the restitution of cemeteries would put an unfair and financial burden upon their communities. We are talking about our responsibilities within the international Jewish community, and we are also talking about the responsibility

¹ The speech was accompanied by a PowerPoint presentation.

of national governments to protect religious rights, and therefore to protect cemeteries.

I would like to provide you with a little bit of contextual detail. First, what is Lo Tishkach? Lo Tishkach was established in 2006 by the Conference of European Rabbis and the Claims Conference. Why? The European Rabbis have people in over 40 member states within the Council of Europe. They are the religious leaders, chosen by their communities, who can deal with the issue of cemeteries. Why the Claims Conference? The Claims Conference represents all of the major international Jewish organizations. In many, many of these places, thousands of places, there are no longer Jewish communities. Since the Claims Conference represents the heirs of those people who were killed in the Holocaust, it is right and proper that the Claims Conference should also be involved.

Why is it important for us to have this special debate about cemeteries? Obviously, there is a religious right. Jews in those Jewish communities bought those particular plots of land, and sanctified them. And Jews died and were buried in those plots. There is another issue, which is the memory of the Holocaust. If we look at this in context, I am going to use an example of a particular area which, before the war was inhabited by at least half a million Jews. This is the Masovian region of Poland. While what is happening with these sites may look absolutely catastrophic, it is not because of the inaction of the local Jewish community.

In Poland, the Foundation and the Commission are doing tremendous work. But the size of their task is immense. The Masovian region had at least 107 separate Jewish communities which, to put it into context, is more than New York State. We did a survey in the Masovian region and, by sending out local Jewish students

and youths in those areas, we found that over 50 percent of the cemeteries were seriously threatened. What do we mean by seriously threatened?

There are three things that need to happen to the seriously threatened cemeteries. The first thing is that they need to be identified on community lists; they need to be identified not just in the written sense, but in an online sense, so that everyone has access to view them. Most importantly, they need to be identified in the physical sense on site, so that people who live in those particular villages today will know in perpetuity that Jews lived in 107 different villages within the Masovian Voivodeship of Poland. This is extremely vital for memory. You cannot deny the Holocaust if you maintain a physical identification of cemeteries and of mass graves.

What do we mean by moderately threatened? It means that the place may be identified, but it is not demarcated, and therefore, it is threatened by development, vandalism or by neglect. Only 15 percent, 15.9 percent are protected within this particular region. Over 50 percent of the Masovian burial grounds were found to be physically unidentified. Almost 80 percent were undesignated, and I am talking about the area close to Warsaw.

In the rest of Poland, Ukraine, Russia, and in Belarus, it is worse. Over 70 percent were not maintained or were threatened by underground vegetation, erosion, vandalism, etc. Almost 50 percent were used for commercial, industrial, residential, or recreational purposes. And why? Because unlike what was said about Romania, where most cemeteries were preserved, in Poland, the Nazis made a real attempt to destroy Jewish cemeteries, and the communists after the war helped them. Over 70 percent of Polish cemeteries today are no longer physically recognizable above ground.

I want to immediately destroy the myth that there is something known as a “former” Jewish cemetery. A Jewish cemetery remains a Jewish cemetery in perpetuity; it is what is beneath the ground that matters, not necessarily what is above. This is a Jewish cemetery in Blonie, which is very near to Warsaw. It is a classic example of a Jewish cemetery in Poland. You can see that its boundaries are not delineated. It has not necessarily been vandalized; it is clearly a Jewish cemetery. But most people will not know that it is there. You can see the gates of the cemetery there.

Here is another Jewish cemetery in Warsaw that has been vandalized, and you can pick out the swastika there. And here is another one, which is absolutely classic, in Drobin. In Drobin, a football field has been built over the cemetery. Generations of kids have been playing on that football field, having no knowledge whatsoever (and we are talking about the educational purpose here) that on that site stands a Jewish cemetery. So you will never be able to tell people that Jews lived in that place. Before the war, almost 50 percent of Drobin’s population was Jewish.

So what do we do? Because we are in a race against time, we are trying as quickly as possible to create an online database of all of the Jewish cemeteries and mass graves in Europe. We are probably talking about 20,000 of these sites. We do educational projects, we send Jewish and non-Jewish youths to do condition reports in their native languages, so that we can find out exactly what is going on. I can send information to anyone who wishes to receive further details about these activities.

We compare laws and practices in different countries. We have already created reports on eight different states. We compare the legislation because even in places like Poland, where the legislation is relatively positive, the practice on the ground is not

particularly strong. We are talking about 20,000 burial grounds in some 48 European countries. The grey area in the middle of our map is Belarus, a suspended Council of Europe member state, which therefore is not included with the other countries, but is included in our database.

These are the kind of numbers that we are talking about: 2,400 in Germany, over 1,500 in Ukraine, at least 1,300 in Hungary, and at least 1,400 in Poland and 685 in Romania. We currently have in our database a total of almost 10,000. This is what the records look like; I will not go into great detail, as you can access the database on the website.

Currently, we are working on five separate “oblasts” in Ukraine, about which reports will be prepared within the next couple of months. This is the kind of work that we do with different organizations in Ukraine. We are talking about having completed condition site reports in at least half of Ukraine by the end of 2010. You will notice in particular this area of Zakarpatia under L’viv, where the concentration of Jewish life was enormous before the war. Equally so on the other side of the border in Hungary, in Slovakia and in southeastern Poland. Our researchers carry out interviews with locals to find out exactly what happened at these mass graves sites because we need to collect this information quickly.

I want to finish with a very short demand of what we need from communities, and what we need from governments. First, we need to identify these sites before the encroachment of economic development of countries that have just joined the European Union or will join the European Union within the next ten years. If we do not get the details of these places now, we will lose them. I will give you an example: In every one of the “oblasts” that we

visited this year in Ukraine, we found at least 10 percent more burial sites than were recorded in the official community list.

Second, we need to understand that we have to work together. We have to respect the sovereignty of Jewish communities to look after their own cemeteries and cooperate with them. Because if we undermine them with outside influences, and we show governments that Jewish organizations and Jewish clubs cannot work together, then we weaken the possibility for restitution and for protection of those sites. I am thinking particularly about the situation in Romania, where I am sure that Mr. Vainer will agree with me, that they are fighting and have fought to preserve their own cemeteries. The Jewish organizations have to work together.

Third, we have to mobilize governments and local authorities to provide us with the lists and with the land registries and work on that. We are not really talking about an issue of great monetary value here. Even in Germany, where the local authorities physically protect Jewish cemeteries, it is a miniscule amount when you compare it with the huge amounts of restitution money that are owed in the Baltic states, in Poland and in other countries.

I would like to finish with a very short story. In Łódź, which was one of the biggest Jewish communities before the war, there was a very big cemetery that I am sure many of you will be very familiar with. About two or three years ago, two brothers of about sixty years old were seen wandering round the rows of this immense cemetery in Łódź. One way, then the other way, and then the two of them they split apart. Finally, one of them screams out to the other one: “I found it, I found it.” He stops and he bursts into tears in front of a huge boulder. The cemetery in Łódź was

attached to the ghetto and Jews died during the time they were in ghetto as they starved. One night, the father of these two boys died, they took him to the cemetery at night and buried him. But they did not have a gravestone, so they rolled a heavy boulder to represent where their father was buried. Today, we cannot find everyone's boulder. But we can map the boulders that represent every single Jewish community in Europe, and we can find the boulder that stops denial of the very existence of the Holocaust. That is what the cemetery issue is about.

Thank you very much.

Where Do We Go from Here?

► David Peleg

WORLD JEWISH RESTITUTION ORGANIZATION, ISRAEL

PRESENTATION: THE ROLE OF THE WJRO

Good afternoon:

First of all, I would like to introduce myself. My name is David Peleg. I am a retired Foreign Service Ambassador and in my last position I was the Ambassador of Israel to Poland for five years. I heard many references here to Poland and if I may say first a word about Poland: I regard myself as a friend of Poland. I know Poland, I know Polish leadership, and I sincerely hope that I will be able to contribute to progress, maybe to a breakthrough in the issue of private restitution in Poland, and to the acceleration of the restitution of communal properties.

I was recently appointed to be the Director-General of the WJRO, and I started my work two months ago with a working plan to strengthen our activities in central European countries, especially in those that had not yet passed legislation on communal and private property.

If we can start briefly with the historical context: Before the war, there were about 10 million Jews in Europe, many of whom lived in central European countries, especially in Poland, Romania, Hungary and other countries. Six million were murdered in the

Second World War by the Germans, by the Nazis who took much of the property of European Jewry. And what we are trying to do today is to bring justice and to return the property to the heirs of those who were murdered.

When we look at the situation today, more than 60 years since the end of the war, and almost 20 years since the fall of communism, we see that much of the property still remains in the hands of the governments, and the local authorities. This is the reason that, in 1993, a few years after the fall of communism, the WJRO was established by the major international Jewish organizations in order to promote negotiations with the governments – to pass legislation and to strengthen the relationships in this regard with the Jewish communities in all of the above-mentioned countries.

The WJRO served as the legal and moral representative of world Jewry, the victims and the communities who were without government protection during the era of the Second World War. The Organization is working to claim the recovery of Jewish communal and private property in Europe, and we hope we will strengthen our work.

When we speak about private property, it is important to emphasize that it is impossible to address the issue of private property without addressing the issue of heirless property. During this Conference, we were glad to hear many references to the importance of the issue of heirless property, and discussions of using the heirless property proceeds for welfare, education, and commemoration.

When we speak about welfare, we must bear in mind the number of survivors living around the world, in Israel, in the United

States, in other countries, and the great help that can come from the money from heirless property – helping the survivors, educating, and strengthening commemoration.

As I said, the WJRO was created by ten major Jewish international organizations, and we would definitely like to see more Jewish organizations joining the framework of the WJRO. What is the mission of the WJRO? On the one hand, consulting and negotiating with the governments concerned to pass legislation on both communal and private property. On the other, conducting research in the archives and collecting data on Jewish property in different countries.

We attach great importance to the strengthening of the relationship between the WJRO and Jewish communities in all countries. We are talking about small communities in places where there were huge communities before the war. But we see for ourselves a central role to communicate and consult with the Jewish communities, especially about how to administer the properties, the assets, the communal assets, once they are returned by the governments. To date, three such foundations, between the WJRO and Jewish communities, have been established; one in Poland, one in Romania, and one in Hungary.

When we speak about the communal property that was returned, it is important to remember that, despite the agreements' having been signed quite a few years ago, for example in Poland, a relatively small number of cases were already implemented. In Poland, more than ten years after the agreement on communal property, a quarter of the assets have been returned. We would like to see an acceleration in the work of the regulatory commissions in Poland, as is occurring in Romania, in order to return the communal property to the communities. In Romania, where the

fund was created in 2005, great effort is being made to accelerate the return of the assets to the community.

When we speak about our mission going forward, we see the WJRO as becoming stronger and stronger in consulting and negotiating with different governments, especially those who have not yet passed yet legislation. I will mention Poland in the context of private property, and Lithuania in the context of communal property. Second, we would like to move beyond the countries that should pass legislation, and hope to get greater international support for the work of the WJRO, and for the aims that the WJRO stands behind, both from countries, and also from the multilateral arena, whether the European Union, the OECE, the United Nations, or others. We would like to strengthen the ties with Jewish communities, to go beyond the three countries in which we have foundations created with Jewish communities, and to aim to get such cooperation and such a foundation established in every country in Central Europe that has communal and private property.

We are very happy about the initiative of the Czech government to create the European Shoah Legacy Institute in Terezín. We are looking forward to hearing from the representatives of the European Commission tomorrow because this Institute can serve a very important role in the follow-up to this Conference. We are looking forward to promoting this process of making justice.

Thank you very much.

► **J. Christian Kennedy**

US DEPARTMENT OF STATE, USA

**PRESENTATION: PRINCIPLES
OF PROPERTY RESTITUTION**

This afternoon I would like to talk to you about some tasks that we have been facing for the future. I am going to start in a rather strange fashion, dealing with art. At the 1998 Washington Conference on Holocaust-Era Assets, the nations, confronted with a huge array of issues to deal with, chose to focus predominantly on Nazi-confiscated art. The reason for this focus was a very simple, one-page document that was developed, called the Washington Conference Principles on Nazi-Confiscated Art.

It changed the art world forever. Prior to drawing up the Washington Principles, there was not very much provenance research on Nazi-confiscated art. It was interesting, but not important, to document commercial transactions with provenance research, and yet today, every piece of art that changes hands or hangs in a museum, that was sold or bought between 1933 and 1945, comes under very special scrutiny. And one of the reasons is the Principles. I also think that the art market has become much more aware of social responsibilities, museums are very careful and conscious of their responsibilities, and want to make sure they do not have tainted work in their collections.

I would like to suggest that we should have something similar for the world of immovable property, the communal or private. Because of the erasion programs, the displacements of the World War II, followed by the aftermath of World War II including the Cold War, vast amounts of property (private real

property, immovable property – I apologize for using the American expression for real property) were confiscated and lost to their legitimate owners.

I think that, if we had a set of principles it would be much easier with these guidelines and best practices to think about how countries could go about setting up programs, processes that would allow them to process the vast numbers of cases that are out there. An essential element of bringing justice to victims of the Holocaust and other victims of Nazi prosecution is access to the records. These records exist widely all over Europe as they do in North America. They get called different things, but generally speaking, every country that had a private property regime on the eve of the Second World War had a record-keeping system that was important and took care of noting transactions in land, dwellings, buildings, forests, and other kinds of immovable property.

Why would people, nations, countries want to undertake this very difficult program? And it will be hard! But I think it serves broad national interests that states all share: to develop a simplified claims process outside of the judicial system for the cases arising out of World War II, the Holocaust and its aftermath. Now, access to these records will be an essential point, but because we are talking about very elderly population if we consider the original possessors, I think it is even more important that the record keepers facilitate access, facilitate copies that are going to be needed to file claims. Whether someone lives a hundred kilometers away from his original home or ten thousand kilometers, they are going to need a little extra help. And this bit of help is a humanitarian gesture that will ease the burdens of people who have already suffered so much and who had no hand in their displacement across the globe.

Furthermore, I would like to try to take a stab at enumerating these interests beyond the humanitarian interest and an element of justice, which is important to all of our societies. We need to think about claims that arise out of the Holocaust as very different. They are more complex; their number is very large. We are not talking about settling a small number of claims, but a very large number of claims. And these claims, by their sheer number and in their complexity, have the capacity to overwhelm legal systems in any country. Unresolved claims to properties with unclear status, with clouded titles, make those properties worth much less than property that has a clear title.

In order to facilitate and render real estate markets more fluid, which is always in the interest of national governments, I think it is important to clear up these matters. For example, many nations in my work of the last three years discovered that in towns and neighborhoods, buildings that are right next to each other will or will not have great commercial value, or even small commercial value, because they do or do not have a clear title. The lack of clear title dampens economic activity, hinders economic development, and also has a very practical impact on people who are trying to buy and sell real estate. In many countries, it is almost impossible to get title insurance to insure that your house will be your house even if there turns out to be a problem later on with the title because there are huge numbers of clouded titles in the market.

Let me turn again, if I may, to the idea of simplified claims processes. I would like to suggest that these are consistent with European Law. The European Community recognizes that the enjoyment of real immovable property is a fundamental right – and all kinds of property. It is an essential attribute of property laws, property processes – where they might be established – that

they be foreseeable, accessible, and not burdensome. Laws or processes that are not meeting that standard may create additional liabilities.

With these reflections in mind, I would like to turn to what I propose could be a set of property principles that we could consider. The Terezín Declaration, the political document of this Conference calls for the development of a set of property principles under the aegis of the European Shoah Legacy Institute in Terezín. I am not so presumptuous as to think that this would be the only starting point, but let me suggest that it could be one.

First of all, 1) obviously we are going to have to define what is it we are talking about. What I envision here is communal property, private property and a period of time when it was confiscated. And 2), I think that almost everywhere in the world, if someone's name is on the deed, if someone's name is on the record, that person is presumed to be the owner. That is why it is so important, among other reasons, that claimants have access to these records, whether they are communities or whether they are individuals.

There is a subset of properties that changed hands in the aftermath, or the immediate aftermath of the Second World War, and the sales appear to be consensual. If it is communal property, and the community was devastated and hardly existed if only one or two members returned, you also have to presume that that sale might not have taken place under the best circumstances. A standard of fairness in property restitution principles needs to exist. I would suggest that these are important elements.

If the claims process exists in a country, if it is established, it should be uniform throughout the country. I think it is unfair to

burden claimants with excessive costs, indeed with almost any costs at all. These are people who lost everything, who suffered grievously. And I keep making this point, I am sorry to be a bore about it, but people really do need to have access to archives that are relevant to their claims.

So, if we could move on to 3), the idea of establishing a national claims process is to take this issue out of the courts, where claims can languish for years. One good argument for having a national claims process is its speed. It gets things done. There are two reasons for that: you do not need to tie up the courts, but more importantly, we all know that Holocaust survivors and other victims of Nazi persecution do not have time on their side. I think it is very important, and I hope I have made clear how I feel about the need for clear titles. Any claims process should result in a clear title for the person receiving land or, if the claim is rejected, there should be a clear title for the current owner.

For many reasons, *in rem* restitution, *in natura* restitution is best, especially in cases where governments use buildings and this is a real option. But I think we also have to be mindful of the fact that, 60 years after the end of World War II, it is going to be very difficult to restore dwellings *in rem*. In cases like this, we would like to suggest that fair compensation should be paid, and should be paid promptly.

Privatization programs should include protections for claimants. In other words, while you are filing your claim, they should not suddenly sell the property in question to someone else, claiming it is no longer in the national pot. Communal property: this has been sometimes a debate whether it is communal, religious? Some places would say religious is covered, others would say communal is covered. This is, yet again, an attempt at a definition.

I think we have heard Ambassador Peleg talk about the importance of local foundations – again an attempt to describe what is important. The very sensitive issue of cemeteries, and other religious sites, including mass graves and other sites of martyrdom was mentioned. These need to be protected, and while there is a claims process going on, it has happened that misuse before restitution occurs, again through some sort of privatization effort. I have seen this happen; it should not be tolerated.

The very complex issue of heirless property, I think, has to be addressed in any sort of a national claims process. If it is not, you will still have vast amounts of property with clouded title. There are many ways to do this. Finally, I do not think people should be excluded because they did not know about a deadline and/or they failed to register for a program.

Obviously all of this would have to happen in the contexts of national law. National legislative bodies would probably have to enact this. However, we would like to suggest that when the Terezín Institute begins its work on developing a set of property principles, we hope that these or similar property principles would be considered.

Thank you very much.

Working Group: Looted Art

Opening Remarks

► J.D. Bindenagel

FORMER US SPECIAL ENVOY FOR HOLOCAUST ISSUES, USA

WASHINGTON PRINCIPLES ON NAZI-CONFISCATED ART: TEN YEARS AND PROMISES OF THE WASHINGTON PRINCIPLES

I am pleased to be invited to this Holocaust Era Assets Conference. I will comment on the progress made in implementing the 1998 Washington Principles on Nazi-Confiscated Art and suggest a set of new instruments, which could effectively resolve issues of ownership and strengthen efforts to bring justice to the victims of the horrors of the Holocaust.

During the 20th century, millions of people perished as a result of genocide, crimes against humanity, war crimes and other serious crimes under international law. The most horrific crime was, of course, the Holocaust perpetrated in the process of the National Socialists' Final Solution.

With respect to such crimes against humanity it is indeed our responsibility, both legally and morally, to take steps to right the wrongs and to otherwise put in place principles that will make it less likely that such horrors will ever again be visited upon us.

As recognized during World War II by the Allies and as embodied in the treaties that brought an end to that conflict, restitution is a necessary part of a legal framework designed to punish the wrongs that were committed and discourage their repetition. The international community has long debated how, in accordance with domestic law and international obligations, states should provide victims of genocides with restitution, compensation, rehabilitation, and guarantees of non-repetition.

The organizers of this Conference have recognized that restitution can involve various contexts, and must be open to a variety of approaches. For example, restitution, at some level, involves the restoration of liberty, legal rights, social status, family life and recognition of rights in property. Restoration and recognition also play a part in remembrance and education, which are imperative to affirming the dignity and humanity of the victims and to making it less likely that such violations of law will recur.

This is the essence of the Washington Principles on Nazi-Confiscated Art. Now is it for us to continue the quest for justice.

The Washington Principles

Recognizing that civilized society compels the public protection of privately held cultural assets, the international community gathered in Washington in 1998 and pledged itself to an organized, albeit non-binding, global effort to research provenance, uncover looted art, publicize its existence and encourage just and fair solutions to conflicting claims of ownership – principles then embodied in the Washington Conference Principles. Afterwards, the then-Director of the Metropolitan Museum of Art recognized that “the art world [would] never be the same.”

The hallmark of the Washington Conference was the way in which the Principles grew out of the cooperative effort of many disparate parties: American as well as European museum directors dialogued continuously and various governments compromised at the very highest levels to achieve consensus. In the end, forty-four governments joined together and we saw more positive action by nations on this issue in six months than at any time since 1950.

Following the Washington Conference, an international consensus for consistent and efficient resolution of claims developed. The 1999 Council of Europe Resolution 1205, the 2000 Vilnius Forum Declaration, the 2003 Hearings of the European Parliament and, ultimately, the 2003 European Parliament Resolution 408 all called for action to facilitate methods to resolve claims.

Please let me quickly review what we hoped to accomplish through the Washington Principles:

- ▷ Principles 1 through 3 envision a massive cooperative effort to trace this art. We called upon museums to search the provenance of their holdings; on governments to open up their World War II and related archives to private researchers; for commercial galleries and auction houses to seek information, document, and make available what information they have. It is important to locate what was confiscated. It is equally important to know what was not confiscated, or what was restituted to prewar owners. The taint of “stolen art” should not be applied to works that do not deserve it.

- ▷ Principle 4 deals with gaps and ambiguities in the provenance of artworks. The vast displacement of art, the destruction of

many records, and the furtive nature of the international market during the Second World War mean that there must be some leeway in establishing provenance. Where there is no bill of sale, a diary entry or an insurance listing might be acceptable evidence of prewar ownership. Even if a work is not on a Nazi confiscation list, it may be in the archival records of the American and Allied forces' Monuments, Fine Arts, and Archives Service, the secret inventories of the French Resistance, the archives of the Russian Federation, or other archival collections. Conversely, there may be circumstantial evidence that works were not stolen but sold in the market, or restituted to families and subsequently sold.

- ▷ Principles 5, 6, and 7 pertain to the publication of information related to the works in question, as well as to the resolution of claims. They discuss circulating photos of the art and information about looted art throughout the world, through via traditional media and on the Internet. Maximum publicity increases the chances that survivors, their families, and their communities can locate looted property. It will also alert the international art community to questions that may still exist about a given work, making it harder for such works to remain hidden.
- ▷ The eighth principle calls upon involved parties to be flexible and just in the resolution of claims. Art claims do not have to be winner-take-all propositions, which produce prolonged struggles in the courts and drain the resources of both parties. In an atmosphere of good will, a wide range of solutions can be found.
- ▷ If the original owner is found to have died without heirs, we suggested, in principle 9, that other just and fair solutions

must be sought. For example, the art may be sold and the proceeds used to benefit victims of the Holocaust and Jewish communities around the world. The art could also be displayed in museums and identified in ways that educate the public about the cultural losses sustained by individuals during the Holocaust.

- ▷ The tenth principle seeks to ensure objectivity and to enhance public confidence in public institutions by mandating a process to engage non-governmental actors, such as art experts, historians, and representatives of communities that were victims of the Holocaust, and, where appropriate, distinguished persons from other countries.
- ▷ Finally, the eleventh principle calls upon nations to take specific measures to apply these principles so that justice may be more quickly and assuredly accomplished.

Unfulfilled Promises

The Washington Principles and the work of the other conferences that followed the Washington Conference have had some effect.

In the United States, the Washington Conference Principles have indeed, as Philippe de Montebello observed, “changed the art world forever.” As with any significant change, there is anxiety that accompanies it. With the threat of judicial seizure hanging over museum cultural exchange programs, the Washington Conference Principles are now part of the determination the State Department makes in advising USIA whether the “national interest” applies to a request for immunity from seizure, thus preserving this vital cultural exchange program.

The American Association of Museums (AAM), a coalition of over 3,000 institutions, has created an online Nazi Era-Provenance Portal.¹ The database contains over 28,000 objects from 165 museums. The database's mission is to "provide a searchable registry of objects in US museum collections that changed hands in Continental Europe during the Nazi era (1933–1945)." Access to this database is free and users can sign up to be notified when new objects are added. AAM has become a leader in publishing inventories and making information available to the public.

Similarly, the Smithsonian's Freer Gallery of Art and the Arthur M. Sackler Gallery, both in Washington, DC, have launched a website that allows public access to research being conducted as part of the galleries' World War II era provenance research project. The goal of the project is to identify the ownership history for works of art in the collections that might have been unlawfully taken by the Nazis during the World War II era and to make this information available to the public.

In addition, professionals and experts in the field continue to strive to share information that could facilitate claim identification and resolution. For example, Germany recently addressed Nazi-looted Art in a conference entitled "Challenge for Libraries, Archives and Museums," which was held in Berlin on December 11–12, 2008. To mark the tenth anniversary of the Washington Principles, the *Stiftung Preußischer Kulturbesitz* and the *Koordinierungsstelle für Kulturgutverluste* hosted an international symposium at which the speakers reviewed past developments in the field, examined perspectives and spoke about fundamental issues concerning the restitution of cultural artifacts, provenance research, and possible "fair and just solutions." A panel discussion that brought together

representatives of cultural institutions, the law, advocacy groups, and the host organizations concluded the symposium.

In Paris, a conference was held on September 14–15, 2008 on "Spoliation, Restitution, Compensation, and Provenance Research: The Fate of Works of Art Recovered After the Second World War." The conference was organized by the Management of the Museums of France and the Museum of Art and History of Judaism. It was conceived by Isabelle Masne de Chermont, the conservator general of the Management of the Museums of France; Jean-Pierre Bady, the main adviser at the Court of Auditors, a member of the CIVS, and the chair of the Commission of Verification of Works of Art; and Laurence Sigal, director of the Museum of Art and History of Judaism.

Moreover, the increased awareness of looted art issues, coupled with a heightened commitment among many institutions to the Washington Principles, have helped to encourage the resolution of some looted art disputes. Some examples are worth noting:

- ▷ *June 2000*: The Art Institute of Chicago negotiated an arrangement under which the museum made a significant payment to the heirs of a Holocaust victim, amounting to half of the value of a 16th century Italian sculpture (*Bust of a Youth*, by Francesco Mochi.) The heirs then donated the remaining half to the museum.
- ▷ *September 2001*: The Metropolitan Museum of Art reached a settlement with a claimant on Monet's *The Garden of Monet's House in Argenteuil* (1874). The claimant agreed to accept a payment and to give up all claims to the painting. The Nazis stole the painting in 1945 from a bank vault in Germany where the claimant's grandfather had stored it.

¹ See: <http://www.nepip.org>.

- ▷ *April 2009:* California Governor, Arnold Schwarzenegger returned three Renaissance paintings stolen by the Nazis to the descendants of Holocaust victims. The paintings were returned after a two year investigation by the California State Parks Department. The paintings' original owner died at the Auschwitz concentration camp in 1943. The heirs have decided to let the state keep one of the paintings and put it on display in order to tell the story of how the Nazis seized assets.
- ▷ The US Department of Justice and Homeland Security returned a painting to the estate of Max Stern. Mr. Stern was a prominent Jewish art dealer who was forced to auction over 200 paintings prior to his flight from Germany in 1937. The returned painting was an oil portrait of a man playing the bagpipes painted by Ludovico Carracci in 1632. The painting was discovered in the inventory of a Manhattan art gallery by the New York State Banking Department's Holocaust Claims Processing Office, which later notified Immigration and Customer Enforcement (ICE). ICE discovered that the painting was labeled as stolen by the Nazis in an international art database. "We made a plea for art dealers everywhere to return all paintings stolen in the Holocaust," ICE said, reinforcing its commitment to having all stolen art returned.

But as we all know, the promises of justice made in Washington and reaffirmed in the years following the Washington Conference remain unfulfilled. Lynn Nicholas, the author of *Rape of Europa*, commented at a restitution conference a few months ago in Paris that the revival of restitution of Nazi-confiscated art has done tremendous good and righted many wrongs, and has the potential to continue to do so as long as it remains an honest

process. We all need to work together to ensure that it continues to do so. Still, the fate of much looted property – an essential part of the cultural heritage of Europe – and indeed of humanity – remains a mystery.

The Washington Conference Principles challenge us to do better, and to bring tangible, positive change to the way states address looted property issues. Indeed, the final Washington Conference Principle obliges action. It calls upon nations to take specific measures to apply the Principles. That is, nations and organizations should strive to develop internal processes that allow for the location and timely restitution of looted property. The individual cases that continue to arise at a steady pace underscore again and again our failure thus far to establish a fair, consistent, and expedient international claims process.

For example, the lack of information remains a problem. After several years of conducting research, the Minneapolis Institute of Arts in 2008 returned the painting *Smoke Over Rooftops* by Fernand Léger, to the Kann Association, Alphonse Kann's heirs. In 1997, the Association en mémoire d'Alphonse Kann had contacted the museum with a claim that the painting had been looted by the Nazis and sold illegally. It took eleven years to resolve a single claim.

- ▷ *Germany:* Culture Minister Bernd Neumann urged the mayor of Munich to review his decision to reject a claim by the heirs of a Paul Klee painting that was stolen by the Nazis. The painting was owned by Sophie Lissitzky-Kueppers, a German art historian who moved to the Soviet Union in 1927. The disputed painting *Sumpflgende* (Swamp Legend) was confiscated from a Hannover museum by the Nazis in 1937 and labeled as "Degenerative

Art.” Munich’s mayor, Christian Ude rejected the claim in January, arguing that paintings stolen for Nazi exhibitions are not included in international guidelines for the restitution of looted art.

- ▷ *New York:* Marty Grosz has been battling New York’s MoMA, Tokyo’s Bridgestone Museum, and Vienna’s MoMA to claim ownership of his deceased father’s art. Marty’s father, the legendary German artist George Grosz, fled Germany in 1932, leaving the majority of his work behind in a Jewish art gallery. George Grosz’s work was labeled by the Nazis as “Degenerative Art” and stolen during World War II. Although Mr. Grosz has evidence that his father’s art was unjustly sold during the Nazi regime, he continues to have difficulty regaining it from museums.
- ▷ *Sweden:* The estate of Otto Nathan Deustsch has yet to receive the painting *Flower Garden at Utenwarf* by Emil Nolde. The heirs to the estate approached the Swedish museum (Moderna Museet) in 2002. The Swedish government assigned the Moderna Museet the task of ending the dispute on the basis of the Washington Conference Principles. As of 3/16/09, the painting has yet to be returned.
- ▷ *Austria:* The Leopold Museum Private Foundation in Vienna possesses several pieces of Nazi-confiscated art including the painting *Houses by the Seaside* by Egon Schiele. This painting may be traced back to Jenny Steiner, a Jewish art collector who was forced to leave the painting behind in her Vienna apartment as she fled from the Nazis.

Where Do We Go Now?

It is clear from the above examples that cases involving Holocaust era looted art are subject to international law, cross national borders, span decades, and require international rules to adjudicate claims.

The Legal Affairs Committee of the European Parliament at their hearings in April 2003 recognized the need for a more uniform, efficient, and just approach to such claims under the theme of “A Legal Framework For The Free Movement Of Goods Whose Ownership Is Likely To Be Contested.” The Committee’s assessment is as valid today as it was in 2003:

- ▷ The legal situation in this area is at present entirely unclear, so that museums, art dealers, victims and heirs have been unable to recover looted goods or fill the gap in provenance of art ownership. Claimants face a bewildering array of legal problems, many driven by the sheer accident of where looted property happens to be found. Access to data varies from nation to nation, as do the legal standards regarding such fundamental issues as determining the applicable law, proving ownership, assessing when a claim must be brought and the effect of intervening transfers to allegedly innocent transferees. There is a need for a legal and institutional framework that will be fairer to claimants, current holders and state-owned and not-for-profit entities. Moreover, this is very much a European problem which requires a European solution, and the forthcoming enlargement of the European Union makes the issue still more important as it directly affects a number of candidate Member States.

This Conference should reaffirm its support of the Washington Principles on Nazi-Confiscated Art and encourage all parties including public and private institutions and individuals to apply them as well. “In particular, recognizing that restitution cannot be accomplished without knowledge of potentially looted art and cultural property, the Conference calls on all parties... to continue and support intensified systematic provenance research, and to make the results of this research, where relevant, including ongoing updates, available via the internet, with due regard to privacy rules and regulations, and, where it has not already been done, to promote the establishment of public and private mechanisms to assist claimants in their efforts.”

We should strive for a pan-European process that will enhance the democratic nature and substantive legitimacy of European policy and that will deliver greater legal certainty and ensure that similar claims will be treated similarly notwithstanding that they may randomly arise in different countries — precisely the core elements that looted property claimants seek. We should strive for legal doctrines and processes that will address issues that now vex the ability to efficiently and fairly resolve restitution claims.

For example, choice of law remains contentious and often dispositive, with parties increasingly relying on advantages gained by using the law either of the place from which property was stolen, last sold, or has now come to rest to gain advantages in litigation designed to cut off seemingly legitimate claims. Indeed, in the United States, museums have been suing potential claimants before the claimants have filed suit to recover looted art in order to seek favorable rulings on choice of law or statute of limitations grounds.

Export restrictions remain troubling as well. In Hungary, the granddaughter of Baron Mor Lipot Herzog, whose art collection included works by Manet, Renoir, and Velazquez has yet to receive the art after winning a lawsuit against the state. As late as April 2008, the art collection was being held in Hungarian museums and has yet to be returned. At the same time, the Scottish government is apparently willing to sign legislation that will allow Scotland’s national collections to return any of their artifacts which turn out to have been stolen by the Nazis during the Third Reich. Many of these artworks were sold on the black market.

In civil law countries, bonding fees prevent access to courts for many claimants. Randy Schoenberg commented that “It is enormously time-consuming to pursue the art recovery cases [—] I received my first call from Maria Altman in the Klimt case in 1998 [—] and enormously expensive, running into millions.”¹

In addition to bonding issues, the speed of claims litigation blocks restitution. For instance, the Museum of Modern Art is opposed to the US government seizure of an Egon Schiele painting that was looted by the Nazis in 1939. The MoMA wants it returned to the Austrian foundation that lent it for a show. Under US law, however, if *Portrait of Wally* is stolen property, it must be returned to the family, not to the foundation².

To address these issues, we should return to European Parliament Resolution A5-0408/2003, adopted by a vote of 487-10, which:

¹ Tugend, Tom. “Lawyer fights for Nazi-looted art works.” *Jerusalem Post*, Apr. 9, 2003. Available at <http://www.bslaw.net/news/030409.html>.

² According to an article in the NY Times, the Leopold Museum has agreed to pay USD 19 million to the heirs. See: <http://artsbeat.blogs.nytimes.com/2010/07/20/leopold-museum-to-pay-19-million-for-painting-seized-by-nazis/> (editor’s note).

- ▷ Called on the European Commission to undertake a study by the end of 2004 on:
 - *Establishing a common cataloguing system, to be used by both public entities and private collections of art to gather together data on the situation of looted cultural goods and the exact status of existing claims;*
 - *Developing common principles regarding access to public or private archives containing information on property identification and location and tying together existing databases of information about title to disputed properties;*
 - *Identifying common principles on how ownership or title is established, prescription, standards of proof, rights to export or import property which has been recovered;*
 - *Exploring possible dispute resolution mechanisms that avoid lengthy and uncertain judicial procedures and take into account principles of fairness and equity;*
 - *The value of creating a cross-border coordination administrative authority to deal with disputes on title of cultural goods;*
- ▷ Called on the Member States and applicant States to make all necessary efforts to adopt measures to ensure the creation of mechanisms which favor the return of the property referred to in this resolution and to be mindful that the return of art objects looted as part of crime against humanity to rightful claimants is a matter of general interest for the purposes of Article 1 of Protocol 1 to the European Convention of Human Rights;

- ▷ Called on the Presidency of the European Union to assign this issue to a working group of the Council;
- ▷ Instructed its President to forward this resolution to the Council, the Commission, the Member States, accession States and the Council of Europe.

That unfulfilled Resolution should be heeded.

This Conference should urge the European Commission to issue a working paper on key areas in which this Community should strive toward harmonized best practices that would finally begin to concretely address the Principles enunciated at the Washington Conference and recognized by the European Parliament.

It should be the goal of every nation in the Community to ensure the right of any person acting on a claim relating to cultural property that was owned by persons who were then deprived of it between January 30, 1933 and May 9, 1945 for reasons of race, religion, nationality, ideology, or political opposition to National Socialism, which is "*Contested Property*," to gather information about that contested property; to pursue its return; and to receive fair, speedy and consistent adjudication of contested property claims. The laws of the Community with respect to contested property should be harmonized to comport with best practices in the following areas:

1. *Open and Complete Access to Information:* Consistent with EU Directives on access to government records, there should be free and open access to information relating to contested property, including:
 - a) A presumption in favor of disclosure relating to contested property which, among other things, would take

precedence over other laws, including laws relating to governmental or private interests; and

- b) A presumption that state-owned museums, as well as licensed museums, auction houses and galleries either would make their records relating to contested property available for research or provide scanned copies of their records to government archives that are open to researchers.
2. *Choice of Law:* The law applicable to claims against current holders seeking return of contested property should be based on Military Law No. 59 (as then codified in the German civil code), as opposed to the law of the place in which the claim is brought, where the contested property is located, or where the contested property was located when lost, to the extent such laws are different from the principles embodied in Military Law No. 59.
 3. *Time Limitations:* Recognizing that potential claimants have not had free, open, and complete access to information relating to contested property, no statute of limitations should apply to contested property claims against current holders unless and until a state has brought itself into compliance with the principles of information access set forth above, after which a uniform time limitation consistent with property recovery claim periods within the Community should be imposed for bringing claims. To the extent that a contested property claimant can show that access to information has not been complete (or within best practices), the applicable limitations period should be tolled.
 4. *Limitations on Defenses:* Contested property claims against current holders of such property should not be subject to

defenses premised on waiver, abandonment, laches, or estoppel, nor should state-owned or -controlled institutions have any presumption of ownership or title as against a contested property claimant. Such defenses would be available for other persons in the chain of title of the contested property.

5. *Export Restrictions and Taxation:* Contested property should not be subject to designation as “cultural or national treasure” or to any other restriction on export by the claimant or someone who has purchased from the claimant. Settlement or adjudication of contested property claims should not be subject to tax as to either the claimant or the current holder. Best practices relating to contested property also should include the requirement that any person seeking to export cultural property make a representation to the exporting state that such person has researched the provenance of the property to be exported and has no reason to believe that such property is contested property.
6. *Bonding Fees:* It is not consistent with best practice for bonding requirements to be applied to claims seeking the return of contested property. Such requirements may be applied to any other claims relating to the chain of title of contested property.
7. *Standing to Sue:* Restrictions on who may assert claims on behalf of owners of contested property should be lifted.
8. *Post-World War Two Settlements:* Settlements relating to contested property should not bar claims against state-owned institutions holding such property (or anyone purchasing such property from a state-owned institution after

this time) to the extent the settlement involved the return of only non-contested property in compromise on claims for contested property; the settlement involved the payment of money only in compromise on contested property claims; the settlement was made with a contested property claimant who did not have full access to information as per the standards set forth above; and/or the settlement was for an amount severely out of proportion to the value of the contested property claimed.

9. *Prompt Claims Resolution:* States should endeavor to establish procedures to ensure prompt consideration and adjudication of contested property claims against current holders. The European Commission should enunciate standards of best practice with regard to the reasonable time that should apply to the adjudication of such claims, and should provide that, after such time, appeals may be taken to the European Court of Human Rights.

10. *Contested Property Registry:* The Commission should publish best practices with respect to the establishment by each member of the Community of a public registry of contested property claims. No claim may be listed absent representations by the claimant regarding the nature and scope of his or her investigation into the status of the property listed. To the extent that such representations are ever shown to have been falsely or negligently made, any claims to such contested property would be forfeited. The identity of registrants would be kept confidential. Current holders could publish evidence designed to show why the listed property is not contested property. Buyers, sellers, and recipients of donated cultural property should be deemed to be on notice of the contents of such registries

and warranties of title should not be allowed to be disclaimed as to such registries. Any sale after registration of contested property should be deemed presumptively invalid. Any work on a pre-existing state list of contested property would be included in the registry.

And finally, this Conference should call upon the Commission to initiate and complete a study on the establishment of a European title-clearing entity within the next 24 months to consider, among other things, how a title-clearing entity/arbitral chamber could be set up in Europe to adjudicate claims arising from the crimes committed by the National Socialists during the World War II era. That study also should consider how best to harmonize European law with respect to such concepts such as “forced sale” and/or “sale under duress” with respect to contested property.

Conclusion

I hope that you share my conclusion that the Washington Conference Principles on Nazi-Confiscated Art have proved to be an excellent basis for international cooperation in resolving claims and that we have made historic progress on advancing the cause of justice – however belated – to the victims and survivors of the Holocaust. Now we should fulfill the promise of the Washington Principles.

► **Guy Broc**

MINISTRY OF FOREIGN AFFAIRS, FRANCE

Mrs. Co-Chair, Mr. Ambassador, Ladies and Gentlemen:

It is a great pleasure for me to open this session with Mrs. Helena Krejčová. I thank the Czech organizers of this conference to have chosen France as Co-Chair for the Looted Art Working Group. We indeed have worked on this conference for months and I could appreciate how seriously everybody has been involved in it.

Perhaps you have noticed that art is the topic for which we have the most numerous activities today and tomorrow in panels and roundtables. It is not by chance. Indeed the question of origin of arts and provenance research needs expert analysis of many different areas and involve different actors of the art market – dealers, owners of galleries, auction houses and auctioneers, museums, art historians, and increasingly lawyers. The experiences of families, who try to know the history of their collections, are also very important. The mobility of art works – property that travels easily – implies that people do not limit their research to resources available in their own countries but expand their investigations beyond the borders.

This diversity of interest has generated for almost ten years the organization of conferences and symposia and our two days of expert meetings are of course also in this continuity. After Washington in 1998, the International Conference on Looted Cultural Property held in Vilnius in October 2000 under the auspices of the Council of Europe expressed principles but was also an opportunity for many participants from countries of Western Europe to perceive how those questions were addressed in the

countries of Central and Eastern Europe. A year later, in November 2001, the Magdeburg symposium focused on databases and international cooperation.

As you know, other conferences have been devoted to legal issues such as in Geneva at the Law Center of Art and in London at the Institute of Art and Law. Other meetings were also held at the initiative of museums. Some were on the national level, such as the meetings of researchers working in German museums. The experts of the museums in the United States and their European colleagues of Western and Central Europe were able to fruitfully exchange information in November 2004 at the National Gallery of Art in Washington.

A number of events took place during the last three years. In March 2007, seminar organized in Amsterdam during the exhibition “Looted, but by whom?” dealt with the concept of limits for provenance researches. In March 2007, the Potsdam conference was dedicated to the theory and practice of restitution and the one in Liberec in October highlighted the development of discussion of looting and restitution in Eastern Europe.

More recently several conferences were organized during exhibitions about looted art, such as a two-day workshop and a symposium in 2008 in Jerusalem and in Paris during an exhibition created by the French National Museum and the Ministry of Foreign Affairs and called “Looking for Owners”. And in Berlin last December the conference to assume its responsibilities as the Jewish Museum presented the exhibition “Looting and Restitution”.

At the beginning of my speech I said how much I was pleased that France co-chaired this working group. Indeed France has made efforts for over ten years to do what had to be done. The

Mission d'étude sur la spoliation des Juifs de France, created by the Prime Minister in 1997, has been dealing with all kinds of looted property and a specific volume of this final report published in spring 2000 focused on art. It noticed that much had been done in the immediate post-war period with the restitution of the 45,000 objects and consequently defined direction for future actions. At the end of 1998 France launched the first on-line databases showing works of art returned from Germany after 1945, some of them looted. A catalogue of 1,000 paintings of the same provenance was published in 2004. And the provenance researches went on in public collections with careful investigations for new acquisitions.

Last year the exhibit "Looking for Owners", presented in Jerusalem and in Paris, publicized broadly the results of this research with a catalogue in French and English and a two-day symposium in Paris in September 2008 at the Jewish Museum. As for all actions related to compensation, the restitution of around 60 works of art since the end of the 1980s has been welcomed by the French public opinion and were made in a good climate without any debate or controversy in the national community.

Before concluding, I would like to add some words about the organization of these panels and roundtables. By the end of February Helena Krejčová and Renata Košťálová made the first proposal for topics: archival researches, legal issues, developments allowed by new technologies, and international cooperation. After an exchange by email between the members of the working group three workshops and three panels had been finalized and posted on the website on March 9. As for all of the groups, a call for papers was opened from March 15 to April 15.

The first answers were mentioned during the Paris conference on April 2 and 3, where we had the pleasure to meet the experts that were on the list but we opened the group to other experts from other countries that were not represented so far and that we made a point to gather in Paris. During this conference some participants agreed to be Chairs and we thank them very much.

The working group Chairs met in April in London to achieve this program so we had to choose among all the proposals, which is always a difficult task, especially given the great number of applications. We wanted to allow many experts to speak so we have determined the format of five interventions of ten minutes each for the workshops and the panels. More complete texts of these interventions may be proposed to be published online. We try to offer a variety of points of view, maintaining the diversity of speakers from different countries. This balance between countries has been particularly important to find for the group on legal issues for which we have received numerous abstracts from American lawyers. Diversity also was for the topics. We wanted general considerations but case studies too.

Last point, we wanted to mix "different generations". Some of the speakers constitute milestones of looted art research and participated in Washington, Vilnius, and Magdeburg meetings. Others have begun more recently with all these subjects. In all of them I felt the same commitment, the same seriousness, the same dynamism. It is these qualities that make me wish you with confidence a good and fruitful conference.

Thank you.

► **Helena Krejčová**

DOCUMENTATION CENTRE OF PROPERTY TRANSFERS
OF CULTURAL ASSETS OF WW II VICTIMS,
CZECH REPUBLIC

Ladies and Gentlemen:

First of all I would like to thank you all on behalf of the host country for taking part in this conference. I am aware that many of you have paid your own costs. I would like to thank also the members of the working group and all my Co-Chairs.

Roundtables are equal to the Sunday panels in importance. We were the first to point out that the conference would take place on Saturday. Since the Center is used to organize two-day conferences, we wanted to give the opportunity to speak to the greatest number of people and that is why we decided to include Saturday and later we added the educational block. This Saturday was due to logistics and for technical reasons. The government of the Czech Republic has leased this whole building for the six months of the Czech Presidency and of course, there was a number of other events taking place here too so we were restricted in our options. So I would like to thank all those speakers, who had to change their program because of this.

I have another note here on the selection of speakers. We discussed this very carefully with our French colleagues. We selected on the basis of the attractiveness of the abstracts that we received. We tried to focus our attention also on proportionality; we wanted to have the individual institutions in countries proportionately represented. So once again I would like to thank those, who have not been chosen to speak to understand this decision.

As for the declaration, all of us are aware that a declaration is the art of the possible. In France at the expert conference, politicians were present. As for the proposals of experts, we wanted to move further than Washington. We wanted experts to participate in the drafting of the declaration. We wanted the looted art declaration to be very specific. We wanted the declaration also to involve a vision of the future. We wanted to create an international association of those institutions and individuals that would act as a kind of umbrella but there was not enough political will to do that. We also wanted to create a central database that would concentrate all information on the property that is being searched. I think that this art includes all types of property.

I would also like to say something as a historian when it comes to the dating of the Holocaust. I think that a lot of art has been looted after the WW II also by the allied armies and I think we should pay attention to that too.

I am also a bit concerned about the terminology. The political declaration includes the word “confiscated”. It should be called “looted art”, that is a much broader concept.

And then I have something to say on the Center and the host organization. Together with the Federation of Jewish Communities while organizing this conference we have drafted a stock-taking document on what has been achieved since the Washington conference and we have also highlighted some of the failures, we have also recommended some of the changes that should be made. This stock-taking document was drafted a year ago, since then we have seen a certain development.

Now a few words on our Center: our research is based on archives and archival research and also inventories of books in

museums and galleries. The research has also compared different databases and different information. We have two internal databases: one containing archival material and the second a list of works of art. And by comparing these two databases we may come to certain conclusions.

According to Act 212 we are entitled to carry out our research only in those organizations that are under the Ministry of Culture. Since this particular act was adopted, we have seen some amendments or rather some changes that are not part of this act but are related to it. Some museums and galleries have been transferred to the newly established regions but these institutions that do not come under the Act 212 also possess some state-owned property so also these institutions should be included in our research.

Of course, the very scope of this research means that we have been proceeding at a fairly slow pace. Unfortunately, in the Czech Republic there is not a one single institution that could help individuals and their claims. Our situation is restricted by the fact that we have no legal subjectivity and we are part of the Academy of Sciences. And yet we would like to expand our activities, for example *www.restitution-art.cz* that is under the Moravian Museum. We will have to wait for a certain approval by one body. The only institution that has been cooperating is the Museum of Applied Art in Prague but of course we are not in the position to help individuals with the claims. All we can do is to recommend to them to approach this or that institution.

In our country, restitution must go through judicial procedures and therefore we would like to see what ICOM recommends happening also in our country as we would like to have a special commission or a special board that would be dealing with these

claims. We would also like to spend more time on education. Mrs. Koenigsmarková, the Director of the Museum of Applied Art, was talking about this yesterday. Museums unfortunately do not have enough money; they lack knowledge to carry out research within their institutions that is by the museums and galleries. Therefore we would like to help people from museums to gain this knowledge and to develop certain practices. In other words we would like to act as a consultancy.

That is all from me, thank you very much and let me say that I am very happy to see you all here in Prague.

Archives

► Patricia Kennedy Grimsted

UKRAINIAN RESEARCH INSTITUTE,
HARVARD UNIVERSITY, USA

DOCUMENTING LOOTED ART: PERSPECTIVES FROM THE ARCHIVES OF THE EINSATZSTAB REICHSLEITER ROSENBERG (ERR)

Adolf Hitler's ideological henchman Alfred Rosenberg was beheaded at Nuremberg, condemned to death as a war criminal; the charges against him included the looting of cultural valuables by his "Special Task Force," namely the *Einsatzstab Reichsleiter Rosenberg* (ERR). The ERR was only one of the main Nazi agencies involved with looted cultural valuables during the war, and it operated only in Nazi-occupied countries, not those incorporated in the Reich (and hence not in Czechoslovakia). While French authorities may claim a figure as high as 100,000 art objects taken out of France, the ERR boasted the seizure of over 20,000 works of art from French and Belgian Jewish collections as quoted in the Nuremberg trial. As concerns us here, most important for recovery of art after the war and its return to victims or heirs in the West (some by then having taken refuge across the Atlantic), was the detail with which the ERR carefully documented their Western art loot and its destinations.

The surviving records produced by the ERR are among the most important sources for what was looted, both in the East and the

West, to say nothing of the South in the Balkans, Greece and Italy. My extensive (300-page) international survey and preliminary guide describing the archival remains of the (ERR) is soon to be launched on the website of the International Institute of Social History (IISG/IISH) with which I am affiliated in Amsterdam. Support for publication and some of the needed editorial work has come from the Conference on Jewish Material Claims Against Germany (Claims Conference). The project, long in preparation, describes remaining ERR files in twenty-nine repositories in nine countries, providing the basis for our planned virtual "reconstruction" of all remaining ERR files in cooperation with the German Federal Archives (*Bundesarchiv*). Plans call for consolidation of dispersed ERR documents in a searchable digital system as a major new component of the record of wartime cultural plunder and retrieval.¹

My Amsterdam institute (IISG/IISH), I should mention, was also a victim of the ERR, and the IISH building on the *Keisersgracht* served as the ERR headquarters in the Netherlands. The IISH loot, however, did not include art, but rather books and archives (including many important Jewish socialist collections). What looted art came into ERR hands in the Netherlands came through the *Möbel-Aktion*, the sinister ERR offshoot for stripping the homes of Western European Jews who had fled or were deported. Most specifically the ERR Neuwied Collection included hundreds of art works from Dutch Jews, many noted as having been "confiscated from Jews at the Dutch border," but after transfer from the Neuwied customs house on the Rhine to the ERR repository in Kogl to the US Central Collection Point in Munich (MCCP) for restitution to their country of origin, they

¹ See the appended flyer with list of the twenty-nine repositories covered in nine countries. That publication will more fully document other projects mentioned in this report.

were turned over to the Jewish Restitution Successor Organization (JRSO) with apparently no attempt to find their Dutch Jewish owners or heirs.

Other wheelers and dealers such as Hitler's personal agent Kajtan Mühlmann were the ones responsible for most of the looting or Nazi-style "purchases" in the Netherlands. Mühlmann had already proven his looting skills in Poland, and was the one to have snared the famous Dürer drawings from the former Lubomirski Museum in Lviv (*Polish Lwów; German Lemberg*) for the Führer, on the heels of the Soviet annexation of Western Ukraine. The German Historical Museum (DIM) in Berlin can now boast of an admirable Internet database documenting loot seized for the Linz project, although seizure details are not always explained. But more details are still needed about the seizures of treasure hunters like the *Künzberg* Commandos and other N.S. agencies. In some cases, their loot was eventually turned over to the ERR.

Much of the art loot processed by the ERR was found after the war in designated ERR repositories in Bavaria and Austria, most of which I have identified in an appendix to my ERR Survey. Often those same repositories also held loot from other agencies, and in addition, important German collections evacuated for preservation. Hence in the postwar restitution process, works of art displaced from different sources, and not all of it actual loot, became intermingled. To complicate tracing the fate of ERR art loot, many modern or contemporary paintings that came into ERR hands in Paris, especially valuable ones of French Jewish provenance, but that were deemed "degenerate" by the Nazi regime, were siphoned off to the thriving international art market in profitable sales or exchanges. Many of them were used to enrich the collections of Göring or other Nazi elites. Others were siphoned off to Switzerland, for example, to the Fischer Gallery

in Lucerne, while an estimated 500 were destroyed in the symbolic N.S. bonfire at the Jeu de Paume in July 1943, so vividly described by French curator Rose Valland.

In terms of art looting, the ERR's most blatant claim to the status of war criminals was the seizure of over 20,000 works of art from over 200 private Jewish collections in France and Belgium. That whole process was instigated by Reichsmarschall Herman Göring in part to enrich his own collection. Significant postwar restitution of the ERR loot was possible thanks to surviving ERR documentation about the seizure and destinations of art objects processed in the Jeu de Paume in Paris, and the codes that the ERR had affixed to all of the works of art they inventoried and photographed. Today as part of the Claims Conference ERR project, an object-level Jeu de Paume database is in preparation at the US Holocaust Memorial Museum (USHMM) combining data from +/-18,000 ERR registration cards (US National Archives) with the original ERR inventories and photographs of those collections now held in the Bundesarchiv, Koblenz. We hope the database will also include information from shipping inventories indicating the repository to which the items were sent, and the Munich M CCP numbers (with repository numbers) for the items retrieved and processed for restitution to their countries of origin through the M CCP.

The *Bundesarchiv* in Koblenz is now finalizing an exemplary and greatly improved finding aid for the restitution records left over from the Munich and Wiesbaden CCPs that now comprise what many of us know as *Bestand B 323* (TVK). The *Bundesarchiv* plans to put the new inventory on its Internet site, linked to full text images of the entire record group, parts of which have already been digitized for the Claims Conference ERR project. But we still need to integrate and compare surviving German wartime documents

(including those created by the ERR) within that record group that are now split between Koblenz and the US National Archives in College Park, MD (NACP), because the National Archives and Records Administration (NARA) still lacks a comparable finding aid for their share of the MCCC files. I hope that the example of integrating data from the *Bundesarchiv* and NACP in our Jeu de Paume database, together with the descriptions I am providing in the ERR Survey and the new *Bundesarchiv* Koblenz finding aid, could be the start of further international cooperation in bringing together sources needed for provenance research on displaced art from the N.S. regime. The increased opening of French records, as described for the first time in my ERR survey, together with French plans for digitization of key files, and the projected NARA internet access to the OMGUS (RG 260) component of MCCC and WCCC restitution records, are further steps in this direction. Much more description still needs to be done on the American side, however, to reintegrate components of restitution records, now located on opposite sides of the Atlantic.

The newly launched database on the website of the German Historical Museum, compiled by an agency of the German Federal Ministry of Finance (BADV), correlating MCCC art registration cards – known as “property cards art” – and photographs from the BADV collection, is another example of a constructive starting place for more cooperative endeavors. I am hopeful that NARA will be able to provide digital copies of the MCCC property cards and photographs held in NACP that are now missing in Koblenz and Berlin, so that they may be integrated in that new MCCC database. I have found more of the MCCC property cards art in Paris that had accompanied restitution shipments to France. The Bremen database compiled fifteen years ago on the basis of MCCC property cards in Koblenz for objects returned to the USSR might also be a candidate for integration.

Indeed, we must not neglect Soviet losses in our discussions here in Prague. Across the European continent, the ERR also plundered considerable art on the Eastern Front, but in the Soviet Union they did not find world-class masterpieces in private Jewish collections similar to those they sequestered in France. Nor did they have the same caliber of knowledgeable art specialists to identify and catalogue the Bolshevik paintings, Orthodox icons, and archeological exhibits that they plundered in the East, although they did bring out with them some Ukrainian specialists as hostages to help. We may not find the same detailed item-level inventories that the ERR prepared in the Jeu de Paume. Yet, in Koblenz (B 323), I did find some ERR inventories of Russian icons that they had shipped to Bavaria from Pskov and Novgorod. The cultural monument registration cards that the ERR prepared in the early years of the war in Soviet lands recorded entire buildings with only occasional detail about individual works of art; many remain in Moscow and I found more in Vilnius. But from the Eastern loot, we do not find any photographic albums with confiscations comparable to those they prepared for the Führer to celebrate ERR seizures from France.

Today, the Russians are understandably as concerned as the French to document their losses and locate more of their cultural treasures that might have survived the war. First, to substantiate the record of plunder in the East and South of Europe, however, we have to piece together the surviving, but widely scattered, ERR operational reports, along with the rough inventories and shipping lists for the treasures they transported to their various Bavarian art repositories. We have to realize that there were necessarily different priorities and different patterns of plunder on the Eastern Front, where the only small private or Jewish-held collections were found in western areas annexed

to the USSR in 1939. Hence, unlike in France, the ERR looted art was primarily from state institutions, where often the ERR found only less valuable remains that Soviet authorities had not been able to evacuate or destroy under Stalin's scorched-earth orders, especially in some provincial repositories.

Some scattered lists and inventories nonetheless survive among ERR files and those of competing German agencies involved in cultural plunder. But the more serious problem in countries of the former Soviet Union is that the records of the cultural treasures that were found after the war or restituted from the West have long been classified, and only in the last few years have specialists had access to even a part of those records. This past February at a German-Russian conference at the DHI in Moscow (sponsored by the Dresden Gallery), was the first time I have heard a Russian scholar report any figures or details from Soviet sources for restitution of art and other valuables from American, British, and French authorities in Germany. Those newly opened sources appear to be a part of the Soviet equivalent to the US records for items restituted to Soviet authorities in the Munich and Wiesbaden CCPs. When matched up with other documents, they may provide new clues to identify looted items that survived and came back to the USSR, even if they were not always returned to the state repositories from which they were plundered. Given postwar problems in war-torn Soviet lands, and then the long Soviet denial of Western restitution, and the fact that many items returned to Soviet authorities never reached their home institutions, these new sources may suggest a scandal parallel to the French MNR collection. Much careful research lies ahead to determine accurate details regarding looted art from Soviet collections and its fate. I plan extensive research in Moscow this summer myself in that recently declassified series.

Access to archives in Eastern Europe, and especially the former Soviet Union, has improved tremendously since I started my research and compilation of archival directories there in the 1960s. In Ukraine, starting in 1990, I was among the first to appraise and report about what has turned out to be the largest surviving complex of ERR records, with files from the ERR plundering activities all over Europe, and especially with key reports about ERR operations in Belgium and the Baltic countries. Those files are now being scanned in connection with our ERR archival reconstruction project. Arrangements are underway to include a small segment of ERR files now in Moscow that came there from Minsk after the war, having been shipped with a 54-wagon train filled with over a million books collected in the ERR evacuation center in Ratibor (now Polish Racibórz) in Silesia. We also hope to include the even smaller complex of ERR files in Vilnius, although so far none of those appear to involve documentation on art looting.

Many Russian restitution-related records that do involve looted art, however, are still off limits, even to Russian government specialists in the Ministry of Culture and Academy of Sciences, which makes it very difficult to accurately assess Russian wartime losses, let alone the trophy foreign-owned art now in Russia and Ukraine. Archivists in the Russian Ministry of Defense Central Archive in Podolsk (outside of Moscow) have told me that I will never see in my lifetime the records of the Main Political Administration of the Red Army (GlavPUR), which are known to contain many documents concerning the retrieval and transport of plundered Russian cultural valuables, along with the trophy art and other treasures the Soviets plundered from Germany and Eastern Europe. Even Stalin's orders for the plunder and transport of cultural valuables by the Trophy Brigades (along with factories and wine) are still classified in the former Communist Party Archive (now RGASPI).

Growing out of my long preoccupation with archival finding aids in the former USSR – Russia, Ukraine, the Baltic, and other countries, I continue to emphasize the need for archival description. Even in countries where there are fewer problems of access, such as in the United States, there are still serious problems of “intellectual access.” Many national archives, including my own American ones, I believe, could do much more in this respect – not only in making more documents accessible on microfilm and digital copies on the Internet, but also in being sure those documents are better described in a way to facilitate their retrieval by researchers, and especially provenance researchers. OMGUS post-WW II restitution records have long been open in the United States, and are now even destined for Internet access, but as I have found in my ERR Survey, they are still not always adequately described for optimal “intellectual access” (as our Chair, Michael Kurtz, has heard me complain before).

As represented here on our panel, we now have crucial new vistas for access to long-closed French restitution records, thanks to the new 2008 French archival law that lowered the period of cloture (about which we will hear today from my French colleague). I appreciate that over the past two years, in connection with my ERR Survey, I have been one of the first to be permitted to search and describe many of the ERR-related components in the *Quai d’Orsay* collections. And earlier this spring, I was one of the first to see their elegant new archival home in La Courneuve, easily accessible on the metro from Paris. Those archives still badly need more detailed finding aids, before they can be opened for researchers to benefit from what we call “intellectual access”.

Physical access and intellectual access, to be sure, always need to go hand in hand. I fear that even with our own ERR project,

our sponsors are not putting enough emphasis on providing adequate funding and staff arrangements for professional description. Government officials and private funding sources involved with archival appropriations, it appears, always want to cut corners when it comes to the production of detailed finding aids that would guide researchers, and now especially provenance researchers, to the documents they need.

Here I can comment only much too briefly on the archival experience and perspectives gained in tracking down remaining ERR files and documentation regarding the fate of the ERR loot. I hope that my monograph (still in preparation) on the ERR and the postwar retrieval of their archives and their loot will help researchers utilize the documentation we have collected. The *Jeu de Paume* database being compiled by my colleague Marc Masurovsky, due to be launched later this fall, will also greatly improve access to the related documentation from that appalling ERR operation.

Having become better acquainted with the most voluminous related archives and relevant research facilities in the United States, Germany, France, the Benelux countries, the UK, Russia, and Ukraine, I have many more specific recommendations for further international research cooperation. Our meetings here in Prague, together with the contacts here developed, can only be a start, because we need much more time together for discussion and planning than our panel today provides.

► **Petr Bednařík**

DOCUMENTATION CENTRE OF PROPERTY TRANSFERS
OF CULTURAL ASSETS OF WW II VICTIMS,
CZECH REPUBLIC

**ARCHIVE RESEARCH ON THE ISSUE OF LOST WORKS
OF ART IN THE CZECH REPUBLIC**

I work at the Centre for the Documentation of the Transfer of Property and Items of Cultural Value from WW II Victims, which conducts thorough research in Czech and foreign archives. As regards our work methods, based on good cooperation with archive institutions, we are allowed to photocopy or digitally photograph relevant documents. At our workplace, the photocopies are then expertly stored in a computer database, in which all basic data for each individual document is listed – the archive, the call number, reference number, links with other archive documents, people and institutions figuring in the document, as well as the document's basic annotation. We are simultaneously working with a second "Works of Art" database, into which we enter data from the copied documents on specific works of art that are found in archive sources. Each item has its own record file, which contains all the data from the archive source. Unfortunately, we often encounter a problem in that only very basic data can be found about the item in the source (the artist, the title and the dimensions of the work). With the aid of computer databases, we then try to ascertain whether the item is also mentioned in other archive sources from which we could obtain further information about it. Having a computer database of archive records enables us to search in our documentation for all photocopies that pertain to a certain person or institution.

I would like to emphasize that searching archive sources on this topic in the Czech Republic is, for the most part, a complicated

activity. Our foreign colleagues probably have similar experiences. Working with inventories in archives represents a basic problem. A number of archive collections have inventories from an earlier date, which specifically means that they are not in documentary form on the archives' websites. Consequently, it is actually necessary to examine inventories directly at the archives. This is complicated further by the fact that inventories often only contain the basic characteristics such as call numbers or cartons in individual collections. Thus, it is not always possible to discern from such characteristics whether any sources on works of art are located there. Consequently, if we only find basic characteristics in an inventory (e.g., the confiscation of Jewish assets), we have to study these materials even though we might subsequently discover that they merely contain a small number of archive sources (or no sources at all) on stolen works of art. Thus, a situation often arises in which it is necessary to sort through a number of archive records, which nonetheless end up being irrelevant to our research. Naturally, this prolongs the period of study of individual collections. Nevertheless, our experiences show that it is necessary to conduct a genuinely extensive examination of archive collections. It is only possible to seek answers to various questions concerning the given issue by comparing many sources. If we come across a specific case, we must put together data from different archive sources as though we were assembling a mosaic.

It is obvious that archive research has already been underway for a long time; it is necessary to continue thoroughly examining archives for many years to come. The National Archives in Prague are understandably crucial in this respect. With regard to the given topic, it is important to conduct a detailed survey of collections concerning the activity of the Reichsprotektor's Office, which arranged the German administration of occupied territory at the time of the Protectorate of Bohemia and Moravia. These

collections contain documents that pertain to the persecution of the Jewish population, the Aryanisation of Jewish assets (i.e., Aryanisation orders, the activity of the Assets Authority (*Majetkový úřad*), individual cases of Aryanisation, and the appointment of fiduciaries (*Treuhänder*)). Furthermore, there are also documents that illustrate the movement of cultural assets (the activity of *Ein-satzstab I* and *II*, which made inventories of plundered works of art; the activity of the Andree firm, which was involved in the sale of these items; correspondence concerning the Protectorate's chateaus, museums and galleries; and an inventory of the Prague Castle and Černínský Palace collections). It is important to compare the results of domestic and foreign research. For example, we have inventories of the Prague Castle and Černínský Palace collections at our disposal from the National Archives, which we can compare with inventories of the same buildings that we studied in the *Bundesarchiv* in Berlin and in the Russian State Military Archive in the so-called "trophy" collections. We do not just deal with Jewish assets, but generally attend to the assets of people who were persecuted on the territory of the Protectorate.

The collections of individual ministries are also stored in the National Archives. These collections usually begin as far back as the era of the First Czechoslovak Republic. They contain documents from the post-Munich Second Republic and from the era of the Protectorate. It is important that the collections also deal with the postwar period. I would particularly like to draw attention to certain collections. The first of these is the collection of the Ministry of Labor and Social Welfare (*Ministerstvo práce a sociální péče*), which contains postwar applications for the restitution of movable chattels (including works of art) and real estate. In the documents, applicants specify the items whose return they are seeking. At the same time, the collection also contains notifications from the Ministry on whether restitutions were granted or not.

I would also like to mention the collection of the Ministry of Education and National Enlightenment (*Ministerstvo školství a národní osvěty*), which holds documents concerning the Ministry's correspondence with the National Gallery (after being renamed the Bohemian and Moravian Federal Gallery – *Českomoravská zemská galerie*) from 1939 to 1945, dealing with purchase committee reports, loans of items, individual collections, and the organization of the National Gallery. An important part of the collection also comprises applications for the export of works of art, including during the years 1938–1939, when an export permit was sometimes contingent on the owner of the collection having to leave the most precious items in Czechoslovakia (later the Protectorate). In this instance, I would like to draw attention to the publication by my colleagues Helena Krejčová and Mario Vlček entitled *Lives for Ransom (Výkupné za život)*, which deals with the export and enforced donations of works of art during the emigration of Jews from Bohemia and Moravia. It documents this issue using the example of the Museum of Decorative Arts (*Uměleckoprůmyslové museum*) in Prague and items in its collections that came from enforced donations.

A third collection that I would like to mention in this context is the one kept by the State Administration of Cultural Heritage (*Státní památková správa*), which includes applications for the postwar export of works of art. This collection contains documents concerning chateaus that were confiscated during the time of the Protectorate. Documents about the depositing of items from German confiscations in individual museum and gallery institutions are also another important source of information. There are also very substantial archive sources stored in the collection of the National Property Administration (*Národní správa majetkových podstat*), i.e., the institution that, from 1945

to 1950, administered assets that were forfeited during the occupation by their original owners under the coercion of national, political and racial persecution.

The Archive of the National Gallery in Prague (*Archiv Národní galerie*) is an important resource with regard to the subject of stolen works of art. It contains documents relating to the activity of the National Gallery (later the Bohemian and Moravian Federal Gallery) during the time of the Protectorate (e.g. minutes of purchase committee meetings, correspondence concerning exports of works of art, and the receipt of donated artifacts). This depository allows us to study archive sources from the postwar years (on the securing of works of art from German confiscations, applications for restitution, and the exportation of works of art).

I would also like to mention the Archive of the Ministry of Foreign Affairs (*Archiv Ministerstva zahraničních věcí*) in Prague. This ministry handled restitution and reparation duties after the Second World War. Studies in the archive concern papers that document the course of international negotiations, agreements, and treaties between states. Of particular importance with regard to the actual subject of artistic artifacts are papers from the Reparation and Restitution (*Reparace a restituce*) collection and the collection of the Central Reparation and Restitution Committee (*Ústřední reparační a restituční komise*), insofar as they concern works of art and other cultural assets. This archive contains individual applications/requests for searches for specific items in individual occupation zones and documents on negotiations in specific restitution cases and their subsequent outcomes. In evaluating these materials, we also carry out comparisons with documents from foreign archives, specifically the *Bundesarchiv* in Koblenz and the National Archives in London.

It is also possible to study archive materials that are useful in terms of plundered art in the Security Forces Archive (*Archiv bezpečnostních složek*) in Prague. In Collection 325 – State Security Investigation Directorate (*Správa vyšetřování Státní bezpečnosti*) – there are documents that were created in connection with the collation of data for the Commission for the Prosecution of War Criminals (*Komise pro stíhání válečných zločinců*). It is possible to obtain information from this collection on individual people who participated in the persecution of the Jewish population, including the confiscation of assets. The records of names of this archive allows us to find personal data and basic information about specific people that can be added to our investigations in a number of cases or, in some instances, to find references to documents that are today stored in other archives.

It is also necessary to conduct research in archives outside of Prague, which are also very important in terms of stolen works of arts. Another of this panel's contributions will deal with the Moravian Regional Archives (*Moravský zemský archiv*) in Brno. In another panel, my colleague Mečislav Borák will talk about the Regional Archives (*Zemský archiv*) in Opava and the State Regional Archives (*Státní oblastní archiv*) in Litoměřice. Naturally, these are only some of the archives outside of Prague. Of course, in order to thoroughly map this subject, it would be necessary to conduct heuristic research in a number of archives. It is obvious that regional research at the level of individual districts (the activity of individual administrative authorities, regional museums, and galleries) also represents an extensive field for research on works of art.

In my paper, I have tried to present basic information on the possibilities for archive studies in the Czech Republic in connection with the subject of works of art stolen during the Second World War. As

I have said, searching archive sources is immensely complicated. It is often very hard to find a number of archive sources in the given archives. Because a lot of the information is missing, however, we have to consider the possibility that it will not be possible to find it at all, because this data has not been preserved.

► **Anne-Georgon Liskenne**

FRENCH FOREIGN OFFICE/ARCHIVES, FRANCE

**FRENCH ARCHIVAL SOURCES AND RESEARCH
ABOUT JEWISH CULTURAL PROPERTY SPOILED
BY THE NAZIS BEFORE 1945**

**French Archival Sources and Research
About Jewish Cultural Property
Spoliated by the Nazis Before 1945**

I would like to thank the Conference organizers and the leaders of the “Looted Art” working group, especially on behalf of the French group, i.e., Ms. Isabelle Lemasne de Chermont, the Chief Curator of the Libraries and the author of numerous studies on the issue, and Mr. Guy Broc, Special Advisor to the Ambassador in Charge of the International Dimension of the Holocaust. I would also like to thank Ms. Caroline Piketty, curator at the National Archives, member of the Mattéoli Mission and private researcher on spoliated musical instruments, who has shared with me her extensive experience on the subject.

The spoliation of works of art in France by the Germans has been the subject of numerous studies and reports for almost 20 years. In his speech at the 53rd anniversary of the Vélodrome d’Hiver roundup on

July 16, 1995, the French President Jacques Chirac admitted for the first time the responsibility of the French State for the persecution of the Jews and its infeasible debt towards the Jewish community. Follow-up at the national level consisted of the establishment of a mission doing research in the archives of the spoliations. In 1998, the Washington Conference was held. The reunification of Germany finally provided powerful tools to search the archives with the goal of providing refunds and compensation to the beneficiaries of the families who had been victims of spoliation.

Research in the French archives thus enabled us to establish, within several years, the extent of the spoliation, to identify the entities responsible for the spoliation and for the restitutions, the looting process, the list of the relevant owners, their addresses, their properties, their destinies and, in the best case scenario, their location; these investigations involved demanding memory work but resulted in hundreds of assets being returned to the beneficiaries.

First, I will mention the key axes of scientific research in France in the last 20 years or so; second, I will describe the restitution process as it was re-launched in our country in the late 1990s; and third, I will talk about the outlook for research in the years to come. There are many institutions in France that deal with these issues; if the department I represent is more specifically involved in them, that is due to the fact we keep the archives and due to the contributions of the Ministry of Foreign and European Affairs (MFA) to the negotiations on the return of the works of art.

Archive-Based Research

The most important set of archives is the collection improperly called the “Rose Valland Archives;” more precisely, the “Archives

for Recovery of Works of Art” of the French Ministry of Foreign and European Affairs. These archives were created by various French institutions successively involved in the recovery of looted cultural property, by various public administration bodies active at the same time or in succession, by the Commission for the Recovery of Works of Art established by the Decree of November 24, 1944, the Office of Private Goods and Interests, the Central Recovery Office, the Berlin Art Recovery Service, and the Works of Art Recovery Service.

All of these archives were conveyed to Rose Valland in the mid-1950s so that she could continue the research that she had started 10 years before. In the 1960s, the archives were stored in the Louvre by the Directorate of Museums of France before being transferred to the castle of Bois-Préau. They were returned to the Ministry of Foreign Affairs in February 1991 (archives) and in March 1992 (files).

The Art Recovery collection (about one thousand boxes) covers the period 1944–1974 (some files contain older documents as well). An inventory of this collection was carried out at the level of individual folders, or even pieces, to allow searches in the ACCESS database without previous classification since 1991; at present, this database includes about 96,000 files, and, since 1998, it has been used to update the *Répertoire des biens spoliés* (*Directory of Spoliated Assets*), published in 1947–1948. This work consists of tracking, in several stages, each cultural asset that has been claimed by family members and has not yet been returned. The research focuses primarily on paintings and graphic arts, i.e., approximately 13,600 files. The work has not yet been completed due to the complexity of the verification. The reorganization and classification of the fund will enable researchers and families to conduct their own research. The DMF plans to

digitize and publish on its website all eight original volumes of the *Répertoire des biens spoliés* and their supplements.

In 1998, the French Ministry of Foreign and European Affairs published an online catalogue¹ of spoliated works not returned to the heirs of Adolphe and Lucie Schloss. The catalogue includes 166 of the 333 works of art stolen in April 1943 with the complicity of French authorities. The inventory was prepared according to the various lists found in the Art Recovery archives kept by the Ministry of Foreign Affairs. The letters of discharge signed by the Schloss heirs served as the basis for establishing which works had been actually returned.

Moreover, documents relating to spoliation are kept in many archives. They have been identified in two guides to sources, the *Guide des sources de la Seconde GM* (Guide to Sources of WW II) published in 1994 and, more specifically, the Study Mission on the Spoliation of Jews in France, led by C. Piketty (*Guide des recherches dans les archives des spoliations et des restitutions*) published in 2000. They refer mainly to the National Archives, to the departmental archives and to the Centre of Contemporary Jewish Documentation (CDJC).

National Archives

The AJ38 sub-series of the fund of the General Commissariat for Jewish Questions (CGQJ) and of the Restitution Department: its inventory was prepared by John Pouëssel and Marie-Thérèse Chabard and published in 1998. The National Archives completed the microfilming of all of these documents to ensure their conservation in partnership with the Foundation for the Memory of the

¹ See: http://www.diplomatie.gouv.fr/fr/ministere_817/archives-patrimoine_3512/dossiers-cours_11553/spoliations-1940-45_11554/index.html.

Shoah. In fact, the period documents – which are often on onion-skin papers, photostats, or are written with delicate ink – are particularly vulnerable when viewed. On a case-by-case basis, their microfilming could even be supplemented by their digitization.

The operation was entrusted to a team of seven 20th Century Department members (three heritage curators, one person responsible for the study of documents, one documentation secretary, and three Category C agents). This team also coordinated the work of numerous temporary employees seconded by the Foundation for the Memory of the Shoah on the basis of an agreement. The complete microfilming of the documents took six years. The microfilming operations included 6,500,000 views and 42,315 working hours. In total, 1,589 microfilms were made. The relevant cost was 6.5 million francs, which represents the largest commitment ever made by the Foundation for the Memory of the Shoah. The microfilms were submitted on a continuous basis to the Reception and Research Centre of the National Archives. On March 26th, copies were delivered to the Foundation for the Memory of the Shoah. Additional copies are going to be submitted to the United States Holocaust Memorial Museum and to Yad Vashem.

The National Archives also store the German archives from the period of the Occupation, the records of the Ministry of Fine Arts or the Ministry of Trade, and all of the files relating to arrests and deportations of French Jews. They provide information on the destinies of these people, and help to establish the limits of their existence and the destinies of their properties.

In 2004, the Office for Administrative Research was established upon the initiative of Ms. C. Piketty. Its purpose was to create a friendlier environment in which to receive the relatives of the deportation or spoliation victims. Previously, they were received

in the inventory room, and thus suffered a stressful confrontation with their family history.

We must not forget the departmental archives, which provide clues for research on cultural assets looted outside of Paris. The work of the researchers is also facilitated by a joint digitization project of the French Archives and the Holocaust Memorial Museum in Washington that is currently in progress. Let me quote C. Piketty on the case of the Paris Archives which contain the records of the auctioneers, of the persons deprived of French nationality, and of illegal profits:

“At the Shoah Memorial, the Center for Contemporary Jewish Documentation (CDJC) has been collecting primary source material since the last years of the Occupation. From the very beginning, the CDJC archivists have performed – and are still performing – an indexing work which is unparalleled in France. Each document is subject to specific investigation and analysis. The massive digitization project which is under way – despite the fact it has not yet been completed – allows direct access to the documentation on the Shoah Memorial portal. The basic documents contain information on the looting of art, on the seizure of certain collections of works of art and the documents of the Nuremberg Tribunal. The files relating to Alfred Rosenberg are very numerous and they help understand how the looting process was organized. The CDJC resources are remarkable as a source of general information, information on historical processes and also information on individual destinies.”

The foregoing source inventories have facilitated the research of the Mattéoli Mission, which was established in 1997, its

Chair, the President of ECOSOC, Jean Mattéoli, and its Vice-President, Professor Steg, the President of the AIU. The objective of the Mission was to “examine the conditions under which both movable and immovable assets [i.e., not only works of art] belonging to the French Jews were confiscated or, in general, acquired as a result of fraud, violence or theft between 1940 and 1944 either by the occupier or by the Vichy authorities.” All state administration agencies were instructed to provide their assistance to the Mission. Even before the full opening of the war and occupation archives to the public,¹ all members of the Mission had access to the period documents, to private files which can be made publicly available only after 60 years as provided by the 1979 Act, irrespective of whether they are kept by the National Archives, the Archives of the Police Headquarters, the Archives of the Deposit and Consignment Office, the Archives of the Ministry of Foreign Affairs, or by any departmental archive. This was the first time that a comprehensive study was prepared on the postwar issues. The report of the Mission is available on the French Documentation website.²

The report estimates the value of the assets confiscated from the Jews, besides the Germans’ looting of their apartments and works of art, to be EUR 1.35 billion (more than FRF 5.2 billion during the relevant period). One of the outcomes of the work

¹ Following the report by Guy Braibant on the French Archives, published in 1996 in “La Documentation française,” and in the context of Maurice Papon’s trial, the Prime Minister requested, in a circular dated October 2, 1997, that the archives from the occupation period should be made more accessible to the public. Several Ministerial decrees were issued in 1998 and 1999 to open the WW II archives to the general public. The files of the Commission for the Recovery of Works of Art and the court records are still subject to derogation. The implementation of the Act of July 15, 2008 on the Archives should result in the public availability of all of the WW II documents.

² See: <http://www.ladocumentationfrancaise.fr/rapports-publics/984000110/index.shtml>.

completed by the Mission was the establishment of a database of works of art deposited in museums due to the fact that their owners have not been located; another result was the creation of the Commission for the Compensation of Victims of Spoliation (in September 1999).

Research Based on the National Museums Recovery Program (MNR)

The decree of September 30, 1949, which ended the existence of the CRA, also provided that assets with an “MNR” status that had not been returned should be labelled “provisional inventories,” separate from the inventories of the national collections. This was done by the relevant departments, and these inventories were made available to the public. These works, most of which had been spoliated, were exhibited at the Compiègne Castle, located to the north of Paris, from 1950 to 1954. There were about 2,000 works, including 1,000 paintings as well as sculptures, drawings, and other objects of art.

In the spring of 1997, five major national museums (Louvre, Orsay, Pompidou, Sèvres and Versailles) exhibited around 1,000 works of art whose owners or relevant beneficiaries had not yet been identified.

In 2008, an exhibition entitled “*A qui appartenaient ces tableaux*” (“To Whom Did These Paintings Belong?”) was organized in the Israel Museum in Jerusalem and then in the Museum of Art and History of Judaism in Paris, as proof of the French policy of searching for the origins of the looted works of art and trying to return them. Fifty-three paintings were exhibited; one of them, the *Pink Wall* by Matisse, was returned by the Minister of Culture and Communication.

French Policy of Return of the Looted Cultural Property

On the basis of all of these years of work, an efficient return policy could be set up in 1993; its general principle is strongly supported by France, which participated in the international conferences in Stockholm, Moscow, Magdeburg, and Vilnius from 2000 to 2002.

At the bilateral level, a French-German working group was established in 1992 with the goal of finding the assets looted in France which were still located in Germany, mainly on the territory of the former German Democratic Republic, and arranging for their return to France. This group has organized many reciprocal refunds. The French Ministry of Foreign Affairs leads negotiations on the transfer of the responsibilities of the OBIP (the Office for Private Assets and Interests). After the termination of the activities of the Commission for the Recovery of Works of Art in December 1949, the Office for Private Assets and Interests, which reported to the Ministry of Foreign Affairs, was appointed to deal with all of the restitution transactions thus far unresolved by the Commission for the Recovery of Works of Art, as well as with any new cases which might have fallen under its jurisdiction. Its responsibilities were later transferred to the Economic Department of the Ministry of Foreign Affairs until 1991, when they were given back to the Archives.

In order to illustrate the different restitution processes, it is necessary to give some examples:

- ▷ The assets can be *returned voluntarily* by individuals, as has been done in the case of a flag, the Rethondes wagon handles, the Aubusson tapestry, the Nobel prize medal awarded to a writer, etc.

- ▷ Works of art (paintings, sculptures, etc.) can be returned following the negotiations of the Ministry with various countries:
 - with the Federal Republic of Germany: In 1994, 28 paintings were returned to France from Berlin, of which eight were returned to their owners. The rest were delivered into the custody of French museums until new documents emerge allowing the identification of the owners.
 - Negotiations with the Netherlands and with the Czech Republic have enabled also the return of a van Delen and a Rembrandt work.
- ▷ The activities of the Ministry can also involve decisions to return an asset to a family in coordination with the Directorate of Museums of France, if new documents enable the identification of a work and its owner with more certainty. Such returns have been facilitated for works of Gleizes, Picasso, Granet, Monet, Leger, etc., i.e., 47 paintings, sculptures, stained glass, objects of art kept in French Museums under the MNR (*Musées Nationaux Récupération*), REC, or OAR categories.
 - For example: In 2003, *Portrait of the Artist* by Vigée Lebrun and *Mountain Gorge* by an artist of the Swiss school were returned to the heirs of C.; the heirs, who had emigrated to the United States, were sought through the US and Belgian embassies and consulates (one year of research). Due to the history of the works after they were located in the CRA and Koblenz archives, they could not have been returned immediately in the postwar period as they had been assigned to other artists and known under

other titles than those under which they were claimed by Baron Cassel.

- ▷ The Ministry of Foreign Affairs can also, on its own initiative, demand the return of paintings after having prepared the claim file for the beneficiaries of the spoliated works' families. This was done for the paintings by Snyders that were requested from the Washington National Gallery and for the Vuillard painting returned in August 2006 by the National Gallery of Canada.
- ▷ The Ministry's activities can consist also of providing documentary evidence in a legal action undertaken by individuals in France or abroad.
- ▷ This final example relates to the donation of a work rather than its return in the proper sense of the word, but it is worth mentioning as an exemplary case dealt with under the auspices of the Ministry; a painting denominated *Jewish Engagement* was donated to the Museum of Art and History of Judaism. The donor, Ms. X, found the painting in her parents' house, formerly occupied by the Germans, and decided to donate it because she suspected that it had been looted. The Museum and the Ministry of Foreign Affairs will return this work of art if there is sufficient evidence from which to identify its owners.

Since its creation in September 1999, the Commission for the Compensation of Victims of Confiscation (CIVS) has dealt with almost 26,000 claims. Out of this large number, 1,868 cases were applications for claimed cultural assets. However, of these, only 141 files relating to one or more works of art claimed, and three in the MNR category, could have been returned by the CIVS.

Compensation was provided to those whose claims were not rejected. The CIVS consults French archival sources (private archives, French museums, the National Archives, the archives of Paris, departmental archives and the archives of the Ministry of Foreign Affairs). One of its active members, Mr. Jean-Pierre Bady, will participate in this working group this afternoon, and he will compare the return and compensation practices in four European countries.

Returns of Archives. Example of Archives Kept in Russia Since 1945

Starting in June and July 1940, the German occupying forces seized many French archives – ministerial archives, archives belonging to politicians, to Jewish individuals, to socialists or Freemasons considered “enemies of the Nazis,” and the archives of trade union federations. The looting lasted until 1943.¹ The archives were transferred to Berlin where they were studied by the German secret services.

After the capitulation of the Third Reich, these records were seized by the Red Army and most of them were transferred to the Special Central State Archives, a secret facility opened in 1946 to the north of Moscow. In 1966, the Soviet government surrendered to General de Gaulle documents on the French Resistance and the archives of four French personalities: André Maurois, Julien Cain, Bernard Lavemue and Professor Edmond Vermey. It was not until the end of the Cold War that the presence of French archives in the special archives of Moscow was reported by Patricia Kennedy Grimsted, “the true discoverer of the lost treasure”².

¹ According to a report from 1947, it included 20 million manuscripts, archives and books (S. Coeuré, p. 59).

² (S. Coeuré, *La Mémoire spoliée*, p. 13).

On November 12, 1992, France and the Russian Federation signed an agreement on cooperation relating to public archives, on the research and mutual return of archives, copying of documents, joint publications and organization of exhibitions.¹

Many archival collections held in Russia which had been spoliated in France by the Germans were returned to France through the Ministry of Foreign and European Affairs. These collections belonged mainly to Jewish personalities such as Marc Bloch, Léon Blum or Paul Rosenberg, or to institutions such as the Central Committee of the World Jewish Union and French Jewish and Zionist organizations (i.e., the Jewish Colonization Association).

Outlook

- ▷ The DMF shall improve the existing online database of the MNRs: i.e., shall update the references and bibliography and improve the indexing.
- ▷ Digitization Plan: the Archives of the Ministry of Foreign and European Affairs ordered the restoration of the glass plates representing the works looted mainly by Göring, and plans to digitize these plates along with the copies of the photographs in order to put the relevant works online. The Department management also plans to digitize about 4,500 files of the CRA and OBIP, and the ERR lists.
- ▷ This plan is related to the NARA project (Michael Kurtz).

¹ Decree No. 93-901 of July 12, 1993 promulgating the Agreement between the Government of the French Republic and the Government of the Russian Federation on cooperation relating to public archives, entered into in Paris on November 12, 1992. See: <http://www.legifrance.gouv.fr/WAspad/UnTexteDeJorf?numjo=MAEJ9330027D>.

The application of the Act of July 15, 2008 on Archives should ensure the public availability of all of the WW II documents.

Conclusion

“The issue of works of art is an extremely difficult one as their traces cannot always just be found in the public archives [which are often very incomplete]. The Mattéoli Mission members had to deal with the problems related to private archives, which were particularly important in case of archives belonging to galleries or to art dealers. To trace the trafficking and sales of works of art during the Occupation, in the postwar period and even up to date, it is vital to find the archives of the galleries and of the dealers who have created them: there is still a lot of work to be done before we know what documentation is a reliable source for the researchers.” C. Piketty

Sixty years after the events of the war, this work is still in its early stages although great efforts have been made, especially since the 1990s, by archivists and historians.

Recent studies include: *Livres pillés, lectures surveillées* (“Looted books, reading under surveillance”) by Martine Poulain, who studies the archives of the Commission for the selection of books stored in the National Archives; the archives of the recovery of the works of art; Hanns Christian Lühr, *Der Eiserne Sammler*, published in 2009 mainly on the basis of digitized photographs from the Göring collection kept by the Ministry of Foreign and European Affairs.

► **Božena Kovářová**

MORAVIAN DISTRICT ARCHIVE, BRNO, CZECH
REPUBLIC

**ARCHIVAL RECORDS IN THE MORAVIAN
DISTRICT ARCHIVE IN BRNO**

Ladies and Gentlemen:

I would like to take this opportunity to acquaint you with archive sources concerning the Aryanisation of Jewish property in Moravia and the postwar restitution of that property, which are stored in the archive of the Moravian Museum in Brno. In view of the subject of this Conference, I shall concentrate on documents concerning the treatment of works of art, even though artworks only comprise a specific fraction of the archive records. I would like to point out that, in view of the fragmentary nature of the material, it is not possible to list all archive collections. Nevertheless, I shall attempt to mention all the most important ones.

The most significant set of files can be found in the archive collection of the Reichsprotektor in Bohemia and Moravia, at the Office for Moravia in Brno (B 251). Files on the Aryanization of Jewish assets have the shelf numbers 7900–7999. As regards content, they specifically concern provisions for the sequestration of industrial enterprises, shops, and agricultural property. They also deal with the Aryanization of these assets, land-register paperwork relating to Jewish property, and the handling of Jewish capital, jewelry, securities and insurance policies. Other documents include a section on the status of Jews in general and on the implementation of anti-Jewish measures in particular. The Reichsprotektor's Office effectively began operating in Brno as early as April 16, 1939. It was virtually shut down in 1942

after an extensive reorganization, and subsequently housed only a department for cultural policy. Most of the other existing competences and clerical tasks were assumed by the Brno Regional President, an administration established by order of the Reich (B 252), which continued working on open Aryanization cases. In this collection, in paperwork concerning enemy assets, there are reports from haulers throughout Moravia on whether they have the property of Jews or foreigners in their depots.

Supreme regional councils (Oberlandrats) were established as lower-level branches of the German administration. From the outset, duties assigned in decrees issued by the Reichsprotektor on June 21, 1939 and January 26, 1940 on Jewish economic enterprises and the exclusion of Jews from economic activity in the Protectorate were among the most important tasks carried out by these bodies. Our archive contains documents from the *Oberlandrat* for Brno, Jihlava, Kroměříž, Prostějov, and Zlín (B 254, B 255, B 256, B 257, B 258). In these collections, there is a total of 39 boxes of files, which primarily deal with the Aryanization of Jewish firms and real estate, sequestration provisions, and other aspects of the Jewish question.

The collection of the Customs Investigation Bureau, Brno Branch (D 25) (*Zollfahndungsstelle in Brünn*) has been almost completely preserved. Besides Brno documents, it also contains documents from branches in Jihlava, Uherské Hradiště, Moravská Ostrava, and Olomouc. On the basis of a regulation issued by Adolf Hitler on the Protectorate of Bohemia and Moravia dated March 16, 1939, the Protectorate became part of the German customs area. Consequently, German customs authorities were established on the Moravian-Slovak border. Initially, they were subordinate to the Reich authorities, but after a reorganization in 1941, the Brno office became a branch of the *Zollfahndungsstelle*

Prag. Besides routine foreign-currency offenses, the customs investigation bureaus were entrusted with special financial duties, especially with respect to Jewish monetary assets, securities and jewelry. Most of the collection comprises individual investigation dossiers and criminal files. Of particular interest are lists of Jewish assets in individual financial institutions, Gestapo notifications about the seizure of Jewish property, or orders for the sale of jewelry to the Hadega firm in Prague (*Handelsgesellschaft Prag* – this commercial company carried out valuations and also executed the enforced sale and purchase of Jewish jewelry and precious metals).

The originator of the archive collection of the German Administration of Seized Assets (G 427) is the *Treuhand und Revisionsgesellschaft*, specifically its branches in Brno and Ostrava. This corporation administered Jewish property and other seized assets. Among other things, the collection contains seventy boxes containing the records accounting for chattels for the Asset Authority of the Reichsprotektor in Bohemia and Moravia (the *Vermögensamt*). These are arranged alphabetically according to the original owners, and they contain lists of pictures, carpets, period furniture, silver and gold utensils, and jewelry. The lists have been very thoroughly prepared, and occasionally even contain a brief biography of the artist who painted a picture. Most of the collection (60 boxes) comprises documents on individual seized assets (usually finances, accounts, insurance policies, and houses), which are arranged alphabetically according to the names of the original owners.

The Emigration Fund for Bohemia and Moravia (*Auswanderungsfond für Böhmen und Mähren*) was another of the institutions that was established for the purpose of administering and liquidating Jewish assets. Of the activities it carried out, our archive has

documents from its offices in Brno and Jihlava in the Emigration Fund, Brno Office (B 392) and the National Administration of Assets, Jihlava District Office (B 283) collections. The Brno Office's collection contains documents on individual houses with Jewish owners in the city of Brno from the years 1939–1945 arranged according to cadastral territory and the building registration number. Each file contains a contract for the enforced sale of the real estate to the Emigration Fund, an official evaluation, a statement by the owner on the condition of the building as well as easements and insurance pertaining to it, an excerpt from the land registers, an announcement by the *Oberlandrat* on the appointment of an authorized representative, lease contracts, and possibly proceedings concerning the sale of the real estate. The Jihlava Office contains documents of this type, not just for Jihlava itself, but also for an extensive area of western Moravia. The collections have materials dating through 1950. Consequently, they also have documents from the National Asset Administration Authority and the Emigration Fund. National administration was imposed on the abolished Emigration Fund by way of a decree issued by the Ministry for the Protection of Labor and Social Welfare (dated June 8, 1945, ref. no. P-1809-1/1945). Files concerning individual houses are arranged alphabetically according to localities in two series. The first comprises files on restituted houses that were returned while the second contains files on real estate that was transferred to national administration by people's committees or to communal enterprises.

The aforementioned comprises a cursory list of material exemplifying the process of seizing Jewish assets during the Second World War. Naturally, it is not possible to ignore written materials documenting how the consequences of this process were dealt with after 1945 in restitution proceedings. The Moravian Regional Archive contains the most documents in the collection

of the Provincial People's Committee in Brno (B 280), which existed from 1945 to 1948. It passed on unresolved cases to its successors, which operated from 1949 to 1960, i.e., the Regional People's Committees. Of these, we have stored documents from the Regional People's Committees for Brno, Jihlava, and Gottwaldov (B 124, B 126, B 125). In 1950, the Regional People's Committees also took over the unresolved paperwork of the financial public prosecutor's offices and bureaus of the National Renewal Fund, who participated as representatives of the state in restitution cases involving Jewish assets. (Consequently, it is not possible to overlook the collections in the Jihlava (D 153) and Uherské Hradiště (D 156) financial public prosecutor's offices.) I have also come across cases where restitution proceedings were not completed until the end of the 1960s by another successor, the South Moravian People's National Committee in Brno (B 338). The work of each researcher and employee was made immensely harder by the fact that Jewish assets were not dealt with in any of the aforementioned institutions as a special separate group, but can be found nearly anywhere. (To give you a better idea – the collection of the Brno Provincial People's Committee contains paperwork on state citizenship, national loyalty certification, registry paperwork, particularly death declarations, name changes, war damages proceedings, the establishment of national administration for industrial enterprises, and appeals against the confiscation of property. In the Regional People's Committee documents, the financial, agricultural, and economic sections are crucial for searching for Jewish assets).

This year, a separate range of restitution files stored in the records office of the Municipal Court in Brno has been taken over. At present, these files are part of the collection Brno People's Civil Court (C 152). They comprise around 40 boxes, which predominantly contain cases involving the restitution of Jewish

assets from the years 1947–1951. According to Act No. 128/1946 of the Collection of Laws, dated May 16, 1946 (on the invalidity of property rights proceedings from the era when there was a lack of freedom and claims concerning this invalidity), in the event of a rejection of an application for the return of property by an institution that established national administration (or if it issued no statement on the restitution claim within a deadline of three months), the claimant could exercise his claim before the appropriate regional court.

In this list, I cannot overlook one completely exceptional collection, namely Moses Löw Beer, national administration of private property (H 1008). The entire collection is only four cartons of archive records. The members of this family who were also partners in the firm Moses Löw Beer left the Czechoslovak Republic in 1939. Thanks to this decision, they all survived the war and lodged restitution claims when it was over. The collection contains completely unique material, which documents the course of national administration and restitution proceedings in the years 1945–1954 with regard to the private assets of this extensive and very important family of Moravian industrialists. The assets consisted of securities, insurance policies, accounts, automobiles and real estate, including the world-renowned Tugendhat Villa. The collection also includes lists and valuations of items stored in individual houses in Brno and Svitávka.

In conclusion, I would like to state once more that this is not a complete list of all archive collections in which it is possible to find information on the fate of Jewish assets. Nevertheless, I have attempted to mention all the most important archive collections, particularly those that have, in the past 15 years, become the basis for dealing with applications by natural persons and

legal entities to search for documents concerning their property. These archive records are also becoming an important source for academic research on the era of the Second World War.

► **Marc Masurovsky**

UNITED STATES HOLOCAUST MEMORIAL MUSEUM, USA

**A NEW PARADIGM FOR RESTITUTING
LOOTED CULTURAL PROPERTY**

First, I would like to dedicate this presentation to the memory of Officer Stephen Jones who lost his life on June 10, 2009, at the hands of an American neo-Nazi, while protecting the US Holocaust Memorial Museum in Washington, DC.

Second, I regret the absence of a number of veterans of art restitution like Willi Korte, Ori Soltes, Konstantin Akinsha, Randy Schoenberg, and many others.

Third, I would like to restate the obvious:

- ▷ The Holocaust is a very personal matter. It engulfed the lives of six million Jews and five million non-Jews across continental Europe and North Africa. Those men, women, and children died in a network of 20,000 prisons, ghettos, camps and extermination centers, stretching from the Channel Islands to the far reaches of Estonia and the shores of Tunisia.
- ▷ The Holocaust, in particular, and the WW II, in more general terms, went hand in hand with the forcible transfer

and seizure of property of all kinds belonging to the victims of Nazi/Fascist persecutions.

- ▷ These forcible transfers and seizures reshaped the wartime economies of Europe and laid the foundations of a new economic order that stretched into the postwar era.
- ▷ The highly selective punishment of collaborators and war criminals prevented the victimized populations from achieving a badly-needed measure of justice and closure, which is one reason why we meet here in Prague, 64 years later.
- ▷ All in all, after war's end, 55 million people were dead, one third of Europe's infrastructure lay in tatters, in some countries, like the Soviet Union, a third of the male population had been killed, creating a multi-generational trauma with severe consequences on the social, cultural, economic and spiritual life of the survivors.

The artistic legacy of all nations under Nazi/Fascist occupation or control was amputated, embodied in the loss of creative power of thousands of visual and performing artists, most of them Jewish or belonging to groups targeted for special treatment by the occupiers and their collaborators. Those left to survive were, for a large part, either collaborators themselves or those whose styles conformed to the needs of the regimes in place.

The works of art stolen by the Nazis and their local henchmen belonged to these persecuted artists, as well as to collectors, dealers, and institutions. If we look only at the Jewish community and accept a broad definition of cultural property, several million objects were looted. If we add cultural property forcibly

removed from all other victimized households across occupied Europe, we can easily think of at least 5 million objects, excluding books, silverware and accessories.

Where are those objects? What are those objects? Who owned them? Who took them? Where did they go? Were they sold? Who acquired them? For those seeking restitution of their cultural losses, the answers lie in part in historical archives. It comes as no surprise, therefore, that restitution and documentation are organically linked. Ultimately, no one can argue against the fact that open access to historical archives can only facilitate the reconstruction of a racially – and politically – motivated criminal act associated with mass murder, genocide and persecution on a continental scale. Restricting access to those records would thus signal an avowed reluctance to come to terms with an obvious historical reality, an attempt to rewrite history through concealment of documentary proof of crimes which occurred over a twelve-year period.

Every nation on the continent of Europe is implicated because it is in the very nature of bureaucratic societies to build walls of silence and secrecy around the historical truth. What is there to hide that is so dangerous after 64 years? For starters, the names of collaborators, their ties to ruling elites, their illegal and immoral transactions on wartime art markets, the protections they sought then and in the postwar period, murky tie-ins with intelligence agencies, government bureaucrats, war criminals seeking refuge in safe havens. Cynical dealers, museum curators, and directors, politicians from right, left and center who profited from illicit acts. In sum, the many facets of a highly corrupt art world and its attendant coterie of politicians, businessmen and oddities from fading aristocracies. I guess that might pose a problem, although it is a historical problem, but it might resonate today

only because the sins of the fathers, mothers and uncles are transferred to their progeny and subsequent generations. It is true then: access to information is dangerous, at least for those who have built their careers on deceit, secrecy, and the protection of their privileges.

Let's go back to the end of the WW II. Although we are not here to debate the pros and cons of Allied restitution policies, I would argue that, all in all, Allied officials – American, British, French, Soviet and others – were unable to address the full extent and scope of the plunder, despite valiant attempts by individual officials to mitigate the horrors of the war. For the Soviets, the solution was relatively simple. Faced with massive destruction at home, their armed forces resorted to wholesale removals of property under their care with some notable exceptions and they proceeded to appropriate those items *manu militari*. However, what was true on the west bank of the Oder River equally applied to the east bank of the Oder River. Cultural property from Russia, Poland, and Latvia ended up in the Western Allied zones of occupation, while Dutch, Belgian, and French collections found their way into Slovakia, Silesia and as far as the Ukraine, deep within the Soviet sphere of influence and control. Similarly, German and other administrative records pertaining to the special handling of cultural property in occupied territories ended up in hundreds of depots, administrative buildings, and bunkers scattered about battlefields. Those documents either went east or were apportioned like a deck of cards among the Allied powers. One could spend half a lifetime untangling the tortured path of those archives seized by military units, and my colleague, Pat Grimsted, is an extraordinary living example of such an endeavor.

When searching for information on stolen cultural property, Allied transfers and removals of property and records have only

complicated the task of restitution-minded individuals to find the evidence needed to facilitate the return of stolen objects to their rightful owners. And yet, documents in governmental archives only provide us with a partial understanding of how objects were seized, where they may have ended up, and who might have been their owners after the war's end. The rest of the story is buried in the records created by private owners, gallery directors, museum officials, art historians, insurance executives, corporate officers, foundations, auction houses and so forth. When we speak of access to archives we must emphasize all archives, public as well as private.

In retrospect, the postwar era was characterized by the wholesale recycling of millions of stolen cultural objects, through private hands, institutions and corporate entities. Each transaction produced some kind of record, however flimsy, at some point in time. And yet, nothing has really been done to demand an accounting of such transactions since 1945. Those who bought, sold, or traded stolen cultural property in the immediate postwar years, did so oftentimes knowingly with the consent of public officials in all countries involved in the Second World War. The double standard which has shielded the art market from inconvenient scrutiny in the postwar era prevails even today with the silent consent of public officials, even those who clamor for restitution. It is a type of hypocrisy that should end here in Prague, but for that to occur, decision-makers need to display a modicum of courage.

I spoke about a new paradigm for restitution. A paradigm is a fancy way of saying that a number of conditions have to be met in order to produce a tectonic shift in the way we approach restitution. First, there has to be a willingness to engage in such a process. Rather than using concerns over privacy rights of

individuals as an excuse for denying access to historical records that are over 64 years old, each national government present today must examine ways in which historical research on racially and politically motivated thefts of cultural property can proceed without viewing these efforts as infringements on the rights of individuals who, for the most part, are long dead.

As hinted earlier, most of the negative fallout from any opening of archives pertaining to stolen property may result in embarrassment and red faces for those who are implicated in thefts that occurred two generations ago, assuming that they are still alive. Added to a willingness to engage in such a process, there needs to be a recognition and acceptance that access to specific archival collections is inextricably tied to restitution. Any movement to open an archive must go hand in hand with a national commitment to enact laws to permit restitution or to enforce existing laws or establish new mechanisms to return stolen objects to their rightful owners.

An arrangement needs to be reached with the players – major and minor – of the private art market whereby access to information pertaining to the present whereabouts of a stolen object can be guaranteed without compromising sources.

Where institutions are the custodians of stolen cultural property which their governments view as war reparations, another discussion needs to take place between consenting adults who are mature enough to hold such a discussion. After all, 64 years have elapsed since the Allied victory brought to its knees the National Socialist behemoth and its fascist cohorts. For 64 years, an untold number of objects have been sitting in a *netherland* of omission, neither exhibited nor destroyed, just sitting. Once in a while, some surface. What does it take to obtain the release of

these objects so that they can be identified, and returned to their rightful owners whoever they might be, Jew, non-Jew, private individual, institution?

The first baby step or Level 1 towards such an ambitious goal is the inventory. Inventories are important documents because they tell us something about the content and scope of cultural property assets, sometimes value, identification of the work, and perhaps even something about an owner. Inventories also help to recreate itineraries of works of art forcibly removed from homes, offices, display cases, walls. If the inventory of the objects sitting in *netherland* exists, we should discuss ways of making that inventory available for consultation and study so that we can all understand what we are dealing with here. Without the inventory, we will not know what is in storage, thereby continuing to deny restitution to someone and preventing that someone from achieving a painful closure after so many decades. If the inventory does not exist, then I would like to propose that a mechanism be put into place by impartial, fair-minded people to draw up such an inventory under the watchful eye of the current custodian, with the proviso that the contents of the inventory can be carefully studied with a view to matching works with owners. It is a baby step, but a necessary one if we are to engage in an irreversible process of putting the past behind us and moving on. We cannot move on without justice.

Such an inventory becomes a powerful tool, the basis for Level 2 – a discussion amongst fair-minded, pragmatic individuals who seek only to do the right thing, acknowledging past wrongs and traumas, founded on mutual empathy and desire to move forward in the name of justice for all. In other words, a dream. Level 2 consists in drawing up a plan of restitution of those objects that have been readily identified as rightfully belonging to someone,

somewhere. Level 3 consists in drawing up a plan to dispose of property that is not identifiable. And there is the rub. Traditionally, back in the late 1940s and early 1950s, organizations responsible for heirless property took the simple way out and said: let's sell! And assign proceeds to needy survivors. However, we might run into some serious opposition here since the custodian might want some type of compensation for having "held on" to those objects for 64 years. This task might best be left to lawyers to hash out, but then, we might never get out of the barn; that is assuming that we can even enter the barn... But, as in all dreams, we are in the barn, and we are discussing among individuals who may or not become friends, how best to handle so-called heirless or unidentifiable property. In today's mercenary, hyper-materialistic and insensitive world, one approach is to share the proceeds of sales of heirless property along carefully delineated lines. It is just an idea, but the issue of looted cultural property from the Second World War will never, and I mean never, go away without some form of global political and financial settlement of those stolen works that have been left in *netherland*.

So, when I speak arrogantly of a new paradigm for restitution, that paradigm requires the following elements before we even register a semblance of a tectonic shift on our restitution seismograph:

- ▷ A will to act;
- ▷ Giving exclusive primacy to ethical and moral considerations, laying all legalistic and bureaucratic considerations aside;
- ▷ Unfettered access to private and public archives that are directly relevant to the thefts of which we speak;

- ▷ Cooperation with the private sector to locate and confirm the present whereabouts of stolen objects;
- ▷ Negotiated solutions with custodian institutions holding stolen works of art as war reparations, which might include financial or other incentives;
- ▷ Cooperation of law enforcement agencies, national and international, in locating and recovering stolen cultural property; and
- ▷ Creation of an international entity responsible for the return of such objects to their rightful owners and for disposing of so-called heirless objects in a manner that is of ultimate benefit to the families of victims, and which underwrites and promotes further research into the fate of such objects.

The least attractive solution is the one that no one dares to contemplate: Regulating the art market to ensure cooperation in locating, identifying, and returning stolen cultural property to rightful owners.

I work for an institution in Washington, DC, called the United States Holocaust Memorial Museum. Its archives hold more than 120 collections of documents pertaining to the persecution of the Jews and other groups. These documents come from Europe, North Africa, Central Asia, and even Shanghai. There is no other institution of its kind in the world today which provides access to so much information under a single roof.

Why cannot such a similar but far more modest establishment exist that is solely devoted to the documentation of Nazi-Fascist

plunder and spoliation of cultural property? If it were to be created, the history of plunder could be easily rewritten, the pace of restitutions substantially accelerated, and a quantum boost given to badly-needed scholarship in an area stymied by continual obstructions on all fronts.

That is my dream and I hope that part of it will unfold before my dying breath. Remember, historical archives help us write the story of wrongs committed against people as much as they help us right the wrongs committed against people.

Thank you.

Restitutions

► Graham Beal

DETROIT INSTITUTE OF ARTS, USA

FOUR CASES FROM ONE MUSEUM, FOUR DIFFERENT RESULTS

The Detroit Institute of Arts, along with sister institutes of the Association of Art Museum Directors, deplores the unspeakable atrocities suffered by the Jewish community during the Holocaust and recognizes the right of victims and their heirs to be reunited with their stolen property, even after more than 60 years.

Provenance Research

American art museums, through their membership in the Association of Art Museum Directors and the American Association of Museums, have adopted guidelines that require that all claims be handled as expeditiously as possible, that they be thoroughly researched and that all findings be made available on the museums' own websites as well as on the website maintained by the American Association of Museums known as the Nazi-Era Provenance Internet Portal.¹ To date, American art museums have researched and posted over 27,000 entries on the Portal, which includes all known provenance information on paintings, sculptures, and Judaica.

¹ Report of the AAMD Task Force on Nazi Looted Art, 1998, amended 2001.

For museums that hold even some of the approximately 20,000 European paintings that could have been in Europe between 1933–1945, gathering provenance information is an enormous undertaking; nonetheless, they have all taken upon themselves as much research as their resources permit. At the DIA, we have spent in excess of USD 800,000 on Holocaust related research, most of it on claims I shall detail below. In the aggregate, US art museums have spent well over five million dollars in direct costs researching works that could have been looted by the Nazis and an estimated two-and-a-half million in such indirect costs as staff time.

Guidelines and Resolution of Claims

As mentioned above, the Association of Art Museum Directors drafted and passed their guidelines in 1998 and amended them in 2001. The AAMD guidelines served as the model for the *Washington Principles* passed late in 1998. In 1999, the American Association of Museums passed the *AAM Guidelines Concerning the Unlawful Appropriation of Objects during the Nazi Era*. Following the guidelines, the US art museum community has researched, published and, in the recent past, resolved approximately 29 cases, of which 27 were resolved through negotiation.

Experience of the DIA in Holocaust Recovery

Today, I am going to recount four very different claims against the Detroit Institute of Arts with four very different outcomes. The first claim was made in 1949, immediately after the war when consciousness of the Nazi art looting was still high. The others have all occurred since 2000, after awareness had been revived by massive political changes.

Handing Back the Monet

In late 1948, the Detroit Institute of Arts acquired a painting of the Seine at Asnières by Claude Monet. It was purchased with museum funds from the New York dealership Fine Arts Associates through one of the principals, Otto Gerson. The museum was extremely pleased with the purchase as it was a fine work of art, representing a pivotal moment in the development of early Modernism and added to an already strong Modern collection.¹

In February 1949, DIA curator Paul Grigaut wrote to Otto Gerson saying that he was writing an article on the painting for the museum's Bulletin and asked for the exact provenance. Gerson replied in writing that it had passed from the dealer Ambroise Vollard to a M. Victor Desfossés and had been published in the catalogue of his collection (cat. no. 5) in 1899. He concluded his account of the provenance with, "The painting was owned for the last thirty years or more by the same family who wish to remain anonymous. This also explains the fact why the paicture (*sic*) was not exhibited or reproduced lately." The explanation is ambiguous and could just as easily refer either to continued ownership by the Desfossés family or changed ownership by a different family. The ambiguity was rendered moot by a letter from Herbert H. Elfers of the New York branch of the French dealer, Durand-Ruel, asking if an enclosed photograph matched the DIA's recent purchase and stating that the painting represented had been sold by their Paris house to a Mme F. Halphen in 1928 but had been "stolen at the time of the German occupation of Paris." It was, indeed, the same painting and, on being informed of this Gerson expressed "great shock" and asserted that: "This painting was bought through one of our agents whom we

¹ All supporting material that went in to the compilation of this account can be found in the Detroit Institute of Arts' curatorial, conservation and registration files.

consider most reliable and trustworthy. In buying paintings in Europe after the war, we were scrupulously careful not to touch any whose origin was in the least degree not quite beyond suspicion. In this particular case we had every assurance that the painting had never changed hands... since the early years of the century."

Paul Grigaut's guidance of Otto Gerson's research into the history of the painting resulted in the discovery of a 1935 Durand-Ruel catalogue in the Frick Collection library where a Claude Monet painting entitled *Les Peniches* was listed and a *Mme Halphen* identified as the owner. Further research revealed that the painting had passed through Switzerland. The museum contacted the French Embassy asking for guidance and was soon in direct communication with Mme Halphen. In an amusing note, Mrs. Halphen regretted the involvement of the French government and, indeed, despite the lady's willingness to have the DIA "re-purchase" the Monet, the government insisted on the painting's return to France as cultural patrimony. As far as I can tell from our files, neither the DIA nor the claimant had recourse to lawyers.

A small footnote to this episode was provided when, in my first visit to TEFAP in Maastricht after I became director of the DIA, I was offered the work by a London dealer. Mme Halphen had died and her estate had put the work on the market. We had it sent to Detroit where close examination by the curator and conservator revealed that the painting had been tampered with sometime after it left the DIA in 1950. The sky was different and bollards had been added to the river bank. The picture no longer matched the photographs in our files from our earlier, brief possession of the work. With regret, I decided that the work must, for the second time, leave the DIA.

Plain Sailing? Buying the Seascape

One of the DIA's great assets is its collection of 17th century Dutch painting. It was largely amassed under the German-born Rembrandt expert, William Valentiner, who was director at the DIA from 1925 to 1945. Although it lacks a Vermeer, it is a comprehensive collection and, with that one notable exception, covers the Dutch Golden Age very well. Perhaps because of Valentiner's well-known feeling that the Golden Age ended with the third quarter of the 17th century, there was no great Marine painting by Willem van der Velde, a gap that the DIA's curator of European painting had been seeking to fill for some years. Although the DIA is fortunate among US art museums in having considerable endowments that provide funds for art purchases, the van der Velde that came on to the market were out of our reach. So, in October 2000, it was with considerable excitement that one of the curators of European art told me of his discovery, in a London gallery, of a pristine seascape by Ludolf Backhuyzen. It was in such good condition that all of the rigging – usually the first thing to go in the course of periodic cleanings and/or restorations – was intact. True, it was not a van der Velde, but otherwise it was of high quality and filled our needs. Caught up in my colleague's enthusiasm, I agreed that the painting should be brought over for purchase consideration by the DIA's Collections Committee and, when it arrived, hung it in my office. It was in the course of discussing the intended presentation to the Committee that I asked the question I should have asked in the first discussion: "what is the provenance?" Supplied with the answer, I realized immediately that the painting could well have been looted and called the museum's lawyer to ask what I should do. "Now you know," he said, "why a little knowledge is a dangerous thing because, now you have reason to suspect that it was stolen, it cannot leave the state [of Michigan]."

Obviously we needed to start research but before we started that, I had the pleasant task of calling the dealer in London to let him know that, while we were not in a position to buy the Backhuyzen, we were not in a position to return it to him either. The dealer stated that he had been assured that the work had been in a German family collection since early in the previous century but immediately agreed that the onus of research – and cost – was on his establishment and contacted The Art Loss Registry. Although the painting was not in the ALR's database, it did not take them very long to find a likely candidate within a collection that had been seized by the Nazis in exchange for exit visas. Following the war, the collector had returned to his home and, with one exception, regained his collection. The exception was a seascape by Ludolf Backhuyzen. The heirs were quickly located and, because there were five of them, opted to sell the work of art. And here we had a little good fortune. Because the dealer had acquired the painting at an auction as "a copy or in the manner of" he had paid relatively little for it. He strongly suspected that it was authentic; a fact borne out by careful cleaning when, amongst other things, a signature characteristically placed, emerged from behind the gloomy varnish. With the ongoing assistance of ALR, a deal was quickly agreed. The heirs were willing to sell the painting to the DIA through the dealer, with the dealer gaining back, as commission, his modest outlay. However one may view the details of the deal, it was all arranged extremely quickly.

Nevertheless, the DIA could still not buy the painting because, for fiduciary reasons, we had to be absolutely sure that there were, in fact, no more heirs. Should one emerge, the DIA could be liable for damages for having bought something not wholly owned by the vendors. So, we then embarked on a rigorous search process involving the USA and the original country to establish as firmly as possible that there were none, or to be able

to say, should one emerge, that we had met the highest standards of due diligence and were not liable for suit for buying stolen property. The process of finding the heirs and striking an agreement took from November 2000 to May 2001. The process of due diligence lasted from April 2001 to August 2002. In other words, even when there was nothing but good will on the part of all parties it took a long time to clear all the hurdles – during which time the DIA could have been accused of dragging its feet. Such was not the case but, had a suspicious or hostile journalist enquired, we would not have been able to respond in any detail because the heirs themselves had requested complete anonymity – right to the extent that we were asked not to reveal their country of origin.

As we paid our “due diligence” legal bills (from a USD 250,000 fund specifically for Holocaust related provenance research that I had established soon after my arrival as director of the DIA in 1999) I told myself that the Backhuyzen story would be a marvelous illustration to the world of a happy ending following good deeds by all. How could I have been so naïve? The response to our press release was a deafening silence and three publications ran the story: a paragraph in *The Art Newspaper* and a little more in *ARTnews*. The only journal to go into any detail was Detroit’s *Jewish News*. When it comes to US museums, the media it seems, prefers a good story with an actual or potential villain. The other lesson learned from this episode, though, was a good one and has served us well: not to allow our enthusiasm for a coveted work of art to cause us to forget to ask about the provenance.

The Wrong Cezanne

In May 2003, I received a letter from a German lawyer claiming that an early Cezanne painting, *Head of a Man*, in our collection

was the property of his client, a descendent of the “famous German actress, Tilla Durieux.” She had, according to the letter, fled to Switzerland in 1933 where she sold the painting “as far as is known, in Lucerne in early summer.” This sale, the lawyer claimed was “an unlawful act” and citing a series of post-war edicts, the Association of Art Museum Directors’ guidelines, and the Washington Declaration, asserted that “this is a proven case of a pursuit conditioned loss.” He would, he concluded, “be grateful if [the museum] could suggest a concerted solution.” He did not request the return of the painting. Attached were photocopies of a couple of documents purportedly ratifying his client’s descent from Tilla Durieux as well as a photocopy of the Cezanne now in the DIA’s collection.

The DIA had a complete provenance which included Tilla Durieux but asserted that she had sold the work much earlier – 1927 – through the Lucerne based Galerie Thannhauser and come to the USA with a Czech refugee. We had, though, no proof of this and the two previous cases had demonstrated that a provenance could easily be fictional. But I was also concerned because the sale did not directly involve Nazis and did not relish the thought of negotiating such a murky but emotional area. As I was about to leave for fairly extensive travel, I passed the material on to our chief curator who, in turn, passed it on to Evie Joselow, a professional researcher based in New York, whom we had engaged to investigate all of the museum’s paintings for Holocaust related links. In my haste to leave the country, I omitted to acknowledge the letter or to request any further proof he might have had. The lack of acknowledgement earned me a reproachful letter from the lawyer that arrived soon after my return. Despite this lapse, our researcher soon tracked down in the library of London’s Victoria & Albert Museum, a rare copy of the 1927 Cassirer and Helbing auction catalogue in which, on page

17, the DIA's Cezanne is listed as lot number 38. A hand-written annotation indicates that Thannhauser was the buyer for 8,300 deutschmarks. In a letter of December 2005, I conveyed this information to the lawyer and suggested that this concluded his enquiry. I never received a reply. Again, the costs involved were not huge, but further depleted the special fund.

Retaining the Van Gogh

On May 11, 2004, I received a letter from a New York attorney enquiring about the provenance of Vincent Van Gogh's 1889 painting, *The Diggers*, one of two works by this artist that came to the DIA as the gift of the estate of Detroit art collector Robert Hudson Tannahill in 1970. It had been published in the inter-war years as being in the Nathan collection but what research we were able to do at the time the painting entered the collection foundered for lack of information from the dealers involved in the sale.

In accordance with the guidelines of the Association of Art Museum Directors, the DIA acknowledged the attorney's letter and immediately embarked upon research. To this end, we engaged attorney Thad Stauber, the same attorney who had assisted us in the happy resolution of the Backhuysen case, and Laurie Stein, a professional researcher with extensive experience in the area of art claims from Holocaust victims or their relatives. As the same letter had been sent to the Toledo Museum of Art (TMA) with regard to their painting *Street Scene in Tahiti* by Paul Gauguin, that has, to all intents and purposes, the same provenance, the DIA and TMA decided to proceed together.

An absolutely critical factor in provenance research is access to information. With the fall of the Berlin Wall a host of

new archives, hitherto inaccessible, became available. There remain however, a number of obstacles to gaining access to their holdings (as there are also in Western Europe) and, without such access, the museum would be less likely to be able to validate or disprove a claim. Our research team repeatedly found the keepers of various archives unwilling to accommodate them, or willing to respond to only the most tightly focused enquiries, behavior that reinforced the need for regulations allowing greater freedom of access in the area of Nazi-looted art.

The research by Laurie Stein, conducted in several European countries as well as the USA over 18 months, revealed what was, to me, a surprising set of circumstances. In his 1922 will, Hugo Nathan left the paintings to the Städl Museum in Frankfurt with the proviso that Mrs. Nathan would retain them for her lifetime and could sell them were she to need money. In February 1937, having paid the punitive fines applied to Jews and seen paintings in her collection seized by the Nazis, Mrs. Nathan moved to France, from where she organized the sale of her Frankfurt house and the transfer of her remaining property to Paris. A detailed inventory of this property was made that included such minor items as plum preserve. Neither of the two paintings appears in the inventory.

In December 1938, Mrs. Nathan instructed the prominent Paris-based dealer Georges Wildenstein to go to her family's bank (Dreyfus) in Basel, Switzerland to review the paintings she owned there (and which had been there as early as 1930), and let her know which ones he would buy from her. Wildenstein's subsequent list indicated four such works, including the paintings now in the Detroit and Toledo museum collections. These were bought by a consortium of dealers, two of

whom were also German Jews who had left Germany following Nazi persecution. One of these was Justin Thannhauser who had featured in the provenance of the Cezanne. This consortium sold the paintings to the Toledo Museum of Art and Robert Tannahill for considerably more than he paid Mrs. Nathan but such “exploitation” of wealthy Americans was neither remarkable at this time nor at others before and since. We have independent expert opinion that, American prices notwithstanding, Mrs. Nathan received what was, at the time, a fair price for them.

Mrs. Nathan had moved to Basel before the fall of France from where, following the end of the war she systematically proceeded to recover losses, including the fines, the compensation offered by the German government, paintings seized by the Nazis and kept at the Städl, as well as the tiny residue of payment from the sale of her car. After her death in 1958, her brother and co-executor of her estate, Willy Dreyfus, continued to pursue claims, including one in US courts (ultimately dismissed), until his demise in 1978. At no time did Mrs. Nathan pursue the paintings she had sold to the consortium and, indeed, we have evidence that she continued to work with one of its members – Thannhauser – as she subsequently disposed of her collection after the war.

As all the facts we had gathered clearly established that Mrs. Nathan considered the sale of the Detroit and Toledo paintings legitimate, the director of the TMA and I requested a meeting with representatives of the Nathan family. The meeting took place in New York in late January 2006 and had been preceded by one between our researcher and the claimants’ lawyer. We had, all along, given the family’s lawyer the results of our research and having recited our evidence, we asked the

family if they had any evidence that would cause us to alter our position. They cited such things as the price differential and the hardship suffered by Mrs. Nathan but offered no additional evidence. Even so, the family’s representatives declined to withdraw their claims. Presented with these circumstances and convinced that the sale had been recognized as legitimate by Mrs. Nathan, the Executive Committee of the DIA concluded that it was their fiduciary responsibility to protect the DIA’s ownership, using all legal means available, including the statute of limitations and laches. In the DIA’s case, for example, not to use all means to protect the property would open it to claims that the museum had not acted appropriately to protect assets ultimately belonging to the city of Detroit. Such a step would also bring to an end a lengthy and, for the museum, expensive process. The TMA’s board came to the same conclusion and suits were filed in the museums’ respective District Courts.

I have to say that, although I understood this action to be essential, I was personally disappointed that the rulings would now probably not focus on the circumstances of the sale. The one small consolation I had given myself as tens, then hundreds of thousands of dollars flowed out of the special fund I had set up (and then some more!), was that some kind of line might be drawn regarding what was and was not a forced sale. After all, the spurious claim I recounted earlier, had been based on the (purported) sale of a work of art in Switzerland.

The judges in both courts decided in favor of the museums. In Detroit’s case the judge ruled narrowly on statute of limitations grounds. The Toledo judge decided similarly but chose to address in detail the circumstances of the sale and the issues of the claim. He concluded:

“In the instant case, Martha Nathan pursued restitution and damages immediately after the war for property she had lost as a result of Nazi persecution, but did not file for the Painting. If she believed she had a claim to the Painting, she could have investigated and brought suit back then. Up to her death in 1958, twenty years after the alleged sale, she did not challenge the art dealers’ purchase or the subsequent sale to the TMA. TMA did not try to hide its possession of the Painting and Martha Nathan knew better than anyone the facts surrounding her own purported sale.”¹

Earlier in his ruling he had written:

“In short, this sale occurred outside Germany by and between private individuals who were familiar with each other. The painting was not confiscated or looted by the Nazis; the sale was not at the direction of, nor did the proceeds benefit, the Nazi regime.”

It is difficult – painful even – to be put in the position of denying a Holocaust-related art claim and the DIA has an honorable history of dealing with such matters. To recapitulate: in the 1949/50 transaction the DIA became the first US museum to return a work of art (a painting by Claude Monet) to a Nazi victim; in 2000, my suspicions that the provenance of a Dutch marine painting under consideration for purchase might be Holocaust-related led to the location of the heirs and the subsequent purchase of the work from them eighteen months later. In 2003, we promptly investigated a claim that turned out to have no merit whatsoever; in 2004, the DIA (in this case, along with a sister institution) initiated an extensive and expensive research

¹ Judge Jack Zouhary, US District Court for the Northwestern District of Ohio Western Division, Case No 3:06 CV 7031, December 28, 2006.

campaign that established the actual circumstances behind the sale of works of art in 1938.

In conclusion, I believe that it is fair to say that the DIA’s scrupulous and costly conduct is representative of US institutions. We take all claims seriously and, regardless of the demand on our resources, follow the mandate established through the AAMD. Those cases where declaratory judgment has been sought are very much in the minority and result from a true impasse between the museum and the claimants. Under US law, it is incumbent on the governing body to take appropriate legal steps and seek the opinions of a judge who is impartial and reasonable.

► **Agnes Peresztegi**

COMMISSION FOR ART, HUNGARY

RECOVERY, RESTITUTION OR RENATIONALIZATION

Hungary used to be a good example of a former socialist country that attempted to compensate its citizens after the fall of the Iron Curtain. However, it was in 1998, ten years ago, when Hungary was last applauded as a good example by witnesses testifying before a US Congressional hearing dealing with Holocaust era restitution.

Hungary was an ally of Nazi Germany during WW II. However, unlike Germany, Hungary has never faced its past and has never bothered to establish a historical commission to examine Hungary’s wartime activities. Not taking responsibility for the past, Hungary avoids taking responsibility for redressing

the injustices of the past. Unlike Germany, which in 1998 immediately thought to deal with the issue and give meaning to the Washington Principles, Hungary turned inward and stonewalled and soon developed a negative attitude to the Washington Principles. From that attitude everything has followed.

When, from the middle of the 1990s, Holocaust victims turned to the newly elected, democratic Hungarian governments with requests that their families' artworks located in Hungarian state museums be returned to them, Hungarian governments, instead of negotiating in good faith, denied the ownership rights of Holocaust victims and chose to engage in lengthy and expensive lawsuits. Since 1998, Hungary has been a startlingly bad example proving that even its highest courts uphold the unlawful takings and deny the property rights of lawful owners. Essentially, Hungary has renationalized artworks looted during the Holocaust era.

When it comes to the return of Holocaust-era looted art located in Hungarian state museums, the Hungarian experience may be described as a total and concerted effort by successive governments to keep the looted art in their museums even if it requires that:

- ▷ The museums conceal or destroy archival evidence;
- ▷ Government officials deliberately lengthen negotiations, effectively delaying legal actions that would be filed against the state; and
- ▷ Pressure is brought on the courts through the media to render judgments that effectively renationalize these artworks.

It is very clear that the Hungarian government is hostile to the concept of restitution only when it claims the stolen art. Its receptivity to restitution is quite different when the government seeks to obtain return of art that was stolen from Hungary during WW II and its aftermath. The Hungarian government has been very active in making claims for art displaced from Hungary during WW II. It established a Hungarian Committee for the Restitution of Cultural Property to address the recovery of art known to be located in other countries. It sponsored the research and publication of a book, *Sacco di Budapest, Depredation of Hungary, 1938–1949*, detailing many losses, including some from private collections belonging to people “of Jewish origin.” The Hungarian government successfully sued a museum in Montréal, Canada, to recover a painting by Giorgio Vasari and has repeatedly requested the Russian Federation to return art taken from its citizens, churches and institutions. Hungary actively sought the return of Russian Trophy Art until the Russian government asked whether Hungary would commit to the return of repatriated art to the rightful owners. At that point Hungary lost interest and ceased to pursue the claims of its Holocaust victims.

I shall summarize the determined efforts of the heirs of Baron Mor Lipot Herzog and Baron Ferenc Hatvany, respectively, to obtain restitution of their art in the face of the state-sponsored scheme to keep art that was stolen during the course of government persecution of its own citizens.

The story of the Hungarian Holocaust is little known outside of Hungary. Many of you probably know what happened to the Hungarian deportees of the summer of 1944 who were transported to Auschwitz and of whom over 430,000 died in the gas chambers. However, what happened before the 1944 German invasion of Hungary is less known. The first law discriminating against

Jews was enacted in Hungary as early as 1920. Later, other so-called “Jewish Laws” served the purpose of removing Jews from all segments of Hungarian life. Jews were restricted from university education and then prevented from participating in social and economic life, which deprived many of their ability to earn a living. Eventually, Jews were deprived of their property, of their liberty and, finally, of their lives.

In 1938, only the Jews residing in Germany, Austria and the Netherlands were wealthier than Hungarian Jews who, in fact, possessed thirteen percent of all Jewish wealth in Europe. That number rose to close to twenty percent by 1941 because Hungary annexed territories with considerable Jewish populations. Not only were Hungarian Jews wealthy compared to other European Jews, they held the largest and most significant property pool in Europe in proportion to the national wealth – factories, bank deposits, real estate, cash and, of course, art collections. So it is not surprising that many in Hungary made plans for the “redistribution” of Jewish wealth.

Hungary, especially Budapest, was home to many outstanding art collections during the inter-war period. The majority, about seventy to eighty percent, belonged to famous Jewish art collectors and their families. The two largest collections were assembled by the Herzog and the Hatvany families, respectively. Baron Mor Lipot Herzog, whose father Peter started the collection, purchased a majority of his collection at international auctions and galleries. The collection, which was kept in the family palace on Andrássy út boulevard (Budapest’s Champs Elysees), featured Old Masters mixed with Renaissance furniture, tapestries, sculptures and decorative arts, altogether approximately 2,500 pieces at its peak. The paintings included works by El Greco, Lucas Cranach the Elder, Zurbaran, Gustave Courbet, Velázquez, and

Mihály Munkácsy as well as impressionist art by Renoir, Monet and others. The collection constituted an exquisite display of the history of art in Europe. In 1940, the three Herzog children, Elizabeth, András and István inherited the collection.

When the first of the so-called Jewish laws was introduced in 1938, it did not deal directly with Jewish property, but indirectly influenced the fate of artworks because it severely limited Jewish presence in economic activities. Between May 1938 and March 1944, twenty-two anti-Jewish laws and more than two hundred and fifty anti-Jewish ministerial and prime minister’s decrees were issued.

One of the anti-Jewish laws enacted in 1939 dealt with setting up a forced labor system for Jews within the Hungarian army. While wealth may sometimes buy one’s safety, this was not the case for Andras Herzog. He was drafted into forced labor service in 1942 and was sent, without arms or clothes and with little food, to the Russian front where he died along with 27,000 of his fellow forced labor servicemen.

A decree that authorized the disguised confiscation of art from Jewish owners was promulgated in April 1944, after Andras’ death. According to the decree, Andras and all other Jews were required to report all artworks, carpets, silverware and other luxury items.

When the Hungarian government began to systematically catalogue and seize the valuables of Hungarian Jews, Denes Csanky, the government commissioner responsible for taking possession of art, who was also the director of the Museum of Fine Arts, proudly asserted that “[t]he Mór Herzog collection contains treasures the artistic value of which exceeds that of any similar collection in the country. If the state now takes over these treasures, the Museum of Fine Arts will become a collection ranking just behind Madrid.”

After Hungarian Jews were stripped of all of their property the deportations started, and about 560,000 of the 825,000 Jews of wartime Hungary were murdered within three months.

Although the first laws repealing anti-Jewish legislation were enacted in 1945, laws providing for restitution of property that had been confiscated during World War II were rarely implemented. Not only did the Hungarian government refuse to return Jewish property, it took still more of it from its Jewish and other citizens. Even before the Communist takeover, gold, jewelry and hard currency had to be turned over to the government; land, heavy industry and banking were nationalized. However, it is very important to point out that during the Communist period artworks (which were not considered instruments of production or needed to change the structure of the economy) were never nationalized.

Elizabeth Herzog escaped Hungary and successfully emigrated to the United States. While living in New York, she displayed reproductions of the family's artworks in her apartment and often expressed her hope that, one day, the treasures would be returned to her family. With the opening of Hungary to the West in 1989, the Herzog heirs started making inquiries and learned that many pieces of the Herzog collection were being openly exhibited, hanging on the walls of the Hungarian National Gallery and the Museum of Fine Arts. Elizabeth Herzog, then 89 years old, attempted negotiations with the Hungarian government to retrieve the art that belonged to her. Before her death in 1992, she had obtained only seven artworks, all attributed to unknown artists. The identifiable masterworks remained in the Museum of Fine Arts and the Hungarian National Gallery.

Martha Nierenberg, the daughter of Erzsébet Herzog, continued her mother's efforts to recover a portion of the Herzog collection.

There followed many months of negotiations, and in April 1996, an agreement was reached with the Hungarian Minister of Education and Culture to appoint a "Committee of Experts" to determine the legal ownership of the artworks. The Committee, consisting solely of government appointees, was established, reviewed the status of twenty artworks and concluded that all of them remained the property of the heirs of Erzsébet and István. Despite this, the government rejected a friendly and generous proposal by the family to settle the dispute and a year later ordered that a new Committee of Experts be formed, again exclusively of Hungarian officials. When the Herzog family offered to submit their claim to arbitration, the proposal was met with silence.

The negotiations were still going on when in, 1998, forty-four nations came together for the Washington Conference on Holocaust-Era Assets to discuss the persistent and problematic legacy of Nazi-looted art. At the Conference, the Hungarian delegation acknowledged that Hungary "took part in World War II as an ally of Germany," and that from March 1944 to April 1945, "[p]ersecution of Jews proliferated and the confiscation of Jewish property took place." The Hungarian delegation further stated:

"The Hungarian Government is fully committed to the restitution or compensation of Holocaust victims concerning cultural assets. For managing this complex task – which includes scholarly research, political decision-making, bill drafting and negotiations ... [and] contacts with Holocaust survivors, etc. – a state commissioner will be designated."

However, even after the Washington Conference, Hungary continued to postpone the negotiations with the Herzog family without committing to any concrete action and, a year after the Conference, it was clear that Hungary did not plan to live

up to the promises it made at the international forum. As a result of the delays and broken promises, Mrs. Nierenberg felt that she had no choice but to commence a lawsuit in the Hungarian courts, which she did in October 1999.

After the lawsuit was filed, Hungary sent a government delegation to the Vilnius International Forum on Holocaust-Era Looted Assets. At the Vilnius Forum, Hungary was the only country singled out for its non-compliance with the international norms. However, this did not deter the Hungarian government representative to the Forum, upon his return to Hungary, from giving an interview in the principal Hungarian daily, *Népszabadság*, stating that Hungary had been applauded in Vilnius for its compliance with the Washington Principles. The Hungarian government ever since has been effectively using the media to deflect the fact of its non-compliance with the Washington Principles in the Hungarian press. State institutions have also disseminated false information abroad. The National Gallery, which refuses to return the Hungarian paintings to the Herzog family, has stated on the Looted Art website that it “has a computerized database of artworks which were looted from Hungarian collection, which can be accessed at the museum.” This is false; no such database can be located. The National Gallery hosted the research group dealing with Hungary’s wartime losses in the mid 1990s, but the result of that research was never accessible, and only part of the research was published.¹ Hungary committed itself to review the inventory of its museums, and, after the Washington Conference, the Ministry of Culture requested its museums to review the provenance of their holdings. However, only a few museums complied with the request and even those reports were simply filed away in the Ministry and not made public.

¹ Sacco di Budapest, Depredation of Hungary, 1938–1949.

Government officials have stated numerous times that they are open to claims. However, in reality, no government official or body has the authority today to negotiate or a mandate to return art to Holocaust victims. Claimants’ only remedy is to commence lawsuits against the government and its museums.

During the course of Mrs. Nierenberg’s lawsuit, Hungary has employed legal defenses that are not applicable to art stolen during the Holocaust and that were never intended to apply to the return of art stolen by a government during the course of genocide of its own citizens. Eventually, in January 2008, Hungarian courts issued a final but legally flawed decision that Mrs. Nierenberg could not obtain the return of the Herzog artworks. Realizing that justice is not served in Hungary, the Herzog family will now continue its effort to recover the Herzog collection in a forum outside of Hungary.

Hatvany Collection

I do not want to create an impression that the Herzog collection is the only Holocaust-era looted art claim that was denied in Hungary. Everyone who has tried to approach the Hungarian government requesting the return of art looted during the Holocaust from family collections has met with the same fate as the Herzog heirs.

Baron Ferenc Hatvany was the most famous Hungarian art collector of his time. His collection was one of the finest in Budapest although not the largest (that being the Herzog collection), comprising some 750–900 works of art. Between 1905 and 1942, Baron Hatvany purchased mainly masterpieces by 19th century French painters. Members of the Hatvany family also were famous for supporting art in Hungary. Lajos Hatvany, a friend of

Thomas Mann, Karel Čapek and Arthur Koestler, was the patron of Endre Ady, Dezső Kosztolányi and other great Hungarian writers. He also owned a large number of works by artist friends. While Mor Lipot Herzog preferred to give large cash donations to the Museum of Fine Arts to enable the Museum to purchase important artworks, Ferenc Hatvany donated art to the Museum drawn from his famous collection.

The heirs of the Hatvany family later claimed that some of the art that was displayed at the Museum of Fine Arts had never been donated by Ferenc Hatvany. They spent years exchanging letters with various government entities, eventually being directed to the Treasury Assets Department for negotiations. In 2000, during the negotiations, the Treasury Assets Department agreed to return one of the claimed paintings, a Hans Canon. That painting was one of the fifteen paintings that the Soviet Union returned to Hungary in the 1970s, paintings that had been held at the Museum of Fine Arts and at the National Gallery without notice to the owners for thirty years.

While the government had recommended that the heirs take up their claim with the Treasury Assets Department, the Department rejected the claim on a number of very questionable grounds, including an assertion (not supported by evidence) that the paintings had been donated to the State. The Hatvany heirs filed a lawsuit in 2003 but both the trial and the appellate courts denied their petition. The courts found that the Council of Ministers, in 1951, planned to remove the citizenship and to confiscate the property of Alexandra Hatvany, the daughter of Ferenc Hatvany, because she had left the country illegally. The court did not find any evidence that the confiscation of property was carried out at that time, nor did the court pay attention to the evidence that Alexandra Hatvany only left Hungary in 1952, a year

after the proposed confiscation. Based on the assumption that members of the Hatvany family – after being persecuted during WW II as a result of their Jewish origin – left the country without obtaining permission (at the height of the communist terror when they were again facing persecution), the court held that the Hungarian government obtained ownership of artworks of those Hungarian citizens who had been twice persecuted by their own government.

Conclusion

The failure of the attempts to obtain restitution of the Herzog and Hatvany collections reflect not the exception but rather the rule in Hungary today. Legal representatives of other owners of Holocaust-era looted artworks face similar obstacles first in the government agencies then in the courts. Another example of Hungarian intransigence is the so-called Danos case in which, after the trial court ruled in favor of the Danos heir, an appellate court dismissed the Danos claim based on the theory that the government had possessed the paintings for ten years and acquired title to them by prescription. However, under Hungarian law, the forced deposit agreement made by Danos with the government in 1943 turned into “responsible custody” when the deposit was revoked. By not examining whether the paintings’ status changed from deposit to something else when the deposit was revoked, the court found no obstacle to the government’s acquisition of ownership by adverse possession.

Consider the difference between the manner in which Germany and Hungary each treat the issue of Holocaust-era looted art. Germany recognizes not only the legal but the moral obligations as well. Not once during the Hatvany or Danos litigation or during the nine years of court proceedings in the Nierenberg lawsuit

for the Herzog art was there an admission that a wrong had occurred. Suffering under the Holocaust was never mentioned, nor was the issue of righting historical wrongs ever discussed in any of the looted art litigation.

The legal arguments denying the return of Holocaust-era looted art are technical in nature and are based on what seems to be erroneous and novel interpretations of the law, and are hardly consistent with the Washington Conference Principles (to which Hungary is a signatory). These Principles require the Hungarian government “expeditiously” to take steps “to achieve a just and fair solution” regarding claims for art stolen during the Holocaust. Nevertheless, the government, despite repeated electoral changes, have failed to live up to those Principles by hindering archival research, setting up procedural obstacles to the recovery of the claimants’ rightful property and failing to establish a fair and effective system whereby claims may be examined and adjudicated by an independent body.

Ten years have passed since the Washington Conference and, as members of the United States Senate Commission on Security and Cooperation, including now Secretary of State Hillary Clinton, have written to the Hungarian Minister of Foreign Affairs, the question remains: *Why would the Hungarian government insist on retaining custody of artwork stolen by the Nazis, when it could return it to the rightful owner?*

► **Lynn Nicholas**

HISTORIAN, USA

**THE WASHINGTON PRINCIPLES:
TEN YEARS LATER**

Ten years ago I addressed the Washington Conference and nearly 30 years have passed since I first began research in the area of the World War II era displacement of art. I was far from the first to have done so: from the first postwar years there had been a thin but steady stream of books and articles on the subject. But by the 1970s, the extraordinary and highly successful restitution and compensation efforts carried on in the postwar years in every affected nation had come to an end, overtaken by more immediate issues. Because it is so often misstated that “nothing has been done” to retribute works for 50 (or by now 70 years) I think it is vital to remember the vast number of works that were returned and advertise the extraordinary amount of investigative work that was done after the war first, by Allied military and recuperation officials and, later, by the claims and compensation agencies of both Germany and the occupied nations, all of which generated invaluable, and still extant, archives.

As we all know, attention to the looting issue was revived in a major way in the mid-nineties. There were many reasons for this revival: the advancement of Holocaust Studies; renewed interest in World War II, spawned by commemorative activities; and, especially, the opening of Eastern Europe and its archives, with the revelation of the terrible destruction and confiscations that had take place in the former Soviet Union, and the fact that large quantities of objects and archives from the West, long thought to have been lost forever, were, in fact, in Eastern Europe. The media took notice and the issue of looted art became hot. In this

early stage, passions ran high and accusations were often wild. But the spotlights were on, and it soon became clear that the task of restitution had not been completed.

Interest in the issue led to political involvement at very high levels in many nations and a plethora of suggestions for action. As is natural in human events, many of these suggestions were, and still are, agenda driven and not free of chauvinism. There was a search for global solutions to restitution which culminated in the highly emotional Mauerbach Auction, whose limitations and mistakes are now evident. The addition of the issues of Swiss Gold, real estate, insurance, and slave labor to the mix brought even more attention to these 50-year-old events and led eventually to the Washington Conference and, for the art world, the promulgation of the Washington Principles.

The Principles, and their accompanying guidelines for museums and others, are now a universal reference point for restitution issues. But while they are morally admirable, they are not laws, and their vague terminology makes them open to all sorts of interpretation and exploitation, both good and bad.

There is no question that the Principles have done a lot of good. Special adjudication commissions have been established in a number of European nations. Investigative commissions have proliferated. Hundreds of museums have posted objects acquired during the Nazi era on their websites. There is now a large corps of expert researchers, many of them at this Conference, who know how to navigate archives and the rather too many data bases that have sprung up worldwide. Archives previously closed have been opened and the many already available ones have been made easier to use by improved finding aids and digitalization. Colloquia and hearings

take place almost monthly. Major auction houses and museums have their own in-house provenance experts-and so forth. Generally, it is safe to say that no one in the art world can now claim to be unaware that a work “displaced” in the WW II era might have been looted in some way. The result of these improvements has been the discovery and restitution of numerous works both through negotiation and litigation, and even, but not often enough, voluntarily, which was the whole idea of the Principles in the first place.

But all is not perfect. For one thing, the issues are not clearly defined for museums, collectors, dealers or auction houses and their reactions are very uneven. Some have major, continuing research efforts but this is not possible to sustain except for the largest institutions. Some, trying to avoid the subject, adhere too precisely to the letter of the vague guidelines, feeling that the simple posting of works and “compliance with best practices” (whatever that means) is sufficient. If a work in their collections is challenged, they will, sometimes to their surprise, soon find that such basic compliance is not enough. And, unfortunately, the very fact that they have listed a work may expose them to accusations of wrongdoing and force them to prove that an item is not looted, even if there is no serious evidence that it was. This process may require the hasty use of scarce resources to no avail. Thus, greater awareness of issues and continuing, more sophisticated training of museum staffs is essential and could well be funded by governments and relevant NGOs.

The masses of data I referred to need far better co-ordination in order to speed up their use. Perhaps most difficult is the fact that the Principles, terse and deceptively clear in their phraseology, do not allow for the complexity of the looting issue. The Nazi era

lasted a long time and went through many stages. We must resist an oversimplification of history. Policies of confiscation developed gradually, Nazi enforcement was uneven and personal circumstances extremely varied. As Mauerbach demonstrated, there is no black and white here, and sweeping global solutions are not possible. This is also true of collaboration and forced sales. Indeed, just what is included under the latter rubric is the subject of very wide, and ever expanding interpretations, some more sensible than others. In the end, there is no way around considering each case within the exact context of the events of personal and wartime history.

It has been suggested that all Nazi era art transactions involving Jews be presumed to be confiscations or duress sales and that the burden of proof of valid title be the responsibility of the present owners. This is an impossible demand that would violate the rights of many present owners, especially some 70 years after a transaction, when the object may have changed hands numerous times. Much attention is focused on Military Law 59, published during the Allied occupation of Germany, and on the Allied Declaration of 1943. The Declaration states that the Allies *reserve the right* to declare a transaction void – clearly indicating that the action was not supposed to be automatic and that the facts must be examined first. If one reads the cases tried under Military Law 59, it is again clear that there was always a factual basis for the cases being brought. The entities examining these cases were multi-layered: there were preliminary panels that recommended that cases go to a higher tribunal and appeals were countenanced. The panels frequently demanded more evidence and rejected spurious claims. This was no vague moral law, but one that emerged from the very pragmatic situations of the occupation period. I do not believe that one can make any absolute presumptions, one way or the other, in restitution cases. The facts

in each case are unique and their proper consideration is the only fair way to proceed.

The Washington Principles, in their present form, are too far removed from the realities of the art world, to this day the world's largest unregulated international business, as it has always been, and never more so than in the Nazi era. A traditional refuge for assets in hard times, used in many ways for tax evasion, fraught with family disagreements and the competitive secrecy of eccentric collectors and some of the toughest dealers in any profession, the art world does not lend itself easily to regulation. That, of course, is part of its appeal. The vast sums that major works command today guarantee that major litigation, especially in the United States, will not go away and make the likelihood of an effective American commission of experts like those in other countries very small. Still, the effort to create one should be made. Ideally, such a panel could resolve smaller claims and evaluate the validity of large ones before they enter the court system.

In the end, just resolution of claims comes back to the integrity of those involved in the process. One might hope for some sort of self regulation by the legal fraternity. We must not harm victims by denying them their just heritage, but we must also not compound injustice or defile those who did suffer tragic loss by the misuse of information and the exploitation of the emotional aspects of the Holocaust.

I would like to suggest a few things:

1. Any commissions or tribunals should include not only art world experts and provenance researchers but also historians and economists who could put cases into historical context.

2. A professional organization for provenance researchers should be set up and they, like any other professionals, should be required to adhere to a code of ethics.
3. Governments should publish a simple how-to pamphlet to help claimants initiate cases. These could be widely distributed by the relevant agencies and concerned organizations.
4. The massive research that has already been done by commissions and independent researchers and in private litigation should be collected and made available, at the very least, to professional provenance researchers. Endless time and funds are wasted by repetition of research. Legal decisions in restitution suits should be published and explained, including the reasons for settlements. To protect privacy the exact amounts of any funds exchanged could be redacted. This would provide a body of precedents for future actions and guarantee more consistency in results. The present reliance on media reports on these cases is not acceptable as they are often inaccurate and, depending on who was interviewed, may distort the actual result.
5. In order to protect the rights and reputations of current good faith owners, previous claim settlements should be carefully analyzed and not voided frivolously. Current good faith owners deserve the same respect as claimants. After seventy years, we should find ways to compensate good faith owners or, at the very least, protect them from defamation.
6. The revised principles, or declaration, should condemn any distortion and exploitation of the events and emotions of the Holocaust for political or financial gain.

To conclude, I think we must realize that it is our responsibility to be fair and avoid compounding injustice. The revival of restitution has done tremendous good and righted many wrongs. It will continue to do so as long as it remains honest. This good must not be undone by narrow agendas, excessive greed or false morality. Seventy five years after the beginning of the Nazi era, it is time to work out sensible solutions.

► **Jean-Pierre Bady**

CIVS, FRANCE

**RESTITUTION AND COMPENSATION IN FOUR
COUNTRIES OF WESTERN EUROPE: BELGIUM,
FRANCE, LUXEMBURG AND THE NETHERLANDS**

This summary first reviews the key provisions introduced in each of the above countries in order to provide restitution of, or compensation for, spoliated works of art. Second, it provides an overview of the current perspectives, which are often shared by the countries in question.

I. GLOBAL SUMMARY

A) ANALYSIS BY COUNTRY

BELGIUM

The investigation, identification, restitution, and compensation process was conducted in several phases.

General Information

A Study Commission, chaired by M. Buysse, carried out research on the assets belonging to the victims of the persecution of Jews. As a result of the Study Commission's conclusions, which were included in its final report, an Indemnification Commission was established. Following negotiations with the Belgian Jewish Community's National Commission, the amounts identified and updated by the Study Commission were deposited by the State, the banks and the insurance companies into a special account of the National Bank of Belgium and made available to the Indemnification Commission in order to compensate the victims or the heirs up to third generation descendants. The Indemnification Commission was set up by the Act of December 20, 2001 which also governs its activities. Its fundamental purpose was to make restitution to the victims in the form of compensation for the assets identified by the State, the banks and insurance companies. The compensation is not intended to cover the value of the assets in the condition that they were in on the eve of WW II.

The mandate of both of the above commissions was limited in time. The work of the Indemnification Commission was completed at the end of December 2007, after having dealt with 5,210 cases in a total value of EUR 35.2 million. The Act of December 20, 2001 provided that the non-allocated amounts should be transferred to a charitable foundation for the benefit of the Jewish Community.

Cultural Assets

Both the Study Commission and the Indemnification Commission contributed to the resolution of the cultural asset issue. The Study Commission investigated the spoliation of these assets

together with the largest cultural institutions, and published its findings and its results. In some cases, the assets were actually returned. On the basis of the reports issued by the "Restitution of the Spoliated Jewish Cultural Assets" unit, the Indemnification Commission, in many cases, granted financial compensation for the works of art which had been sold in the postwar period for the benefit of the Public Treasury.

The investigations and the restitutions have not yet been fully completed, and the research of the cultural assets continues under the guidance of the SPP Science Policy's "Restitution of the Spoliated Jewish Cultural Assets" unit, whose activities are similar to those of the former Office for Economic Recovery. The most important federal cultural institutions fall within the competence of the SPP Science Policy.

In the 1950s, the retrieved cultural assets which had been spoliated were registered in the inventories of the relevant (federal cultural) institutions.

FRANCE

General Information

In 1997, the public authorities set up a "Study Mission on the Spoliation of the Jews of France" chaired by M. Mattéoli. This body investigated the spoliation suffered by the Jews during WW II, and recommended the establishment of a compensation commission under the name of CIVS (Commission for the Compensation of Victims of Spoliation pursuant to the anti-Semitic legislation in force during the Occupation). The CIVS provides compensation for all tangible and financial assets spoliated

(apartments, workshops, businesses, bank accounts). To date, about 26,000 cases have already been examined, the overall value of which is EUR 420 million. The CIVS has, therefore, been given a very broad mandate, namely the power to make compensation for all of the spoliated assets. No deadline has been provided for the submission of applications, no limitation of funds was planned in advance, and the mandate of the Commission is also unlimited in time. Every month, the Commission receives about eighty applications from individuals with a more distant degree of relationship than that accepted in Belgium.

Cultural Assets

Regarding the restitution of the spoliated works of art, France has been trying since the end of the war to find the owners of the works of art found in Germany. Out of 65,000 works of art retrieved, 45,000 were returned, 15,000 secondary works of art were put on sale by the Property Management Office, and 2,000 of them were given a special MNR status. The “*Musées nationaux Récupération*” (National Museums Recovery Program) includes works of art retrieved from Germany following WW II which could not be returned to their legitimate owners and which were entrusted by the Office of Private Goods and Interests to the Administration of the Museums of France. It also includes works of art proceeding from the trade in objects of arts. The French legislation stipulated that the above works of art are not included in the heritage and have a different status. The French state is not the owner, but instead solely a “holder” of these assets. These MNRs (2,000 works of art) have been subjected to an in-depth study and, since 1950, it has been possible to reconstitute more than 200 of them. For such restitutions, it is sufficient to have an order issued by the Minister of Foreign Affairs; they are therefore relatively easy due to their special status.

At present, France’s research focuses above all on the works of art with a MNR status, and it has recently launched new initiatives (the exhibition at the Museum of Art and History of Judaism and the international symposium held in 2008) to find the owners of these works. A list of these works is available both in hard copy and on a website.

The CIVS was asked twice to recommend the restitution of very important works of art (Picasso, Vernet) and has proposed mediation regarding a major work by Braque; compensation was awarded to the beneficiaries who agreed that the painting could remain at the *Musée National d’Art Moderne*. However, its key role is related to *the compensation* of the dispossessed owners whose works of art were not found. When reviewing individual applications, the CIVS either *finalizes* the compensation already granted by the German government (the BRÜG Act), or *provides full compensation* on the basis of the value of the relevant works at the time of spoliation. Although the number of works of art dealt with by the CIVS is relatively small (1 percent of all of the cases), the amount of the relevant compensation is very high (EUR 25 million to date).

LUXEMBOURG

The number of works of art spoliated was relatively limited. On the basis of testimonies from the postwar period, it was possible to establish a list of some forty paintings that had belonged to Jews. Most of these works were created by Luxembourg painters, mainly by Guido Oppenheim, who was himself deported to Auschwitz at the age of 82. None of these paintings were found. The Luxembourg Office of Economic Restitution (OREL) has reported that some paintings were found in Germany but due to

inexistent documentation, no information on this research is available. Most of the works of art were confiscated in the residences of the Grand Ducal family and in the homes of the members of the government in exile. All of the works which could be found, thanks also to the cooperation of the occupying powers in Germany, were taken to Luxembourg and restituted. A painting by Cranach, sold by its owner to a Dutch merchant Kajetan Mülhman, had ended up in Herman Göring's collection. As this sale was considered illegal (no permission had been granted according to Luxembourg or German law), the government recovered the painting as a national asset and entrusted it to the National Museum of History and Art.

In general, we can say that recovery of and/or compensation for the spoliated works of art has not yet caught the attention of either the public or the government. The major issues of the post-war period were reconstruction (one third of the country having been devastated by the Battle of the Ardennes), supplies (Luxembourg depended largely on Belgium as they were joined in an economic and monetary union) and repatriation (of 4,000 persons forcibly relocated to Silesia, 4,000 political deportees, 10,000 young people forcibly enrolled in the German army, and 50,000 refugees, out of Luxembourg's total postwar population of 290,000 people).

Moreover, the War Damage Compensation Act excluded all "luxury" goods such as works of art. However, a few years ago, the Grand Lodge of Luxembourg was able to recover its archives, which had been found in Moscow.

An exposition on the spoliation of cultural assets, organized by the Museum of History of the City of Luxembourg in 2005 (The Great Spoliation) presented this issue to a very interested

audience but it was impossible to persevere with the research. No painting by a grand master belonging to a Luxembourg citizen disappeared during the war. Although the issue of the refugees, namely Jews, still remains open, the relevant documentation is unfortunately insufficient.

THE NETHERLANDS

General Information

In the Netherlands, the public authorities have opted to grant the same compensation to all victims of Nazi persecution for assets or possessions lost or spoliated. The selection of such a policy has enabled the authorities to pay special attention to research on and restitution of confiscated cultural assets.

Cultural Assets

In relation to the cultural assets, the "*Herkomst Gezocht*" Commission, better known as the "*Ekkart Commission*," has conducted extensive research and provided advice to the Minister of Education, Culture and Science as to the policy to pursue. Its research was focused on the NK works and on the cultural assets which have been transferred to the (Royal) Museums of the Netherlands. The spoliated goods which have been retrieved but which it has not been possible to return are owned by the State and are "lent" to the museums.

The opinions of the *Ekkart Commission* were followed and the government set up an independent advisory committee to evaluate individual restitution requests. According to the choice of the parties, this Committee expresses an opinion, either binding or not, on an

application for restitution of a spoliated cultural asset. About 600 to 650 works of art have already been restituted in this way.

Similarly to France, exhibitions have been organized displaying some of the works of art spoliated during WW II. Reports have also been published in hard copies, on CD-ROMs, and also on websites. The Netherlands are actively trying to find the heirs.

A new program focused on the research of the provenance of works of art has been envisaged for the period 2009–2012. It will be led by the “*Vereniging van Nederlandse Musea*,” will cover the period between 1933–1948, and will focus on museums other than the royal museums.

There is a question of whether this system, aimed at verifying the alleged provenance of the assets spoliated in this period, can be recommended to other countries. The success of such research depends largely on the organization, operation, and cooperation of the museums in terms of facilitating the access to the available inventory and checking its reliability.

B) BRIEF COMPARATIVE STUDY

SIMILARITIES

- ▷ General intensification of work since the Washington Conference (1998);
- ▷ Preliminary historical research due to the establishment of specialized commissions;
- ▷ Pro-active restitution policies;

When restitution is not possible, an individual or collective compensation policy is adopted (by allocation of funds to organizations such as foundations) (Belgium, France).

DIFFERENCES

- ▷ The “ad hoc” responsibility of the Commission is either large (France: all confiscated goods, Belgium) or limited to works of art (the Netherlands);
- ▷ Different status assigned to recovered works whose owner(s) has not yet been identified:
 - A special status: France (MNR);
 - Added to national collections (Belgium, Luxembourg, the Netherlands);
- ▷ Different length of time spent on the investigation of the cases: no limit (France), a set deadline (Belgium), with the option of a later introduction of the individual cases of works of art;
- ▷ Different bases for compensation:
 - Belgium (third generation);
 - France (all generations);
 - The amount of the compensation is assessed either at the historical value (France), or at the current value of the work (Belgium).

II. CURRENT OUTLOOK

The four European countries which were the subjects of this review are facing very similar problems, although their solutions may be different due to the differences in their respective national legislations.

At present, the above countries are facing the following issues:

INVESTIGATIONS INTO THE PROVENANCE OF CULTURAL ASSETS WHICH HAVE FALLEN INTO THE PUBLIC DOMAIN OR ARE PART OF PRIVATE HERITAGE (STUDIES OF PROVENANCE)

- ▷ The identification of assets “owned” by the State (national museums, etc.) raises the question of provenance of a specific work of art and of the terms and conditions of its purchase. *How should such investigations be conducted and how to should the field of research be defined? Which period should be reviewed? When can the price be considered to be inadequate?*
- ▷ Identification of assets which are part of private heritage. *To what extent can we investigate this field (in art galleries)? What are the possible objections in terms of practice and legislation?*
- ▷ Public awareness. *Is it sufficient just to organize expositions and publish catalogues in a more systematic way? What new initiatives can be taken?*

STATUS OF THE CULTURAL ASSETS IDENTIFIED

There are several possible alternatives:

- ▷ Cultural assets that are identified as being in the public domain, yet we know with certainty that they were spoliated from members of the Jewish Community, and their owner at the relevant time is known: restitution is possible and necessary. *What legal formalities are necessary to change their status from public domain to private property?*
- ▷ Cultural assets that are identified as being in the public domain, we know with certainty that they were spoliated from members of the Jewish Community, and their owner at the relevant time is not known: *Which status should be attributed to such works? Should we consider a change of the status already attributed?*
- ▷ Cultural assets that are identified as being in the public domain, are of doubtful origin, for example because of the date of their purchase, but it is not certain they were spoliated from members of the Jewish Community: *Is it necessary to invite the relevant museums to perform systematic research of the provenance themselves, even if it means that it would challenge their status, or should they instead wait for the results of the investigations conducted by the applicants themselves? Could both of the above approaches possibly be combined to enable smooth and efficient cooperation?*

SPECIAL QUESTIONS

To date, other questions have been raised as well:

- ▷ Should the possibility of reviewing the limit of the degree of kinship be considered, e.g., such as the third generation limit in Belgium? Should such a limitation be introduced in France (CIVS)?
- ▷ Should a deadline be defined within which the heirs must submit a claim? Is it necessary to introduce in France the same deadline as in the other countries?
- ▷ What should be done with recovered property if compensation has already been granted? Should property that has finally been found still be returned if the compensation already received is paid back? What authority should then receive that returned compensation?

Conclusion

The conference held in Prague in June 2009 should help to further improve the understanding of the various restitution or compensation schemes introduced by the four Western European countries discussed above, evaluate the solutions they have envisaged, and investigate possible improvements in the activities which are at present undertaken by their leaders. Finally, we should consider whether the solutions adopted by these countries are transferable to other European countries.

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FRITZ GRÜNBAUM'S STOLEN ART COLLECTION: LEGAL OBSTACLES TO RECOVERY¹

Fritz Grünbaum was a famous Jewish cabaret performer and radio and film star in Vienna, Berlin, and Munich.

Fritz Grünbaum was born in Brno, Moravia on April 7, 1880. He was arrested on March 22, 1938 by the Gestapo and put into the Dachau Concentration camp. He died in Dachau, penniless, on January 14, 1941. His wife was deported to the Minsk death camp and died in 1942. Grünbaum amassed a collection of 449 artworks, including 81 Schieles, among them Egon Schiele's famous *Dead City*.

Today, *Dead City* is at Austria's Leopold Museum in Vienna. Fritz Grünbaum's Schieles are now at New York's Museum of Modern Art (the MoMA), the Morgan Library, the Art Institute of Chicago, Oberlin College, the Estee Lauder Trust, and concealed in many private collections. Austria's Albertina museum has a number of Grünbaum's Schieles. The Leopold has at least thirteen of Grünbaum's Schieles.

Despite the efforts of New York District Attorney Robert Morgenthau, who seized *Dead City* at the MoMA in 1998, and teams of researchers and lawyers in numerous countries, none of Fritz Grünbaum's works have been returned to his heirs. Austria has

¹ Documentation: <http://artstolenfromfritzgrunbaum.wordpress.com>.
Sources: Lillie, Sophie. "A Legacy Forlorn: The Fate of Schiele's Jewish Collectors".
Printed in: The Ronald Lauder and Serge Sabarsky Collections, Neue Galerie 2005.

violated Article 26 of its 1955 Austrian State Treaty with the United States by failing to return property stolen from Jewish victims of Nazism. Without Austria living up to its 1955 promises, the victory over Nazism will remain a sham. Without Switzerland and the USA renewing and making a reality the Clinton-era commitment to restitution of stolen property, the Washington Principles will remain empty promises.

Below, I have taken examples from the Grünbaum case to illustrate legal and practical obstacles to claimants of property stolen by the Nazis remaining in 2009.

- ▷ Inaction and Stonewalling
- ▷ Concealment and Cost
- ▷ Blaming the Victims
- ▷ Deception or Evasion
- ▷ Privilege
- ▷ Denial of Criminal Acts
- ▷ Laundering
- ▷ Confidentiality
- ▷ Holocaust Denial

Austrian Obstacles

The seizure by D.A. Robert Morgenthau at New York's Museum of Modern Art of Grünbaum's *Dead City* and Schiele's *Portrait of Wally* and the Washington Conference are considered to be the impetus for the legislative reforms enacted in Austria in the late 1990s. Article 26 of the 1955 Austrian State Treaty requires Austria to return all property taken from Jews as a result of Nazi persecution. Austria's failure to return property to victims of Nazism is a breach of this Treaty, which is Austria's very constitutional foundation. After 59 years of Austria treating its commitment with contempt, it is clear that there is no political will within Austria to return property stolen from Jews.

Austria has perhaps in other cases recently engaged in restitution. Austria has made research efforts (unfortunately published only in the German language) and according to various reports has taken hesitating steps towards restituting stolen property. But in the Grünbaum case, Austria has violated the Austrian State Treaty and merely put up a pretense of restitution. In the many years of the Bush/Cheney Administration following the Washington Conference, Austria has done nothing to reconstitute Grünbaum's works to his heirs.

Inaction and Stonewalling

One obstacle the Grünbaum heirs have encountered is a simple lack of action or cooperation from authorities. Despite claiming that it was going to research its collections and return stolen artworks, Austria has failed to do so. The Albertina museum has never even responded to a claim by Fritz Grünbaum's heirs for the return of Grünbaum's Schieles. Nor has Austria issued provenance reports on the Schieles in Austria's Albertina museum.

Deception or “Evasion”

Another obstacle to recovery of artworks stolen from Fritz Grünbaum is Austria’s creation of the “private” Leopold Museum, which is owned in the form of a foundation. By placing stolen assets into a foundation that it owns and claiming that the foundation is “private,” Austria has so far evaded its obligations under the Washington Principles.

Article 26 of Austria’s State Treaty forbids the Republic of Austria from owning artworks looted from Jews. By creating the Leopold Foundation to conceal its ownership, Austria has violated the treaty. Austria purchased a 50 percent interest in the Leopold Museum. Upon the death of Leopold and his wife, Austria will own 100 percent. Austria has exempted Leopold from a law requiring the return of stolen property.

Switzerland has simply turned its back on the issues of art looting and restituting artworks to the Jews and other Nazi victims from whom they were looted.

Laundering

Switzerland has been used as a place to launder stolen art. On January 5, 1943, the Allied Powers warned Switzerland that transactions in property from Nazi-occupied territories would not give the acquirer good title. Swiss art dealers continued to avail themselves of a law that permitted an art dealer to acquire stolen property and to acquire good title after five years of the property being held in Switzerland. Shortly after the Allies vacated Vienna in 1955, the Swiss market was flooded with artworks stolen from Jews.

In 1956, 80 percent of Fritz Grünbaum’s Schiele collection was sold in Switzerland by Eberhard Kornfeld, who knew that *Dead City* was owned by Grünbaum. Kornfeld purchased the stolen Grünbaum works only weeks after selling a major part of the Albertina’s collection from Abertina director Otto Benesch. Switzerland has failed to investigate Kornfeld. Swiss legal experts still claim that Switzerland’s five year statute of limitations on laundering stolen property still applies. Apparently, the Swiss have changed this statute of limitations, but Swiss legal experts are still urging its application to Nazi looted artworks.

Concealment and Cost

It is impossible to gain access to original provenance documents without the consent of the Swiss art dealers. Thus, when our handwriting experts found “massive doubts” regarding the handwriting in Eberhard Kornfeld’s provenance documents, our experts were effectively blocked from inspecting the originals by Kornfeld’s refusal to have handwriting experts from the Viennese police inspect the documents in Switzerland. For handwriting experts to compare original documents in Vienna and Switzerland it is necessary to transport them and their equipment (microscopes and scanners) at enormous cost. Given the blocking, even if we were willing to meet the cost, we were unable to obtain definitive proof of forgeries acceptable to a US court.

US Obstacles

US museums, auction houses, and owners of Nazi-looted artworks have failed to live up to the Washington Principles. Under the Bush/Cheney Administration, the USA failed to create a restitutional commission, has permitted government-subsidized museums to cloak their activities in privilege and secrecy, and

has failed to compel museums to publish provenance and research collections.

Government-subsidized and tax-exempt museums have sued Jewish claimants seeking declarations of title to stolen Holocaust-era artworks in their collections. During and after World War II, US museums went on a spree of buying stolen Nazi-looted art. Despite such purchases of stolen property being considered a crime in the USA, the museums have failed to take responsibility for these crimes or to reconstitute the proceeds of these crimes. For the most part, the Department of Justice and local criminal investigators have done almost nothing to assist the victims of these crimes.

Privilege

US museums claim to be “private” in ownership when they wish to conceal information. They claim to serve the “public” trust when they reject claims to stolen property in their collections. They are generally tax-exempt entities and usually receive outright subsidies from the state or federal governments. Museums use the claim of “attorney client privilege” to conceal their research into the provenance of their collections. They hire outside lawyers. They then conceal this research from the public. This has happened in the Grünbaum case, particularly with Oberlin College’s research into the provenance of Schiele’s *Girl with Black Hair*. If claims are made, museums will often research and resolve the claims behind a wall of secrecy, meaning that the public will not receive any understanding of the scholarship in which they engage.

Confidentiality

Auction houses claim that the identities of purchasers and sellers of Grünbaum’s artworks are “confidential.” Thus, when served

with a subpoena, Sotheby’s, Christie’s and the Galerie St. Etienne obtained a court order blocking revelation of who was trafficking in the Schieles stolen from Grünbaum. These blanket assertions of confidentiality have made Grünbaum’s collection impossible to trace.

Falsification

US museums, colleges and auction houses routinely publish incomplete or falsified provenances. For example, we all know that Egon Schiele was an Austrian artist. We know that Eberhard Kornfeld, Rudolph Leopold and Jane Kallir have all said that the contents of Kornfeld’s 1956 Schiele sale came from Grünbaum’s collection. This was documented by Sophie Lillie many years ago in the scholarly literature. Yet a visit to Oberlin College’s website lists the earliest provenance as “Berne 1956.” A visit to the MoMA’s website shows “Gift of Otto Kallir” as the earliest provenances of other Schieles stolen from Grünbaum. Museums and colleges routinely publish these false and incomplete provenances of works entering the US after 1933 that were created before 1945. This falsification is rampant and violates the Washington Principles.

Legal Defenses: Statute of Limitations or Blaming the Victim

Museums in the USA have taken to blaming the victims of Nazism for asserting claims belatedly and use statutes of limitation to avoid resolution of claims on the merits. Certain US jurisdictions require heirs to act within a “reasonable” time from discovering their losses. Such requirements impose unreasonable burdens upon descendants of Holocaust victims. In the case of Fritz Grünbaum, most of his immediate family was murdered. His sister lived in the Czech Republic under Soviet Communism that did not

permit private property claims to be pursued in multiple jurisdictions. Imposing legal defenses based on limitations is unfair, inequitable, and runs contrary to the Washington Principles, which urge that matters be resolved on the merits of whether or not the property was stolen.

Equitable Defense: Laches or Denial of Responsibility for Receiving Stolen Property

During World War II and immediately afterward, US museums were warned by the US government against acquiring artworks from Europe that did not have clear provenances¹. Throughout the USA, purchasing stolen property is a crime. Thus, US museums purchasing or accepting as gifts artworks without provenance documentation were committing a crime or facilitating criminal actions after being warned not to do so.

In certain cases, US museums directly financed the Nazi war machine by buying through Nazi authorized dealers such as Karl Buchholz and Curt Valentin in New York, or indirectly through Theodor Fischer, August Klipstein or the FIDES Treuhand (a subsidiary of Credit Suisse) in Switzerland. The consequence of these criminal museum actions was that from 1945–2009, two generations of owners of property have been deprived of their rightful belongings.

Rather than accepting responsibility for these criminal actions and taking steps to remedy such actions by engaging in restitution, US museums have claimed that they hold stolen artworks as a matter of “public trust” and that such “public trust” requires them to hold stolen artworks if claimants do not prove

¹ See, e.g., London Declaration of January 5, 1943; US State Department Bulletins.

100 percent airtight evidentiary cases. Rather than serving the public trust, the museums, by asserting laches defenses, compound the injury to Holocaust victims and their survivors by continuing to display stolen works to the US and international public. Exhibiting stolen art and hiding provenances teaches the viewing public Holocaust denial and continues the decades-long deprivation.

Equitable Defenses: Holocaust Denial

US museums and holders of stolen property argue that they were good faith purchasers of artworks stolen from Fritz Grünbaum. Many of Schiele’s major collectors were murdered Jews. Schiele was virtually unknown outside Austria prior to WW II. During World War II and in its aftermath, government warnings, press reports, and general public consciousness of Nazi massacre and looting, in particular art looting, were widely reported. Yet museums and others argue that they were “good faith purchasers” when buying undocumented European artworks during and after WW II.

Auction houses such as Sotheby’s propagate the myth that the Holocaust and art looting were unknown in the USA until the mid-1990s when Lynn Nicholas published *The Rape of Europa*. In fact, government and news reports during and immediately following World War II clearly outline the vast looting of European Jews’ property. In 1947, *The New Yorker* published an extensive three-part series by Janet Flanner documenting the Nazis’ encyclopedic art looting activities. Hence, to claim that US museums and other purchasers were unaware of Hitler’s looting activities and particularly that, after 1947, a good faith purchase of un-provenanced European artworks was possible is a form of Holocaust denial.

Importations of Foreign Legal Defenses

Museums and other holders of property stolen from Fritz Grünbaum hire foreign legal experts who claim that the Washington Principles should not be applied, that defenses such as Swiss and Austrian statutes of limitations should bar any claims to property stolen from Fritz Grünbaum in the United States. For example, Swiss attorney Alexander Jolles testified that once a lawsuit exists, the Washington Principles are not relevant under Swiss law. Thus, US museums and others claim that the unavailability of restitution remedies in Austria, Switzerland or Germany should bar restitution in the United States.

Systematic Extortion

Museums who know that they do not have title to artworks often turn to US courts to avoid the question of restitution. We have seen this in the recent case of *Boston Museum of Fine Arts v. Seger-Thomschitz*. In that case, the judge avoided the question of whether Otto Kallir's acquisition of a Kokoschka in February 1939 from a Jewish man in Vienna gave Kallir legal title to the artwork. Rather than looking to the merits, the judge relied on technical defenses and dismissed the case.

In other cases, museums will pay money under a threat of subjecting the claimants to a total loss and huge legal fees. This is known as extortion.

Conclusion

Austria cannot be permitted to continue to violate the 1955 Austrian State Treaty. Without substantial commitments from governments to restitute stolen artworks and providing without

providing expedited restitutional remedies, the promise of the Washington Principles to return stolen art that is now in the world's museums is an empty one. If Austria, Switzerland and the United States continue to avoid their obligations, the property stolen from Fritz and millions of other Jews will never be located and given back.

Feedback: Cooperation of Respective Entities Towards Provenance Research

► Shauna Isaac

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TECHNOLOGY AND THE ACCESSIBILITY OF INFORMATION

At the Washington Conference on Holocaust-Era Assets, there was a breakout session that focused on the identification of art, archives and databases and which emphasised the role of technology. There was a great deal of excitement about being able to post information on the internet so that it would be accessible to everyone. Museums, archives and government agencies committed resources to making the information that they held available online. Many of these organizations succeeded at this and there are several websites that contain valuable information about Holocaust Era looted cultural property.

However, many of the websites have not been updated since they were first constructed in the late 1990s or the beginning of this century. Technology has come a long way in the last decade and new digital initiatives need to take advantage of this. This paper will provide a brief overview of what is currently available online, from early to more recently built websites; what information still needs to be made publicly available; and current digital projects that will be very useful for the restitution community. The second part of the paper will focus on the creation of a Central Information Portal.

An early example of a looted art database is the French MNR website. The MNR, or *Musées Nationaux Récupération*, database lists 2,000 items that were looted from France, but the owners of the artworks are unknown, and the objects have been left in the custodianship of the French government. The website was launched in November 1996 and was the first online database to post looted art. At first, there was only a written description for each item, but the data improved to include provenance information and images.

Websites evolved from this early model to include sites that are more user friendly and contain free text searches, such as the Dutch Origins Unknown website. The project began in 1998 as an initiative of the Dutch Ministry of Education, Culture and Sciences and the site lists items from the Dutch NK collection, which, like the MNR site, shows objects held by the Dutch State, whose owners and heirs are unknown. Several items have been restituted since the website went online.

The Central Registry of Information on Looted Cultural Property 1933–1945 was launched in 2002 under the auspices of the Oxford Centre for Hebrew and Jewish Studies. It contains an object database and an information database that is a useful resource for finding laws, policies and archival information with regard to looted cultural property.

The German website,¹ which is run by the *Koordinateinstelle* in Magdeburg, contains missing items from families and objects looted from German institutions. It also contains objects housed in various institutions throughout Germany. Claimants can register missing items as well. Although the website was launched

¹ See: <http://www.lostart.de>.

in 2000, it has been continually updated and includes useful research information such as a list of collectors and information on forced sales.

The search engines for all of these sites work fine, but technology has improved since they were first built and search engines have become more sophisticated. One example of this is the Trace Looted Art database, which was launched in 2006. Trace is a global, online registry of stolen valuables that is freely available to the public and its database contains over 45,000 looted items and allows free text searches. Claimants can register looted items as well. One of the most interesting features of Trace is its image matching technology, which allows comparison, search and retrieval of photographic images. The image search can enable matches even if images are at different angles and under different lighting conditions. This is very helpful if images of the same object differ slightly and if an artist's name is spelled differently or if an object has been reattributed.

There are many other websites that contain valuable information about looted cultural property, and the amount of data that has been published online makes finding information much easier than it was just a couple of years ago. However, there is still a great deal of valuable information that is not yet widely available.

Some of the key documents that would be very useful to the restitution community if they were digitised include dealer records and forced sale auction catalogues. Dealer records would be a tremendous resource when conducting research, and although lists of records are available it would be very useful if the actual records were placed online and made available to the public, especially those of prominent pre-war dealers such as Adolf Goupil and Paul Rosenberg. There are also hundreds of forced sale auction

catalogues located in libraries throughout Europe that could be digitised. Sage Recovery has been working with the Holocaust Claims Processing Office (HCPO) and other organizations to start digitising the records of notorious wartime auctions such as those run by Paul Graupe, Rudolph Lepke and Hans Lange.

Any time archival records are digitised and made publicly available, it is extremely useful. To that end, it is very exciting that the National Archives in Washington, DC will be digitising their microfilmed records that relate to Holocaust-era assets, which should be available by the middle of 2010. They have partnered with the British National Archives and the Bundesarchiv in Koblenz, who are also working to digitise their records.

Another useful project is the digitisation of the ERR records which Patricia Grimstead is working on in conjunction with the Claims Conference. Also of note is that the Austrian Commission for Provenance Research are completing a database that will cover all auction catalogues from Vienna 1938–1944. The database is currently an internal tool for members of the Commission and it is not known if the database will be made public.

More information regarding Nazi looting is being published online all the time. This is a great thing, but it is difficult to keep track of everything that is available. One way to resolve this is to create a portal where visitors can retrieve information from participating websites.

An example of a web portal for looted cultural property comes from the American Association of Museums, who launched the Nazi-Era Provenance Internet Portal (NEPIP) website in September 2003. The goal of the portal is to provide a searchable registry of works of art in US museums that changed hands in Europe

from 1933–1945. The portal has over 150 participating museums with over 26,000 objects.

The portal is a great way to bring together data from museums that have different standards for displaying information. The search results display basic information about a given object. In order to obtain complete provenance information about an object, the user has to go to the actual museum website, and from there either navigate to the object or contact the museum, instead of linking directly to the page that the object is on.

There have not been any other portals specifically dealing with looted art, but there are some very impressive portals for art libraries and the cultural sector that have been launched in the last two years and show how quick and easy it is to search multiple websites. One example is the Virtual Catalogue for Art History,¹ which is a European catalogue of art libraries. *Artlibraries.net* was launched in 2007, prior to that it was known as the VKK or Virtual Catalogue for Art History. *Artlibraries.net* contains access to more than eight million records including books, periodicals, exhibition catalogues and conference papers.

Artlibraries.net simultaneously searches information from over two dozen online art libraries around the world. Results are listed by libraries with links to the titles of the books. Clicking on the link will take the user to the book reference on the originating library's website. This is very useful and saves researchers a great deal of time. They do not have to search several library websites and could very likely find the information that they were looking for on a website that they did not even know existed, but is part of the *Artlibraries* network.

¹ See: <http://www.artlibraries.net>.

A relatively new portal is *Europeana*, whose prototype was launched at the end of 2008. *Europeana* is a website that searches over two million items from over 1,000 cultural organizations across Europe, including the Louvre, the Rijksmuseum and the British Library. It provides direct access to digitised archives, books, paintings, photos, manuscripts, and audio and video material. Participating cultural institutions are able to take advantage of *Europeana's* features, but still retain complete autonomy over their content.

With *Europeana*, visitors can carry out a single search from different collections in several European cultural institutions without having to visit multiple sites. The data is not stored on a central computer, but is culled from the member institutions' websites. A search yields an image and the name of the institute from which it came. Searches can be refined by language, country, date, and provider. Clicking on an image will give the user basic information about the item, list related content, and provide a link to view the item in its original context, which gives complete details about the item on the provider's website.

Europeana uses personalisation and web 2.0 features as well. A user can log in, save searches, tag searches, share information, and see what new content has been added. *Europeana* will soon be adding groups for visitors to join and discuss common interests. All of these features help to create a sense of community because a user can actively participate and share his or her thoughts and interests with visitors around the world.

These impressive portals were built within the last couple of years and were able to take advantage of the improvements in search technology. This kind of technology can be used to create a Central Information Portal for Holocaust-Era Looted Cultural

Property. Washington Conference Principle VI states that “Efforts should be made to establish a central registry of such information. The best way to establish such a registry would be to create a portal for new and existing websites to join so that all sites could be searched in a single place.”

It would have been difficult to have a discussion about this type of portal even five years ago because there were not the abundance of websites devoted to looted cultural property and search technology was not as well developed as it is today. But now that there are so many websites devoted to this subject, and the technology is available, the time is ripe to create a Central Information Portal for Holocaust-Era Looted Cultural Property.

I have helped to create two international databases, one for the Central Registry of Looted Cultural Property and one for Trace Looted Art, so I have a good understanding of the issues involved with creating a single universal database. I believe that a portal with member websites would be a better solution than putting all available information into one website. One of the main issues when developing a single centralized website is that organizations have already spent time and effort creating websites, and not everyone is happy to put their information into another website since the data is already available and because they feel that it would be duplicating their efforts. In some cases, organizations are given funding specifically to carry out looted art digitization projects and would not want the funding to be taken away from them by entering the information into a single website. It is extremely important to make information available in one place, especially now that there are so many sources for information.

Another issue is dealing with different standards from information providers and then collating them into a single standard.

There are also different national laws about data protection, copyright and use of images. Creating a Central Information Portal is a nice way to get around these problems. As part of a portal, these issues will already have been dealt with by the member websites. The portal would cull basic information from each website and present it in a standardised way, but site and national standards will remain intact in the member websites.

A portal can be a way to display information from all available looted cultural property websites in one place without having to build an entirely new database. The portal does not need to be limited in the type of information that it displays. Organizations that have information about looted cultural property would be asked to become members of the portal, and when new sites are built, they would be invited to join the portal. The effort that existing websites would need to put forward to make their data work with the portal would be minimal, since the search technology on the portal would be able to draw out existing information. The portal would search information from relevant object oriented databases, museums that list provenance information, digital libraries and archives that have pertinent records, sites that list claimant information, restitution laws, and collector information.

The portal will not replace current websites with their unique features and services, but on the contrary, should render them more visible and efficient within an association of cooperating partners, particularly if a search query lists what website the information came from. The search results could be filtered in a variety of ways, including by object, provenance, collector, date, language, country and originating website. The portal could also list content related to a specific search as well as what the most common searches are, which would provide unique insight into what kind of information people are researching.

If object information from every site is displayed, then this will become a valuable tool for the art market. Dealers and auction houses can use the portal to search items before they go up for sale and catch items that may have been looted.

The portal can also feature social networking, which would be helpful for both families and professionals who are seeking information. Families could talk to one another about successes and pitfalls they have encountered. They could also form interest groups that range from genealogy to claimant resources. This would give them a community to discuss issues with like-minded individuals.

Another advantage of social networking is that professional researchers would have an international environment in which they can share information. Oftentimes research is solitary, but it is much more useful if a researcher could get tips from other professionals in the field. Users could form specialist groups such as restitution laws, looting in Poland, etc. This could have a secondary effect of creating an international restitution community that can communicate on a regular basis in which anyone is welcome to participate.

In terms of governance, the Central Information Portal should be run as a not-for-profit organization and be a neutral body, so that there are not any conflicts of interest with claimants or the art market. A small staff would be needed to manage the build and maintenance of the site. This could be run in conjunction with the proposed Terezín Institute.

As a not-for-profit organization, funding could come from governments or from private foundations. The way that the portal is built, the lists of partners, and the way that it obtains information should

be entirely transparent and the organization running the portal should publish regular reports about the information that it has acquired, highlights and statistics about how many people are visiting the website, and the organizations that are sponsoring the site.

There will be issues that arise when creating a portal, the biggest one being securing and sustaining funding. However, this is a great way to centralise information while also letting participating organizations retain autonomy and control over their content. Creating a portal specifically for Holocaust era looted cultural property will fulfil Washington Conference Principle VI and make finding information much easier and more accessible.

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**IDENTIFICATION OF WORKS OF ART BELONGING
TO HOLOCAUST VICTIMS AND THE POSSIBILITY OF
RESTITUTION TO THE ORIGINAL OWNERS**

I would like to enumerate the possibilities for identifying works of art belonging to victims of the Holocaust that have been kept thus far in the collections of certain museums and galleries. I will base my remarks on the experiences of the Silesian Regional Museum (*Slezské zemské muzeum*) in Opava and I will cite several specific examples that have led to a work of art being found and successfully restituted.

Ten years ago, when the Czech Ministry of Culture ordered museums and galleries to ascertain whether they possessed items

originally belonging to victims of the Holocaust, the resulting inspections yielded mostly negative results. Things were no different in the Silesian Regional Museum in Opava, and no such items were found in the Museum's collections. It is extremely difficult to prove the origin of these items if there is no obvious evidence of Jewish culture or ritual objects, or if they are not part of art collections belonging to well known collectors. Records in acquisition books for the Museum's collections from the Nazi era (if they have been preserved at all, in view of wartime events) usually do not mention the specific origin of an item. Similarly, post-war records of confiscations conceal their actual origin, because a number of cases concerned not German property, but works that were plundered or confiscated by the Nazis.¹

Finding connections between "suspicious" items in museum collections and their original owners requires comprehensive archive research, which is appropriate to the specific conditions of the museum in question. Because the territory of Czech Silesia was not part of the Protectorate of Bohemia and Moravia during the war, but was another border area of the Czech Lands directly affiliated with the German Reich, there is little chance of successfully finding period documents in the central archives of Prague and Brno. Despite losses sustained during the evacuation of the authorities' offices at the end of the war and fierce battles during the liberation of Silesia, a considerable portion of official documentation from the Opava government district of Reichsgau Sudetenland was preserved in the Regional Archive (*Zemský archiv*) in Opava. A particular source of valuable information in

¹ Borák, Mečislav. "Some Possibilities for the Museum Identification of Items Belonging to Holocaust Victims" ("Některé možnosti muzejní identifikace předmětů patřících obětem holocaustu"). In *Lost Heritage (Ztracené dědictví)*. Contributions from "roundtable" discussions on the documentation, identification and restitution of cultural property belonging to victims of World War II. Ed. Mečislav, Borák. Prague: Tilia, 2006, pp. 76–82.

this archive is the collection of the *Supreme Financial President for Opava (Vrchní finanční prezident Opava 1938–1945)*, which contains hundreds of boxes of taxation and pricing records as well as other financial files. For example, the financial documents include lists of payers of Jewish tax, fragments of Gestapo correspondence concerning confiscated Jewish property, and lists of the assets of Jewish inhabitants from the entire Opava government district, who were deported to Terezín or to extermination camps in the eastern part of the Reich.² The extensive correspondence of the Supreme Financial Presidium documents in detail the official mechanism for the transfer of Jewish assets into German hands. Whereas gold and jewels belonging to Jews deported to the ghetto in Terezín and extermination camps were sent directly to Berlin, other confiscated property was stored in depots. The director of the *Reichsgaumuseum* in Opava, Dr. Werner Kudlich, asked the Supreme Financial President for confiscated works of art "of Jewish and Czech origin" to be given to the Opava museum, particularly items of "national historical and geographical value."

In the correspondence that has been preserved, there are also letters that allowed for requested Jewish assets to be specified in concrete terms.³ The first of these concerned the assets of the Löw-Beer family from Brněnec (then Brünnlitz), who owned a small textile factory in the town that later became famous around the world. This was the place where Oskar Schindler established a grenade factory at the end of the war. He employed Jewish prisoners and thus saved them from extermination. Besides artisanal furniture and a clock, the museum's director also requested a

² Borák, Mečislav. "Sources on Transportations to Terezín from the Opava District of the Reichsgau Sudetenland" (Prameny k transportům z opavského obvodu Sudetské župy do Terezína). *Terezínské listy (Terezín Journal)*, 33, 2005, pp. 36–44.

³ Opava Regional Archive (Zemský archiv Opava), collection of the Supreme Financial President of Opava (Vrchní finanční prezident Opava) 1938–1945, box 2077.

picture by the painter Franz von Lenbach. The second request that was found concerned the confiscated property of the Pam family from Lanškroun. Apart from a musical clock with a motif of Karlštejn Castle, Dr. Kudlich primarily requested pictures – a still life by Josef Wimmer, several watercolors by Karel Geiger, Friedrich Frank and Strof (all with Viennese themes) and an oil painting by Alois Schön (*Banquet in a Viennese Suburb – Hostinec na vídeňském předměstí*). The third request concerned a rare bible with engravings by F. X. Scheidt and a Chinese picture on glass from the house of the Konstant-Bred family of Jewish entrepreneurs from Opava. All other references to efforts to obtain confiscated pictures and works of art for the museum were too general. Consequently, it was not possible to use them to explicitly identify requested works (e.g., they concerned collections of pictures from the Fulnek chateau and from Opava's Minorite monastery, pictures belonging to the owner of the Hoffmann textile factory in Moravská Chrastava, etc.). Other correspondence indicated that the Supreme Financial President accommodated the museum's requests and recommended that the Reich's Ministry of Finance should deal with them in an affirmative manner. Unfortunately, the archive collections do not enable us to discover whether items were eventually transferred to the museum's collections or to ascertain the extent to which this took place.

Discovering at least some specific data about works of art facilitated the second phase of the investigation – making an attempt to find them in the collections of today's Silesian Regional Museum. Nevertheless, searching in the acquisitions book from the time of the war did not uncover any of the items. It was only when the registration book of postwar confiscations was studied that the first success story was finally recorded – a signed picture by Franz Seraph von Lenbach was found (a portrait entitled *A Girl's Head – Dívčí hlavička*). Lenbach was a well-known

ladies' salon portraitist from the end of the 19th century and he was also famous for his portraits of the German chancellor Bismarck. This is undoubtedly one of the pictures confiscated from the Löw-Beer family in Brněnec, which was mentioned in the museum director's letter. This is also indirectly confirmed by a note added in pencil to the column stating the origin of the work, that is, the word "*Finanzpräz.*," which probably documents the transfer of the picture to the museum by way of a decision taken by the financial president for Opava.

Immediately afterwards, three further pictures were identified, which were mentioned in correspondence found in the archive. In all probability, these probably originate from the property of the Pam family of Lanškroun. They are *Still Life with Fruit (Zátiší s ovoce)*, an oil painting on canvas signed by Josef Wimmer, and two signed gouaches by Friedrich Frank from around 1910 – the Viennese square *Am Hof* and the Viennese street *Kärtnerring*. The other pictures mentioned – by Karl Geiger and Alois Schön – were not located. Similarly, no traces were found of the Chinese picture on glass and other property belonging to the Konstant-Bred family.

This was followed by the third phase of the entire process – finding the original owners and beginning restitution proceedings. Before the war, the factory in Brněnec belonged to three brothers from the Löw-Beer family, which has now branched out widely. With the aid of Michaela Hájková, the curator of the Jewish Museum in Prague, contact was established with the grandson of Alice Löw-Beer, Mr. Ivan Koenig from London. Jacob Löw-Beer, the great-grandson of one of the owners, got in touch from the United States. Together with other members of the family, Margaret König from Great Britain also came to a conference on restitutions held in Český Krumlov in 2005. She declared that the

picture that had been located was all the more valuable to the family because it is now the only thing that has been found from their collection, which was confiscated by the Nazis.

With the aid of archivists and museologists from north Moravia, traces were also found of the Pam family from Lanškroun. At the end of the 19th century, they established a paper mill in the town, which is still operating today. In 1938, part of the family managed to emigrate to Great Britain, but Max Pam was imprisoned by the Nazis and he perished in the Dachau concentration camp. Today, the family's descendants live in France, Australia and Canada. Liselotte Fisher-Pam, the ninety-year-old granddaughter of the founder of the Lanškroun factory, came from the latter country this year to look at the pictures that had been found. Restitution proceedings are still underway, but there is no doubt that they will be resolved in favor of the descendants of the original owners of the pictures.¹

Recently at the Silesian Regional Museum in Opava, on the basis of an analysis of newly found archive materials, more pictures and works of art were identified which very probably belonged to victims of the Holocaust. Some records have been preserved of meetings at the Reich Museum in Liberec at the headquarters of the Reichsgau Sudetenland, where Kudlich, the museum director, travelled from Opava. At the meetings, decisions were made about which acquisitions would be taken to Opava and which ones would remain in Liberec. The objects and pictures concerned were quite well described so it was possible to begin searching for them in the collections of the Museum today.

¹ Kalus, Jaromír. Restitution of Art Belonging to Holocaust Victims in the Context of the History of the Silesian Museum in Opava. In *Restitution of Confiscated Art Works – Wish or Reality? Documentation, identification and restitution of cultural property belonging to victims of World War II*. Edited by Mečislav Borák. Prague: Tilia Publishers, 2008, pp. 235–245.

The minutes of the meetings were compared with the records of collection acquisitions and records of confiscations. So far, two purchases of pictures by Dr. Kajetan Mühlmann, the Reichskommissar for occupied Dutch territory in The Haag, have been proven with relative certainty – *A Scene from the Harbor (Scéna z přístavu)*, an oil painting on wood by Norbert Grund, a leading rococo painter who originally came from Prague, and *Still Life with Snails (Zátiší s hlemýžďi)* by Georg Flegel from Olomouc, one of the founders of still life painting in German art. A tapestry with motifs of fantastical fauna and flora, which presumably originated in Flanders in the 16th century, was also acquired for the Reichskommissar in The Haag. This was recorded in the collections at the Museum as “old museum property.” We therefore have extremely suspicious wartime acquisitions for collections, but we cannot prove with certainty that they belonged to victims of the Holocaust or even identify their original owners. It would perhaps be possible to do this in cooperation with colleagues in the Netherlands or possibly France, Belgium, or Germany.

We expect other similar finds. For example, an inventory from the time of the occupation corresponds to a Renaissance tin pot dating back to 1579 from the town of Liebenthal (now Lubomierz) in Lower Silesia. In the Museum's acquisitions book for collections from the time of the occupation, there are some very suspicious purchases in auction houses and auction rooms, which also arranged the sale of Jewish assets, e.g., Hauswedell in Hamburg, Heinrich Hahn in Frankfurt am Main, Lempertz in Cologne, Dr. Weinmüller in Munich, Versteigerungshaus Gerhard Harms and Haus Krüger in Berlin, Kunst-Auktionshaus “Kärtnerstrasse” and Dorotheum in Vienna as well as Stieglitz Salon in Krakow. Purchases were also made very frequently in Amsterdam with the firms Van Dijk, Wincent Klepman, Mossel, and Vecht. So far, however, no specific evidence has been found that would

prove that any of the purchases belonged to victims of the Holocaust. Other suspicious transactions, for example, could include the purchase of porcelain with a memo that it comes from the Petschek collection, a reference to the prepared purchases of part of the Mannheimer collection in The Haag, or all transfers of pictures arranged by financial authorities.

In conclusion, I would like to express my conviction that even in regional museums and galleries possibilities also exist for the identification and restitution of works of art belonging to Holocaust victims.¹ Nevertheless, this remains contingent upon a thorough and expertly qualified examination of all available archive resources, including atypical sources (e.g., financial documents), comparing information from central and regional archives, perhaps even from archives that are a considerable distance from where the collections have been deposited, rigorous and repeated checks of records of collection acquisitions and postwar confiscations as well as comparisons of records with period archive materials, and the identification of all suspicious acquisitions, their registration, and public accessibility. This would facilitate the search for sought-after works and their original owners on an international level.

¹ Borák, Mečislav. "Identifying the Items of Holocaust Victims in the Collections of Museums and Galleries in the Czech Republic." (Identifikace předmětů po obětech Holocaustu ve sbírkách muzeí a galerií ČR). *The Silesian Regional Museum's Magazine (Časopis Slezského zemského muzea)*, series B, 55, 2006, pp. 285–287.

► **Anna Rubin**

HOLOCAUST CLAIMS PROCESSING OFFICE, USA

**PRESUMPTIONS: APPLYING LESSONS
LEARNED FROM COMPENSATION PROGRAMS**

Good afternoon, Friends and Colleagues:

Thank you for the opportunity to appear before you today. Those in the field of restitution are aware that even extensive research cannot always provide a complete provenance for artworks looted during the Holocaust. As Director of the Holocaust Claims Processing Office (HCPO), I would like to share with you our experience working with numerous international restitution organizations and to suggest that practices of other restitution processes could provide valuable guidelines with respect to filling provenance gaps.

In the late 1990s, disputes over Holocaust-era dormant Swiss bank accounts and unpaid life insurance policies focused international attention on myriad issues concerning unresolved claims for assets lost during the Holocaust era. As a result, numerous agreements allocating funds for restitution were reached, and processes to disburse payments were established.² However, no

² Take for example the Holocaust Victim Assets litigation in the US District Court for the Eastern District of New York, Chief Judge Edward R. Korman presiding, and the Claims Resolution Tribunal (CRT); the Washington Agreement between the United State and France and the Commission for the Compensation of Victims of Spoliation Resulting from the Anti-Semitic Legislation in Force during the Occupation (CIVS); the Memorandum of Understanding, between European insurers, United States insurance regulators and others, and the International Commission on Holocaust Era Insurance Claims (ICHEIC); the Foundation "Remembrance, Responsibility, and the Future" (German Foundation) and the Property Loss Claims Commission as well as Slave and Forced Labor programs; the Washington Agreement between the United State and Austria and the General Settlement Fund (GSF); the Enemy Property Claims Assessment Panel (EPCAP); and the Belgian Jewish Community Indemnification Commis-

roadmap existed to guide the newly created restitution organizations in setting parameters by which they could accomplish their missions. Thus a network of frequently overlapping claims processes developed and was so complex that it became nearly impossible for an individual claimant to proceed unaided.

New York State, which has been at the forefront of efforts to obtain just resolution for the theft of property during the Holocaust, recognized the need for an agency to assist individuals attempting to navigate the emotionally charged maze of Holocaust-era asset restitution. As a result, in June 1997, the Holocaust Claims Processing Office was established as a division of the New York State Banking Department. Though initially intended to help individuals hoping to recover assets deposited in Swiss financial institutions, by the end of 1998 the HCPO expanded its mission to assist in the recovery of assets held in non-Swiss banks, proceeds from Holocaust-era insurance policies, and works of art that were lost, looted, or sold under duress between 1933 and 1945.

The HCPO is currently the only government agency in the United States that assists individuals, regardless of their background and current residence, with a variety of restitution processes worldwide. Claimants pay no fee for the HCPO's services, nor does the HCPO take a percentage of the value of the assets recovered. As such, the HCPO is able to pursue a claim regardless of the value of the object, and successful resolution is not dependent on the item's recovery. The goal of the HCPO is to advocate for claimants by helping to alleviate any cost and bureaucratic hardships they might encounter in trying to pursue claims on their own.

sion. These are but a few of the agreements and claims processes which were created at the end of the 1990s and early 2000s.

Since its inception, the HCPO has received claims from nearly 4,800 individuals from 45 US states and 38 countries; of these claimants, 155 individuals from 19 states and 10 countries are seeking to recover missing works of art. To date, the combined total of offers extended to HCPO claimants for bank accounts, insurance policies and other material losses amounts to over USD 138 million, and 36 works of art have been restituted to HCPO claimants or were the subject of settlements between HCPO claimants and current possessors.

Over the past 12 years, the HCPO has worked closely with nearly all restitution and compensation agencies in existence today, acquiring extensive knowledge of multiple restitution processes and their submission and processing guidelines. This unique experience allowed the HCPO to develop a multifaceted approach to handling claims, as claimants frequently sought the recovery of more than one asset, and research for one item often led to the discovery of another.

The agencies with which we work share the same goal – to resolve claims for Holocaust-era looted property fairly; however, the methods for achieving the common goal of a just resolution are as varied as the organizations involved. Through experience and observation, the HCPO has identified specific practices – Best Practices – that reliably accomplish this objective. No single claims processor utilizes all of these practices, but all claims processes share the use of relaxed standards of proof for Holocaust-era claims, because they acknowledge that the passage of time and ravages of war left many individuals without documentation to substantiate their claims. Thus, this evidentiary standard was incorporated into present-day restitution agreements and further developed in the resulting claims processes procedural guidelines.

For example, under the Processing Guidelines of the International Commission on Holocaust Era Insurance Claims (ICHEIC), claimants were allowed “to provide non-documentary and unofficial documentary evidence for assessment,” while companies were “not to demand, unreasonably, the production of any document or other evidence which has likely been destroyed, lost, or is unavailable to the claimant.”¹ Similarly, the standard adopted by the German Foundation Property Loss Claims Commission did not require claimants to submit the stringent evidence that a court of law would demand; instead, claimants were only expected to “credibly demonstrate” what they were asserting.²

The Claims Resolution Tribunal (CRT) established and continues to utilize a plausibility standard where “[e]ach claimant shall demonstrate that it is plausible in light of all the circumstances that he or she is entitled in whole or in part, to the claimed Account.”³ Other examples include, but are not limited to, the law⁴ establishing the Austrian General Settlement Fund (GSF) and the Washington Agreement⁵ between the United States and

France which, respectively, stipulated that the GSF Claims Committee and the Commission for the Compensation of Victims of Spoliation Resulting from Anti-Semitic Legislation in Force During the Occupation (CIVS) investigate and consider claims on the basis of relaxed standards of proof.

Though the definition of “relaxed standards of proof” differs from one entity to the next, they fundamentally all endorse the same principle: a claim cannot be rejected on the grounds that the claimant lacks complete documentary evidence. This does not suggest that proof is unnecessary: claimants are still required to demonstrate that they are entitled to inherit the asset as an heir to the original owner, that the property was owned by their predecessor in interest at the time of its loss, and that the owner was subject to Nazi persecution. However, the application of relaxed standards of proof protects the claimant from unreasonable demands for documentation that is impossible to obtain or may simply no longer exist.

In applying relaxed standards of proof compensation organizations adopted certain *presumptions*. A presumption requires that in the absence of substantial evidence to the contrary, if one fact can be established then another may be derived from it. Examples in the milieu of Holocaust-era asset claims include the CRT’s adoption of presumptions to govern joint accounts, certain closed accounts, and values for accounts with unknown or low values; and ICHEIC’s use of a “deemed date” of confiscation, creating the presumption that after the specified date any payment on a policy was made into a blocked account or confiscated.

Unlike Holocaust-era bank, insurance, and other material loss claims, claims for looted art do not lend themselves

¹ “Holocaust Era Insurance Claims Processing Guide, First Edition—June 22, 2003.” International Commission on Holocaust Era Insurance Claims. <http://www.icheic.org/pdf/ICHEIC_CPG.pdf>. For additional information on ICHEIC’S Relaxed Standards of Proof please see “Standards of Proof, July 15, 1999.” International Commission on Holocaust Era Insurance Claims. <http://www.icheic.org/pdf/ICHEIC_SP.pdf>.

² “Supplemental Principles and Rules of Procedure.” Property Claims Commission. German Forced Labor Compensation Program Remembrance, Responsibility and Future. <http://www.compensation-for-forced-labour.org/content/PCC_rules_e_final.pdf>.

³ “Rule Governing the Claims Resolution Process (As Amended).” Holocaust Victims Assets Litigation (Swiss Banks). Claims Resolution Tribunal. <http://www.crt-ii.org/pdf/governing_rules_en.pdf>.

⁴ “Rules of Procedure of the Claims Committee.” National Fund of the Republic of Austria. General Settlement Fund. <<http://www.en.nationalfonds.org/sites/dynamic.pl?ln=&id=news20070111003410005>>.

⁵ Agreement between the Government of France and the Government of the United State of American Concerning Payments for Certain Losses Suffered during World War II, January 18, 2001, USA-Fr., annex B. <http://untreaty.un.org/unts/144078_158780/12/3/4519.pdf>.

to comprehensive, centralized settlements. Nonetheless, the best practices learned from financial and material loss compensation programs, specifically the use of relaxed standards of proof and presumptions, could be applied to art claims. For example, analogous to the “deemed dates” established by the CRT and ICHEIC, unless proven otherwise, the date on which the Third Reich gained control over the art collector’s country of residence could be established as the date on which the art collector conceivably lost control over his/her property due to persecution by the Nazi regime.

The application of presumptions is a longstanding element of international jurisprudence, and adopting a presumption of duress based on “deemed dates” for Holocaust-era looted art claims is not new in this context. On the contrary, the Allies not only intended for such a presumption to be implemented when assessing a claim for restitution, they included it in postwar restitution laws.

Article 3 of Military Government Law No. 59: Restitution of Identifiable Property in the United States Area of Control of Germany (“MG Law No. 59”) established a presumption that transactions involving the sale of personal property made after January 30, 1933 by a resident of Germany persecuted under the Nazi regime was an “act of confiscation” and required all persons, including purchasers in good faith, to return confiscated property to the original owners.¹

¹ The restitution laws for the Western Zones and sectors of Berlin were all fairly similar. In the French Zone Decree No. 120, based on French legislation regarding the same matter, was passed. A law similar to that in US Zone was enacted in the British Zone and was also called Military Government Law No. 59.

Article 3

Presumption of Confiscation

1. It shall be presumed in favor of any claimant that the following transactions entered into between 30 January 1933 and 8 May 1945 constitute acts of confiscation within the meaning of Article 2:
 - (a) Any transfer or relinquishment of property made during a period of persecution by any person who was directly exposed to persecutory measures on any of the grounds set forth in Article 1;
 - (b) Any transfer or relinquishment of property made by a person who belonged to a class of persons which on any of the grounds set forth in Article 1 was to be eliminated in its entirety from the cultural and economic life of Germany by measures taken by the State or the NSDAP.²

Restitution laws enacted in the immediate postwar period in other countries adopted similar presumptions to MG Law No. 59. For example, under the 106th Federal Act of May 15, 1946 Concerning the Annulment of Legal Transactions and other Legal Acts during the German Occupation of Austria, any legal transactions or acts as of March 13, 1938 that were carried out in an attempt to despoil individuals of their property rights were deemed null and void.³

² United States. Courts of the Allied High Commission for Germany. “Court of Restitution Appeals Reports.” Nuremberg, Germany: United States High Commission for Germany, 1951. <<http://pds.lib.harvard.edu/pds/view/6347670?n=1&imagesize=600&jp2Res=0.25>>.

³ BGBL No. 106/1946 §1 Wichtigkeitsgesetz. <http://www.ris.bka.gv.at/Dokumente/BgblPdf/1946_106_0/1946_106_0.pdf>.

A successful modern-day application of this presumption is illustrated by the case of Jan Wellens de Cock's *Flight into Egypt*, which was originally owned by the Düsseldorf art dealer Dr. Max Stern.

The 70-year journey of this painting, from Stern's collection to its return to his Estate is (as are all cases) a unique and interesting story. In August 1935, less than a year after Dr. Stern inherited Galerie Julius Stern from his father, he was prohibited from buying and/or selling art by the Reich Chamber for the Visual Arts (*Reichskammer der bildenden Künste* or RKbdk), a sub-chamber of the Reich Chamber of Culture.

Just two weeks later, the Nürnberg Laws of September 1935 were passed, which deprived German Jews of their citizenship rights thereby reducing their status to "subjects" in Hitler's Reich. More than 120 laws, decrees, and ordinances were enacted after the Nürnberg Laws, which further eroded the rights of German Jews. Consequently, Dr. Stern began to liquidate his gallery stock and started making arrangements to leave Germany to establish a new life in exile.

Dr. Stern's efforts to overturn this prohibition were futile, and on September 13, 1937, he received the final irrevocable order that he was forbidden to deal in cultural property and immediately had to sell the gallery's remaining inventory through a Nazi-approved RKbdk dealer. In compliance with the September 1937 order, Dr. Stern consigned and liquidated over two hundred pictures with *Kunsthaus Lempertz* ("Lempertz") in Cologne. The November 13, 1937 Lempertz sale of Dr. Stern's paintings was a forced "Jewish auction," in which his paintings sold for a fraction of their fair market value.

Based on extensive research conducted at the Netherlands Institute for Art History (*Rijksbureau voor Kunsthistorische* or RKD)

the HCPO confirmed that Dr. Stern owned *Flight into Egypt* in February 1936. Unfortunately, the destruction caused by the war and the passage of time left unclear the fate of the painting from the time Dr. Stern inquired with the RKD in 1936 to when it appeared in Christie's June 26, 1970¹ auction.

Since 1970, the painting was exhibited once in 1971 and, as best we could reconstruct, resurfaced on the art market three times: in 1992 under a different attribution, again in 1993 reattributed to de Cock; and most recently, when Christie's traced the painting's provenance back to 1936 with links to the Galerie Stern. Upon this discovery, Christie's notified the consignor, the HCPO and Dr. Stern's Estate at which point negotiations for the return of the de Cock commenced.

The undisputed known facts of the provenance of *Flight into Egypt* clearly placed the painting in Dr. Stern's possession after the beginning of his persecution by the Nazi regime. Despite exhaustive efforts to provide a complete ownership history of the painting, its whereabouts between 1936 and 1970 remained enigmatic. However, based on the facts at hand and without evidence to the contrary, both parties acknowledged that Dr. Stern lost possession of this painting under duress, thus fulfilling the intention of Allied restitution laws. In so doing, through candid, reasoned dialogue the parties cordially reached a settlement.

While restitution laws in the immediate postwar period included language that clearly articulated specific presumptions, present-day programs rely on the notion of relaxed standards of proof and leave defining those standards and any resulting presumptions

¹ Christie's auction entitled "Highly Important Pictures from the collection formed by the late Chancellor Konrad Adenauer, the property of Heinz Kisters, Esq. and others," June 26, 1970, London.

to the creators of the claims organizations. In line with contemporary compensation programs, the drafters of the Washington Conference Principles on Nazi-Confiscated Art (“Washington Conference Principles”) understood that a complete accounting of a work of art’s ownership history may not be possible.

Documenting the prewar ownership, wartime loss and a claimant’s postwar entitlement to an object is one major hurdle we face as part of the looted art claims process. This problem is compounded by the fact that some claimants seek the return of items that may be of great emotional and/or spiritual meaning to them, but of low monetary worth or historical significance. After all, Nazi spoliation was not limited to museum quality pieces but included works by lesser-known artists, decorative arts, and Judaica. This often means that research materials referencing these items can be scant to non-existent, and like the objects themselves, have often ended up scattered across the globe.

Even under ideal circumstances, provenance research is a difficult task for a number of reasons: attributions, titles, and even dimensions can change over time creating confusion in tracking documentation; the same artist may have authored multiple, highly similar works on the same theme; objects are bought and sold anonymously; past owners die without disclosing where they obtained the works in their collections; and the records of dealers and auction houses can be incomplete. Few cases are well documented, and often, even after considerable research has been done, there are gaps in the provenance of any artwork.

The fourth point of the Washington Conference Principles explicitly calls attention to the fact that at this point in time, decades after the Nazi spoliation of property occurred, certain facts will

remain unknown, and this should be taken into account when evaluating the ownership history of a work of art.

“In establishing that a work of art had been confiscated by the Nazis and not subsequently restituted, consideration should be given to unavoidable gaps or ambiguities in the provenance in light of the passage of time and the circumstances of the Holocaust era.”¹

This point suggests that relaxed standard of proof similar to those utilized by restitution organizations should be applied in evaluating claims for Holocaust-era looted art. Practice, however, has been somewhat different. Point IV notwithstanding, gaps in ownership history, even those that occur after the loss took place, often cause a delay in reaching a settlement or lead to a stalemate in negotiations. This is not unexpected, as present possessors, who are more often than not good faith purchasers and so the second victims of Nazi spoliation, grapple with learning the dubious history of works in their collections.

In keeping with the Washington Conference Principles, the “General considerations” that the Restitutions Committee² of the Netherlands takes into account when assessing claims specifically address the issue of information lost to time and establish a relaxed standard of proof.

“The Committee then asked itself how to deal with the circumstance that certain facts can no longer be ascertained,

¹ Bindenagel, J. D. (ed.). “Washington Conference Principles on Nazi-Confiscated Art.” Washington Conference on Holocaust-Era Assets November 30 – December 3, 1998, Proceedings. 1999, pp. 971–972. <<http://www.state.gov/www/regions/eur/Holocaust/heacappen.pdf>>.

² Advisory Committee on the Assessment for Items of Cultural Value and the Second World War.

that certain information has been lost or has not been recovered, or that evidence can no longer be otherwise compiled. On this issue, the Committee believes that if the problems that have arisen can be attributed at least in part to the lapse of time, the associated risk should be borne by the government, save in cases where exceptional circumstances apply.”¹

In addition, similar to the processing guidelines of the CRT and ICHEIC, the Ekkart Committee’s² advice to the Dutch government on restitution policy dated April 26, 2001 articulates a presumption in accordance with the notion of relaxed standards of proof. That being:

“The Committee recommends that sales of works of art by Jewish private persons in the Netherlands from 10 May 1940 onwards be treated as forced sales, unless there is express evidence to the contrary. The same principle should be applied in respect of sales by Jewish private persons in Germany and Austria from 1933 and 1938 onwards, respectively.”³

This presumption establishes a “deemed date” for the Netherlands. Therefore, as per the definition of a presumption, unless proven otherwise, sales by Jews in the Netherlands are deemed forced sales as of May 10, 1940, the day the Nazis began their invasion of the region.

¹ “General Considerations.” 9 Feb. 2009. Advisory Committee on the Assessment for Items of Cultural Value and the Second World War. <<http://www.restitutiecommissie.nl/images/stories/algovw-eng.pdf>>.

² The Ekkart Committee, chaired by R.E.O. Ekkart, supervises the provenance research of objects in the NK collection and also makes recommendations to the Dutch government.

³ The Origins Unknown Agency. “Interim Report III.” Feb. 2002. <<http://www.originsunknown.org/download/deelrapp3.pdf>>.

The restitution of J.S. van Ruysdael’s *Wooded Landscape with Herd Near a Pond* to the heirs of Markus Meyer (aka Max) Rothstein exemplifies the positive effect that the application of relaxed standards of proof and a nationally endorsed presumption of duress could have on a claim for Holocaust-era looted art.

The Ruysdael painting originally belonged to Max Rothstein, a Berlin banker and art collector. In 1937, after four years of deprivation at the hands of the Nazis, Mr. Rothstein was forced to resign from his position as co-managing director of the Willy Rosenthal Jr. & Co. bank and in 1938, the Rothstein family fled Germany for Amsterdam. Not long thereafter, the Nazis occupied the Netherlands and the Rothstein family once again had to flee persecution. To support his family, subsidize their life in exile and fund their emigration first from Germany and then the Netherlands, Mr. Rothstein was forced to sell some of his artwork.

Research carried out by the HCPO revealed that Mr. Rothstein consigned some of his artworks to Dr. Heppner, an art dealer, in Amsterdam in 1939 and again in the spring of 1940. Further investigation confirmed that the Ruysdael was among these. The HCPO subsequently searched the Origins Unknown Agency’s database of the *Nederlands Kunstbezit-collectie* (“NK Collection”) and discovered *Wooded Landscape with Herd Near a Pond* among the works listed. The provenance of the painting as reconstructed by the Origins Unknown Agency revealed that painting had been with Rothstein in February 1939 and then sold by Heppner to Goudstikker/Miedl on July 18, 1940, more than two months after the Nazis occupied the Netherlands.

After discovering that the Ruysdael was part of the NK Collection, the HCPO, on behalf of the Rothstein heirs, submitted a

restitution claim to the Minister for Education, Culture and Science of the Netherlands (“Minister”) who in turn referred the case to the Restitutions Committee for advice.

In the case of the Ruysdael, the Restitutions Committee’s recommendations conceded that Rothstein owned the painting at the time of its sale to Miedl in 1940 and applied the Dutch national policy, articulated in the third recommendation of the Ekkart Committee mentioned above, of presuming that the sale was made under duress as it occurred after May 10, 1940. Based on these recommendations, the Minister honored the Rothstein heirs’ restitution request and returned the painting.

The Rothstein case demonstrates how a relaxed standard of proof combined with a formally established presumption of duress based on a “deemed date” could resolve claims without placing an undue burden on claimants.

As the preceding suggests, stated public policy strongly supports efforts to right the wrongs of the Holocaust and to provide restitution to victims of Nazi persecution, who not only suffered unspeakable acts of discrimination and brutality, but were also stripped of their livelihoods and property. Consequently, as seen by the use of relaxed standards of proof by numerous compensation organizations, public policy encourages measures that facilitate restitution of Holocaust-era looted assets.

In the case of art restitution, widespread adoption of relaxed standards of proof and presumptions could enable the resolution of claims where research cannot provide a complete ownership history. While a gap in provenance does not necessarily suggest that a painting was lost under duress, equally the same gap does not indicate that a painting was legitimately acquired.

The inevitability of provenance gaps coupled with the events of the Holocaust and the Second World War – during which many claimants lost everything and everyone, entire communities perished, cities were demolished, and both systematic and opportunistic looting were commonplace – require that inferences be drawn based on available information. The acceptance of relaxed standards of proof by all parties could enable the resolution of Holocaust-era looted art claims that are mired in disputes over fragmentary provenance information.

As seen from the experience of organizations handling claims for financial assets, universally accepted relaxed standards of proof and a presumption of duress could not only provide a missing piece of the puzzle but could ease the path for Holocaust victims and their heirs to resolve claims swiftly and amicably.

► **Miriam Friedman Morris**

DAVID FRIEDMANN ART, USA

ARTIST DAVID FRIEDMANN: A DAUGHTER’S SEARCH FOR LOST AND STOLEN ART

The media has publicized the enormous amount of art looted by the Deutsches Reich. Great attention has been focused on the loss and return of Old Masters and million-dollar lawsuits by heirs of prosperous art collectors and art dealers. Neglected are the obscure Jewish artists who achieved a measure of fame. They were stripped of the opportunity to become world renowned; their promising careers were cut short and their fates changed forever because of the Deutsches Reich. The Nazis did not necessarily destroy their art unless they

deemed it “degenerate,” but permitted works by Jewish artists to be sold or auctioned until at least 1942, although art dealers were prohibited from advertising these works.¹ This paper presents an example of the immense undocumented theft and possible hope of finding art of lesser-known artists; however, there is no support from European governments for this effort. After all there exist only the barest of details, no titles of artwork, nor records of the confiscation. A search entails considerable expense for the heirs and there is no significant market value if the art is returned to pay costs. My passionate quest is the chance to right a terrible wrong and to triumph against great odds. One such case is that of my father, David Friedmann, and my unrelenting pursuit to find his lost and stolen art: of the belief in justice.

David Friedmann was born in Mährisch Ostrau (Moravská Ostrava) in 1893 and moved to Berlin in 1911. He was a student of Lovis Corinth and Hermann Struck and established his studio in 1914, creating mostly portraits, nudes, and still lifes. With the onset of World War I, he volunteered for the Austro-Hungarian Army, serving from 1917–1918 as a battle artist. His commission entailed drawing battle scenes at the Russian Front and he was decorated for producing sketches very close to the actual fighting. Thereafter, he portrayed the distinguished generals and soldiers. Returning to Berlin, he resumed his career and achieved acclaim as a painter known for his live portraits. He exhibited at the Akademie der Künste, the Berliner Secession, and numerous galleries throughout Germany and Czechoslovakia.

¹ Source: N.N., Zur Entwicklung der Kunstversteigerungen während des Krieges, 30. 3. – 20. 7. 1942, pp. 3854–3856. In: Mitteilungen aus dem Reich 1938–1945, Bd. 10 Researcher, Angelika Görnandt.

Two surviving works were found published in the 1919 Jewish newspaper *Schlemiel*.² *Aus einer Folge “Pogrom”* depicts a terrified Jew, one of 12 etchings from this lost series reflecting his social commentary and deep compassion for his fellow human being. Outraged by the *pogrom*, the progression of violent attacks against Jews in Eastern Europe, he hoped to bring attention to this organized massacre. He never would have believed that his work would foreshadow the world’s worst *pogrom* and that he himself would become an eyewitness to this annihilation and mass destruction.

His quick sketching ability led to an additional career as a freelance artist for Berlin’s great newspapers associated with *Ullstein Verlag* and with the weekly radio program magazine for all German listeners, *Der Deutsche Rundfunk*. He produced hundreds of portraits of famous contemporary personalities, such as Albert Einstein, Arnold Schönberg, Szymon Goldberg, Yehudi Menuhin, Thomas Mann, Max Brod, Emanuel Lasker, and many others. My father’s talent for portraiture played a central role throughout his career and later saved his life during the Holocaust.

David Friedmann writes to Yehudi Menuhin, December 6, 1962:

“... Besides painting and working in the art of etching, I also kept myself busy as a newspaper sketch artist between the years 1923 and 1933. My specialty was portraits drawn from life of famous personalities from the Arts, Music, Theater, Sports, Politics, etc. However, my greatest affection was for the violinists. I played the violin since I was seven years old, but only received my formal training when

² *Schlemiel, Jüdische Blätter für Humor und Kunst*, Berlin, June 1919 – July 1920. Edited by Max Jungmann and Menachem Birnbaum. Collection of the Leo Baeck Institute, New York.

I was twenty-seven and of course, only up to a certain point, since one cannot serve two arts at the same time.”

When Hitler came to power in 1933, David Friedmann’s prewar career ended. In December 1938, he fled with his wife Mathilde and infant daughter Mirjam Helene to Prague, escaping with only his artistic talent as a means to survive. He intended to document the terrifying unfolding history for an album. He writes in 1973:¹

“... Between 1939 and 1941, I drew and painted almost everything in Prague, especially many portraits of prominent Jews and personalities, such as the president of all the Jewish Congregations in Czechoslovakia, [František] Weidmann,² the vice-president Jakob Edelstein,³ and many others. I also drew many portraits of officials from the Palestine Office. Some of these photo reproductions came into my possession once again in 1946. However, every artwork that was produced until 1938 in Germany, and later in Prague until 1941, was lost.”

Since childhood, I watched my father paint with intensity and passion. I was intrigued by his prewar life and the unknown fate of his art confiscated in 1941 by the Gestapo in Berlin and Prague under the auspices of the Deutsches Reich. There was little evidence of a collection that numbered 2,000 etchings, lithographs,

¹ *The Short, But True Story of the Artist David Friedman.*

² Weidmann, Dr. František (1910–1944) Chairman of the Jewish Religious Congregation of Prague. Deported to Ghetto Theresienstadt on Jan. 28, 1943, and then to Auschwitz-Birkenau, Oct. 28, 1944.

³ Edelstein, Dr. Jakob (1903–1944) Prominent Zionist and director of the Palestine Office, who became deputy chairman of the Jewish Religious Congregation of Prague. In Ghetto Theresienstadt, the Nazis appointed him “Elder of the Jews,” the first chairman of the Judenrat (Jewish Council). Deported to Auschwitz, Edelstein and his family were shot to death on June 20, 1944.

drawings, and paintings. I still recall the words he proudly said upon receiving photographs of a portfolio found in the Ostrava Museum. “You see Miri, I was really a famous artist before the war. I was known for these portraits of chess masters.” Together we viewed his photo album of works from Berlin and the captivating portraits of the officials of the Palestine Office and the Jewish Community of Prague. I felt sad that there was little to show for his past recognition. This fueled my passion to find these works and to rescue his reputation from oblivion. David Friedmann lost his works three times: before, during, and after World War II. Thus, my pursuit evolved into a simultaneous search for art created during his incarceration in the Łódź Ghetto, the Auschwitz sub-camp Gleiwitz I, and works lost when fleeing from communist Czechoslovakia to Israel.

My father fought for compensation for his art, the inventory of his apartment and studio, and other possessions plundered by the Gestapo “In the Restitution Case of the Artist David Friedmann versus Deutsches Reich” (*In der Rückerstattungssache des Kunstmalers David Friedmann gegen das Deutsche Reich*). The paltry sum of 1,300 DM (German Marks) was awarded by the “Regional Court” in Berlin just days after our arrival in America in November 1954. It took more than six years for “The International Supreme Restitution Court” in Berlin to adjudicate an upward adjustment. This was not much for some of his best works and, of course, the award did not take into account the damage inflicted on his professional growth as an artist and the persecution he endured because he was a Jew.

Announcements of the award appeared in several major German newspapers: *Der Tagesspiegel*, *Telegraf*, *Der Kurier*, and *Berliner Morgenpost*. The following translated article was published in *Der Tagesspiegel*, February 18, 1961:

“Berlin: The International Supreme Restitution Court in Berlin has adjudicated to the artist David Friedmann, now living in New York, compensation [in the amount of] 17,500 DM for the confiscation of his artwork during the Nazi-time by the “Gestapo”. Friedmann, who was a resident in Berlin at that time, was persecuted as a Jewish citizen. He was a student of Lovis Corinth. Due to the confiscation, he lost his studio furniture and materials, a great amount of oil paintings, watercolors, drawings, etching prints, and lithographs. The whereabouts of the artwork[s] are unknown.”

I remember the excitement of the day. It was not about the monetary award after an exhausting and bitter case. It was because David Friedmann had finally received recognition for his plundered artwork. He had proved his case. The compensation could not touch what was taken from him, but might help to vindicate to some extent the irreplaceable loss.

As an adult, I was fascinated with the court case and thus retrieved copies of his files from the *Wiedergutmachungsamt*. After liberation, survivors needed to provide evidence of their identity, prove ownership with detailed accounts of their property and its confiscation. Few survivors had documentation and the whole procedure of filing claims was frustrating and emotionally unsettling. My father found witnesses and obtained documents to recreate his past for the judge and jury, the German courts. An example of this complex process is the following document from Jakob Steinhardt, a famous artist and colleague from Berlin, who had escaped the Nazis by emigrating to Palestine.

Sworn Testimony

With this oath I certify, that the artist Mr. David Friedmann exhibited a number of his watercolors and prints in the year 1925 in the Spring Exhibition at the Berliner Secession, of which I had been a member since 1917.

Jakob Steinhardt
Director of Bezalel, School of Arts and Crafts
Jerusalem¹

I was disappointed that the documents yielded no clues about the whereabouts of the artworks, but this I had expected. I was impressed with the defiant tone of my father’s letters, his ability to write about painful and tragic experiences with conviction and dignity. He placed the blame for his losses squarely on the Deutsches Reich. The file revealed interesting new facts.

The court attempted to disparage David Friedmann, putting his fame on trial, clearly to award him less money. Thus, once again, German authorities – after having deprived him of his property, his livelihood, his family and nearly his very life – were now trying to deprive him of his reputation as an accomplished artist simply for the sake of reducing his restitution claim. Initially, they were only willing to compensate for the loss of his painted canvases and art materials. They sought to prove that David Friedmann was an artist of no consequence, although he exhibited at

¹ Author’s translation.

the Berliner Secession and is listed in *Dresslers Kunsthandbuch* and *Allgemeines Lexikon der Bildenden Künstler*. In his defense, then-director of the Jewish Museum in Berlin, Dr. Karl Schwarz, testified that David Friedmann was a good representative of Lovis Corinth and his school. Dr. Schwarz's esteem signified great praise indeed, since he was a well-known art critic and art connoisseur in Germany.

Because he was a Jew, my father was prohibited from selling his art to anyone but another Jew after 1933, and certainly not for a "normal" price. From 1930–1933, he sold 70 to 80 works per year. To the Compensation Courts, he gave an estimate of the value of his property at 1938 prices, a time at which no one was permitted to buy from a Jew. David Friedmann was denied the opportunity to reach his earning and artistic potential. No one can say what price his art could have fetched or how famous he would have become.

The Friedmann family resided at Paderborner Strasse 9, Berlin W 15. His art studio for 19 years was located a few blocks away at Xantener Strasse 23, in the same house as Felix Nussbaum.¹ In 1933, he was forced to close his studio. Shortly after *Kristallnacht*, November 9, 1938, he made plans to flee. My father's brother Adolf was entrusted with the apartment, which included the artwork, for safekeeping. This was my father's life's work, all that he had created since 1911. Sixteen paintings and other valuables were brought to the Wielandstrasse 29 apartment of Mathilde's father, Prof. Dr. Maximilian Fuchs and his second wife, Frieda. Czech passports in hand, the family fled to Prague on December 26, 1938. He brought an album

¹ The memorial plaque posted on the apartment house on Xantener Strasse 23, the former studio of D. Friedmann, honors the memory of Felix Nussbaum (Osnabrück 1904–1944 Auschwitz).

of his sketches to show his work and find new commissions in a strange city.

Rent was paid through a bank in Prague in the hopes of returning to Berlin. When this proved impossible, he gave up the apartment in February 1940. Adolf was instructed to store the apartment contents in a *lift*² with the shipping firm Silberstein & Co., Kurfürstendamm, to follow him to Palestine. However, my father was unable to obtain the sought after immigration certificates. In the summer of 1941, he was forced by the Prague Gestapo to itemize all his property, including the inventory left behind in Berlin. On October 16, 1941, the family was deported on the first Prague Transport to the Łódź Ghetto with 1,000 people, some of "the best men in art, science, and music."³

The following translated excerpts are representative of a large correspondence between David Friedmann and the *Wiedergutmachungsamt*. They signify an important record of what a Jewish survivor of the Holocaust endured to win reparations from Germany. He survived Łódź, Auschwitz, Gleiwitz I, and Blechhammer, with nothing more than the prisoner uniform on his back. The Nazis had stolen all of his property and murdered his beloved wife and child. Nevertheless, a soulless bureaucracy placed the burden of proof regarding his former property on him.

² Lift – a large wooden container that held the property of D. Friedmann for shipping to Palestine.

³ Story of Mr. David Friedmann, by D. Friedmann. Undated, p. 2.

June 26, 1950

To the attention of Mssrs
Dr. Stockhard and Fenner
To the
Wiedergutmachungsamt
Berlin NW 40
Turmstrasse 91

... It seems to me that you doubt the existence of the *lift*. Later on in Prague, I was told that the firm was taken over by an Aryan administrator and that the owners were thrown out. I was busy working on my emigration to Palestine and the *lift* was supposed to follow me from Berlin. However, the Hitler government was planning on killing all of us Jews, but gradually, and so we were first transported to the Ghetto Litzmannstadt (Łódź). That meant: Hunger, Cold, Danger of Contagious Diseases, and Hard Work. The result: According to the statistics, of the 1000 people from the transport, only 24 returned to Czechoslovakia alive.

Until my deportation I was in contact with Berlin, the *lift* still remained in storage at the shipping firm. Only in December 1941 did I receive a postcard from Berlin with the news of the confiscation.

What happened further to the *lift*? How could I, a simple prisoner, find out? Nevertheless, the place of the property forfeiture was Berlin, but I cannot provide any information about the date, street or street number of the confiscation. I assume that you know as well as I who profited from these confiscated valuables. In any case, I will state again

precisely and clearly: A Jew was fair game during the Hitler Regime and so Jewish property went over to the state. The Deutsche Reich of 1941 is responsible for all the damage that I suffered unrightfully, the Reich forced me to flee Berlin with my family, the Reich forced me into the Ghetto to lose everything in the end. Fact is that the *lift* existed, you will not change that! ...

Regarding Studio-Interior/Equipment

It is of course not possible for me today to name every single painting with topic and dimensions. I painted a great deal and in a diligent manner, landscapes, flowers and fruit still life, genre interior scenes with or without figures, all kinds of nudes and portraits. In the frame of 25 years no artist can sell everything he paints, draws or etches. And for whatever I produced between 1932 and 1938, certainly I could not find more buyers. Since the Jews, who were normally interested in my work, had other troubles instead of buying paintings.

- ▷ 200 large and small Oil Paintings with simple frames:

Size of paintings circa 27 × 34.2 cm or 30.30 × 40 cm on canvas
- ▷ 100 Oil Paintings, unframed:

Partially on canvas or masonite, mostly studies, similar motifs as above
- ▷ 100 Watercolors, until 30 × 45 cm, similar motifs as above

▷ 300 Drawings:

Portrait Sketches of current personalities such as singers, actors, conductors, musicians, sportsmen, politicians, and high state officials

▷ 500 Prints:

Out of these 375 original etchings from my copperplates until 24 × 30 cm

125 Sheets were lithographs (landscapes, portraits of famous contemporary individuals)

* * *

August 16, 1950

To the
Magistrate of Greater Berlin
Department of the Legal System
Wiedergutmachungsamt
Berlin NW 40
Turmstrasse 91

Regarding Oil Paintings

With regard to this I told you in the above mentioned letter that I am not able to give a detailed description of each

painting in terms of topic, dimensions, and value or proper estimate considering the large number of pictures. I have therefore, only given you an average price, a give-away price so to speak, that every art gallery would have loved to pay in 1938, if I had only had the opportunity to sell...

... Already in other letters I clearly expressed my rightful claim for these confiscated valuables. I would not allow myself to claim anything in any possible way if that claim was not actually valid. How easy would it be to say, that in my *lift* there were also plenty of other beautiful things, like for example, some genuine Persian carpets, old Meissen porcelain, vases, crystal bowls, and glasses. But this was the property of my father-in-law and was in his apartment. I, however, can only claim the valuables that belonged to me and that I had acquired through work with my hands or that were brought into our marriage through my wife.

Hence I ask the *Wiedergutmachungsamt* to replace somehow, what was taken from me. If it really wants to make reparations, then my case is definitely worthy, even if my case cannot be proven. However, this is not my fault!

I could have still been living in Berlin! However, a government came into power that preached racial hatred and so I lost my nice apartment, my studio, a good existence, my *lift*, and the things in the apartment at Wielandstrasse 29.

The *lift* with all its contents could not remain at the shipping firm forever. It was forcefully abandoned Jewish property and so the responsible authority that was in charge came and confiscated it. And the same thing happened to the apartment at Wielandstrasse 29.

It can be proven that I had a 3½ room apartment in Paderborner Strasse 9, a studio, that the *lift* existed, that the claimed goods were inside of it, and that I enjoyed a good reputation. My sister-in-law as well as the doorman at Paderborner Strasse 9, if he is still alive, can testify that part of my belongings were also brought over to Wielandstrasse 29.

I therefore ask the *Wiedergutmachungamt*, to approve my restitution claim to the fullest extent. The loss of wife and child however, it cannot replace!

In this sense signs
Respectfully,
David Friedmann

Sometimes things happen as if they were predestined. All that is necessary is to appear at the right place at the right time. Thus, the idea that I could succeed in finding lost art formed during my first trip to Berlin in 1970, when I met Käthe Friedmann, my father's non-Jewish sister-in-law. She had been married to his brother Adolf, who died under suspicious circumstances in June 1941 at a Catholic hospital in Berlin.¹ My father believed that Adolf received a lethal injection because he was a Jew.

¹ Käthe Friedmann, nee Niesler (Berlin 1897–1978 Pegnitz). Adolf Friedmann, born Dec. 10, 1895 in Mährisch Ostrau (Moravská Ostrava). According to the Nuremberg Laws, marriage between Jews and citizens of Germany (Aryans) were prohibited. D. Friedman believed this was the reason for his brother's death on June 29, 1941. The Weissensee Cemetery record states that Adolf died of a duodenal ulcer. He is buried in Section A4, Row 7, Grave No. 105972.

I visited the apartment of Aunt Käthe and her life partner, Alfred Eichenfeldt. My first remarks were about my father's paintings hanging on the walls. I was astonished that they were dated before the war! There were four paintings: a landscape of a lake surrounded by mountains (*Berglandschaft mit See*), the *Berliner Dom*, a small portrait of Adolf, and a portrait of his murdered wife Mathilde. I wondered why my father had never mentioned these works. Innocently I photographed the art thinking that perhaps he did not know of their existence!

After returning to our home in St. Louis, I gave the photos to my father who was quite bewildered about my comments on what I had seen. Stunned at first, he became outraged that Käthe had never told him that Adolf left paintings in his apartment. Unwittingly, Adolf had saved several from the claws of the Gestapo. (A document states that in 1946, Käthe was living in his apartment at Paderborner Strasse 9.) He wrote to Käthe requesting his artwork. She refused until he offered her new paintings in exchanges, and only agreed to return one – the portrait of his beloved Mathilde. This was the only recovered work from my father's prewar collection until that time.

Käthe died in 1978. My mother, Hildegard, tried to convince Alfred that the paintings should be returned to our family. Alfred died by 1982, at which time my mother learned that the paintings were not mentioned in his will. Like the confiscated art, the paintings in the apartment have vanished without a trace. However, these paintings could be found with publicity and the help of good detective work authorized by the German government.

This experience made a lasting impression on me. However, I did not know how to proceed to find more artwork. After all, my father believed that his works had been destroyed and this chapter

was finally closed. Following his death in 1980, I felt compelled to ensure the legacy of David Friedmann. Hidden clues in his diaries and memoirs increased my determination to find the lost art. I embarked on a writing campaign to museums and institutions in Germany and later, the Czech Republic, in the hopes of finding new details. This was unproductive and I decided that I must find something myself. The results of several searching trips were amazing.

After having been lost for a second time, the 14 portrait lithographs of Portfolio No. 4, *Das Schachmeister Turnier in Mährisch Ostrau, Juli 1923*, were found again in the Ostrava Museum. Three portfolios of *Köpfe berühmter Schachmeister* surfaced, including Portfolio No. 28 in the Koninklijke Bibliotheek-National Library of the Netherlands. Several oil paintings materialized and 330 published portraits were discovered in the *Berliner Zeitung am Mittag*, *Berliner Morgenpost*, *8-Uhr-Abendblatt*, *Vossische Zeitung*, and *Der Deutsche Rundfunk*, wonderful confirmation of his brilliant and prolific career. This was an extraordinary view of my father's rich cultural life in Berlin before the Nazi Regime.

I was privileged to meet the historian Detlef Lorenz who joined my search and found a large number of published portraits. I was delighted to contribute to his book published in 2008, *David Friedmann, Ein Berliner Pressezeichner der 1920er Jahre*. My father was a member of the Freemason Lodge, *Germania zur Einigkeit*, and it was heartwarming that his beloved organization sponsored the book in his memory. The volume represents a small selection of sketches portraying musicians, authors, and actors, among other luminaries. Portraits were signed by the artist and autographed by the subjects. Some were later deported to Theresienstadt: Royal Opera singer Therese Rothauser, musicologist James Simon, actress Mathilde Sussin, and conductor Alexander Weinbaum.

David Friedmann writes in his *Tagebuch*, September 23, 1945:¹

“... Not until Prague in 1939 did I plan to work as an artist again. However, the agitation of the time, the worries about my family – after all I was only married for two years and had a three-month old baby – and there was the anxiety of how to get out of this hell! For the longest time this held me back from working until I understood the unbelievable, never to get out of here. Everything was already too late. Hitler was on our tail, the borders were closed, and the oppression began. The suffering of the Jews and their circumstances became worse from month to month, year to year – until the final evacuation. As I too acknowledged the impossibility of emigration, I began to work artistically again. Naturally, one always begins where one has left off. I sketched or painted portraits, landscapes and still life. I improved quickly – again I applied myself eagerly – and certainly if it had been a normal life I would have found success and recognition here in Prague, as had been the case in Berlin. However, Hitler had other plans for us.”

He writes in his story, *Das Krafft Quartett*, May 8, 1973:²

“... As it once was in Berlin in my profession as newspaper sketch artist, so now, too, wherever there was something going on, the painter, sketcher, and graphic artist ‘David Friedmann’ was present to capture something interesting. Since my escape from Berlin to Prague, I was trying to get acquainted with the members of its Jewish Community to call

¹ *Tagebuchnotizen von David Friedmann*, 1945. Collection of the Leo Baeck Institute, New York. Author's translation.

² *Das Krafft Quartett*, May 8, 1973. Author's translation.

their attention to my ability as a portraitist. Once I made it known that I had the intention of putting together an album of portraits, the orders came in abundance. Since I arrived in Prague with little means, except for my dear wife Mathilde and our three-month old baby daughter Mirjam, I was glad to have a little income from the portraits.”

Miraculously, this historically significant album survived. The portraits are evidence of a dynamic Jewish community that was destroyed. Following the portrait pages, my father displayed postwar art depicting his experiences in the Łódź Ghetto and the concentration camps. This precious album was entrusted to me at the age of 23 and continues to be a valuable resource and an inspiration. Among the 60 recovered photos and reproductions are portraits of the governing officials of the Palestine Office and Jewish Community of Prague, such as Friedrich Prossnitz, Hanna Steiner, Oskar Singer, František Zelenka, and Fredy Hirsch.¹

¹ Fixler, Abraham (1911–1944) Community liaison with the Zentralstelle; Emmigration Department.
Freiberger, Dr. Ing. Rudolf (1906–1978) Responsible for vocational training.
Herbert, Langer (1914–1944) Secretary Deputy of the Jewish Community.
Hirsch, Fredy (1916–1944) Beloved teacher and head of physical education for the youth movement. Deported to Ghetto Theresienstadt and sent to Auschwitz-Birkenau Sep. 6, 1943. According to testimony, Fredy committed suicide Mar. 7, 1944; however, the circumstances of his death remain controversial.
Prossnitz, Friedrich (1896–1944) Finance director of the Jewish Community. Selected for “Special Treatment” because of his knowledge about the robbery of Jewish bank accounts by the Deutsches Reich. Murdered on arrival in Auschwitz-Birkenau on Oct. 29, 1944.
Singer, Dr. Oskar (1893–1944) Writer, journalist, and chief director of the *Jüdisches Nachrichtenblatt*. Deported to the Łódź Ghetto Oct. 26, 1941. Became director of the Statistics Department and chief editor of *The Chronicle of the Łódź Ghetto 1940-1944*. Deported to Auschwitz in Aug. 1944.
Steiner, Dr. Hanna (1894–1944) Director of the department for the encouragement of emigration. She was a dedicated Zionist leader and social worker. Deported to Ghetto Theresienstadt, July 13, 1943, and then to Auschwitz-Birkenau, Oct. 16, 1944.
Zelenka, František (1904–1944) Gifted stage designer, artist, and architect. Produced the children’s opera *Brundibár*, performed 55 times in Ghetto Theresienstadt. He was sent to Auschwitz-Birkenau Oct. 19, 1944.

Most of the portraits were signed by the subjects, although the identities of several are unknown. The best commission he received was painting Fräulein L. Winter, the daughter of a wealthy businessman. The work was life-size and like all David Friedmann portraits, was painted from life. He also painted still lifes and scenes of the “old city.” I have endeavored to identify the unknown portrait subjects to honor their memories in history.

In 1994, I met Dr. Arno Pařík, who directed me to the theater department of the National Museum, where he had seen the portrait of František Zelenka by David Friedmann. In fact, the National Museum has three identical portraits exactly like the one displayed in my father’s album. It is evident that he produced multiple postcard-sized reproductions. Could there be others? What happened to all the drawings and paintings produced from 1939–1941? What happened to my father’s art that stayed behind in his apartment atelier on Dušni 10? These were my questions and those that preoccupied my father.

I had seen several published photos of the stacked looted art in storage. Did his art end up among the Jewish property looted by the Germans? He left with his family on the first transport on October 16, 1941. They were notified of their deportation order just three days earlier – the same day that the Nazi authorities established the *Treuhandstelle*, the Trustee Office in Prague, whose purpose was to collect and hoard all movable property from the evacuated apartments of the deportees.

One would expect that if anyone should know about this matter it would be the staff of the renowned institution that holds the greatest collection of Jewish art in the world, the Jewish Museum in Prague. I received a signed typewritten page, an

autobiography entitled, *Lebenslauf des Akademischen Malers D. Friedmann*. Here was a document demonstrating that he had already contacted the Museum in 1946. I could envision him with his portfolio to show his new sketches and to inquire, as I did now 48 years later, about what happened to his art after his deportation.

In 2003, I saw eight Friedmann works created in the years 1914–1940 found in the collection of confiscated art held by the Jewish Museum in Prague. A list had been carefully prepared with the titles and details of the works, each accompanied by this statement:

“Provenance: received through the *Treuhandstelle* Office between 1942–1945; original owner unknown.”

The artist was not considered to be the “original owner” by the Jewish Museum! This implies that the daughter is not the heir.

Among the art was a painting of a peasant that did not appear to be a work by my father in his usual fine academic technique. Nor could I confirm the first letter of the signature. I was quite familiar with the variances of his artistic style and signature. He signed his name D. Friedmann, Dav. Friedmann, DaFrie, DF, Fried or just Friedmann.

I was delighted with the 1914 etching from my father’s student years in Berlin dedicated to his patron, director Mr. Silbiger. It was exciting to connect the 1918 lithograph of the boys in a Jewish school in Petrikau, Poland, with the description he wrote in his album:

“During World War I, I was a commissioned army artist by the K.u.K Infantry-Regiment No. 100, and was also permitted to draw and paint for myself and produce lithographs.”¹

Two lithographs depicting scenes of the iron and mining industries in Ostrava were additional discoveries. These works were confiscated from Dr. Berthold Lang, who was deported from Prague and perished in Theresienstadt. There was a painting of the Old Jewish Cemetery, the Spiro grave of father and son dated 1630. However, nothing short of a revelation was the surprise of two large pen and ink drawings on tracing paper mounted on paper. I recognized the portrait of František Weidmann displayed in my father’s album. The Museum entitled this work, “Portrait of an Unknown Man.” I told the curator the name of the prominent personality we were viewing. The curator said that my father’s reproduction is not proof of ownership, although I owned the copyright. For the first time, I saw the portrait of Elly Eisinger. I felt sure the portraits were my father’s commissioned works that had been left behind in his atelier on Dušní 10.² I learned a hard lesson: finding lost art is not enough.

The works of David Friedmann entered the collection of the Jewish Museum as a result of Nazi confiscation from the artist and other victims. These titles have not been publicized. Are they not worthy of restitution to the heirs? Why has not the Jewish Museum searched for the heirs of Berthold Lang, Mr. Silbiger, František Weidmann, Elly Eisinger, as it did for the heirs of Dr. Emil Freund whose collection of famous artist’s works sold for millions? Is there any publicity to be gained for restituting the works of an obscure artist? Will the few surviving works of David Friedmann be forgotten in the archives? There is not even

¹ Author’s translation.

² *Tagebuchnotizen von David Friedmann*, Mar. 28, 1945; p. 38.

the slightest interest in an exhibition that could possibly help bring forward some lost paintings.

Was it his fault that his major works are lost without a trace and only remnants survived? After all, they represent just a small portion of the 2,000 artworks looted under the auspices of the Deutsches Reich or displaced as a consequence of war.

The Holocaust Claims Processing Office, New York State Bank Department (HCPO) contacted the Jewish Museum on my behalf. In a letter dated July 9, 2003, from the Director of the Jewish Museum Prague, Dr. Leo Pavlát refers to the Museum's official website and the requirements of their restitution policy, Chapter 5 / Paragraph 5:

“In order to deal with an application it is essential that the applicant should furnish credible proof showing that he was the owner of the object in question, or, alternatively, that the owner of this object was his/her spouse, ancestor, parents, brother or sister, or the testator who bequeathed the property to the applicant.”

Dr. Pavlát summarizes in his last paragraph:

“... there is no evidence at all that they were confiscated [from] Mr. David Friedmann. As this is so, the leadership of the Jewish Museum in Prague has to insist [that] Ms. Morris's submission of her claim be accompanied by other credible evidence that the works of art under discussion were confiscated [from] her father. Her claim would then be examined by the Restitution Committee of the Jewish Museum in Prague and submitted to the Board of Directors for the final decision. I would like to point out once

again that, although I do understand how sensitive a matter this could be for Ms. Morris, the Jewish Museum [in] Prague is not entitled to give out any items which could be a subject of other potential claims filed by other claimants.“

If David Friedmann were alive today, what would be asked of him to prove his case? Could he have taken his inventory list to Auschwitz? He would have replied with choice words learned from the murderous Nazis in the camps as proof!

The leadership of the Jewish Museum in Prague believes there could be other claimants. Where are they? What has been done to find them? What credible evidence does the Jewish Museum have that proves that these works did not belong to David Friedmann? The answer: As a refugee, he sold his works under duress to feed and support his family. There is a near total absence of records detailing the confiscation of assets in the former Protectorate of Bohemia and Moravia. The Jewish Museum cannot prove that David Friedmann is not the original and rightful owner of his works. It is impossible to do justice to the past and hold onto this art. There is no justice for the legacy of David Friedmann, which should be honored and valued because of what it represents – the surviving works of an accomplished artist who was denied the opportunity to become world renowned because of the criminal policies of the Deutsches Reich.

Two years later, in 2005, while I was on a searching trip to Israel, a portrait reproduction of Elly Eisinger surfaced in the archive of Beit Theresienstadt. Here was more confirmation that the pen and ink drawings on tracing paper were used to produce the multiple prints. Furthermore, six of the portraits were identical to those displayed in my father's album. In all, there were

36 postcard-sized reproductions, such as Franz Khan, Secretary General of the Czechoslovak Zionist Federation, Leo Janowitz, Josef Lichtenstern, and Otto Zucker.¹ Some have dedications handwritten to Leo Kraus on the reverse side; however, he was not the donor. Dr. Kraus was head of the law department of the Prague Palestine Office.² It is a mystery how the portraits arrived in Israel and who donated them to Beit Theresienstadt.

My main question is: Where is the artwork of David Friedmann? Fleeing the Nazi Regime, some Jewish refugees took along their art, thus saving a few pieces from obliteration. This was true for works brought to Palestine from Berlin by the Wolff, Sadger, Pokorny, Roth, and Rothstein families, all friends of my father. However, the present location of these works is unknown.

The artwork of David Friedmann could appear anywhere in the world. In the course of the persecution of the Jews in Europe, emigrants fleeing Hitler often found it necessary to sell their art. Works were also systematically confiscated and sold at auction by the Nazi Regime. Among the discoveries were several auctioned works in Germany, but the auction houses refused my request for information about the owners. However, one painting dated 1932, a scene of Strausberg near Berlin, was available for sale. I felt it was important that the painting remain in the city

¹ Khan, JUDr. Franz (1895–1944) Leading Zionist personality, responsible to the Zionist Federation.
Lichtenstern, Josef (1915–1945) Responsible for workers' transports (Illegal immigration).
Janowitz, Dr. Leo (1911–1944) Secretary, Palestine Office; director of the certificates department.
Zucker, Eng. Otto (1892–1944) Zionist organization leader, later vice-chairman of the Council of Jews.

² Kraus, Dr. Leo (1907–) Deported to Ghetto Theresienstadt July 13, 1943, and then to Auschwitz-Birkenau, Oct. 23, 1944. Liberated in Dachau in May 1945. Immigrated to Israel. Two identical portraits of Leo Kraus survive in the album of D. Friedmann.

that David Friedmann called home for 27 years. I donated the work to the Stiftung Neue Synagoge Berlin-Centrum Judaicum, in memory of *all* of the forgotten Jewish artists.

I sent letters via the *Koordinierungsstelle für Kulturgutverluste* to the auction houses asking that my mail be forwarded to the owners of David Friedmann works. I introduced myself and requested a photo and the provenance of the painting. None of the auction houses replied. Therefore, I was surprised to receive a letter after three years from an owner that included photos of an oil painting dated 1916, a portrait of a man reading. The collector was interested in selling at a high price. Thus, I have created a market for my father's works that I cannot afford.

I do not have the finances or the resources of museums and institutes to search for hundreds of David Friedmann works that remain undocumented and may be in private hands. European governments should help identify and track these works and provide expertise. After years of exhaustive research efforts, I would welcome help. To make matters more complicated, how does one differentiate between works that my father sold during his successful career and those that were stolen from him? Here is an interesting example:

Three prewar paintings signed by David Friedmann have surfaced in France, each with the number "6198" (written in red), suggesting a possible auction sale reference number. The paintings are not related in subject matter or style and were sold by different vendors. I am at a loss as to which specific sale this marking may reference or what other significance the marking may have. These numbers alone do not confirm whether the works were from my father's confiscated art collection in Berlin. Circa 2000, there was a sighting of four nude paintings in a Paris auction shop that later

burned down. My father never was in France. Help from experts is needed to reconstruct the provenance history of these works. Perhaps a clue will lead to more artwork.

Art theft continues to be a problem today. In 2004, Ing. Pavel Beran, the director of the Sokolov Regional Museum, planned to purchase a 1947 painting of a coal-mining scene from the Habartov City Hall, Czech Republic. However, the painting disappeared. He gave me a black-and-white photocopy of the work. In 2005, I came across a painting with the title, *Tagebau mit Abraumbagger*, posted on an auction site.¹ I sensed at once that this was the stolen painting. I tracked the work to Auktionshaus Mehli in Plauen, Germany, conveniently located near the Czech border not far from Habartov. Thanks to the cooperation of the auction house, soon I had a color photograph, an exact match to the copy. The painting was bought by an agent of Eckhart G. Grohmann for a museum that bears his name at the Milwaukee School of Engineering, in Wisconsin, United States. I contacted Mr. Grohmann hoping he would consider returning the art because of the dubious circumstances. He said he needed proof of the theft. However, officials from the Habartov City Hall refused to file a police report and denied the theft. Nevertheless, Mr. Grohmann, a *Sudetendeutscher*, said he had “no interest to return the painting because of the way his family was treated by the Czechs.” He asked if I was familiar with the *Beneš Decrees*. So here was something new that I never thought to encounter: the loss of my father’s painting as a result of ignorance, indifference, and political hatred.

The “Holocaust Era Assets Conference,” held on June 26–30, 2009, hosted by the Czech Republic, is a fortuitous opportunity to remind European governments that works created by Jewish artists

¹ See: <http://www.artprice.com>.

were also methodically plundered and lost. I believe all art looted by the Nazis should be identified, not just works by famous artists found in prominent collections and galleries. Art of an obscure artist is more likely to hang on the wall of a private home than in a museum. I implore the European governments to publicize and help the heirs trace the undocumented and documented art theft.

David Friedmann made important contributions both in the realms of 20th century art and in the creation of materials that play a powerful humanitarian role in educating people about the reality of the Holocaust. Despite his many losses and injustices, and the numerous interruptions in his career, David Friedmann triumphed to survive the evils perpetrated against him. As each of his options narrowed, he continued to produce art illustrating the events and personal experiences of his time. His art could not be silenced. He depicted human fate as a refugee in Prague, as a prisoner in the Łódź Ghetto and Auschwitz, and as a survivor. He created the powerful art series entitled “*Because They Were Jews!*” He never stopped painting throughout his complex postwar journey from Czechoslovakia to Israel and the United States.

In 1948, David Friedmann married fellow survivor Hildegard Taussig in Prague. A year later, they fled Stalinism to Israel, where I was born, and in 1954 immigrated to the United States. The family became United States citizens in 1960, and dropped the double “n” spelling of their surname.

David Friedman has been recognized internationally as materials continue to surface. His memoirs are in the collection of the Leo Baeck Institute, New York. Art collections include the *Stiftung Neue Synagoge Berlin-Centrum Judaicum*; Yad Vashem Art Museum, Jerusalem; the State Museum Auschwitz-Birkenau, Poland; and the United States Holocaust Memorial Museum,

Washington DC Works can be seen in the permanent displays of the Holocaust History Museum, Yad Vashem, and the St. Louis Holocaust Museum and Learning Center, which held a major exhibition in 2005. The United Nations Headquarters in New York, the Terezín Memorial, and the Berliner Philharmonie, have also hosted significant exhibitions of his works.

History has a curious way of confirming itself. After 30 years and monumental odds, I have found astonishing evidence of my father's lost years and art. His works have surfaced in the Netherlands, England, France, Germany, China, Czech Republic, Poland, Israel, and the United States. David Friedman died in 1980 in St. Louis, Missouri. My search continues to be an impassioned and justice-seeking journey. *I appeal to the public to join my search and preserve the legacy of this remarkable artist.*

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(Book-in-progress) "Diary for Miriam, A Father's Legacy, A Daughter's Promise".

¹ For more information, please see the websites:
– Searching for the Lost Art of David Friedmann, <http://www.chgs.umn.edu/museum/responses/friedmann/lostArt.html>;
– Portraits of Famous Chess Masters 1923, <http://www.kb.nl/vak/schaak/portretten/friedmann/index-en.html>;
– Portraits of the Prague Jewish Community 1940-41, <http://www.chgs.umn.edu/museum/responses/friedmann/portraits.html>;
– Because They Were Jews!, <http://www.chgs.umn.edu/museum/responses/friedmann/because.html>;
– Guide to the Papers of David Friedman (1893-1980), <http://findingaids.cjh.org/index2.php?fnm=DavidFriedman&pnm=LBI>;
– Lost Art Internet Database, <http://www.lostart.de>.

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"A Survivor's Art Speaks for Him." *The Forward*. Vol. LXXXXII, No. 30, 713, New York: May 5, 1989, p. 15.

Because They Were Jews! Copyright©1989 Miriam Friedman Morris.

Das Schachmeister Turnier in Mährisch Ostrau, Juli 1923 Köpfe berühmter Schachmeister. Copyright©1999 Miriam Friedman Morris.

David Friedman Collection. Copyright©2004 Miriam Friedman Morris.

► Angelika Enderlein

FEDERAL OFFICE FOR CENTRAL SERVICES AND
UNRESOLVED PROPERTY ISSUES, GERMANY

INTRODUCTION OF THE NEW DATABASE OF THE “CENTRAL COLLECTION POINT MUNICH” (MCCP)

Introduction

The MCCP database, along with the Internet database of the Special Commission: Linz (*Sonderauftrag: Linz*),¹ online since the summer of 2008, make sources that help provenance researchers deal with the Nazis' complex policy on art available.² It is hoped that these databases will serve to move enquiries regarding unresolved cases of looted art forward, all the more so because December 2008 marked the tenth anniversary of the Washington Principles, which form the foundation for current provenance research and restitution claims.

The MCCP database incorporates inventory cards and photographs from the Munich Central Collecting Point. Approximately 122,000 inventory cards held at the Federal Archive (*Bundesarchiv*) are augmented by 2,700 inventory cards and 43,000 black-and-white photographs found in the archive of the Federal Office for Central Services and Unresolved Property Issues (*Bundesamt für zentrale Dienste und offene Vermögensfragen*, abbreviated as BADV) and 1,000 inventory cards located at the Austrian Federal Office for the Care of Monuments (*Bundesdenkmalamt*) in Vienna. It is important to point out that all of these original sources had, until recently, been accessible only by their Munich Number.

¹ See: <http://www.dhm.de/datenbank/linzdb/>.

² This paper is based on the introduction to the MCCP database by Angelika Enderlein and Monika Flacke. See: <http://www.dhm.de/datenbank/ccp/>, accessed June 11, 2009.

For the very first time, this information is available online without the need to have the Munich inventory number. In other words, before the creation of the database, a work could not be located in the inventory card files without this number. The database allows research to be carried out using criteria other than the Munich Number, such as artist name, title, and owner. Inventory cards and photographs may be called up simultaneously while their originals remain in various places in Europe, and it is hoped that the United States will also make its databases available. Talks on possible cooperation with the National Archives and Records Administration (NARA) in Washington, D.C. started at the end of 2008. With this and other collaborative efforts, the large gaps in the digitalized inventory card files at the Federal Archive will be filled in ever more.

I. THE HISTORY OF THE MUNICH CENTRAL COLLECTING POINT (MCCP)

“Central Art Collecting Point”³ was the name given to the collection centers for artworks that the American allied forces' Monuments, Fine Arts and Archives Service (MFA&A) set up in scattered places throughout Germany after the end of World War II. The largest of these collecting points was in Munich.⁴ In the summer of 1945, the Allies began removing artworks from the individual provisional depots set up by the National Social-

³ The terms “Munich Central Collecting Point” and “MCCP” are widely applied and will be used subsequently and interchangeably.

⁴ For in-depth information on the Central Collecting Point see Iris Lauterbach, “Arche Noah”, “Museum ohne Besucher”? – Der Central Art Collecting Point in München. In *Entehrt. Ausgeplündert. Arianisiert. Entrechtung und Enteignung der Juden*, vol. 3, ed. Andrea Baresel-Brand. Magdeburg: Coordination Office for Lost Cultural Assets, 2005, pp. 335–352.

ists. Artworks that had been looted, confiscated, or sold within the German Reich or in Nazi occupied regions between 1933 and 1945 were brought from depots to the collecting points to be inventoried and subsequently restituted. The collecting point in Munich was designated for artworks that were to be returned to their countries of origin or to private individuals in Germany. Estimates of the number of artworks inventoried at the MCCC vary greatly, ranging from fifty thousand to over one million.¹

Following inventorying, and as soon as the first provenances could be clarified, the MFA&A Service began as early as the fall of 1945 to return artworks to their rightful owners.² All of the artworks, with the exception of a few thousand objects, were restituted in the subsequent years.

II. TRUSTEE ADMINISTRATION FOR CULTURAL PROPERTY (TREUHANDVERWALTUNG VON KULTURGUT OR TVK) TAKES OVER THE MCCC'S DUTIES

On August 31, 1948, the Americans transferred the duties of trusteeship, care, supervision, and maintenance of the objects

¹ In the activity report of the Trustee Administration for Cultural Property (Treuhandverwaltung von Kulturgut, TVK) in Munich for 1962, 50,000 (matches the number of MCCC numbers) and 1,000,000 are mentioned. See *ibid.*, p. 27. A copy of the report is in the German federal art collection records in the BADV archive. The AAM Guide, on the other hand, mentions from 150,000 to more than 1,000,000 objects, see Nancy H. Yeide, Konstantin Akinsha, Amy L. Walsh, *The AAM Guide to Provenance Research*. Washington, DC: 2001, p. 95. In the commentary on the NARA inventory a figure of one million is mentioned. See: <http://www.archives.gov/research/microfilm/m1940.pdf>, p. 2, accessed June 11, 2009.

² For in-depth information see Michael Joseph Kurtz, *Nazi contraband. American policy on the return of European cultural treasures 1945–1955*, (New York: Garfield, 1985).

and documents at the Munich CCP to the Bavarian minister president. This initially did not affect the MCCC's duties.³ After identifying artworks for restitution, the US authorities proceeded with the restitution. The MCCC's activities ended on November 30, 1949. In order for the German authorities to initiate further restitutions, the Conference of the Ministers of Culture resolved to form an office of restitution. In 1951, the German restitution office started restitution work alongside the Allied authorities. The office ended its activities on February 22, 1952.

On the same day in Munich, artworks previously held under the trusteeship of the Bavarian minister president were transferred to the Foreign Office's Department for Culture. The Department established a special section, the Trustee Administration of Cultural Property at the Foreign Office, to which the Trustee Administration operating in Munich was subordinate. The remaining artworks were handed over to the government of the Federal Republic of Germany on February 22, 1952.⁴ The transfer included an unspecified number of artworks inventoried on 9,244 inventory cards and microfilms of the MCCC files, all inventory cards from the Munich and Wiesbaden CCPs, and copies of the photographs – though not the negatives. These un-restituted artworks are known as the Remaining MCCC Inventory (*Restbestand CCP*).

The Trustee Administration for Cultural Property created new inventory cards for these works. The cards – which are modeled on the English-language cards – are in German and in duplicate,

³ For the following see the TVK activity report for 1962.

⁴ Letter from the Bavarian State Painting Collections to Foreign Office Department of Culture from February 22, 1952. The transfer was based on the exchange of notes between the US High Commissioner McCloy and the German Chancellor Konrad Adenauer, between April 16 and August 27, 1951, as well as a note from the German chancellor to the minister president of Bavaria on January 4, 1952.

with one set arranged according to the Munich numbering system and the other according to artist names.¹ The German federal minister of the treasury took control over the Remaining MCCC Inventory at the beginning of 1963, when the Trustee Administration was dissolved.² Since that time, agencies under the Federal Ministry of Finance – initially the Regional Finance Office (*Oberfinanzdirektion*, abbreviated as OFD) in Munich and currently the BADV – were entrusted with the inventory’s administration. Since the mid 1960s, most of these artworks have been placed on permanent loan in German museums and federal agencies.

III. THE INVENTORY CARD SYSTEMS AND THE PHOTOGRAPHIC FILE AT THE MCCC AND ITS SUCCESSOR INSTITUTION, THE TRUSTEE ADMINISTRATION FOR CULTURAL PROPERTY

Control Number File (According to Munich Number) or Arrival Cards

The first director of the MCCC, Craig Hugh Smyth, an American officer and art historian, developed an inventory card system.³ The crates and objects were assigned an Arrival Number, also known as a Munich Number at the time of their delivery to the Munich Collecting Point. In addition to the arrival number, the artist, title, prior inventory numbers, arrival date, and condition

¹ In this regard see the remarks in the section: Restitution File (according to Munich Number) or Property Cards.

² For a summary compilation of the objects see Klaus Beetz, *Die Erwerbungen Adolf Hitlers bis zum Führererlass vom 26. Juni 1939 für den Aufbau des Neuen Museums Linz*. Berlin: Eigenverlag, 2004, p. 67.

³ Regarding the inventorying see Craig Hugh Smyth, *Repatriation of Art from the Collecting Point in Munich after World War II*. Maarsen/Den Haag: 1988, p. 95.

of the object were listed where possible. However, specific information about the artwork is often lacking. The arrival card 40/1-27, for instance, reads “crate – large (27 items),” meaning that the crate was the fortieth object delivered to the MCCC and contained 27 works of art.⁴

At the Federal Archive in Koblenz, these arrival cards are designated as Control Number File in the Trustee Administration of Cultural Property’s inventory catalogue. The inventory includes 43,183 arrival cards.⁵

Restitution File (According to Munich Number) or Property Cards

After their registration on arrival cards, the artworks were described in detail on Property Cards, which serve as the main file. If multiple items were registered under one arrival number, each object was then given an individual sub-number. In the case referred to above, the first object in the fortieth crate, a faience bowl, was marked “Mun.[ich no.] 40/1.”⁶ Available information on the artist’s name, work’s title, art form, size, prior inventory numbers, and evidence of provenance was entered onto the card. This bowl, for instance, was from the Seligmann collection and it was restituted to Paris in 1946, which is written on the back. The entries were usually handwritten in English and augmented by later annotations in German. Two important aids available to the Americans in their efforts to identify the artworks were from the *Sonderauftrag Linz*’s library and the so-called Dresden

⁴ See Bundesarchiv, inventory B 323/604, Munich Number 40/1–27, Front. The reverse side is blank, as is generally true for all Arrival Cards.

⁵ See Bundesarchiv, inventory B 323/604 to 646.

⁶ See Bundesarchiv, B 323/647, Munich Number 40/1.

Catalogue.¹ These catalogues, consisting of file cards and photographs, list the inventory of artworks that was originally destined for Hitler's *Führermuseum* in Linz.

In addition to organizing the property cards by numbers, other inventory card series were created by the MCCC staff to organize works according to artist, country, and epoch, as well as to previous owners and depot room numbers. The cards in these additional files contain few entries, in contrast to the detailed information on the individual objects in the main file. The previous-owner file is sorted according to country and covers very large art collections. Using this file, it is possible to establish which collections or individual works from collections passed through the MCCC. Postage-stamp-sized photographs of the respective artworks are stapled to many of these cards. This file is kept at the Federal Archive.² We do not know the whereabouts of the other inventory card series or whether they still exist.

When the Trustee Administration for Cultural Property took over from the MCCC, the subsequent staff continued to use the available property cards, while filling in newly acquired knowledge in German. New cards were created for previously unregistered artworks given numbers following the last assigned numbers of registered works. These included works from the *Sonderauftrag*

Linz, as well as ones from Herman Göring's art collection and acquisitions for the Obersalzberg, the German Palace in Posen, and Heinrich Hoffmann's collection. The English-language property cards were translated only if the given object was still at the MCCC. The new file in German, containing German-language cards as well as English-language cards, was organized into two files, one according to the Munich numbering system, and the other according to artist. Some of the German inventory cards according to numbers are in the Restitution File at the Federal Archive. The Restitution File contains 65,572 cards.³ However most of the German inventory cards are kept at the BADV.⁴

Initial and Subsequent Minister President Files

Officers in the American Cultural Property Protection Unit would enter "Minister President" into the field for "presumed owner" or wrote in "transf. to Min. Pres. decided by MFA Off. E. Breitenbach April 49" on the cards for artworks that were to be turned over to the German government in 1949.⁵ Today, a large number of these artworks are in the possession of the German government, designated as Remaining MCCC Inventory. The inventory card entries are typed in English and have German annotations. They contain information on the artwork but generally little on the provenance. These cards are stored according to their Munich Numbers in two sets at the Federal Archive; one is the Initial Minister President File (updating discontinued January 1,

¹ The Dresden Catalogue is often confused with the Führerbau file in the professional literature. See the remarks on these archives by Hanns Christian Löhner, *Das Braune Haus der Kunst. Hitler und der "Sonderauftrag Linz"*. Berlin: Akademie Verlag, 2005, p. 2. The Dresden Catalogue's contents can be viewed in the Sonderauftrag Linz database, also presented by the DHM.

² At the Federal Archive this inventory is designated in the catalogue as the Restitution File (according to owner). See Bundesarchiv, inventory B 323/695–729. These inventory cards are stored in 35 drawers there. The exact number of the cards is unknown because the stock was not scanned. Presuming that the Property Card inventory is stored in boxes containing approx. 1,300 to 1,500 cards each, this inventory can be assumed to contain approx. 45,000 to 52,000 cards.

³ In the Federal Archive these Property Cards (in English and German) are designated as the Restitutions File (according to Munich number). The German-language inventory cards are each filed behind the English-language Property Card. See Bundesarchiv, Inventory B 323/647–694.

⁴ For the inventory cards at the BADV see the remarks in the section, Inventory Cards, current Remaining MCCC Inventory (Germany).

⁵ See in the following also the remarks from by Yeide, Akinsha und Walsh (2001), op. cit., p. 95 and p. 62.

1962) with 9,703 inventory cards and the second Minister President File (restituted objects) with 2,452 cards.¹

IRSO File

The series of inventory cards maintained under the heading IRSO lists artworks that were restituted to the Jewish Restitution Successor Organization, the predecessor institution to the Jewish Claims Conference. The labeling is brief – similar to that of the two aforementioned inventory card series. The Federal Archive contains 1,340 relevant cards, which are again stored by numbers.²

Inventory Cards, Current Remaining MCCP Inventory (Germany)

The file cards for the Remaining MCCP Inventory (Germany) artworks, which are in the possession of the German government, are located in the archives of the Federal Office for Central Services and Unresolved Property Issues (BADV). The inventory contains 2,716 cards filed according to their Munich Numbers.³ Currently, this inventory contains about 2,300 paintings, graphic works, sculptures, and applied artworks as well as some 10,000 coins and books.

Following the endorsement of the Washington Principles (1998) and the Common Statement (1999) a special department for provenance research established at the federal level was launched in May 2000. Today, the BADV is responsible for renewed provenance research on the MCCP collection. If the artwork stems

¹ See Bundesarchiv, Inventory B 323/763–769 as well as B 323/602 and 603.

² See Bundesarchiv, Inventory B 323/732.

³ See BADV, Kunstverwaltung, Property Cards MCCP.

from a persecution-related deprivation of property dating from the National Socialist period, it will be returned to its rightful owner or to the owner's heirs.⁴ So far, the origins of 920 art works have been probed. Twenty-two works have been returned and the return of 17 additional objects to the legal heirs is planned. A selection of the results to date is presented in the BADV's online database.⁵ The MCCP database is linked to it. The complete inventory can be viewed on the Coordination Office for Lost Cultural Assets' website.⁶

Inventory cards, current Remaining MCCP Inventory (Austria)

The transfer of the "Remaining MCCP Inventory" (Austria) to Vienna in 1952 included inventory cards as well as artworks. The 943 cards are now kept at the Austrian Federal Office for the Care of Monuments while scientific research is carried out by the Commission on Provenance Research.

Object Photographs

After the objects were inventoried at the MCCP, large format

⁴ On provenance research in the federal agencies see Harald König, "Erste Ergebnisse der Provenienzrecherche zu dem in Bundesbesitz befindlichen Restbestand CCP – Das Ölgemälde 'Die Milchfrau' von Daniel Chodowiecki," in: *Beiträge öffentlicher Einrichtungen der Bundesrepublik Deutschland zum Umgang mit Kulturgütern aus ehemaligem jüdischen Besitz*, vol. 1, ed. by Ulf Häder (Magdeburg, Coordination Office for Lost Cultural Assets at Magdeburg, 2001), and *ibid.*, "Leihgaben der Bundesrepublik Deutschland aus Beständen, die zwischen 1933–1945 in Reichsbesitz gelangten," in: *Museen im Zwielicht. Ankaufspolitik 1933–1945. Kolloquium vom 11.–12. Dezember 2001 in Köln; die eigene GESCHICHTE*. Provenienzforschung an deutschen Kunstmuseen im internationalen Vergleich. Tagung vom 20.–22. Februar 2002 in Hamburg*, vol. 2, ed. by Ulf Häder, with assistance from Katja Terlau and Ute Haug (Magdeburg, Coordination Office for Lost Cultural Assets at Magdeburg, 2002), pp. 149–158.

⁵ See: <http://provenienz.badv.bund.de>.

⁶ See: <http://www.lostart.de>.

black-and-white photographs, including some with detail views, were made of the artworks and placed in a separate photographic file. The chief photographer, Johannes Felbermeyer, was assisted by Herbert List. The images were fixed on cardboard and labeled with the respective Munich number. These objects, too, can only be identified in the main file by their Munich numbers. The American MFA&A Service officers were able in some cases to make use of the Führerbau file. This file contains images of artworks that had been inventoried for the *Sonderauftrag Linz*. These photographs, taken by the photographers Rudolf Himpsl and Willy Schönbach between 1941 and 1944, are recognizable by their wide white borders.¹ The photographs' reverse sides show an inventory number stemming from the *Sonderauftrag Linz*, either handwritten or stamped, and on occasion a Munich number as well. A total of 42,904 photographs – most of those taken at the Collecting Point – are held at the BADV.²

IV. THE WHEREABOUTS OF THE INVENTORY CARD SERIES

Numerous archives of the Office of Military Government, US Zone (OMGUS) were transferred to the US Army Archives in Kansas City shortly after the Munich Central Collecting Point closed in 1949. The shipments included some 30,000 property cards.³ This inventory was transferred to the National Archives and Records Administration in Washington, DC, in the early 1960s. Today, the cards are kept at the College Park branch of the National Ar-

¹ Lühr 2005, p. 96 (see note 15).

² See BADV, Kunstverwaltung, Fotoarchiv MCCP. Smaller photo files are located – as far as it is known – at the National Gallery of Art in Washington, DC, Photographic Archives, Core Collection, MCCP; at the GRI, LA, Felbermeyer photographs for the MCCP (accession nr. 89.P4); at the LACMA, Herbert List photographs; and at the Central Institute for Art History, Munich, organized by the artist's name.

³ See: <http://www.archives.gov/research/microfilm/m1940.pdf>, pp. 2–4, accessed June 11, 2009.

chives (NACP). They are alphabetically sorted into five separate series according to different criteria, such as the artwork's country of origin.

The greatest proportion by far of the inventory cards remaining in Germany – probably about 170,000 – has been stored since 1990 in the Federal Archive in Koblenz under the inventory code B 323. This includes the Control Number File (arrival cards) and the Restitution File (according to Munich numbers or property cards) as well as the two Minister President files, the IRSO file, and the Restitution File (according to owner). Nonetheless the file has major gaps among the individual Munich numbers. Only a comparison study of the two sets can establish whether the cards at the NACP are duplicates of those in Koblenz or whether the NACP cards are instead those missing from the Koblenz files.

Other inventory cards ended up in Berlin and Vienna with the transfer of the Remaining MCCP inventories from Germany and Austria. There are also original inventory cards as well as copies in Paris.⁴ It is possible that there are still undiscovered cards stored in other archives.

V. THE MUNICH CENTRAL COLLECTING POINT DATABASE ON THE INTERNET

The database contains the copies of all of the MCCP inventory cards made after the end of the war by the American allied forces and the TVK staff in Munich that are today in the Federal Archive with the exception of the Restitution file (according to owner).⁵ Moreover, additional inventory cards and photographs

⁴ A kind tip from Patricia Kennedy Grimsted.

⁵ See Bundesarchiv, inventory B 323/695-729.

from the BADV, as well as cards from the Austrian Federal Office for the Care of Monuments, are available for research.

Linked to each data file transcribed from the Restitution file or main file is a copy of the relevant inventory card and in many cases the photograph as well. The database now makes it possible after more than 50 years to search without knowledge of the Munich inventory number for paintings, antique sculptures and applied artworks such as furniture, tapestries, metalwork, faience wares and ceramics, as well as for books and numismatic objects. Inventory cards from different archives have now been brought together with photographs from the BADV. Using the MCCC database, one can search according to different criteria, such as inventory numbers, file/inventory, object title, object type, material/technique, artist, society (i.e., provenance), and keyword.

Until now, the large number of inventory cards sorted according to their Munich numbers made research in the archives very difficult. From now on, the database is searchable without the Munich number. The MCCC database is an important tool for provenance research as well as for investigations surrounding unsolved cases of looted art. This applies to individual research inquiries, as well as to the exploration of complex interrelationships such as those, for instance, in the art trade, through the use of the inventory cards held at the Federal Archive.

The database can identify works that have not previously been recognized as being the subjects of forced sales. In addition, it offers information on artworks that were returned to their owners after 1945 and that have not been publicly exhibited since. Database research can be carried out for artworks in museums, in private hands, or in what is known as the Remaining MCCC

Inventory – works that today are the object of BADV provenance research.

This enormous database is the result of the close cooperation of the Federal Archive (*Bundesarchiv*), the Federal Ministry of Finance (*Bundesministerium für Finanzen* or BMF), the German Historical Museum (*Deutsches Historisches Museum* or DHM), the Zuse Institute Berlin (ZIB), the Berlin Office of Central Information Processing and Information Technology (*Zentrale Informationsverarbeitung und Informationstechnologie* or ZIVIT), and the Federal Office for Central Services and Unresolved Property Issues (*Bundesamt für zentrale Dienste und offene Vermögensfragen* or BADV).

In a period spanning approximately four months, staff of the Federal Ministry of Finance scanned 244,000 front and reverse sides of the inventory cards held by the Federal Archive and some 5,400 front and reverse sides of the cards located in the BADV archive. To save room, blank reverse sides were not scanned, and instead annotated with “no entry.” Copies were not made of the Federal Archive’s Restitution File (according to owner) since the effort involved in the removal and remounting of the stapled photographs would have been disproportionate to the amount of information gained.

After a thorough examination of the different series of digitalized inventory cards, the DHM and BADV decided that the information contained in the Restitution File (according to Munich no.), i.e., the main file, should be transcribed for entry into the database.¹ This file contains the most extensive information on the respective artwork. Information that is

¹ See in this regard the remarks in the section: Inventory Card Systems.

missing from the main file, however, can be gained by inspecting copies of the other inventory card series. It took the BADV staff about a year to enter all of the relevant particulars into a database. After the work's completion, the DHM's Central Documentation Department staff reformatted the data for use in the DHM database and carried out an initial automated data-conversion. In addition, the original data was supplemented with information/data from the DHM *Sonderauftrag* Linz database, as well as the BADV's database on provenance research.

The Central Documentation Department at the DHM has so far performed only cursory editing of the database entries. Full-scale scholarly editing is planned for the next months. For now, a full-text search can be carried out to locate artworks even if the entry is not properly placed. Spelling mistakes, however, will cause the full-text search to produce faulty results.

VI. COOPERATION WITH NATIONAL AND INTERNATIONAL ARCHIVES

During the database's developmental phase, contacts with European and American archives were established at a workshop at the Getty Research Institute in the fall of 2008. Shortly thereafter, the Austrian Commission on Provenance Research offered, for example, to digitalize its inventory of one thousand cards from the Munich CCP in order to incorporate them into the database. This has served to close some of the gaps in the inventory cards at the Federal Archive.

In addition, talks on possible cooperation with the National Archives and Records Administration (NARA) started at the end of

2008.¹ In the spring of 2009, NARA indicated its openness to a collaborative effort. This can, however, only be undertaken after NARA has finished digitalizing its stock of inventory cards, presumably at the end of 2009. With this work completed, NARA's data can then be linked with the MCCP database, which advances the reconstruction of the Munich Central Collecting Point.

Also of interest would be to link the MCCP database to Washington, DC's Holocaust Museum's *Einsatzstab Reichsleiter Rosenberg* (ERR, Operational Staff Rosenberg) database, for many of the MCCP cards bear ERR inventory numbers.

In addition, collaboration with the Central Institute for Art History (*Zentralinstitut für Kunstgeschichte*) in Munich has been initiated. Its photographic library contains some 4,300 images from the MCCP. Following a comparison study, these photographs will also be linked at a later date with the database.

More MCCP inventory cards and photographs might still be located in other archives. Relevant information is greatly appreciated.²

Conclusion

The online placement of the MCCP database allows for free research of over 170,000 entries as well as 300,000 images of inventory cards and photographs using various search criteria. Such a database is intended to serve not only provenance research but also those searches carried out at universities on the art market and looted art. Several such projects are currently

¹ The talks took place with the NARA staff, although the inventory cards are kept at the National Archives at College Park, MD.

² It can be sent to Monika Flacke at ccp@dhm.de.

underway, for instance, at the *Entartete Kunst* (Degenerate Art) Research Center at universities in Hamburg and Berlin. The Center has also entered into a cooperation agreement with the Getty Research Institute and the University of Southern California, which jointly founded the work group: The Art Market in Germany, Austria and Switzerland, 1900–1955. A database focusing on the art market sales in the 1930s and 1940s is to serve as the foundation for individual research projects and conferences.

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Archives

Bundesarchiv (Federal Archive), B 323

Bundesdenkmalamt (Federal Office for the Care of Monuments), Vienna

Los Angeles County Museum of Art, Los Angeles, Herbert List Collection

National Archives at College Park, Maryland

National Gallery of Art in Washington, DC, Photographic Archives, Core Collection, Munich Central Collecting Point

Research Library at the Getty Research Institute, Felbermeyer photographs for the Central Collecting Point, Munich (accession number 89.P.4)

Zentralinstitut für Kunstgeschichte (Central Institute for Art History), Munich

Abbreviations

BADV	Federal Office for Central Services and Unresolved Property Issues Berlin
DHM	German Historical Museum
ERR	Einsatzstab Reichsleiter Rosenberg (Operational Staff Rosenberg)
GRI, LA	Getty Research Institute, Los Angeles
LACMA	Los Angeles County Museum of Art
MCCP	Munich Central Collecting Point
MFA&A Service	Monuments, Fine Arts and Archives Service (of the American allied forces)
NACP	National Archives at College Park, Maryland
NARA	National Archives and Records Administration, Washington, DC
OFD	Regional Finance Office
TVK	Trustee Administration for Cultural Property at the Foreign Office
ZIB	Zuse Institute Berlin
ZIVIT	Zentrale Informationsverarbeitung und Informationstechnologie (Central Information Processing and Information Technology)

Inventory Card System

	CONTROL NUMBER FILE OR ARRIVAL CARDS	RESTITUTION FILE OR PROPERTY CARDS = MCCP MAIN FILE + TVK FILE	TWO MINISTER PRESIDENT FILES (1), IRSO FILE (2), REMAINING MCCP INVENTORY GERMANY (3) AND AUSTRIA (4), OBJECT PHOTOGRAPHS (5)
CREATOR	MCCP	MCCP until 1948, after 1948 TVK	(1)–(5) MCCP
MAIN INDEX	Arrival number = Munich number	MCCP: Arrival Number with sub number for multiple items, so-called Munich Number TVK: Consecutively numbering for unregistered art works	(1)–(5) Arrival number = Munich number
CONTENT	Artist, title, prior inventory numbers, arrival date, condition of object etc., no specific information about art works and provenance	Detailed description of artwork e.g., artist, work title, art form, size, prior inventory numbers, provenance	(1)–(4) Information on art works and provenance, but little in comparison to the Restitution File (5) Only arrival number = Munich Number
ORDERING SUBJECTS	By number (as delivered to Munich Collection Point)	MCCP Main File ordered by number, other series (referring to Main File) ordered by artist, country, epoch, previous owners, depot numbers TVK File series ordered by number and artist	(1)–(5) By number

ARCHIVE	Federal Archive: Control Number File (according to Munich nr.) = arrival cards	Federal Archive: Restitution File (according to Munich nr.) = Property Cards (including M CCP and TVK cards) Federal Archive: Restitution File (according to owner) BADV: TVK inventory cards (by number) BADV: TVK inventory cards (by artist) – not included in the database	(1), (2) Federal Archive (3) BADV and Federal Archive (4) Austrian Federal Office for Care of Monuments (5) BADV
NUMBER OF CARDS AVAILABLE FOR SEARCH	43,183 Arrival cards (Federal Archive)	65,572 Property Cards, including TVK inventory cards (Federal Archive)	(1) 12,155 Inventory cards (2) 1,340 Inventory cards (3) 2,716 Inventory cards (4) 943 Inventory cards (5) 42,904 photographs
SEARCH LANGUAGE	English	Mostly English, German (after 1948)	(1) English with German annotations (2)–(4) English
DATABASE SEARCH	Information available at the new database on the Munich Central Collection Point: http://www.dhm.de/datenbank/ccp/ Search mask: inventory numbers, file / inventory, object title, object type, material / technique, artist, society (= provenance), and keyword		

Legal Issues

▶ Olaf S. Ossmann

THE INTERNATIONAL ASSOCIATION OF JEWISH LAWYERS AND JURISTS, GERMANY

ONE COLLECTION, ONE PERSECUTION, ONE DECISION – BUT DIFFERENT IDEAS OF “JUST AND FAIR SOLUTIONS” – HURDLES IN DIFFERENT NATIONAL PROCESSES FOR HEIRS OF ART COLLECTIONS

Good morning, Ladies and Gentlemen:

Before I start my presentation, allow me some personal words about the issue. When my grandmother turned 80 in 1985, she had, as in all the years before, two parties. There was, of course, one with her small family and us as the offspring of that family. But there was, on the same day, another party where the family was not invited. The setting: a table with four people. As I learned over the years, everyone at this table including my grandma had a number on the arm and over the years I knew the first names of these people but this was all. From time to time, I was allowed to help my grandma prepare the food for this celebration: a clear hot chicken soup.

Unfortunately, in 1985, my grandma did not return from this party to today's world. She lost all of her power, all of her strength, and her brain returned to 1939 – as we learned from the doctor's

expertise. And until her death one year later, she suffered from and felt the same fears as in 1939.

My grandmother declined all her life to be acknowledged as a victim of the Nazis; she also declined the special pension provided for these victims. But her only daughter (my mother) could not afford the costs of the medical treatment (of course we hoped her life would endure until 120) and so I – who had started to study law one month before – was asked by my family to prepare the papers for the special pension application.

Since then, I have dealt with a significant number of such applications for insurance, pensions, and *Verschlimmerungsanträgen* (“Aggravation Applications”). The applications require the inclusion of a medical evaluation to assist in the determination of the causes of the illness and the relationship between persecution-related causes and “natural” causes, defined in percentages.

In all of my cases, the most difficult thing for me was to hand over this evaluation to the families, as the content and the language of these evaluations were, in my eyes, dehumanizing, so I felt guilty just by delivering such a document, guilty to be a part of such a system that called itself “just and fair.”

So, you may understand my approach to this topic. Again, we try to weigh several circumstances in the life of a victim. We try to judge arguments for an action seventy years ago.

This morning, I would like to invite you to forget for one moment the position that brought you here. Lean back and try to see, for this moment, my explanations through the eyes of a family.

Your family name for the next minutes will be Gutmann.¹ Your grandfather, Eugen Gutmann, was the founder, owner, and director of one of the leading banks in Germany, Dresdner Bank. Later, his son, your father, stepped into Eugen’s shoes and led the Bank.

In the 1950s, you were told that the son of Eugen, Herbert M. Gutmann, was responsible for the losses of the bank in the bank crises at the end of the 1920s. The board of the “new” Dresdner Bank added that, even if there had been some losses, it would have no influence as the “old” Dresdner Bank did not exist any longer, and no documents remained. You try to

¹ 1879 – October 15, Herbert Max Magnus Gutmann, born in Dresden, Germany.
1884 – Head Office of Dresdner Bank, founded by Herbert’s father, Eugen moved to Berlin
1903 – Herbert M. Gutmann became the Vice Director of the London branch of the Dresdner Bank.
1906 – January 3, Eugen and Herbert M. Gutmann founded Deutsche Orientbank AG.
1910 – January 10, Herbert M. Gutmann joined the board of the Dresdner Bank AG.
1913 – September 27, Herbert married to Daisy von Frankenberg und Ludwigsdorf.
1914 – May, Herbert and Daisy moved to Herbertshof in Potsdam.
1921 – June 21, Trust en Administratie Maatschappij founded in Amsterdam.
1927 – January, Dresdner Bank Aktien – Syndikat established.
1931 – September 9, Herbert M. Gutmann was forced to retire from the board of the Dresdner Bank AG.
1933 – May The Dresdner Bank AG “calculated” Herbert M. Gutmann’s debts.
1934 – April, Herbert M. Gutmann sold his art collection at Paul Graupe Berlin.
1934 – June 30, H. M. Gutmann arrested by the SS.
1936 – Mid, The German property of the Eugen Trust with the Berlinische Bodengesellschaft AG was liquidated.
1936 – October, Herbert M. Gutmann immigrated to London.
1937 – The “Emigration Tax” for Herbert M. Gutmann is calculated with 89,000 Reichsmarks.
1937 – Herbert M. Gutmann was clear of debt.
1939 – Punitive tax calculated with 35,000 RM.
1939 – June 5, Herbertshof sold.
1940 – November 27, Gestapo seized the assets of Herbert and Daisy Gutmann in Germany.
1942 – December 22, Herbert M. Gutmann died in London.

make a living in England, the country to which Herbert escaped before he died in 1942, leaving Germany with nothing besides his famous name.

The situation changed after 1990. The reunification opened some archives. You start some research on the former family home “Herbertshof” in Potsdam. You find out that it was sold in 1938 and that Herbert got not a penny from this sale to the *Reichsvereinigung der Auslands-Deutschen*. You try to start a conversation with the Dresdner Bank again; the new and friendly board sends you a copy of the information from the 1950s and tells you that unfortunately, due to data security protection, they cannot permit entrance to their archives for your researchers.

Unfortunately for Dresdner Bank, because of the pressures of history,¹ Dresdner Bank had to establish an expert commission to research its activities in the Third Reich. One small chapter in this report from 2002 also deals with the “relation to the Jewish board members and employees.” This chapter explains that Herbert Gutmann was, according to the protocols of the board meetings, the “arranged scapegoat” from 1933 until 1935 and all of the debts presented to the family after 1945 were faked just to kick him out of the Bank.

So, you rethink your position. You start to research the assets and you research the art collection.

You find a specialized lawyer who works with research experts. In 2006, this team presents you with a first idea of what the collection was and when and how the title of ownership changed for several parts of the collection. You learn that even the former

¹ “Hinter jedem ersten Tank läuft Dr. Rasche von der Dresdner Bank”.

property of Eugen Gutmann who died in 1925 is still “undivided” – a special topic for another lecture.

Your representatives start to send out letters to museums and collections where former parts of the collection are located. I will give you some examples of the answers and the ways to deal with these letters.

I will focus your attention on one auction in 1934, the year after the board of Dresdner Bank decided to finally get rid of Herbert Gutmann and one year after the “creation” of debts from risks caused by business dealings in the name of Dresdner Bank and their consortia that we would call today “option trades.”

The “Graupe Auction [of] April 12th 1934” included 848 pieces of art, including 64 paintings. Let’s speak about three of these paintings: Lenbach’s *Image of Bismarck*, Markart’s *Death of Pappenheim* and Rubens’ *Coronation of a Virgin or Coronation of Maria*.

First Example: Lenbach, *Image of Bismarck*

This painting was listed as item 17 in the auction catalogue.

I have had an ongoing conversation with the German Bundestag since 2007. The problem here: The identity of the painting is in question. Even if you are not an expert, you will recognize the painting from a family photo, as it is still in the same frame.

You should see a kind of identity, the same frame and although the *catalogue raison* of Lenbach shows more images of Bismarck, it includes only one with this specification: “*Bismarck standing with a head.*” Also, the provenience is clear:

- ▷ Eugen Gutmann
1897 – present to Eugen Gutmann on the occasion of the 25th anniversary of Dresdner Bank as the founder and director
- ▷ Herbert M. Gutmann, Potsdam
12.14. April 1934 GraupeAuction Nr. 132, Lot 17, in Berlin
- ▷ Carl Rehn
21. February 1964 sold by Carl Rehn from Bopfin-
gen to the “*Kunstsammlung des Deutschen Bundestag-
es in Berlin*” (purchase price: 20,000 DM)
Deutscher Bundestag, Berlin

Second Example: Markart, *Death of Pappenheim*

Listed in the auction catalogue as number 20

After one year of negotiations, the Vienna Museum wrote the following letter:

GZ 35/2009 Vienna, January 20, 2009
Re: Restitution case of Herbert M. Gutmann

Dear Mr. Ossmann!

The Museums of the City of Vienna regret the accrued delay in the matter of Herbert M. Gutmann, which was, however, not within their purview since, after the Vienna City Council determined that the painting by Hans Makart was eligible for restitution in June 2008, it was first necessary for the unique “heritage quality” of the work to be clarified with the help of documents provided to the Museums

of the City of Vienna by Mrs. Schreiber. Because this determination has now been made, it was further required that the Museums of the City of Vienna receive from the Vienna Cultural Council a letter containing its political decision as to which legal successor the painting should ultimately be delivered to. [...] The painting is ready for you, as the beneficiary’s representative, and can be picked up at any time at the premises of the Museums of the City of Vienna, Karlsplatz, 1040 Vienna.

The provenance of the painting was indisputable, the circumstances of loss were verified by the Restitution Committee in Austria, and the painting was restituted even though this case was not covered by the existing law in Austria.

Provenance:

- ▷ 1885 Theodor Freiherr von Dreifus, Vienna;
- ▷ Collection of Herbert M. Gutmann until 1934; then
- ▷ April 12–14, 1934 Graupe Auction No. 132, lot 20;
- ▷ From 1934 privately owned in Potsdam; and from thence [in]
- ▷ 1945 into the art trade (according to an undated partial copy of a letter from Gottfried Günther to Frede Møller);
- ▷ Acquired at an unknown time by Frede Møller, Østrigs-gade 11/3, Kopenhagen and in his possession until November 1968; then sold to the

- ▷ Historical Museum of the City of Vienna (today: the Vienna Museum) on February 12, 1968 for the price of 35,000 Austrian Schillings.

So the grandson of Herbert Gutmann and I went to Vienna and picked up the painting in April of this year.

Third Example: Rubens, *Coronation of a Virgin or Coronation of Maria*

This painting was listed in the auction catalogue as number 43.

The painting was already on the Courtauld list of questionable paintings. The provenance shows that it was the property of Mr. Gutmann.

Since 2008, we have been standing in a line of claimants as the Courtauld Institute can only deal with one claim at the time. After the (in my eyes tragic) “Glaser” decision of June 2009, we are next in line at the spoliation advisory panel.

These three examples should give you an idea of different approaches to the topic and to the different views ending in persecution by finding different answers to the same questions. The bases for these different views are the different legal bases in the different countries.

Austrian Law reflects only the situation of Jews in Austria¹ after

¹ Österreich
Bundesgesetz vom 15. Mai 1946 über die Nichtigerklärung von Rechtsgeschäften und sonstigen Rechtshandlungen, die während der deutschen Besetzung Österreichs erfolgt sind.
§ 1. Entgeltliche und unentgeltliche Rechtsgeschäfte und sonstige Rechtshandlungen während der deutschen Besetzung Österreichs sind null und nichtig, wenn sie im

the annexation (*Anschluss*) and the persecution there. Germany² starts from the present owner and reflects from there to a persecuted pre-owner. England³ reviews all kinds of artwork if there is a request from a former owner who claims a loss in ownership between 1933 and 1945 because of persecution.

This British position sounds good but as the Glaser file showed, the idea of grading different levels of persecution and then creating a kind of cause-and-effect chain using fragmented archive

Zuge seiner durch das Deutsche Reich erfolgten politischen oder wirtschaftlichen Durchdringung vorgenommen worden sind, um natürlichen oder juristischen Personen Vermögensschaften oder Vermögensrechte zu entziehen, die ihnen am 13. März 1938 zugestanden sind.

² Deutschland
Erklärung der Bundesregierung, der Länder und der kommunalen Spitzenverbände Die Bundesregierung, die Länder und die kommunalen Spitzenverbände werden im Sinne der Washingtoner Erklärung in den verantwortlichen Gremien der Träger einschlägiger öffentlicher Einrichtungen darauf hinwirken, dass Kulturgüter, die als NS – verfolgungs – bedingt entzogen identifiziert und bestimmten Geschädigten zugeordnet werden können, nach individueller Prüfung den legitimierten früheren Eigentümern bzw. deren Erben zurückgegeben werden. Diese Prüfung schließt den Abgleich mit bereits erfolgten materiellen Wiedergutmachungsleistungen ein. Ein derartiges Verfahren ermöglicht es, die wahren Berechtigten festzustellen und dabei Doppelentschädigungen (z.B. durch Rückzahlungen von geleisteten Entschädigungen) zu vermeiden.
Den jeweiligen Einrichtungen wird empfohlen, mit zweifelsfrei legitimierten früheren Eigentümern bzw. deren Erben über Umfang sowie Art und Weise einer Rückgabe oder anderweitige materielle Wiedergutmachung (z.B. gegebenenfalls in Verbindung mit Dauerleihgaben, finanziellem oder materiellem Wertausgleich) zu verhandeln, soweit diese nicht bereits anderweitig geregelt sind (z.B. durch Rückerstattungsvergleich).

³ Great Britain
Spoliation Advisory Panel
Constitution and Terms of Reference: The task of the Panel is to consider claims from anyone (or from any one or more of their heirs), who lost possession of a cultural object (“the object”) during the Nazi era (1933–1945), where such object is now in the possession of a UK national collection or in the possession of another UK museum or gallery established for the public benefit (“the institution”). The Panel shall advise the claimant and the institution on what would be appropriate action to take in response to such a claim. The Panel shall also be available to advise about any claim for an item in a private collection at the joint request of the claimant and the owner.

material or even private correspondence of the former owner must lead to tragic and, in my eyes, wrong and misleading decisions. It is indisputable that the former owner was a victim of the Nazi system so even if he received an “appropriate” amount of money for the artwork – what was financed with that money? His escape, the losses caused by the persecution and so on. The view of the panel seems to me too academic. But hopefully we will hear more about it later.

Just to avoid the impression that you as a member of the Gutmann family now know all of the facets of restitution cases, the next negotiations are waiting in the Netherlands, the USA, and elsewhere.

Would you not agree that it would be a good idea to shorten all of these different procedures and to come to a standardized view at minimum for the specific and continuously repeating aspects of the claims? Remember, we speak about the same owner, the same collection, and the same circumstances of loss. So what are the complexes of expertise that we need to solve in our case and where is the best base of knowledge?

The expertise about the origin of the artwork (identity) exists where the collection was located.

The expertise about the person (owner) exists in the country where the persecution took place.

The expertise about the expropriation exists where the artwork was expropriated.

The expertise about obstacles against restitution exists in the country where the artwork is located today.

Why is it that we do not trust these knowledge bases and just clarify the really different aspects of a specific claim instead of starting the different national procedures from scratch each and every time?

How will we handle different ratings of persecutions in the EU in cases of identical persons and cases? Do we allow different levels of ethics?

My suggestion is to think about global, or at minimum European, acceptance of national pre-decisions in the following aspects and publication of such decisions as it is already standard in some European countries – but without any binding effect so far for other institutions dealing with the same subject.

This would make the life of the victims easier and the procedures in the various institutions dealing with this matter faster.

The aspects where binding (part-) decisions are possible and helpful are:

- ▷ Identity of the artwork;
- ▷ Ownership/persecution of the owner;
- ▷ Expropriation – legal nature of the “loss of property”;
- ▷ General obstacles against restitution;
- ▷ Succession.

My experience has shown me that the claimants have experienced a painful journey through the different ideas of “just and

fair solutions,” and since Washington, we did need ten years to reach the present situation. Do not let it be another ten years before we find ways to shorten the lengthy procedures for the claimants and the institutions. European standards for general aspects and cross-approval of the decisions of the national institutions worldwide, or at minimum in Europe, are the only way to make substantial progress. I will release you into your own perspective.

Thank you for your attention.

► **Georg Heuberger**

CONFERENCE ON JEWISH MATERIAL CLAIMS AGAINST
GERMANY, GERMANY

**HOLOCAUST ERA LOOTED ART: A WORLDWIDE
OVERVIEW**

The following is an overview based on preliminary data. It represents the results of the current best efforts research of the Conference on Jewish Material Claims Against Germany (“Claims Conference”) and the World Jewish Restitution Organization (WJRO) and is based upon information obtained by the Claim Conference/WJRO to date. It may contain factual or other errors. Governments, non-governmental organizations, and individual experts are invited to make corrections and comments on the website of the Claims Conference at www.claimscon.org.

Major intergovernmental conferences and resolutions during the past decade established international principles regarding the restitution of art and other cultural property, most notably

the *Washington Conference Principles on Nazi-Confiscated Art* (1998), *Resolution 1205* of the Parliamentary Assembly of the Council of Europe (1999), and the *Declaration of the Vilnius International Forum on Holocaust-Era Looted Cultural Assets* (2000). As a result, there have been some positive steps towards the restitution of movable artwork and cultural and religious property plundered from Jews, but progress has been slow, and there remains a very considerable amount of looted movable artwork and cultural and religious property that has not been recovered and that is still in private and public hands.

No mechanism was established to monitor progress by the over 40 governments that endorsed the Washington Conference Principles.

The main organizations of the world Jewish community that are active in the restitution of property looted from victims of the Holocaust, namely the Conference on Jewish Material Claims Against Germany and the World Jewish Restitution Organization, have been focusing on the systemic issues involved in art restitution throughout the world with the intent of improving and creating processes to enable more owners and heirs to recover their property. They have been working with Jewish communities around the world to bring increased attention to the restitution of looted artwork and movable cultural and religious property and in this regard have conducted extensive research over the past years on the status of provenance research and of claims processes for the restitution of artworks in most, if not all, relevant countries.

The variations among countries’ historical experiences and legal systems, as well as the complexities of provenance research and the establishment of claims processes, are such that it is not

easy to make generalizations. It is clear, however, that some sort of independent examination of progress is necessary, both within individual countries and between them. When, in 2005, the Claims Conference requested that the Association of American Museums (AAM) survey the progress of US museums in adhering to guidelines that the AAM had established for provenance research and restitution procedures, the AAM responded that it was not a policing organization and would not do such research. The Claims Conference response was that the Claims Conference also was not a policing organization but in the absence of any other choice, it would undertake to ask US museums to provide information themselves regarding implementation of the guidelines.¹

As part of the Claims Conference/WJRO Looted Art and Cultural Property Initiative, research has been carried out on a large number of countries, including all countries expected to participate in the Holocaust Era Assets Conference in Prague in June 2009, as well as some additional ones. Brief summaries for 50 countries of the very basic information relevant to implementation of the Washington Conference Principles on Nazi-Confiscated Art may be found at the end of the present report (see annex p. 1210).

Overview of Countries' Progress in Implementing the Washington Conference Principles

Based on the information gathered by the Claims Conference as summarized below, each country was placed into one of four broad categories:

¹ See *Nazi-Era Stolen Art and US Museums: A Survey* at http://www.claimscon.org/forms/US_Museum_Survey_Report.pdf.

1. Countries that have made *major progress* towards implementing the Washington Conference Principles on Nazi-Confiscated Art;
2. Countries that have made *substantial progress* towards implementing the Washington Conference Principles on Nazi-Confiscated Art;
3. Countries that have taken *some steps* towards implementing the Washington Conference Principles on Nazi-Confiscated Art; and
4. Countries that *do not appear to have made significant progress* towards implementing the Washington Conference Principles on Nazi-Confiscated Art.

The placement of a country in one or another category was based on available data regarding whether or not during the past decade a country established mechanisms to carry out provenance research and to process claims for restitution.

Of the 50 countries for which summaries are appended to this report, only four may be said to have made major progress towards implementing the Washington Conference Principles, while an additional 11 have made substantial progress in this regard. Of the remaining countries, six have taken some steps, while fully 23 appear not to have made significant progress towards implementing the Washington Conference Principles. For six of the countries, there is not enough information to be able to make a judgment. Put differently, only 34 percent of the 44 countries for which there is at least some information have made major or substantial progress towards implementing the Washington Conference Principles.

Obviously the situations faced by countries vary greatly. Perhaps the most obvious divide is between countries on whose territory the killings and robbery of the Holocaust took place and those countries that may have been involved in the history of the Holocaust and its aftermath but were not sites of the genocide itself. Whether perpetrator or victim nations, countries where the local Jewish population was robbed face greater complications and generally larger quantities of looted art in their museums than do countries that were simply the recipients of looted art. Thus, the challenges facing countries such as Germany and Ukraine are far greater than those facing countries such as Portugal and Canada.

Judgments regarding some of the countries may be open to question, but the fact remains that about two-thirds of the countries participating in the Holocaust Era Assets Conference in Prague in June 2009, most of which also participated in the Washington Conference in 1998, may be said only to have taken some steps or do not appear to have made significant progress towards putting the Washington Conference Principles on Nazi-Confiscated Art into practice. These countries may have taken important steps – e.g., the extensive work by the Russian Federation documenting the cultural losses of Russia – but they have not yet put in place the mechanisms necessary for provenance research and restitution of Nazi-confiscated art.

Note that in addition to most of them having endorsed the Washington Conference Principles, the countries in question – almost without exception – are signatories to the Code of Ethics of the International Council of Museums (ICOM), which calls for provenance research to be done on collections.

What Is to Be Done?

In addition to the specific recommendations made by the Working Group on Looted Art, there need to be international mechanisms to encourage countries to make progress in this area. The development of international laws may not be possible in the short term, but the further establishment of international guidelines and best practices, of regular progress reports, of an international association of provenance researchers, and of funding sources both within and across borders should help.

The return of plundered artworks and religious artifacts often has meaning beyond that of the restitution of other types of assets. These were personal possessions valued for their beauty and cultural significance, often handed down through several generations. In many cases, these artworks or artifacts are the last personal link heirs may have to families destroyed in the Holocaust. But beyond obligations to those from whom these artifacts were taken, our obligations to human civilization must include ensuring that our art collections are not based on robbery and genocide.

The following represent the recommendations of the Claims Conference and WJRO:

- ▷ Where they have not done so, institutions and states should be encouraged to undertake provenance research. Where it has commenced, efforts should be intensified in order that provenance research can be completed in an expeditious timeframe. Adequate funding for provenance research including grants to institutions and independent researchers is needed.

Include in what is deemed confiscated art and cultural property, transfers arising from looting, plunder, theft, coercion, abandonment, loss, or other forms of taking, as well as transfers of property, including “forced sales” that resulted from the direct or indirect effects of persecutory measures enacted into law or implemented by other political action by the Nazis and their collaborators during the Holocaust and its aftermath, whether such transfers were voluntary or involuntary.

- ▷ All countries should ensure the ongoing publication over the internet of provenance information including full details and images of looted objects and those with gaps in their provenance between 1933 and 1945.
- ▷ Provenance research requires that full access to archives and documentation be unhindered for all parties. The States should encourage private institutions and individuals, e.g., auction houses, art-dealers, galleries, and banks also to provide access to their records. Funding should be given to private entities to encourage accessibility of archives. There must also be free access to all archives dealing with the institutions involved in the plunder of the artwork.
- ▷ National claims procedures for fair and just solutions encompassing decisions on their merits, that is, on a moral basis and not on technical defenses such as the passage of time should be established. Procedures should include:
 - Sharing of evidence by both the current possessor and the claimant;

- Presumption of confiscation in favor of the claimant (the onus is on the later owner to rebut this presumption);
 - Relaxed standards of evidence for the original owner;
 - The burden of proof should not rest only on the claimant; the present possessor also has to prove the rightfulness of his possession;
 - Claimants should not be burdened by financial requirements.
- ▷ Export, citizenship, de-accession laws, statutes of limitations, inheritance and cultural heritage laws should not be used to prevent the restitution of property to claimants.
 - ▷ States should support and encourage the establishment of public or private organizations that advise, support, and assist claimants in provenance research, the legal procedures, restitution and other matters.
 - ▷ States should actively support the establishment and operation of an international association of all provenance researchers. The association should encourage cooperation between researchers, the exchange of information, the setting of standards, and education.
 - ▷ Institutions should be encouraged to provide provenance information in all exhibitions or other public presentations that include looted cultural property.
 - ▷ Countries should establish mechanisms for the resolution of disputed claims – these could include commissions,

advisory panels, or other alternative dispute resolution mechanisms comprised of balanced membership – including representation of victim groups – as an alternative to judicial proceedings to determine ownership issues and rights of claimants to confiscated property. Such mechanisms should have full transparency, include clear rules and procedures, and require the publication of decisions, recommendations, and terms of reference.

- ▷ Where necessary, states should enact or modify legislation in order to ensure the identification and recovery of looted artwork and cultural assets by original owners or their legal successors and to implement the principles contained herein.
- ▷ The Participating States should report on the implementation of these principles – including, but not limited to, the state of provenance research and its publication and the status of the restitution of artwork and cultural property – to an appropriate international entity. These reports should be publicly available.

For Classification and Summaries of Countries – see annex p. 1210.

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THE RENEWAL OF THE RESTITUTION PROCESS: ALTERNATIVE DISPUTE RESOLUTION METHODS

I. ALTERNATIVE METHODS OF DISPUTE RESOLUTION: THE VARIOUS MECHANISMS

Washington Principles on Nazi-Confiscated Art, December 3, 1998, Principle N° XI: “Nations are encouraged to develop national processes ... in particular as they relate to alternative dispute resolution mechanisms for resolving ownership issues.”

Claims for restitution and court proceedings: advantages and disadvantages.

Arbitration

The international basis for arbitration in the field of cultural property.

International arbitration in practice: the awards in *Maria Altmann et al. v. Republic of Austria* (January 15, 2006 and May 7, 2006).

Mediation and Conciliation

The international basis for mediation and conciliation in the field of cultural property.

A recent example of a successful mediation in a dispute relating to ancient manuscripts looted during the 18th century religious wars in Switzerland (mediation agreement of April 27, 2006).

Negotiation

- ▷ Inter-state negotiations through the diplomatic channels;
- ▷ Negotiations between states and museums or other entities (public or private);
- ▷ Negotiations between private individuals;
- ▷ Some (unpublicized) examples.

II. POSSIBLE SUBSTANTIVE SOLUTIONS

Washington Principles on Nazi-Confiscated Art, December 3, 1998, Principle N° VIII: "... [S]teps should be taken expeditiously to achieve a just and fair solution, recognizing this may vary according to the facts and circumstances surrounding a specific case."

A particular restitution agreement can simultaneously contain other specific substantive solutions (e.g., the April 2006 ancient manuscript mediation agreement in Switzerland, where the following solutions were adopted cumulatively: restitution, formal recognition of the cultural significance of the non-returned objects involved, long-term loan, donation, making of a copy of one of the cultural objects at stake).

Restitution

- ▷ Unconditional restitution (e.g., the 5 Klimt paintings returned to Mrs. Maria Altmann in January 2006; the restitution of Pissarro's *Quai Malaquais et l'Institut* to Mrs. Bermann-Fischer in 2008);
- ▷ Conditional restitution.

Loans

- ▷ The long-term loan (e.g., the ancient manuscript mediation in Switzerland);
- ▷ The short-term loan mediation (e.g., the *Benvenuto Missal* returned by the British Library following the UK Spoliation Advisory Commission Recommendation of 2004).

Donations

A long-term loan can ultimately be transformed into a donation (e.g., in the cultural heritage field, the 1997 loan granted by the Geneva Art and History Museum to the municipality of the place of origin of the medieval *Casenoves* frescoes in France; in 2003, the loan was unilaterally transformed by the Genevan authorities into a donation).

Other examples taken from recent practice (e.g., donation of a manuscript in the context of the Swiss mediation on the ancient manuscripts).

Setting Up a Specific Ownership Status (Co-Ownership, Trust, etc.)

The out of court settlement (August 1998) relating to a painting by Degas, *Landscape with Smokestacks*, looted by the Nazis and later acquired by a North American collector: the collector donated half of the interest in the painting to the Art Institute of Chicago and the other half went to the descendants of the victim of the spoliation, who could sell their share to the Institute for half of the value of the painting as determined by an expert appointed by both parties.

Making Copies

This technique was used in the Swiss mediation on the ancient manuscripts and other cultural goods: one of the parties was allowed to keep the original of the terrestrial and celestial globe of Prince-Abbey Bernhard Müller (1570 AD), but it had to make, at its expense, a perfect copy of the globe, which it was to donate to the other party.

The Formal Recognition of the Significance of the Cultural Properties to the Claimant's Cultural Identity

The Swiss ancient manuscripts agreement provides that the objects not returned to one party (Saint-Gall) are nevertheless expressly recognized by the other party (Zurich) as having for the former an important identity value.

Cultural Cooperation Agreements

In the field of antiquities, recent agreements between states and museums provide for the restitution by the museums of certain

cultural objects to the state of origin, but they simultaneously put into place long-term cooperation between these museums and that state, by providing for loans of certain important objects to these museums and the establishment of common international exhibitions (e.g., agreements entered in 2006 and 2007 between North American museums and Italy).

Other Possible Solutions

- ▷ The transfer of ownership to a third party not linked to the restitution claim;
- ▷ The withdrawal of the restitution claim in exchange for financial indemnification (e.g., the settlement of the litigation regarding Kandinsky's *Improvisation N° 10* in Basel);
- ▷ The re-purchase of the object by the person claiming restitution;
- ▷ The re-purchase of the object by the person/institution facing the restitution claim.

▶ Stephen J. Knerly Jr.

ASSOCIATION OF ART MUSEUM DIRECTORS, USA

SELECTED ISSUES FOR AMERICAN ART MUSEUMS REGARDING HOLOCAUST ERA LOOTED ART

This paper is presented on behalf of the Association of Art Museum Directors (AAMD) to the *Looted Art Working Group* of

the 2009 Holocaust Era Assets Conference. The purpose of the paper is to provide an overview of the American museum response to the Principles set forth in the Washington Conference on Nazi-Confiscated Art, to identify areas that need attention, and to suggest solutions.¹

Introduction

The AAMD, which was founded in 1916 as a not-for-profit organization whose director/members represent approximately 190 of the major museums in the United States, Mexico and Canada, abhors the unspeakable crimes committed against Jews during the Holocaust and recognizes the plight of Holocaust survivors who struggle to be reunited with works of art stolen from them by the Nazis and the heirs of Holocaust victims who seek resolution for the wrongs done their ancestors. The American art museum community is firmly committed to assisting Holocaust survivors and heirs by making all provenance research on potential Nazi era looted art available on websites and responding to every claim seriously, respectfully, and in a timely manner in an effort to bring justice to those so long denied it.

The AAMD, among other mission-related activities, establishes policies and guidelines for its members that are followed by most art museums in North America. The AAMD also works closely with the American Association of Museums (AAM) on a number of policy-related activities. The AAM establishes policies and best practices for museums of all types throughout the United States.

¹ For classification of countries see annex p. 1 251.

The AAMD was the first professional organization to establish policies and guidelines for addressing Holocaust looted art and cultural property. In June of 1998, the AAMD published its Report of the AAMD Task Force on Nazi Looted Art (“1998 Report”). The 1998 Report, among other things, provides that the AAMD:

- ▷ Deplores the unlawful confiscation of art that constituted one of the many horrors of the Holocaust and World War II;
- ▷ Reaffirms the commitment of its members to weigh promptly and thoroughly claims of title;
- ▷ Urges the prompt creation of mechanisms to coordinate full access to all documentation concerning the spoliation of art;
- ▷ Recommends the review of the provenance of works in the collections of member museums, including research of museum records and contact with archives, databases, art dealers, auction houses, donors, art historians, and other scholars, to attempt to ascertain whether any were unlawfully confiscated during the Nazi/World War II era and never restituted;
- ▷ Recommends that records relevant to such provenance information be available;
- ▷ Recommends that, in connection with acquisitions, donors and sellers should provide as much provenance information as possible with regard to the Nazi/World War II era and, where that information is incomplete, available records should be searched and databases consulted; if the foregoing fails to show an unlawful confiscation, the

acquisition may proceed, but if the evidence shows unlawful confiscation without restitution, the acquisition should not proceed;

- ▷ Recommends that new acquisitions be published;
- ▷ Recommends that if a member museum discovers that a work in the collection was unlawfully confiscated and not restituted, the information should be made public and if a legitimate claimant comes forward, the museum should offer to resolve the matter in an equitable, appropriate, and mutually agreeable manner;
- ▷ Recommends that if no claimant comes forward, the member museum should acknowledge the history of the work on labels and publications;
- ▷ Recommends that when a claim is received, the member museum should review the claim promptly and thoroughly and if the museum should determine that the work was illegally confiscated and not restituted, the museum should offer to resolve the matter in an equitable, appropriate, and mutually agreeable manner, using mediation wherever reasonably practical;
- ▷ Recommends that the provenance of incoming loans be reviewed and that works should not be borrowed if they were illegally confiscated during the Nazi/World War II era and not restituted; and
- ▷ Recommends the creation of databases and the participation in those databases by museums.

The *1998 Report* was a collaborative effort by major collecting museums and reflected the growing worldwide concern with unresolved property issues arising out of the Holocaust. Perhaps one of the most notable aspects of the *1998 Report* was that the vast majority of the directors who served on the Task Force that drafted the *1998 Report* were directors of museums that are private institutions. Furthermore, a large proportion of the AAMD museums that adopted the *1998 Report* are private institutions. This is an important distinction. Unlike art museums in almost any other country, most art museums in the United States are private institutions. With the adoption of the *1998 Report*, both private institutions and museums owned or controlled by governmental entities undertook voluntary standards of conduct not imposed by any government policy.

Even before issuing the *1998 Report*, both in hearings before the United States Congress and discussions within the field, the AAMD took a proactive position with respect to addressing responsibly issues that might arise concerning objects that were looted during the Holocaust and not restituted. The *1998 Report* was followed by the Washington Principles for which the *1998 Report* served, in part, as a model¹ and in 1999, by the American Association of Museums' AAM Guidelines Concerning the Unlawful Appropriation of Objects During the Nazi Era ("AAM Guidelines").

¹ The *1998 Report* is broader in a number of significant respects than the Washington Principles. For example, the *1998 Report* addresses not only objects in museum collections that may have been confiscated during the Nazi era and not restituted, but also new acquisitions and loans.

Acquisitions

While the undertaking by member museums to research their collections and provide accessible information about those objects that had gaps in their provenance during the Nazi era (defined in the *1998 Report* as 1933–1945) was perhaps the most significant portion of the *1998 Report*, the most immediate effect of the *1998 Report* was to change the nature of collecting by American art museums. Art museums have long sought to obtain provenance information on objects they intend to acquire, whether by purchase, gift, bequest or exchange. After the adoption of the *1998 Report*, museums asked much more specific and pointed questions of sellers, dealers and donors before acquiring objects that might have been in Europe during the Holocaust. In addition, museums conducted independent, multi-source research on such objects, especially as more information became available after the fall of the Berlin Wall and on searchable databases. This effort continues today and now not only do museums carefully research provenance for Nazi era issues, but many private collectors take the same care before acquiring works of art. At least in the United States, the increased awareness resulting from the Washington Principles, the *1998 Report*, and the *AAM Guidelines*, has fundamentally changed the market for art objects.

American museums also routinely publish their acquisitions. As a result, unlike private transactions and those of institutions in some other countries, the acquisition of works by American museums brings objects into the public eye. If there is a potential claim, the publication of the acquisition of the work can bring it to the attention of the claimant allowing a potential resolution. This open policy on acquisitions by American museums is an important cornerstone of the efforts to address responsibly the difficulties in researching Nazi era provenance.

Research

When American museums committed to review objects in their collections that had gaps in their provenance between 1933 and 1945, during which time they were in Europe or had actually been confiscated, few probably understood the enormity of the effort. Of course, a gap in the provenance does not mean that an object was confiscated or confiscated and not restituted. A gap, in this context, simply means that there is an absence of information for some period of time between 1933 and 1945 and an indication that during that period of time the object might have been in Continental Europe.

The first priority for review has been European paintings; some museums have been able to complete that portion of the project and have moved on to other aspects of their collections, e.g., sculpture and Judaica. Provenance research is specialized work requiring both education and experience, often beyond the capabilities or time available of the current curatorial staff. As a result, museums have hired additional personnel in order to do the necessary research. This effort has resulted in multiple millions of dollars in direct expenditures for research and much more in indirect expenses as existing museum personnel are retrained to do this specialized provenance research on the collections and respond to claims.

Once an object has been identified as one that changed hands or may have changed hands in Europe between 1933 and 1945, with or without a complete provenance, the next step is publication. Pursuant to an agreement between AAM, AAMD, and the Presidential Advisory Commission on Holocaust Assets in the United States, AAM created a website known as the Nazi-Era Provenance Internet Portal. The Portal provides a central, searchable

registry of objects in US museums that changed hands in Continental Europe during the period 1933 to 1945. To date, over 164 museums have published over 27,000 works on the Portal. The Portal links researchers to individual museum websites or staffs, from which users can obtain detailed provenance information, exhibition and publication history, and other information about specific objects.

Museum Restitutions and Settlements

Since the *1998 Report*, an estimated sixteen paintings have been returned by American museums to Holocaust survivors or their heirs and mutually agreeable settlements have been reached with claimants on an estimated thirteen claims, settlements that allowed those works to remain in the public domain at the museums.¹ These twenty-nine resolved claims are a very small number when considered in relation to the number of works of European origin in collections of American museums, but James Cuno, Director of the Art Institute of Chicago, explained the issue very well in his testimony before the Subcommittee on Domestic and International Monetary Policy, Trade and Technology of the Committee on Banking and Financial Services of the United States House of Representatives on July 27, 2006:

“Of all of the art museums in the US, approximately half have no permanent collection, or have collections of only contemporary, many of which are of only local or regional

¹ These restitutions and settlements involved museums that are both private institutions as well as museums that are owned or controlled by government entities. The numbers do not include litigated cases where the claimants did not prevail, unless there was a subsequent settlement, or cases where the claim was not accepted by the museum.

art, and by definition do not have Nazi-era looted art in their collections. This is true also of 30 percent of AAMD's 170 member museums: only 120 member museums could have Nazi-era looted art in their collections.

The 120 AAMD member museums that may have Nazi-era looted art in their collections have collections totaling 18 million works of art. Of these, fewer than 20,000 are European paintings, thousands of which were acquired before World War II. Unlike Eastern and Western Europe, the US was never a repository for any of the 200,000 works of art recovered after the war. Any Nazi-era looted art that may be in US art museums is there as a result of second-, third-, or even fourth-generation, good faith transactions. I mention this only to remind us of the scale of the potential problem in this country: the likelihood of there being problems in US art museums is relatively low; nevertheless, the amount of research to be undertaken on the tens of thousands of works of art that, by definition, may have Nazi-era provenance problems is significant, requiring large allocations of staff time and money, allocations US art museums have made and will make until the job is done.”

US museums are proud of their record of resolving claims based on diligent investigation of the underlying historical facts. Each story is distinct; the facts are invariably complicated and unique to the case. Some examples can hopefully clarify both the efforts of the American museums to resolve cases through original research and the challenges involved.

One case that demonstrates how information on a confiscated painting can come to the museum through many different

sources involved the Utah Museum of Fine Arts in Salt Lake City, Utah.¹ While compiling information for a book on Hermann Göring's collection entitled *Beyond the Dreams of Avarice*, Nancy Yeide of the National Gallery of Art in Washington, DC, discovered information about a painting by François Boucher, *Les Amoureux Jeunes* at the Utah Museum. Yeide determined that the Boucher had been looted from the collection of the French art dealer Andre Jean Seligmann. The painting had been acquired by a collector from a New York gallery in 1972 and the collector had donated it to the Utah Museum in 1993. After the Utah Museum was contacted by Yeide, it undertook an extensive provenance research investigation with the assistance of the Art Loss Register. In 2004, the Utah Museum determined that the Boucher should be restituted to Mr. Seligmann's heirs, Claude Delives and Suzanne Geiss Robbins, both of whom traveled to Salt Lake City to receive the painting and to express their thanks to the museum staff, who Ms. Robbins called "adorable."²

In another case, this time involving the Virginia Museum of Fine Arts,³ the Museum was conducting research on its collection and determined that there was a gap in the provenance with respect to a small oil on panel by the 16th century artist Jan Mostaert entitled *Portrait of a Courtier*. After more research, the Museum determined that the painting had been in the Czartoryski family collection in Poland and was transferred from the family collection at Goluchów Castle to safekeeping in Warsaw in 1939. The Nazis located the painting and seized it in 1941, moving it to the Castle of Fischhorn in Austria after the 1944 Warsaw Up-

¹ The Utah Museum of Fine Arts is a university and state art museum.

² The Museum did not assert defenses to the claim such as the statute of limitations, although the work had been in the collection since 1993.

³ The Virginia Museum of Fine Arts was created by the government of the Commonwealth of Virginia.

rising. The painting surfaced at the Newhouse Galleries in New York and was sold in 1948 to a collector who gave it to the Museum in 1949. After discovering these facts, the Museum contacted the Polish Embassy and returned the painting in 2005 to the Embassy on behalf of Adam Count Zamoyski, the representative of the rightful owner's descendants. The family later deposited the painting in the Princess Czartoryski Museum in Krakow, Poland.⁴

Another example of a museum promptly addressing an issue occurred in 2000 at the North Carolina Museum of Art.⁵ The Holocaust Claims Processing Office of the New York State Banking Department, acting on behalf of the heirs of the Viennese industrialist Philipp von Gomperz, contacted the Museum about a painting by Lucas Cranach the Elder, *Madonna and Child in a Landscape*. The heirs claimed that the painting had been illegally seized by the Gestapo from the von Gomperz collection in 1940. During the ensuing correspondence, the Holocaust Claims Processing Office provided documentary evidence confirming the looting of the painting, including the signed authorization of the seizure and a photograph of the looted painting taken by the Gestapo, presumably for showing to Hitler and other Nazi "collectors." The painting was acquired by Baldur von Schirach, the Nazi *Gauleiter* (Governor) of Vienna. By the early 1950s, it was held by a New York dealer, E. & A. Silberman Galleries, who sold it to an unsuspecting George and Marianne Khuner of Beverly Hills, California. Upon Mrs. Khuner's death in 1984, the Cranach painting was bequeathed to the Museum. Until contacted by the Holocaust Claims Processing Office, the Museum knew nothing

⁴ The Museum did not assert defenses to the claim such as the statute of limitations, although the work had been in the collection since 1949.

⁵ The North Carolina Museum of Art is an agency of the Department of Cultural Resources of the State of North Carolina.

of the painting's wartime history. Once the looting of the painting had been confirmed, the Museum on February 3, 2000 formally relinquished possession – without litigation. The Museum then immediately entered into negotiations with the owners to re-acquire the painting. The owners agreed to allow the Museum to buy the painting for half of its appraised value because as they indicated in correspondence to the Museum “the public should know that the heirs of Philipp von Gomperz appreciate the sense of justice shown by [the Museum's] decision to restitute the painting.”¹

In another case that shows how fact specific each one of these cases can be, the Kimbell Art Museum in Fort Worth² both de-accessioned, restituted, and then reacquired what its director, Timothy Potts, described as its most important British work. The painting *Glauco and Scylla* by J. M. W. Turner was acquired in 1902 by John Jaffé, a British subject, from a gallery in Paris. Jaffé lived in Nice, France at the time of his death in 1933 and he left the painting to his wife. Mrs. Jaffé was trapped in France and died in 1942 leaving all of her property, including the painting, to three nieces and a nephew. The Vichy government seized her estate and arrested the nephew, who subsequently died in Auschwitz. The painting disappeared until 1956 when it resurfaced in Paris, was purchased by a London gallery, then by a New York gallery and then, in 1966, by the Kimbell. Approached by a representative of the family, the Kimbell confirmed these facts and restituted the painting, which was then placed for auction at Christie's. At auction, the Kimbell purchased the painting for USD 5.7 million, placing this important work back in the collection of the Kimbell.³

¹ The Museum did not assert defenses to the claim such as the statute of limitations, although the work had been in the collection since 1984.

² The Kimbell Art Museum is a private museum located in Fort Worth, Texas.

³ The Museum did not assert defenses to the claim such as the statute of limitations,

These examples, as well as others, demonstrate the efforts by American museums to comply not only with the *1998 Report* and the *AAM Guidelines*, but also with the Washington Principles.⁴

Disputed Claims

There have been situations where museums have faced claims that, after painstaking historical investigation and full public disclosure of all the relevant evidence, prove not to be valid. These present a difficult situation for museums. US museums are fully committed to responding to all claims carefully and in good faith. Museums hold their collections in trust for the public and they have a legal and fiduciary duty not to transfer objects from the collection to private ownership except for good cause. For a museum to transfer an object to a claimant, the evidence must demonstrate that: (1) the object was confiscated by the Nazis or was the subject of a forced sale; (2) the object was not restituted, nor was fair compensation ever paid; and (3) the claimants constitute the universe of those who could bring a claim. Until evidence can be developed that would persuade a reasonable observer that these three tests have been met, a US museum cannot consider restitution to resolve a claim.

The obligation of museums not to restitute works in response to non-meritorious claims should not be mischaracterized. Museums are placed in a difficult position when there is a claim that they have in good faith determined to be unsubstantiated because they have limited choices in their response to the claim consistent with their fiduciary duties. Should

although the work had been in the collection since 1966.

⁴ See Washington Principles in annex p. 1249 – specifically # I, II, III, IV, V, VII and VIII.

they transfer a work to a claimant on the basis of highly ambiguous evidence of ownership and a subsequent claimant appears with incontrovertible evidence of ownership, the museum could be liable to the second claimant. Likewise, if a museum transfers a work held in public trust, that a government regulator, like a State Attorney General, subsequently decides was inappropriately removed from the public trust, the museum again could be held responsible for inappropriately disposing of its assets.

Given this background, museums can continue to discuss the absence of persuasive evidence with the claimants and their representatives, but this can become a never-ending process without resolution. They can wait to be sued by a claimant, at which point they will have to decide whether to defend the case on the merits which can be extraordinarily expensive and time consuming or interpose defenses, such as the statute of limitations. If they have already determined that the claim is invalid based on the documented historical record, there is a significant argument that they have a fiduciary duty to interpose those defenses rather than expend time and money defending a meritless claim on the merits. Finally, a US museum can elect to present the facts to a court and ask the court to decide if the claim is invalid. At least in the United States, this is a time honored approach to the resolution of title disputes, as well as other litigable disagreements, and it has many advantages, not the least of which is litigating the case when witnesses are still alive and documents still available.

Access to Records

While there have been a number of restitutions or settlements, museums do have a fiduciary duty to only deaccession objects

and transfer them out of the collection based on facts that merit such a decision. These facts are challenging to develop and US museums are often hampered by the legal systems in foreign jurisdictions. Some jurisdictions prohibit third party access to estate documents or archives – sources that are generally available to claimants.

The problem with access to records is multifaceted and often involves claimants, governments, and, sometimes, private entities. While admittedly there is no universal solution, claimants should be required to provide all information they have with respect to their claims, but also provide access to records where their consent is required, whether governmental or private. There are generally two threshold issues in connection with a provenance claim – whether the object was confiscated and not restituted and whether the claimants, if they are not the original owners, have standing to bring the claim. Museums, in the exercise of their fiduciary duty, have an obligation to assure that if an object is being transferred, it is one which was confiscated or the subject of a forced sale and not restituted or some form of settlement reached, but also that the claimants represent the universe of those who could bring an action against the museum. This latter point often requires significant research into inheritance records, copies of wills, etc., which in many countries are not available to researchers without the consent of the family. The more complete and accurate the information presented to museums by claimants, the more expeditiously a claim can be considered and resolved.

While high value works often attract support for claimants from lawyers, researchers and advocacy groups, works which do not have the same monetary value often do not garner the same attention. Nevertheless, the diligence that a museum must

undertake before deaccessioning an object is not simply a question of value. Museums hold all of their works in trust for the public and that standard is not based on a hierarchy of monetary worth, even though there are broad practical considerations appropriate to the relevant inquiries.

Government Assistance to Claimants

The creation of government funded agencies to assist claimants in the identification of property, the research of relevant facts and the preparation and presentation of evidence to possessors like museums would be of great value. In the United States, there is an excellent example of such a group, the Holocaust Claims Processing Office of the New York State Banking Department. This organization, created by the Governor of the State of New York in 1997, has highly qualified staff of independent researchers who are there to evaluate claims for restitution of property confiscated during the Holocaust, perform research into the claim, and prepare materials for presentation to the possessors. They also act as an intermediary between the claimants and the possessors in seeking the amicable resolution of the claim. Their work has been wide reaching and extremely beneficial to the claimant community and they have assisted museums, both in and out of the State of New York, in the resolution of claims. They are not an arbitral panel or an advisory panel; rather they are an independent group that assists claimants in the research, preparation, and presentation of their claims. Their research can often help claimants determine that their claim is valid or equally, when evidence does not support the claim, convince claimants that the claim should not be pursued.

The AAMD believes that creating an agency similar to the Holocaust Claims Processing Office is needed, provided there are

sufficient safeguards built in for both parties. Such an agency is important at this time in light of the need for prompt and effective resolution of claims for the benefit in the first instance of the survivors of the Holocaust whose numbers are diminishing every day. Governments should be encouraged to create entities like the Holocaust Claims Processing Office. Of course, the distinctions of national law and practice will affect how such an organization is formed and funded, but we recommend the basic model of the Holocaust Claims Processing Office as one that has a proven track record and can at least form the basis for discussion of similar efforts.

Deaccession, Delivery and Export of Restituted Works

While not an issue for US museums, there is a disparity in the treatment of restitution claims in the United States as opposed to some other countries. Generally, there is no legal prohibition against a US museum returning a work of art to a claimant. This is not the case in some other countries. Furthermore, in the United States, art is freely exportable by its owners, which is also not the situation either legally or bureaucratically, in some other countries.¹ American museums are proud of their leadership role in efforts to address Nazi era confiscations and they are very willing to assist other nations in evaluating the benefits of allowing restitution of works rather than simple monetary settlements. While there have been few direct restitutions in the United States, they have been well publicized and these cases can be examples for other countries that might consider changing their laws or practices that prohibit a complete resolution of claims. Further, United States law does not prohibit a foreign claimant from removing an awarded work of art from

¹ An export declaration is usually required.

the territory of the United States. Simply put, if a claim is valid a work of art can be returned to the heirs after which it is saleable and freely transferable.

Conclusion

Every day, survivors of the Holocaust pass away. Without diminishing the rights of their heirs to seek restitution of property confiscated by the Nazis, the group that has the highest claim on our collective conscience is those who directly suffered during the Holocaust. Time left to them is limited and while progress has certainly been made since the Washington Conference, there is the danger of “Holocaust fatigue.” All involved, whether claimants, non-governmental organizations dedicated to the support of Holocaust victims and survivors, national governments, and museums, both state owned and private, need to redouble their efforts in the relatively short period of time left to those survivors to bring to resolution any of their claims. This is admittedly difficult in tough economic times when funding available for museums in general is diminished, much less that which is available for research, claims consideration, restitution or settlement. Nevertheless, the Prague Conference should act as a catalyst to reinvigorate all those involved in the process and there is every reason to believe that the American museum community will assist in these efforts, as it has in the past.

► **Norman Palmer**

SPOLIATION ADVISORY PANEL, UK

INTEGRITY, TRANSPARENCY AND PERTINACITY IN THE TREATMENT OF HOLOCAUST-RELATED ART CLAIMS

Every lawyer in this room will know that it frequently falls to us, the lawyers, to be the harbingers of unwelcome news. Someone once said to me that if there is one thing more galling than paying money to be told what you cannot do, it is paying money to be told what you should not have done. And that is a role that, regrettably, does fall to us very often indeed. There can be no doubt, moreover, that the law is an extremely substantial barrier to the ethical and equitable resolution of claims in this field, and, as I may say, in many others. I will say more about that in due course.

But let me just say at this stage that I think the United Kingdom government has, for at least the past decade and a half, been acutely aware of the shortcomings of law as a mode of dispute resolution, particularly in cases of significant imbalance of power and significant disadvantage on the part of one party. It has manifested this concern in two different ways.

First, by general procedural reforms: We have now had, since 1998, new civil procedure rules, which attach very significant case management sanctions to parties who could reasonably have gone to alternative dispute resolution and did not. And among those case management sanctions would be a refusal to make a cost order in favour of the successful party in the litigation, even though they had won, if they had previously declined a reasonable offer, reasonable invitation to mediate, or go to other dispute resolution. So, we are moving towards a policy

of out-of-court resolution generally, as well as in the case of Holocaust-related art. As I am sure many of you know, in June 2000, the Department of Culture set up a Spoliation Advisory Panel which has continued to sit since that time with entirely unchanged membership over the intervening nine-year period. It is important to understand the limitations of the Spoliation Advisory Panel. Its service is non-mandatory. No party would be compelled to resort to the Spoliation Advisory Panel as it is purely a matter of voluntary adoption.

Second, no party is compelled by law to follow the conclusions and recommendations of the Panel. The Panel is in power to make recommendations to two groups of people: the parties to the dispute and the relevant Minister, i.e., the Minister for the Arts. As regards the parties to the dispute, the Panel would of course give its view as to what should happen, what remedy, if any, should ensue. The adoption of that remedy is then a matter for the parties, who can either repudiate it or adopt it according to their wish. The only occasions in the past in which the remedy recommended by the tribunal has not been adopted are cases where it has not proved legally possible to do so.

And that brings me to the second type of recommendation that we on the Panel might make, which is a recommendation to the Minister. These recommendations can take several forms. One such recommendation might be, and we have done this on several occasions, to say to the Minister: "We think this is a case, where an *ex gratia* payment, acceptable to the claimant, should be made. And because the public have had the benefit of this picture, which has been in the public museum for the last forty, fifty, or sixty years, we think this should come from public accounts." We have never made such a recommendation to the Minister which has not been adopted.

But the other sort of recommendation we can make is about the existing law. Again, we have done this. We can say to the Minister: "Look, we think this item should go back. Justice points in favour of specific restitution, but the law does not permit it." We have national museums in England, which are subjects to governing statutes. These statutes are largely in place to guarantee the independence of these museums, but essentially render inalienable, incapable of disposal, objects that are vested in the trustees of that museum as part of the collection. If we have said for example to the Tate Gallery in the case of our first hearing, which was the Griffier painting of Country Court from the Southern River: "It must go back," they would quite properly have replied: "It cannot go back, we would be breaking the law by doing so." We are therefore able, and we consider it part of our function, to recommend to the Minister that the law be changed, so that museums can do the right thing, when they want to follow our recommendation. So that is the functional and constitutional concept of the Spoliation Advisory Panel.

It has to be said that law does still stand in the way of what most of us regard as the relative success of our proceedings. Perhaps the biggest example of its barrierdom, if you like, occurred in 2005, when the British Museum wanted to return to the descendants of Dr. Feldman five Old Master drawings, which had come into the possession of the Museum following the 1939 murder of Dr. Feldman in Brno. The Museum conceived the idea that the Charities Act 1993, which covered all charities, stipulated the obligation to release an object from its collection.

The Attorney General was not convinced, and the matter was taken to the Chancery Court. And the Chancery Court said no. You cannot do that. And the reason you cannot do that is

because there is the civic legislation, the British Museum Act 1963, which says you cannot alienate objects from your collection. That prohibition is not overridden by the Charities Act, so legal proceedings were taken to give the British Museum the power to do what it should have been able to do, and what it undoubtedly wanted to do, and that failed. In the end, the matter came before the Panel and I think by agreement of the parties by then, a financial settlement was negotiated.

It was a sad episode, and I am pleased to be able to report that there is now legislation passing through Parliament, which will give British national museums the power to relinquish their ownership of such objects even though there is the General Prohibition Act, which overrides the British Museum Act to a certain extent.

I suppose you could say that whereas law can create problems, it can also create solutions in the end. Those are examples of statutory laws. There are also many examples of cases where the ingenuity of the common law can also in the end assist resolutions.

What I find gratifying about this area is that lawyers are increasingly thinking outside the box. The international agencies still talk aloud about restitution of the object. And of course, in many if not all cases, that is the preferred option. But there is more than one way to skin a cat, and sometimes if you can exert legal sanctions and remedies other than specific legal restitution, you might at least bring the other party to the negotiation table and eventually get what you want. Even if you do not get what you want in the end, you may get something, which is second best.

Let me give you some examples. Supposing that a museum is told: "You have got a Holocaust-related object on loan to you".

And they say to you: "Yes, I am sure that is true, that is not our problem, we are going to return it to the lender at the end of the period of loan because if we do not do that, the lender is going to sue us anyway, so why do not you fight it out with the lender?" The lender of course would probably be a museum or a private collector in a country where it is utterly fruitless to bring any legal action against them because if it were fruitful to do so, we would have done so years and years ago.

You say to the museum: "Yes, all right, you do that. And if you do that, if you return it, we will sue you for damages." The English law quite clearly says that if a person knowingly returns an object in defence of that right to somebody who is not entitled to it, then they are guilty of the tort of conversion. Now the object is gone and you will not get restitution, but you will get damages and damages can be quite substantial. At the thought of a prospect of paying damages on the return of the object, the museum may actually be discouraged to do so, even a borrowing museum that is protected by an Immunity Statute as we now have in England. Because as Charles Goldstein has often said, it is only immunity from seizure, it is not immunity from suit that these statutes confer. You say to the museum: "Okay, exercise your right of immunity, return the object and we will sue you for damages: 5 million, 20 million, whatever the picture is worth." But well, it is worth a try. None of this do I guarantee will work, of course.

This pertains to other examples as well: In the Spoliation Advisory Panel, I first had a case where we awarded a *gratia* payment, and we included within that a sum which was long specified to account for the British public benefit in having had the use of this picture over the preceding forty years. And this curiously reflects the doctrine of English restitution law, or

the doctrine for a reasonable hiring charge. If your property has been wrongly retained over a certain period, you may be entitled to a payment that represents the value of its use in the hands of the party that has had it in its possession.

I do not think there has been any case like this since. But this remedy has been invoked. And of course the Tate-Griffier case was the case where we did not recommend the return of a picture; a settlement which would have been quite acceptable to the claimants. Supposing you do return a picture. Could the claimant turn around and say: "Thank you very much, I am very glad, at last, I have got my property back. By the way, you have had the use of my property for the preceding forty years, and therefore, the adoption of the reasonable hiring charge suggests that you might consider compensating me for that use as well." Well, maybe you think these things sound too baroque-ly ingenious, maybe you think this sounds too aggressive. But in my experience, it could be very helpful to explain to people, whatever the position with regards to restitution of the object itself, that there are other solutions which may equally be unpalatable to a recalcitrant and intransigent defendant.

If we talk about reform in the way I had, I would just want to make a few points. One of them is this: Understandably, because of our preoccupation with restitution, we focus on the immediate present ultimate holder of the work of art, which may be a museum, a private collector, or even a commercial organization. Of course, the various national and international instruments, including the Council of Europe, correctly recommend that the countries relax their limitation periods in cases like this.

I think that is right. The claims could be brought. But it is not impossible that the party at the extremity of the chain, the ultimate

holder against whom the restitutorial remedy is sought, is actually the most innocent person in the chain of thought. It may come as a blinding revelation to this entity, whether it is an institution or an individual, that this is a Holocaust-related work of art. I have known such cases. I am not saying that you in anyway diminish the remedies of the claimant in such a case. All I am saying is this: We ought to consider the role of the predecessors in the chain. We ought to consider, if we are relaxing limitation periods as against the ultimate holder, perhaps also relaxing limitation periods upstream so that the holder can turn around to the person who sold it to him, and say to him: "All right, I will have to give it back, I want the remedy from you."

Perhaps we should consider whether they should be able to leap from upstream as well. So if you bought from a dealer who is going bankrupt, there is someone in the line, particularly someone who knew what was happening. In that case, the remedy should spread further up the line as well. In fact, I would even suggest that you should give consideration to giving the claimant the remedy against the people earlier in the line as well. Supposing there are entities or individuals in the chain of supply to the ultimate museum who actually knew perfectly well all along what was going on. They are still around and they have got plenty of money, and they made an enormous profit out of this sale. I do not see why the claimant should not be able to proceed against them. Either in addition to, or instead of against the ultimate museum that is the actual holder.

If they can proceed against them, I do not see why the ultimate holder should not proceed against them as well. It does not seem to me inequitable to relax the limitation periods against the ultimate holder, limitations possibly obstructive to an ultimate settlement, if you relax only those limitation periods. If the

stand-alone ultimate recipient finds that there are other, guiltier people that can be brought in, other, more morally responsible people who could be included in the remedial pattern, I think that might make some ultimate holders actually less intransigent, less recalcitrant, more willing to come to the table and seek the solution. But of course, all this you might think is over ingenious or in some way lawyers' sand pit talk, nothing that any rational human being wants to deal with.

Let me say in conclusion that I cannot overemphasize my belief that all forms of legal remedy here and other procedural remedies should go hand in hand with education. Increasingly, I find the need for people to really understand what happened. If they understand what happened, they are much more responsive to means of finding solutions.

I will tell you this personal story because to me it does illustrate the need for education. In July 2001, I gave a talk on the subject in Melbourne, and at the end of this talk, two people came up to me. One was an old man. He had tears in his eyes, and he just said: "Thank you for helping to make sure that nobody forgets." The other was a young woman and she said to me: "So you are Jewish, then?" That was her take on what I was saying. The implication was that we have to be Jewish to be interested in this. And I think this is where the education comes in. And at the end of the day, I think enlightenment has been far more important than law.

Thank you.

The Search for Works of Art and Other Cultural Assets: A Business or Moral Obligation?

► Nawojka Cieslinska-Lobkowicz

FREELANCE ART HISTORIAN AND PROVENANCE RESEARCHER, POLAND

THE OBLIGATION OF THE STATE OR A HOBBY OF THE FEW. THE IMPLEMENTATION OF THE WASHINGTON PRINCIPLES IN POLAND

I am saddened that not much good can be said about the policy of my country regarding the problems discussed at this Conference. I do not want to use this opportunity to flatly condemn my country and thus "soil my own nest." However, I do want to call on the government of my country to recognize the commitment made through its signature of the Washington Principles in 1998.

This was the statement made in 2006 by the director of the Polish Ministry of Culture and National Heritage department that is responsible for the museum policy:¹

"We respect the decisions of the Washington conference. [...] But we have no such problem. Poland was not in coalition with Hitler and has looted nothing."

The same official announced elsewhere:

¹ *Gazeta Wyborcza*, February 22, 2006.

“The so-called problem of the Holocaust victims’ property has to consider the fact that the victims of Nazi looting were both Jews and Poles, and that the looted objects did not end up in Polish collections.”¹

Those statements have never been retracted by the Polish Ministry of Culture and National Heritage.

In spite of this opinion, Polish museums and libraries may still contain quite a large number of objects lost by their owners as a result of the German occupation and the Holocaust. Some objects may have even been stored since the beginning of the war, when art owners deposited their collections or (especially the Jewish collectors) made fictitious gifts to public institutions while still hoping that they might eventually get their property back.

During the occupation, the closed Polish museums and libraries were often used by the Germans as repositories for valuable cultural goods looted from the Jews during their deportation to the ghettos, and later during the ghetto liquidations. Such was the situation, for example, in Warsaw, Krakow, Łódź, Poznań, and Lublin.

We know that just after the war, some objects that were rescued this way were returned, if their prewar owners claimed them. But we cannot be sure if restitutions were consistently practiced. Moreover, a great majority of the confiscated objects was stored without any indication of to whom it belonged. All other goods found throughout the liberated Polish territories in warehouses, offices and apartments left by the fleeing Germans,

if unidentified, were routinely classified as abandoned property, which, according to the 1945 and 1946 state decrees, became property of the Polish State. In the former German territories gained by Poland as a result of the Potsdam Conference of 1945, practically all abandoned property was considered to have been abandoned by the Germans and was nationalized. That also included property confiscated by the Nazis from the German Jews.

Many art objects looted by the Germans or stolen or appropriated by the local populations became part of the public collections after the war. They were purchased from individuals or antique shops that were set up during the occupation years or shortly after the war, often selling objects from unknown or fictional sources.

After 1950, when the art trade was nationalized, provenance standards did not improve; in fact, the tendency to falsify provenance documents increased. This enabled the black market to blossom, and the smuggling of art abroad became commonplace. Since 1989, the displaced art works, especially polonica “privately” looted by Nazi functionaries or by German soldiers or smuggled after the war, have been returning to the Polish art market. Usually, their prewar owners and their whereabouts during the war years are not mentioned.

This sizeable segment of the contemporary Polish art trade which sometimes deals with the sudden appearance of high-class objects deemed lost during the previous decades helps to enrich the museum collections directly through purchases (rare because of the limited financial resources that public cultural institutions have at their disposal), or indirectly through deposits and gifts. I should also mention the completely forgotten category of artworks that found their way into the country’s museums

¹ *Muzealnictwo*, 2005, vol. 46, p. 168.

following the postwar emigration waves of the remaining Polish Jewry. These objects, although luckily rescued from the Holocaust, could not be legally taken out of the country because of official restrictions on cultural goods, and thus were bought from their emigrating owners at prices much lower than their market value.

For almost 20 years, the Ministry of Culture and National Heritage has been gathering documentation on the Polish cultural losses during the Second World War. Some data gathered by the Ministry has been published in books and online; plans exist to publish more information. This documentation mainly deals with the losses of the state and communal collections and a few well-known private collections that were owned by the aristocracy. Only these collections customarily (though not always) would have been registered or documented in some way before the war. Other private collections had not been catalogued, and their documentation would be fragmentary and dispersed or altogether lost.

The example of the 1932 exhibition of paintings by the Polish-Jewish artist Maurycy Gottlieb, which showed over seventy canvases from private Jewish collections whose owners were mentioned by name should suffice. Catalogues dating from the nineteen thirties of the exhibitions of famous Polish painters such as Jacek Malczewski, Józef Mehoffer, Leon Wyczółkowski or Teodor Axentowicz prove that a great number of their canvases had been owned by well-known Jewish collectors rather than persons who wished not to disclose their names.

Nevertheless, relatively few of these owners' names are mentioned in the published documentation of war losses. Maybe that is because, as written in 1977 in a confidential letter by the

director of the Ministry Museums Department, this would necessitate earlier "research in the museums, which had gotten some objects as a result of restitution or purchase."

It is understandable that during the first decades after the fall of communism in 1989, the Polish Ministries of Culture and of Foreign Affairs, as well as public cultural institutions, concentrated on documenting and listing the war losses suffered by the country in general. The purpose of creating these lists was to use them during the state's restitution negotiations with Germany, Russia, and the Ukraine concerning those Polish cultural goods, which, as a result of the war, were found within the current territories of these countries.

But in 2000, the Polish delegation to the Forum on Holocaust-Era Looted Cultural Assets in Vilnius declared the decision to undertake provenance research in our museums which:

"... will be closed with the list of works of art and other cultural properties, which have been saved during the war in the museums, but have been previously lost by the Holocaust victims resulting from obvious lawlessness. Every identified work of art of such provenance will be made public in order to undertake further steps according to the Washington principles adequate to the circumstances of the given case."¹

A special inter-ministerial commission was created for the coordination and monitoring of these actions; cooperation with Jewish congregations in Poland was planned for the future.

¹ Deputy Minister of Culture and National Heritage, was published at <http://vilniusforum.lt/proceedings>. The website is no longer available (editor's note).

All of this turned out to be nothing more than a bureaucratic and political ephemera, with no concrete results.

In practice, the Washington Principles have been used by the state authorities exclusively for the wholly legitimate goal of reclaiming cultural goods that, as a result of the Second World War, had been displaced outside the current borders of Poland. Thanks to the spirit, as well as the letter of the Principles, restitution was accomplished for a number of art objects belonging to prewar Polish museums and private collections, which after the war had been bought in good faith by American museums and private collectors in the USA and Great Britain, or objects that were withdrawn from foreign auctions.¹

In this context, it is worth mentioning four cases of restitution of Jewish-owned cultural goods that involved Polish authorities.

The first two cases concern countries abroad.

The first one was the return in 2004 of forty Hebrew manuscripts and incunabula from the legendary collection of Leon Vita Saraval (1771–1851).

Since 1854 and up to the beginning of 1939, the collection had been owned by the library of the *Jüdisch-Teologisches Seminar* in Breslau. The whole 20,000-volume library of that school was confiscated by the Gestapo and was transported to the *Reichssicherheitshauptamt* in Berlin. Then, in 1943, to protect it from possible bombardment, the library was moved to the territory of the Czech and Moravian Protectorate. Because of this route, the most valuable pieces of the Saraval collection ended up after the

¹ See the website of the Polish Ministry of Foreign Affairs at <http://www.msz.gov.pl>.

war in the Czech National Library in Prague. The Commission for Art Recovery initiated the request to the Czech authorities to return these objects to the Jewish congregation in Wroclaw (former Breslau), and the Polish Ministry of Foreign Affairs conducted the negotiations. The Polish-Czechoslovak agreement of 1946 that bound both countries to mutual restitution proved to be ineffective in this case, because it did [Archival data in author's possession] not take into account the territories gained by Poland as a result of the Potsdam Conference such as Lower Silesia, to which Wroclaw belongs. Thus the restitution of the Saraval Judaica became possible only as a result of the Washington Principles, to which the Czech party agreed.

The second restitution case concerns the 17th century painting by Pieter de Grebber, which appeared at a London Christie's auction in 2006. The Art Loss Register identified this painting in the catalogue of Polish war losses and duly informed the auction house and the Polish Embassy in London. The Polish Foreign Affairs Ministry intervened and requested the return of the painting to Poland.

It was then that Polish diplomats in the USA informed Warsaw that the painting's owner's heirs are living in Philadelphia; the owner was a well-known prewar antiquarian from Warsaw, Abe Gutnajer, who had been murdered in the ghetto there in 1942. As a result, the Polish authorities decided to help the heirs disinterestedly. The matter was finalized in 2008 by an agreement between the current proprietor of the painting and Gutnajer's heirs. This was "the first case in which our Foreign Affairs Ministry acted for restitution on behalf of rightful heirs, who happen not to be Polish citizens."²

² *Gazeta Wyborcza*, April 24, 2008.

Furthermore, to this day, the painting is mentioned on the Foreign Affairs Ministry's internet page as one of the objects restituted to Poland.

Two inland cases were solved in a different way.

The first case concerns the liturgical objects that were looted by the Germans from Warsaw's synagogues and survived in the storage of the capital's National Museum, which was closed during the occupation. After the war, these objects were registered in the Museum's inventory. The Association of Jewish Religious Congregations of the Polish Republic, according to the law of February 27, 1997 concerning the state's relation to Jewish congregations, claimed the restitution of these Judaica to the only synagogue currently existing in Warsaw.

The Museum returned the objects, but only as a long-term loan, and kept them on its inventory list. The basic argument against restitution was that in spite of the very high probability that these objects had been the property of the Warsaw congregation, it was impossible to be completely sure, because the objects were produced in series and thus were not unique.

Now to the last case of restitution. Goussave Courbet's painting *Landscape Around Ornans* was mistakenly restituted to Poland by the Americans in 1946, from Fishhorn in Austria, as part of a group of paintings that had been looted by Germans from the Warsaw's National Museum. The Courbet had been part of the Budapest collection of Baron Herzog, which was confiscated by the Nazis in 1944. In 2001, the Warsaw Museum received a claim to return this painting to Herzog's heir, an American citizen. The Museum director finally decided to return the painting. But the Ministry of Culture refused to grant an export license. It refused

the heir's entitlement to the painting and voided the return. The Courbet remains in Warsaw's National Museum as its legal property to this day.

There are a few other restitution claims concerning several paintings and drawings of Old Masters and German painters in the Polish public collections. These are the claims of the heirs of German Jews from Breslau (Wrocław): Max Silberberg, Carl Sachs, and Leon Smoschewer, addressed to the National Museums in Wrocław and Warsaw; and the claims of the heirs of the Dutch collector and art dealer Jacques Goudstikker and of the Jewish family Zoellner that was forced to emigrate from the German Reich, addressed to the National Museum in Gdańsk.

The possessions of these families were looted by the Nazis under various circumstances, and they included their private art collections. The heirs and their lawyers succeeded in reconstructing the documentation of these collections to a considerable degree. In cases of Silberberg's and Goudstikker's property, the museums in Germany, Holland and Israel restituted the paintings identified as originally belonging to the confiscated collections, although it was not their legal duty. Polish museum directors, lacking political support or guidelines from the authorities, ignored or rejected the claims on the basis of Polish law.

The Jewish Historical Institute in Warsaw also rejected the claim to return two paintings by Ralf Immergluck, a Jewish artist from Krakow, who perished in the Holocaust. The claim was submitted by the artist's family. In this case, the decisive argument for the refusal was insufficient proof of ownership, even though the painting had been purchased soon after the war in a Krakow antique shop, without any provenance data.

The Ministry of Culture and National Heritage was unable to provide me with answers as to the number of claims made in recent years by owners' heirs. As the Ministry stated in a letter addressed to me on June 4, 2009:

“The claims for return of specific objects are submitted directly to the interested institutions that, according to prevailing laws, are sole managers of their collections. Therefore, the ministry does not have the possibility to conduct statistics of this type. This does not mean that restitutions were not conducted.”

Knowing that without the consent of the Minister of Culture no director of a public museum can remove items from the inventory of his collection, we can presume that during the last years not a single object from Polish museums has been restituted to the heirs of Jewish owners.

The slowness of the authorities and cultural institutions in verifying the provenance of public art collections, accompanied by lack of transparency, has caused some independent initiatives to arise.

In the years 2002–2006, the Stefan Batory Foundation organized a series of international and national conferences, seminars and debates that were dedicated to the ownership, restitution and re-privatization of cultural property, and involved interested professionals, representatives of Jewish communities and former owners, lawyers and journalists.

In 2002, the Museums' Commission of the Polish Art Historians' Association established the Forum for Displaced Works of Art. This Forum attempted to inform the professional

community and media about the Washington Principles, and to promote cooperation among museums in the field of provenance research, to encourage open proceedings and to serve as an independent advisory body for the anticipated restitution claims.

The Polish ICOM requested the successive Ministers of Culture to create specific guidelines for the realization of the Washington Principles. It also directed attention to the need to regulate the ownership of collected items, as an act necessary for the legitimacy of the museums in Poland and abroad.

The Polish ICOM even conducted a statistical analysis of our museums' ownership status, which showed that a high percentage of items listed in the inventories as well as in the deposits were of unknown provenance. The majority of these items are not objects lost by owners during the German occupation. Unofficially, museum experts estimate that about one percent of all items in Polish collections were Jewish-owned.

All of the activities that I have described here were looked at by the authorities without much understanding. Supported by the media on a case-by-case basis, they had a limited effect. Careful provenance research of the museum items in the exhibition – and (still seldom) collection – catalogues remains an achievement of a small number of individual researchers.

Fortunately, during the last decade great progress has been made in Poland in the research and understanding concerning Holocaust issues and the history of Polish–Jewish relations in general, especially during the occupation and the postwar periods. This progress is not just quantitative; this is a qualitative change concerning not just specialists but the general public as well.

No doubt the catalysts for this process were the two great public debates caused by the books by Jan T. Gross: *Neighbors* (2000) and *Fear* (published in Polish in 2008).

The uncovering of the 1941 Jedwabne crime and the description of postwar criminal anti-Semitic acts in Poland (resulting in unlawful appropriation of abandoned Jewish property by the Poles) caused a shock and opened the eyes of many. Thus museum specialists, librarians and archivists became willing to join the growing group of individuals who for years has been calling for the adoption of the Washington Principles. This group tried to stay informed about the restitution issues, to write and lecture on this subject, to continue the provenance research, to mediate between the parties, and to monitor the art market. More than that could not have been done by private means.

Various solutions that were used for restitution purposes in other countries can certainly prove useful in choosing an optimal formula for a concrete program of the Washington Principles' implementation in Poland. In my opinion, besides the involvement of a governmental agent and public cultural institutions, the necessary condition for a successful implementation would be the participation of the NGOs, representatives of the Jewish communities, independent experts, and trusted public figures. Another indispensable condition would be statutory transparency of procedures, open actions, and information on the results of the proceedings made accessible to the public. Independent consultants to the museum directors and to the Ministry of Culture should also advise in matters of restitution claims.

The specificity of the Polish restitution problems – the number of heirless victims of the Holocaust among Polish Jews, the lack of inventories of many prewar private collections, fragmentary and

dispersed documentation, illicit export of artworks, and the rules of the postwar art trade – demand the creation of a special team devoted to the provenance research of public collections. Such a team should include museum, library and archive collaborators, independent researchers, and, last but not least, those specialists who have spent years documenting Polish cultural losses.

Such a team would need full access to archives (this has not been the case until now) and to museum inventories. It should be a task of high priority to create an online archive of ownership signs and marks, and an online library of all documents, to help in identifying past owners and collections. An important aspect of the activity of such a team should be cooperation with foreign institutions and provenance researchers, as well as an attempt to gain understanding and cooperation of Polish auction houses. No less valuable would be contact with groups and persons who had emigrated from Poland before, during or after the Second World War, and who could supply knowledge and traces regarding lost collections or their postwar tracking. This, incidentally, touches on the problem of the access to the documentation kept by international auction houses.

To sum up, the goal of provenance research is not just the restitution of objects to the owners' heirs, or another fair and just solution. To no lesser extent, the goal is also, after decades of social amnesia, the restoration of memory of the prewar Jewish collectors and the fate of their collections. Museums, libraries, and archives that guard the common memory owe this not only to the heirs, but to their own mission, to the society they serve, and to the preservation of the historical memory of Polish Jewry.

Let me finish by making a gesture of returning two very modest but symbolic art objects to their owners.

The first object, which I found in Poland is a small watercolor by the Polish-Jewish painter Erno Erb who was murdered in the Lwów ghetto. On the back there is a note that it belonged to the Leon Braciejowski collection. Braciejowski was the owner of two elegant fashion stores in Krakow, a member of the town's Jewish elite and a respected art collector. His collection of more than seventy paintings, including works by famous Polish painters, disappeared without a trace during the German occupation. My search for the heirs of Leon Braciejowski ended successfully. His granddaughter, who lives in California, has only one prewar keepsake from her grandfather — a clothes hanger from the Braciejowski shops. I ask the representative of the US State Department to hand Erb's watercolor over to her.

The second object I found in Germany. It is a 1926 print of a lesser-known Polish artist. It was looted by the Germans during the Warsaw Uprising in 1944.

I am pleased to return this print to the Polish Ministry of Culture and National Heritage, because it belonged to the prewar State Collection of the Republic of Poland, as shown by the stamp and inventory number on the print's back.

► **Lucien Simmons**
SOTHEBY'S, USA

PROVENANCE AND PRIVATE OWNERSHIP: JUST AND FAIR SOLUTION IN THE COMMERCIAL ART MARKET

Sotheby's engages primarily in the public auction sale of fine and decorative works of art and has offices located in more than 40 countries. Auctions are conducted in 11 auction centers throughout the world. Sotheby's today is largely a combination of the London auctioneering firm of Sotheby's founded in London in 1744 and the New York auctioneer Parke Bernet which was founded in the autumn of 1937 from the ruins of the American Art Association.

Parke Bernet, Sotheby's predecessor, was one of a number of institutions in the United States to have been chosen by the International Refugee Organization and by the American government to assist in the liquidation of art objects recovered by the Allies in Germany and of art objects confiscated from Enemy Aliens on American soil. Numbers of auctions of such art objects were held after the cessation of hostilities.¹ Unfortunately, our records from these sales, save for the catalogues themselves, no longer exist.

In the years following WW II, Sotheby's was chosen by many private recipients of restituted property to handle their sales

¹ Four sales of property consigned by the IRO were held in 1948: Jewelry and Precious Stones (232 lots), June 21–22, 1948; Continental Silver, Porcelain, Glass and Ornaments (828 lots), June 23–25, 1948; Precious Stones and Gold Jewelry (461 lots), September 14–15, 1948 and Continental Silver, Porcelain, Glass, Gold and Enamel Watches and Rugs (834 lots), September 16–18, 1948. Sales for the alien property custodian of the U.S include the stock of the New York and Boston stores of Yamanaka & Co., Inc. which took place in 1944.

including many of the greatest Jewish collectors in prewar Europe. After the fall of the iron curtain, Sotheby's was also chosen to sell restituted works of art on behalf of many noble families who had been dispossessed. Examples from the 1990s include the Moritzburg Treasure consigned to Sotheby's from the royal family of Saxony.

In most instances Sotheby's acts as agent and not as principal, and generally has no ownership interest in the artworks that we offer for sale.¹ In this we differ from museums. We also differ in that museums often operate in a public law environment whereas auction houses generally handle privately owned property.

It has been Sotheby's longstanding policy not to sell any work of art that is known to have been stolen or where there is credible evidence that our consignor's title may be compromised by theft or persecution – whether by the Nazis or by anyone else.

Sotheby's is inherently the wrong place to sell stolen or looted art because of the international exposure given to a work offered at public auction by Sotheby's and the wide circulation of Sotheby's catalogues which gives potential claimants and research bodies a good opportunity to identify works which they believe may have been looted. Sotheby's has a strong commercial interest in avoiding the sale of works of art with potentially troublesome provenance; to sell such items has the potential to damage Sotheby's brand, expose the company and clients to liability and is not in the best interests of the company's shareholders.²

In June 1998, together with Aon Insurance, Sotheby's took the decision to lead the financial sponsorship of the Art Loss Register's

¹ Exceptions are disclosed in Sotheby's auction catalogues.

² Sotheby's is publicly quoted on the New York Stock exchange (symbol: BID).

Holocaust initiative to enable all Holocaust claims to be registered on the ALR database free of charge. Other auction houses later joined in supporting the initiative. As a result, since 1998, Sotheby's worldwide catalogues have been reviewed by the Art Loss Register both in respect of recently stolen property and art seized during the Holocaust.

In respect of works of art created prior to 1933, it is Sotheby's policy to disclose in its catalogues the fullest possible provenance for the years 1933 to 1945.

Since 1997 Sotheby's has run a due diligence program targeted at identifying possible WW II provenance issues amongst the thousands of artworks which we are asked to sell or value every year. The essentials of the program have not changed since 1997 and include the following elements:

- ▷ Maintaining a specialized international team of provenance researchers within Sotheby's whose role is to support Sotheby's specialists throughout the world in dealing with provenance research and spoliation issues. The team is staffed with art historians and lawyers in New York and London and calls on the services of a network of independent art historians based in Europe and North America.

- ▷ To ensure that works of art are offered for sale by Sotheby's with good title, all sellers are asked to provide written confirmation of their legal ownership or their authorization to act on behalf of the legal owner. Sotheby's asks sellers to warrant that they have good and marketable title to the property and that both title and right to possession will pass to the buyer. Sellers are also asked to warrant that the property is free from any third party rights, claims

or potential claim and that they have provided Sotheby's with all information they have regarding the provenance of the property as well as any concerns expressed by third parties regarding its ownership. Sotheby's has the right to require sellers to indemnify the buyer for breaches of these warranties. Sellers are particularly asked to provide all information they may have regarding the ownership history of any work of art for the period 1933 to 1945.

- ▷ Works of art are physically examined for the appearance of brands, markings or labels that indicate they may have been displaced during the period between 1933 and 1945. They will also look for labels and seals of public collections that are known to have lost property during the war.
- ▷ Works of art are checked against the principal public lists and publications for art looted from museums and individuals including those for Austria, Belgium, France, Germany, Hungary, Italy, Poland and Russia to ensure that the work of art is not an extant loss. The lists checked include the internet-based database.¹
- ▷ Prior owners of a work of art are checked against Sotheby's proprietary database of "red flag" names. This database has been constantly updated over the past 12 years and holds details of victims of spoliation (Jewish, noble, and political) as well as collaborators and Nazis.
- ▷ Sotheby's pays the Art Loss Register to check all lots in its auction catalogues against their databases of losses – both from the WW II period and from recent times.

¹ See: <http://www.lostart.de>.

- ▷ Complimentary catalogues are sent to the main commissions and working groups in Europe and elsewhere dedicated to researching art stolen or looted during World War II so that they too can make sure that there are no matches in our catalogues with missing works of art.

If the due diligence process highlights a possible WW II provenance issue, then this will trigger further research that must be completed satisfactorily before the work of art concerned may be included in a sale. Often, this further research will involve work in archives in Europe and the United States as well as inquiries to governments, provenance research bodies and professional researchers. The research will often involve tracing and contacting the heirs to prior owners of an artwork – sometimes the successors to as many as three or four prior owners of a single artwork where their input is necessary to understand the ownership history of the work.

Despite the importance of provenance to an auction house, it is often impossible to establish the ownership history of a work of art for the years 1933 to 1945.

Sotheby's believes that the absence of a provenance for the years 1933 to 1945 should not necessarily taint a work of art. There are a variety of legitimate reasons as to why provenance information from more than 50 years ago may no longer exist. Whilst it is comparatively easy to trace and reconstruct the history of an important or well-known object, it is understandably far more difficult to uncover the provenance of less important works. There is likely to be a lack of any published exhibition history for these items and they typically are owned by lesser-known collectors.

The difficulty of provenance research is compounded by the fact that many works traded in the international art market are not

unique (such as prints or multiple paintings of the same subject by a single artist and his studio). The change in attribution of a work from one artist or maker to another may further frustrate research efforts. Furthermore, the titles of paintings and works of art titles or descriptions often change over time because titles are often applied by the art trade and by owners rather than by the artist. Despite the work that goes into ensuring the completeness of our catalogues, there will often be lots which have little or no provenance given for the war years. For the reasons given above this should not be regarded as sinister; Sotheby's believes that the absence of ownership history alone should not of itself taint a work.

For Sotheby's, potential WW II provenance disputes can arise from three different fact situations:

1. Where we initiate an inquiry on behalf of the current owner of a work of art with the heirs or successors to a person or body we believe may have parted with it involuntarily in WW II;
2. Where we receive inquiries or potentially adverse claims to a work of art in an upcoming auction; or
3. Where we receive inquiries or potentially adverse claims to a work of art sold or offered in the past.

Where Sotheby's discovers persuasive evidence that a work of art may have been involuntarily displaced between 1933 and 1945, we will inform the consignor and their professional advisors and then work with them to build a strategy as to how to resolve the potential legal, commercial, and ethical issues which could arise. Often, the first stage will be to recommend

a research program designed to test whether there really is a problem that might have an impact on the consignor's ownership rights and/or the marketability of the work of art.

Where our research leads us to believe that there is a good chance that a work of art was looted, we will generally seek the consignor's instructions to contact the heirs of the WW II period owner and ask those heirs for clarification of provenance. We receive such instructions in the majority of cases and this regularly leads to a dialogue between the consignor and the heirs. It often transpires that the artwork concerned was restituted after WW II. Our experience has been that where restitution never occurred and where the heirs to the WW II period owner wish to assert a claim then some form of settlement is reached in the majority of cases – probably in excess of 90 percent of cases. To the extent that Sotheby's is involved in such discussions, often as a facilitator, we try to help the parties and their attorneys to find solutions that are just and fair to everyone, taking into account the legal and factual issues in each matter. On average, we are involved in the resolution of around 12 or more of such cases, initiated by proactive research on Sotheby's part, every year.

Sotheby's due diligence program is designed to minimize the risk that a lot in an upcoming sale might be subject to an adverse title claim. Nonetheless claims, and enquiries which might lead to a claim, are received from time to time and we respond to them on a case-by-case basis.

Where Sotheby's receives a claim to a work that was offered for sale in the past, we will generally offer to forward a letter to the consignor and/or buyer from the historic sale from the claimants or their lawyers. We will only identify buyers and sellers if their names are already in the public domain (for instance if they were

designated as sellers in Sotheby's auction catalogue) or if we can locate the buyer or seller and get their consent to the disclosure of their identity. Sotheby's will not disclose clients' identity without their consent as this is commercially sensitive proprietary data of Sotheby's and could constitute a breach of contract and/or a breach of data protection and privacy legislation – depending on the jurisdictions concerned. We are equally sensitive to the privacy concerns of the heirs to looted collections and do everything we can to help them maintain their anonymity in the event that they wish to sell restituted property through Sotheby's.

Each provenance case is different and over the years we have seen the resolution of claims from:

- ▷ The heirs to persecuted Jewish art owners (banks, art businesses and private art collectors);
- ▷ The German government acting on behalf of Federal and State institutions;
- ▷ The heirs to political opponents of the Nazi regime;
- ▷ Institutions in Russia and the former CIS;
- ▷ The heirs to private German collections looted by Allied forces and individual combatants at the end of WW II;
- ▷ The heirs to collections seized by operation of the Beneš decrees;
- ▷ The heirs to untainted relatives of Nazi officials;
- ▷ Jewish Communities in former Nazi occupied Europe;

- ▷ Governments in respect of property taken from foreign embassies in Nazi Europe;
- ▷ The heirs to Jewish owned collections seized by British and American forces as Enemy Alien Property.

Although the facts of each case are different, we will generally not release an artwork that is the subject of a credible adverse title claim. Sotheby's has been sued several times by consignors seeking the return of property subject to WW II claims.¹ As with all other adverse title claims, the key factual issues with WW II era claims include: (1) positive identification of the artwork, (2) evidence of pre-WW II ownership, (3) evidence of WW II era involuntary loss and (4) postwar restitution or compensation.

The solutions which have been negotiated have ranged from the return of artworks to the heirs of original owners at one end of the scale to the retention of the artworks with an obligation to share proceeds in the event of sale (but with no obligation to sell) at the other.

Recent examples of resolved provenance issues include:

- ▷ The return of an oil painting by Emile C.H. Vernet-Lecomte to the Max Stern estate (the estate's first recovery);
- ▷ The return of oil paintings by Jan van der Heyden, Jacob Gerritsz Cuyp and Joachim Beuckelaer, to the heir of Jacques Goudstikker;
- ▷ The return of a glass and silver gilt tazza to the Schlossmuseum in Gotha.

¹ For example, see: Sotheby's Sued over Picasso, Bloomberg 4 July 2003 and Will Bennett, The Daily Telegraph, 27 Oct 2003.

Potential provenance disputes are often resolved by the sale of the artwork concerned and the division of proceeds in a manner that fairly reflects the positions of the current owner and the heirs of the prior owners. In the past 18 months, Sotheby's has sold works of art pursuant to such settlements by artists including Cézanne, Gris, Degas, Sisley, von Brandt, Pissarro, and van der Werff.

Sotheby's is pleased to be able to play a part in the international provenance research community. We regularly receive provenance inquiries from museums, lawyers and collectors. The majority of these inquiries is collegiate in nature and involves an exchange of knowledge as to prewar collectors and WW II era auction and displacement of art. These we are able to answer fully. We are also delighted to share historical and factual information from the WW II research archive which we have built over the past 12 years to the extent that the information is not commercially sensitive or subject to confidentiality restrictions.

Over the past 10 years, Sotheby's has been an active participant in conferences and seminars on the subject of provenance research and restitution. We have also organized public conferences in the United Kingdom, Israel, the Netherlands, and Austria as well as numerous private seminars. This outreach reflects Sotheby's commitment to share our experience and to publicize the need to conduct thorough provenance research. Sotheby's also supports the digitization of WW II-era documents, auction catalogues and restitution records and their publication on the internet.

► **Helena Koenigsmarková**

MUSEUM OF DECORATIVE ARTS, PRAGUE,
CZECH REPUBLIC

**THE MUSEUM OF DECORATIVE ART IN PRAGUE'S
EXPERIENCE WITH LOOTED OBJECTS IN ITS
COLLECTION AND THEIR IDENTIFICATION**

**The Historical Role of the Museum of Decorative
Arts (and Other Museums in the Czech Republic) in
Obtaining Looted Art**

The Museum of Decorative Arts in Prague was established in 1885 by the Prague Chamber of Trade and Commerce. Representatives of the cultural and economic life of that time shared in its establishment, as well as in its collections and the construction of its own building. In subsequent years, many of them served on its Board of Trustees and in the Museum's other administrative and auxiliary bodies. Many of them were of Jewish origin, and actively contributed to the collections, either financially or by donating or selling their own collections. For example, a member of the Board of Trustees, the industrialist Bohumil Bondy, bequeathed to the Museum a financial fund for buying collections before his death in 1907. His son Léon continued to support the Museum. After his death, his collection was bought for the Museum by the Ministry of Trade. Moreover, Otto Petschek (died in 1934), a son from one of the founding coal-magnate families, ensured that the Museum's acquisition fund was regularly subsidized by his banking house in the years 1923–1937, i.e., practically right up to the time the family decided *en masse* to leave the country in 1938. At that time, Hanuš Petschek and Felix Kahler still figured on the Board of Trustees' list of members

at a meeting it held to ensure that they would be replaced by other names from the ranks of German entrepreneurs at its next session.

The collections, therefore, grew in the typical manner as a result of acquisitions from private businessmen, artists, schools, and manufacturers, as well as in auction rooms throughout Europe. In the interwar years, Czechoslovakia was considered to be democratic. Consequently, a wave of immigrants arrived here from neighboring fascist states after 1933.

As the threat to people of Jewish origin developed, some even in our country decided to leave, and they also looked for possible ways of disposing of the art they possessed. One of the things that played a role in this process was the confidence they had in institutions like the present-day National Gallery, the Museum of Decorative Arts in Prague and in Brno, the Museum in Opava, etc. People who deposited part of their collections with the UPM included the likes of Berta Rosenthal in 1938 (reclaimed in 1938), Erich Springer in 1937 (reclaimed in 1939) and Josef Pollak in 1939 (although he remained the owner, the Museum could use the collection). According to the documentation, as far as the last deposit mentioned is concerned, one thing that played a role was the obvious endeavor to place this relatively extensive set of porcelain and other items in the Museum at the last minute (e.g., the effort to predate documents). The circumstances behind the fact that items were not returned to the relatives after the war are also complicated. (The restitution of these assets was stipulated to be an invalid action for the period from September 29, 1938 to May 4, 1945 according to Decree No. 5/1945 of the President of the Republic.)

At that time, therefore, the form of deposits was voluntary and was also utilized by people of non-Jewish origin, particularly

before the occupation. Some subsequently reclaimed items they had deposited and evidently attempted to take them out of the country or sell them. In these instances, another process concerning the export of objects of art arose. As an example, we could mention the cases of the Petschek and Gellert families, who owned several mines and a bank. This extensive family primarily tried to export movable holdings from their villas, particularly pictures, drawings and graphic art. As far as pictures were concerned (most of them of non-Czech origin), an inspection was conducted by Vincenc Kramář (Director of the State Collection of Old Masters), who selected several items for an export permit. At the Ministry, however, Professor V.V. Štech intervened against the entire selection so that the export was permitted in exchange for financial compensation, not by donating selected items. The family agreed with this and transferred 100,000 to the State Collection of Old Masters (NG) for acquisitions, which were nonetheless supposed to be presented as Dar Petschek. The entire operation took place during the first week of January 1939. Nevertheless, the fact that the family donated part of its collection of applied art to the UPM also helped to facilitate the export. This donation was clearly made with the awareness that the items would be well looked after. An application by the widow Hedwig Schick for the export of the collection of her husband Viktor Schick was viewed in a similar manner. At the time, it was one of the biggest private collections of glass, and it contained around 500 pieces of (mainly Bohemian) glass. In December 1938, she submitted an export application for an unspecified sale abroad. The collection was inspected by the then Director of the UPM, Karel Herain. He selected 61 items whereby all parties jointly agreed on the donation of 60 items and on the purchase of one cup. The remainder of the collection was sold the same year at Sotheby's in London. Despite the fact that this concerned items of Czech origin, the authorities strove to quickly accommodate

the application (items began to be packed before a permit had been delivered). The same thing also happened with pictures.

In the period from September 30, 1938 to December 31, 1940, objects of art, books and photographs were transferred to collections from 67 “donors.” To a certain extent, these could be considered to be voluntary donations or donations made in the belief that, if they were to fall into Nazi hands, it was preferable to have them in an institution where there was a certain hope that they would be returned after the end of the war. Incidentally, it is necessary to mention that expert permits were common practice as far back as the time of the First Democratic Republic, where an ethical appeal was brought to bear on the exporter with regard to the possible impoverishment of national assets. Advocating this attitude became morally objectionable, particularly after 1945. It was advocated once again after 1948. Unfortunately, to this day, some institutions continue to maintain this attitude in their arguments against surrendering Jewish property.

A second research project at the UPM dealt with the issue of enforced donations under the name “Lives for Ransom” (*Výkupné za život* – Prague 2009).

From 1944, the third form (besides personal deposits and donations) in which objects of art of Jewish origin were transferred to the collections of the UPM and the NG were deposits from the *Verwaltung des reichseigenen Kunstgutes* (the Reich Assets Administration). The last such deposit took place in February 1945. In this instance, professional contacts between the art historian Karl Maria Swoboda and the groups of specialists evidently played a considerable role. In most cases, these items are also part of the identified collections at the UPM and NG, which

comprise part of the first survey at the UPM and have been published in the publication “Bringing Back the Memory” (*Návraty paměti* – Prague, 2007). These included important objects, as well as less precious items. The general survey also showed that many of the truly precious objects of art never made it to official depositories and selected domestic collections. They disappeared into private hands during the confiscation process.

How Did the Museums’ Approach to This Issue Change After 1989 and After 1998?

After 1989, restitution proceedings were launched for lawful owners, particularly when Act No. 87/1991 of the Collection of Laws (Coll.) came into effect. In the case of the UPM and other institutions, this did not just concern Jewish property. An extensive portion comprised church property and the assets of private persons, particularly those of noble or so-called bourgeois origin, who had property confiscated from the 1950s (around 90,000 movable chattels from 1,028 locations had been transferred to the “collection” at Sychrov Chateau alone. About 60,000 were there in 1990).

These so-called “Zetky” (as in Z for “zábor,” meaning confiscation in Czech) were received by institutions by way of a decision made by other bodies, particularly the aforementioned National Cultural Commission (*Národní kulturní komise*). In this instance, there is also a difference in designating an act in which Jewish property was at least personally deposited by the owners in cooperation with the institutions, in contrast to the situation here, which concerned confiscation, a decision that was implemented by state authorities for violently seized property with an effort being made by the National Cultural Commission to ensure at least the partial preservation of precious items. Its role was

similarly dubious, not unlike the participation of the institutions themselves during the time of deposits and enforced donations of Jewish property.

An ethically common endeavor and conviction remains vis-à-vis objects placed in state institutions as it might have been believed that they had a better chance of surviving in their collections. (Unfortunately, exceptions to the case exist as well.) Despite this, it is necessary to view these acts as violent acquisitions, and today's somewhat belated effort to at least identify the original owners could represent a partial redress of this situation.

Our Museum dealt with all lawful restitutions locally and could, for instance, use Act No. 87/1991 Coll., on out-of-court rehabilitations, to surrender crucial artistic assets to the family of the entrepreneur of Jewish origin Jindřich Waldes, primarily in connection with his unique Museum of Buttons (*Muzeum knoflíků*) in Prague and a related specialist library. The family then donated the most precious part of the so-called "Karlštejn treasure" to the Museum in 1995. The assets of Richard Morawetz were surrendered in accordance with the same law.

The remaining objects of art that have not been identified up to now were the subject of an investigation that would not have been possible until the signing of the Washington Declaration, which recommended that signatory states devote research to the fate of these objects of art, including financing the necessary study of archives.

An entire complex archive and documentation investigation is not actually possible in the institutions themselves unless they have sufficient human resources at their disposal, as is the case with a long-term search for information of the kind that has been

institutionalized at the Jewish Museum in Prague. The reason for this is because they do not have (and for various reasons did not have) access to everything that was required for research into necessary archive documents, etc.

Consequently, at the beginning of the 1990s, after being prompted by the Ministry of Culture to deal with Jewish assets, letters published, on the basis of entries in the record books declared that it was not possible to locate confiscated Jewish assets specifically. Our Museum, as well as the Silesian Museum in Opava, was in this situation.

Many records were suspicious, such as the transfer of art from the Reich Assets Administration, even if it was passed on as "German" property. Incidentally, these assets were not even completely identified by the National Property Administration (*Národní správa majetkových podstat*) after 1945. The directors stayed "virtuously" silent. They probably knew why, since assets that were not restored to the rightful owners went to auction and not to the institutions. It was only the cooperation with the newly established Centre for the Documentation of the Transfer of Property and Items of Cultural Value from Second World War Victims at the Institute of Contemporary History of the Academy of Sciences of the Czech Republic (the Centre), which has human resources, expertise and funding, that made it possible to begin a genuine and wide-ranging investigation into the origins of art collections from the period *ca.* 1938–1944 or 1945.

In cooperation with workers from the Museum, the Centre's workers went through all registration records. According to the entries, they were able to trace the original place from where the assets had been transferred to the Museum. At the same time, they were able to search in archives, particularly in lists from

sources such as the *Treuhandstelle*, the Reichsprotektor's Office, the Gestapo, etc. According to the reference numbers, they succeeded in identifying items, particularly works contained in the aforementioned sets from the Reich Assets Administration (*Verwaltung*), where they were linked to a precise register of deported persons. Consequently, the assets of 39 people were identified. After the war, there was no one left of the 17 people, who could demand restitution. In the other cases, it is possible to follow how the postwar National Property Administration proceeded. For the most part, the assets of untraceable persons (or people who were not adequately searched for) were designated for sale in 1950. This concerned thousands of pictures, carpets, graphic art, etc., which had been transferred to the state-owned Antiquarian Authority that had been established. The financial proceeds went to the National Renewal Fund (*Fond národní obnovy*). Increasing ideological pressure was a main factor here. Restitution proceeded more easily in the originally occupied territory than it did in Slovakia, for example, where there was resistance to it. The nationality that applicants had declared themselves to be in 1930 gradually played a greater role. Another wave of emigration (that was not only Jewish) began at the end of the 1940s; the other aforementioned confiscations mainly began after 1948.

The Process by Which the Museum Identifies Works and Their Lawful Owners

The fulfillment of the Washington obligations in the Czech Republic is done via the Centre, which is financed by the government. So far, it has been possible to return only a small percentage of the identified items. Rather there is but a small number of cases where it is possible to surrender an object of art in accordance with the wording of Act No. 212/2000 Coll. to direct descendants, i.e., spouses or children, not proper testamentary heirs, as was

still possible in 1945. Once again, the Museum itself does not have enough resources to actively search for these heirs. Consequently, it is important to publish the identified works in the form of the aforementioned books or to place them all on a centralized website.¹ We must only hope that someone will still register with us thanks to these efforts. I have most recently been informed that a declaration has finally been made concerning the works of art (mainly Asian items, which are now in the NG) belonging to Leo Zeckendorf, who perished with his wife in Auschwitz. Thanks to our publication, the declaration was made by his daughter who now lives in Israel.

Several pictures in the collection of the Silesian Museum in Opava managed to be restored to direct heirs. In the case of the UPM, the niece of Viktor Kahler still lives in the USA. She was at least able to happily accept the publication of "Bringing Back the Memory" and she hopes that these items will be marked with the name of the original owner in our collections. That, however, is all that we can do so far to correct these injustices. Many of the identified objects of art have also been included in an exhibition entitled "Bringing Back the Memory," which has just opened in our Museum on the occasion of this Conference.

¹ See: <http://www.restitution.art>.

► **Monica Dugot**

CHRISTIE'S, USA

**IMPACT OF THE WASHINGTON CONFERENCE
PRINCIPLES ON ART MARKET PRACTICES:
MOVING THE DISCUSSION FORWARD**

Good afternoon. I am Monica Dugot – International Director of Restitution at Christie's – coordinating our restitution efforts globally. I was Deputy Director of the Holocaust Claims Processing office in New York for a number of years representing claimants before taking up my current position. I am privileged to have been engaged with Holocaust-era art restitution over the last twelve years, and am pleased to have the opportunity to contribute today.

I. THE BIG PICTURE

A Decade on from Washington

Over a decade on from the Washington Conference, international commitment and dedication on the part of the restitution community has meant that the problem of Nazi art spoliation is as vivid as ever. Indeed, the passage of time makes us more – not less – acutely aware of the need to address the issue of unrecovered Holocaust-era assets.

Consideration of art restitution requires individual attention to the provenance of each particular art object; research must be done against the background of the idiosyncrasies of the art market where an object might have fallen out of sight, been sold and resold or even altered beyond recognition. So provenance

research is a far from simple task, but it is the foundation for all art restitution efforts. As such, the availability of archives and access to information is of paramount importance.

Challenges for the Art Market

I would like to explore some of the challenges of art restitution from the auction house point of view. Auction houses are not – as is the case with museums – owners of the art we offer for sale. While we can offer assistance towards the amicable resolution of a claim, the art in question is not ours and ultimately the auction house is not the decision-maker. Rather, our role is to assist the parties, as much we can, in developing information, analyzing the significance of historical material and facilitating negotiations.

The combination of art, high commercial values, and restitution claims can create a combustible mix, not least when restitution is in the public eye. It is easy to catch the imagination of the public – and the media – with a claim to a high value work. But, the debate ignited by the return and sale of high-profile objects masks the real work of restitution where hundreds of modest pieces are studied every day.

Christie's Perspective

Christie's primary concern is to ensure that

1. Works of art offered for sale in our auctions can be freely acquired, with clear title; and
2. We do not compound the original spoliation by selling looted works of art.

Where looted art is identified in any of our consignments, we actively engage all parties to resolve any issue or claim.

Through the number of works of art that pass through our doors in any given year, our provenance research team sees as many restitution issues as any other sector of the art world. Facing this volume of claims puts Christie's in the position of working across the wide spectrum of collectors and claimants and places us at the center of the debate over best practices in the art market. Moreover, if we approach restitution issues openly and on the basis of sound provenance research, we can engender confidence in the way the art market deals with Holocaust-related claims and also in the reliability of the art market in general.

II. RESTITUTION AT CHRISTIE'S IN PRACTICE

Christie's 1933 – Present

Today Christie's promotes and fosters company-wide awareness of art restitution issues, driven by a team of four with the support of senior management. Our work covers the vetting of consignments, provenance research, claims resolution and an ongoing engagement with claimants and the restitution community.

We have recently been involved in the return of this Dürer print to the Kunsthalle Bremen, this Bogdanov-Belskii to the Taganrog museum, the Jan Wellens de Cock to the Estate of Max Stern and helped resolve the claim by the heirs of Adolph Bensingier for the Menzel pastel. Over the last five years, we have also been involved in an important number of settlements (around sixty) and are always pleased when we have been able to help the parties to find a just and fair resolution to a Holocaust-related art claim.

Our engagement in claims resolution and assistance in claims handling is provided at little or no cost to the claimant – and without obligation; we do not oblige settling parties we have assisted to consign their works to Christie's. Of course, we are pleased when they do, and we have, as you know, sold numerous artworks after restitution or as part of a settlement.

III. BRINGING ART AND CLAIMANTS TOGETHER

Christie's works across the art and restitution community and encourages a shared responsibility and a free and transparent exchange of information wherever possible. We all face similar hurdles in researching and resolving Holocaust art restitution claims: the "information vacuum" precipitated by lack of documentation complicated by the passage of time; lack of provenance information in spite of multiple changes of ownership; legal and moral arguments sometimes seemingly pulling in different directions; misunderstanding, confusion and hostility over where the onus lies to "prove" or "disprove" a claim; a lack of a universal framework for claims; and the absence of internationally binding standards for evaluating claims and defenses.

But those claims that are most intractable are where, for whatever reason, either or both sides refuse to engage. It is in all our interests therefore to articulate our perspectives as clearly as possible. Christie's always hopes to bring both parties to a position of mutual understanding and respect, based on a shared appreciation of the historical record.

This was the approach we took with this painting from the collection of Dr. Max Stern, which we flagged as part of our pre-sale vetting. At this early stage, we knew only that it had been in

Dr. Stern's hands but could not establish when. The Estate was eventually able to demonstrate that he had it in his possession in 1936. Although there were no specific sale records, when his 1936 possession was put in the context of the documented persecution of Dr. Stern, the presumption was made that his transfer at that time was not voluntary and, on this basis, restitution was agreed.

IV. CALL FOR A SHARED CLAIMS PROCESS

This slide¹ shows a number of disputed works where Christie's has helped to facilitate a settlement. While the intent of the Washington Principles still rings true today, our experience suggests that their lack of specificity – the lack of detail – means that in practice the Washington Principles alone are not sufficient to improve claims handling. From the auction house perspective, then, I would like to suggest that one of the things we need to establish alongside their broad brushstrokes are more specific procedural guidelines for the art market to use in dealing with Holocaust provenance issues and restitution claims.

To this end, as a first step and to begin the process, I would like to share with you Christie's own guidelines which set out a framework for handling provenance issues and claims, making clear the expectations and responsibilities of all concerned. (These guidelines will be available on our website.) We are announcing these guidelines publicly today, and sharing them with you, however they mostly consolidate the practices we have followed up to now.

¹ The speech was accompanied by the PowerPoint presentation.

The guidelines are based on four overarching principles: fairness, practicality, consistency and transparency, which are sometimes too easily obscured in the to and fro of heated negotiation. It is self-evident that claims need to be resolved quickly and fairly. And, those claims that are resolved fairly – and with the least amount of acrimony – are those where one side or both recognize(s) that there is some justice in the position of the other.

Many of us, on the other hand, will have dealt with claims, for example, where the current holder has no knowledge of an artwork's earlier history and although sympathetic, has limited options and a hostile response. Guidelines to deal with these situations need to be practical and fair. If they are [practical and fair] and if they are widely adopted, they can provide at least some procedural consistency and certainty for consignors and claimants alike, such as for timeframes and other aspects of claims handling.

With these principles in mind, Christie's guidelines set out on the one hand what we look for to be presented from the claimants' side: namely a clear, articulated claim, supported with as much information and documentation as is possible and which is presented in sufficient time before a sale is due to take place. By the same token, Christie's will (1) inform its consignor of a claim, (2) request that the consignor provide as much provenance information and documentation as is available, and (3) encourage its consignor to engage in a negotiation process looking towards a just and fair solution based on historical facts.

Although Christie's cannot be the arbiter of claims, there needs to be a threshold amount of information to support a claim before we can take such a serious step as withdrawing a work from sale. With

the most good will in the world, Christie's cannot take action where there is not a serious and substantiated cause for concern. For this reason, I am sure we all want to see a continuation of the process of opening government archives for provenance research.

I would like to use two contrasting examples. The comprehensive and thorough claim presented for this Master of Frankfurt painting from the Julius Priester collection clearly benefited from the careful research undertaken into the fate of the collection as a whole by the heirs' representatives. Information provided with the claim, demonstrated that the consigned painting was a clear match with one from the Priester collection. Moreover, the claim was supported by information from the Austrian archives detailing the act of confiscation and postwar attempts to recover the painting. While it took a little while to bring about a resolution, our consignor was nonetheless reassured from the outset that there was a colorable claim to answer.

However, when we were approached about this van Aelst sold at Christie's some time previously, although the claimant was able to give us the biographical details of his father's flight from Vienna, his claim rested solely on the family's recollection that a painting like this had hung in the family home. Sadly, there was nothing to back up this assertion, and we were able to find other examples of very similar still-lives by the artist and his followers. Indeed, subsequent research did establish that this painting was, in fact, in Italy during the years in question and had been in the hands of the same family since 1927.

These guidelines are also presented in the hope that we can agree on timeframes for progressing claims. Too often after a claim has been raised, the initial momentum is lost, with neither side engaged in dialogue. Such deadlock is frustrating and counterproductive, so

Christie's will expect parties to settle or proceed to court, arbitration or some other dispute resolution procedure.

Our guidelines also make clear Christie's obligations towards claimants. For example, we work with consignors (or current holders) and claimants and restitution experts alike to try to uncover – to the extent possible – the provenance of an object where concern has been raised; to publish as much information as we have; and to withdraw and hold a claimed object for sale pending resolution of a claim. The goal of these guidelines is to help claimants and claim recipients to make better and more prompt decisions based on an accurate assessment of the historical circumstances that gave rise to any particular claim. We believe that issuing these guidelines underscores Christie's serious intent to facilitate dialogue between parties and assist them in finding fair and equitable resolutions through provenance research and a just process.

Invitation to Cooperation

Ultimately, Christie's cannot resolve claims alone; it is the parties themselves who must do so by settling, walking away or litigating. With transparent guidelines, we can signal our ongoing intention to assist in the resolution of Holocaust-era claims and to help engender confidence in both collectors and claimants over how disputes are handled by the art market. I ask that you give us your thoughts on these guidelines. Also, I hope to establish a working group around this issue.

V. CONCLUSION

Working together with many of you, and with our shared intent and purpose to improve claims handling and to prevent looted

art from circulating through the marketplace, I hope that we might be able to build on the very real foundations of the last decade of experience under the Washington Principles, and set new benchmarks in diligence and claims processing for the next decade. Christie's looks forward to working with you over the coming years on developing workable auction house guidelines and on addressing such other suggestions that would facilitate the just and fair resolution of claims as may be made during the course of this Conference.

► **Felicitas Thurn**

DOROTHEUM, AUSTRIA

DOROTHEUM: PROVENANCE RESEARCH AND DUE DILIGENCE IN THE ART TRADE IN CENTRAL EUROPE

History

More than 300 years after its foundation by Emperor Joseph I, the Dorotheum is one of the most important auction houses in the world and the leading auction house in the German-speaking area with offices in Milan, Munich, Düsseldorf, Prague, Tokyo, Zagreb, Brussels, Tel Aviv, Rome, and Paris. For the broad range offered by the Dorotheum, more than 100 specialists are available, as well as over 40 departments. The highlights range from contemporary art to modern art, from design to old master paintings. As an auctioneer, the Dorotheum sells, as an agent, other people's property. The Dorotheum stems from the Pawn & Query Bureau established in 1707, located in Vienna's inner city. When the auction business began to prosper at the end of the 19th century with auctions being held in 13 separate

rooms, Emperor Franz Joseph commissioned the rebuilding of a Palais on the grounds of an old monastery, which was inaugurated in 1901. Already in the first thirty years of the 20th century, the Dorotheum saw many great private collections passing through its premises and held numerous specialist sales of books, manuscripts, medals, coins and other art objects. During the Nazi era, important posts within the Dorotheum hierarchy were assigned to supporters of the regime. The institution's infrastructure was used to auction off aryanised property, and although the Dorotheum itself was not actively involved in aryanisations, it benefited extensively as a trading agent from consignments by administrative bodies such as the Gestapo, customs and financial authorities, or the City of Vienna.

When the Dorotheum was privatized in 2001, the management made coming to terms with the Dorotheum's history during the Nazi era one of its prime concerns. Upon the sale of the Dorotheum, the ÖIAG – the Austrian Republic's investment and privatization agency – as former owner of the auction house, paid USD 32 million into the General Settlement Fund as a compensation payment for their Austrian holdings that cooperated with the Nazi Regime. The year 2006 saw the publication of a report by independent historical experts on the history of the Dorotheum from 1938–1945.¹ At the same time, the Dorotheum handed over all historical archival material to the Austrian State Archive in order to make it available to all researchers. The establishment of a department of provenance research set up in 2003 by the new directors was groundbreaking in Central Europe and continues to be the only in-house department of provenance research dealing with restitution issues in an auction house in continental Europe.

¹ Lütgenau, Schröck, Niederacher, Zwischen Staat und Wirtschaft. Das Dorotheum im Nationalsozialismus, Oldenbourg Verlag 2006.

Provenance Research

The provenance or the full ownership history of an artwork is of great importance to an auction house not only in the context of looted art. The provenance helps establish the authenticity of a work of art, a provenance from a famous collection will enhance the importance and mostly also the value of an artwork and it gives an historical and art historical context to a work of art. In the past years, the whereabouts of an artwork between 1933 and 1948 have become increasingly important when researching its provenance. The Dorotheum is alert to various means of looting and dislocation in these years such as aryanizations, forced sales, seizures, theft, and spoliation or de-accessioning of degenerated art that can give rise to disputes. However, complete provenance of a given work of art is often difficult if not impossible to establish. Frequently ownership must be determined through secondary sources such as *catalogues raisonnés* and artist monographs, exhibition catalogues, annotated auction sales catalogues, publications or others. Whilst it is comparatively easy to establish the history of well-known artworks, less important works are more likely to have gaps in their provenance history. Provenance research is also undermined by the fact that many of the items are not unique (such as prints, or multiple paintings of the same subject by the same artist). Changes in attribution, title or description further complicate the work. The absence of a full provenance should therefore not automatically taint an artwork. Many works of art lack a clear history for legitimate reasons: Private records of sales frequently do not survive, many private collectors buy and sell anonymously through third parties and in numerous cases records of auction houses or dealers are at best incompletely preserved, if not lost, or destroyed.

Due Diligence

The possibility that an artwork with a tainted provenance might be offered to the Dorotheum on consignment gave rise to moral and legal considerations and led to a tight-knit system of due diligence: In the late 1990s, the Dorotheum took the Austrian lead in subscribing to the Art Loss Register, the world's largest private database of lost and stolen art, antiques and collectables, thus having all catalogues reviewed by the Art Loss Register's team. All catalogues are furthermore distributed to an international field of researchers and private and public institutions in order to give potential claimants and their representatives the opportunity to identify artworks. Additionally the internet provides the interested community with all information on the works of art sold at public auction. Most importantly, the Dorotheum takes an active part in the research of the objects up for sale to avoid the inadvertent sale of un-restituted looted art. Upon consignment the client has to share all known information about the provenance of the object and has to sign a confirmation that he is the legal owner of the piece.

The experts are educated to recognize signs of looting on artworks during cataloguing and handling: brands, signs, numbers, labels, and seals on the frame or stretcher that may lead to a Holocaust victim or a public collection that has lost property during the war. Trainings held by the department of provenance research raise the awareness of issues in provenance. Generally, the experts will establish the provenance of an artwork, which the department for restitution issues will then check for suspicious names. Since the Dorotheum is dealing with a number of artworks worth a few hundred or thousand euros and the establishment of any provenance is almost impossible for these pieces, we need to go even further: the specialist department for provenance research checks

all identifiable artworks against a number of databases and listings. Online databases that are consulted include *lostart.de*, a database set up by the Federal Republic of Germany; *trace.com*, the world's largest database of lost and stolen property; or the object database of *lootedart.com*, containing details of over 25,000 missing objects. National databases of looted art are also screened by skilled Dorotheum personnel as well as property listings in books or on CDs. Major tools in this research are the internal database of lost property, the record of "red flag" names holding details of thousands of individuals who were victims or collaborators of the Nazi regime as well as data from sales catalogues of the Nazi era, all of which are constantly updated and extended. For all questions regarding the provenance, the identification of labels, the search for previous owners and other questions in regard to Nazi era looted art, the Dorotheum works closely with Austrian and international public and private archives, the Jewish Community in Vienna, the Austrian Commission for Provenance Research, the German "Arbeitskreis Provenienzforschung" and other research bodies.

Looted Art

If a work which is offered to the Dorotheum on consignment is detected as possibly being looted art, the Dorotheum will convince the consignor that it is inappropriate to offer it for sale regardless of whether the consignor can establish clear legal title. The artwork will be withdrawn from the sale until either all suspicion is cleared or until a mutual agreement between all parties involved has been reached. In order to avoid litigation for reasons of time and cost and complexity, the Dorotheum experts help the consignor to reach an agreement with the possible plaintiff. There are various possible solutions to these mostly ethical disputes: restitution, payment of compensation, or a joint sale where the proceeds of sale are split between the current owner and the claimant(s).

Initiatives and Remarks

In order for the Dorotheum to be aware of displaced art it is of utter necessity that looted objects wanted by private individuals, museums, and governments are registered with public databases. Cooperation between institutions, individuals, and the trade is also a major key to the solution of questions of provenance and the Dorotheum experts are happy to share their knowledge with research professionals. At the same time one always has to bear the following in mind:

- ▷ Every case is singular and has to be treated on such a basis; there is no such thing as a general rule.
- ▷ The increased attention of auction houses to looted art does not translate into an affirmative duty to seize works when their research turns up suspicious findings. As discussed above, provenance is often indeterminate and gaps in a work's history are not de facto evidence of illegal appropriation. Seizure can generally only be ordered by courts or state authorities; a similar measure taken by an auction house would constitute an infringement of private rights.
- ▷ Since in most European countries the acquisition of full legal title is possible through a bona fide purchase and is facilitated by statutes of limitations, the situation of someone who is suddenly confronted with the fact that he or she may own looted art is very complex. A prudent course of action is required and the principle of "just and fair" solutions must consider the situation of the bona fide possessor. This also applies to the right of privacy for all parties.

- ▷ Comprehensive research is the foundation of any claim and any rejection of such. The Dorotheum strongly encourages projects leading to a broader knowledge of the art trade in the Nazi era and the looting of works of art. We also strongly support open online access to documents concerning the ownership history of cultural property in one international database.
- ▷ Finally, due diligence should also be exercised by victims of spoliation and their successors through identifying their losses and notifying the art trade about losses.

The policy is clear: The Dorotheum will not knowingly sell any work of art that has been looted and has not been restituted since. In order to avoid inadvertent sales, we need every piece of information available.

Provenance Research

▶ Carla Shapreau

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MUSICAL CULTURAL PROPERTY: THE NAZI ERA AND POSTWAR PROVENANCE CHALLENGES

I want to thank the Czech Republic and the conference organizers for hosting this Conference and including me as one of the speakers in the Looted Art Working Group, so that I can address the subject of musical cultural property. Musical instruments, musical manuscripts, printed music, rare books and other music-related objects were looted, surrendered, lost, hastily left behind, or purchased in significant numbers in Europe as a result of the Nazi Era. Additional musical losses were incurred as musical materials were swept up as war trophies.

The utilitarian nature and portability of many musical objects contribute to provenance challenges, as does the fact that musical losses often accrued to individual musicians and composers, who may not have maintained records or photographs for title and authentication purposes. The history and fate of such lost musical materials and intellectual property, an integral part of the fabric of musical culture and aesthetics, remains relatively unknown.

Ten years after the Washington Conference on Holocaust-Era Assets in 1998, little progress in provenance research has occurred

in the United States regarding musical cultural losses. The Nazi Era Provenance Internet Portal, hosted by the American Association of Museums (AAM), a laudable effort for looted art, does not include one musical entry, even though many museums in the USA have significant music-related objects in their collections. The lack of readily available archival information makes compliance with the AAM guidelines problematic. One of the positive developments over the last decade has been the proliferation of online databases.

Once a central reservoir of provenance information pertaining to music-related items begins to grow, this will enhance research results and contribute to the development of a standard of care governing what constitutes reasonable due diligence in connection with transactions involving music-related property. Today, this standard of care is far below that which has evolved in the art world, in large part due to the dearth of readily available historical information.

Life for musicians, composers, music publishers, and others in the musical sphere began to unravel upon Hitler's rise to power in early 1933. By March 1933, musical performances by Jews were being cancelled and musicians were being ousted from employment. These events so shocked the musical world that by April 1, 1933, renowned conductor Arturo Toscanini, along with many other prominent musicians, sent a cable to Hitler protesting this treatment of Jews. By November 1, 1933, all professional musicians in Germany were required to register with the music division of the Reich Culture Chamber; Aryan ancestry was required. The only alternative for Jewish musicians and cultural life for Jews in Germany was the Jewish Kulturbund, established in the summer of 1933. Membership in the Kulturbund reached 180,000 by 1937.

As with the art world, the attempt by the Nazi Regime to manipulate cultural values was advanced through a variety of vehicles, including an exhibition entitled *Entartete Musik* (Degenerate Music), which opened in Düsseldorf in May 1938. Composers of Jewish descent, or with racial, political, religious, social, or aesthetic views not in conformity with Reich music policy, were targeted, as were the musical genres of jazz, modernism, and atonality. By 1940, the *Lexikon der Juden in der Musik* was first published, identifying those in the field of music who were believed to be Jewish.

Although many musicians were able to safely immigrate to other countries, others did not overcome the significant administrative, legal, and economic barriers to freedom. After eight years of existence, the Nazis closed down the Kulturbund on September 1, 1941. Shortly thereafter, Kulturbund musicians were ordered to surrender their musical instruments. The German borders were closed to Jews on October 23, 1941, and widespread deportations commenced. Musical objects were looted from the homes of Jews, surrendered prior to deportation, confiscated from ghettos, and seized in concentration camps. Those camps with orchestras, and there were many, had amassed assorted musical instruments, such as those observed by Polish violinist Szymon Laks upon his arrival at Auschwitz-Birkenau, where he saw:

“All sorts of brass and woodwind instruments, everything polished to a bright shine. I distinguished in turn a huge tuba helicon, a trombone, a few trumpets, a brass tenor and alto horns, saxophones, clarinets, and two flutes, one a piccolo. Leaning against the wall in one of the corners was an impressive double bass with a bow stuck under the strings, in another a bass drum with cymbals and a snare drum with all of the percussion paraphernalia. On

a wide, solid shelf specifically designed for this purpose were a few accordions and violins in cases. One of them, somewhat bigger than the others, probably contained a viola... [T]he conductor... gave me a violin and asked me to play something.”¹

In tandem with confiscations within Germany, in July 1940 the *Einsatzstab Reichsleiter Rosenberg* (ERR), led by Alfred Rosenberg, commenced its organized and systematic approach to cultural plunder in territories occupied by the Third Reich. The ERR task force charged with musical confiscations was known as the *Sonderstab Musik*.² Musical confiscations were also carried out through the *Möbel Aktion*, established by Alfred Rosenberg and approved by Hitler on December 31, 1941, which involved the seizure of the contents of the homes of those who had fled or had been deported. These thefts garnered much musical property as well.

The Third Reich appears to have obtained musical property for several purposes, among which were the *Hochschule für Musik* in Leipzig and the *Amt Musik* Headquarters, in Berlin. Archival evidence confirms that Goebbels and his aides were involved with the evaluation and improvement of the quality of instruments being played by professional musicians in Germany. To this end, an instrument bank was established in Berlin that allegedly contained valuable instruments of the violin family, which were loaned out to prominent musicians in Germany, some from the Berlin Philharmonic. The prewar provenance of

¹ Szymon Laks. “Music of Another World”. Northwestern University Press, Evanston, Ill., 1989, pp. 32–33.

² Willem de Vries. “Sonderstab Musik, Music Confiscations by the Einsatzstab Reichsleiter Rosenberg under the Nazi Occupation of Western Europe.” Amsterdam University Press, 1996. This seminal and excellent work by Mr. de Vries provides essential reading regarding this subject matter.

these instruments, the circumstances under which they were acquired, and their current whereabouts are the subject of ongoing investigation.

Thanks to ghetto photographer Mendel Grossman, who perished during the Holocaust, images he hid in tin cans within the ghetto document musical confiscations in the Łódź Ghetto in Poland, where on January 17, 1944, an order was issued that the populace of the ghetto surrender all musical instruments in its possession. In addition to Jewish losses in Poland, non-Jewish citizens also suffered musical losses, as did the National Museum in Warsaw, from which an alleged 1719 Stradivari violin was looted during the war.

Threats of damage in Germany from Allied bombing resulted in the evacuation of a great quantity of musical objects, both looted and from German collections, to various locations for safekeeping. Field discoveries by the United States Army immediately after the war included many musical finds. One discovery was made at Raitenhaslach Schloss, near Berghausen, first noted by the US military in a May 30, 1945 report. It proved to be a very rich musical recovery of French property, including 80 crates of music and books and many musical instruments. Among these were valuable keyboard instruments confiscated from the Saint-Leu-la-Forêt home of noted harpsichordist Wanda Landowska.

Musical property evacuated to the countryside was also swept up by the Russian Army³ and by Poland⁴ as war trophies. An al-

³ Patricia Kennedy Grimsted. “Back is Back in Berlin: The Return of the Sing-Akademie Archive from Ukraine in the Context of Displaced Cultural Treasures and Restitution Politics.” Harvard Ukrainian Research Institute, 2003.

⁴ The University Library in Łódź, Poland is the beneficiary of the Philipp Spitta Collection and other music from the *Hochschule für Musik*, Berlin, which had been evacuated to Silesia. Access to this significant collection has been made available

leged 1719 Stradivari violin, owned by the *Hochschule für Musik*, was obtained near Berlin by two Russian officers in June 1945. In 1946, the Russian National Collection of Musical Instruments in Moscow accessioned into its collection a violin by the same maker of the same date.¹ The *Universität der Künste Berlin*, the successor entity for the *Hochschule für Musik*, is currently seeking recovery of this violin. A search of the iconographic literature has turned up a 1949 image of the Russian instrument, which will hopefully be helpful in the provenance analysis.

Eastern Europe sustained musical losses as well. In the former Czechoslovakia, by order of the Reichsprotektor, all moveable musical instruments were to be surrendered by Jews in Prague by December 26, 1941. Larger instruments, such as pianos, were taken from deportees' homes. A tally of 5,288 "musik noten" were listed in the June 1943 inventory of property surrendered by deportees in Prague, and by February 1944, the number of confiscated musical instruments reached 20,301.

Linking such generalized data with specific identifiable property poses many challenges. Yet, clues may be found amid archival records, such as those from the Munich Central Collection Point (CCP). For example, an 18th century Italian violin made by Zanoli and confiscated by the Gestapo from Dr. Otto Stein is documented in the Munich records. Dr. Stein, who was Jewish, had been a professor of ancient Indian culture at Charles University in Prague, but he was deported to the Łódź Ghetto, then to Theresienstadt, and perished in the Holocaust. The US military discovered Dr. Stein's violin in Ulm, Germany, and it was restituted in

a shipment to Czechoslovakia on November 19, 1946. Unfortunately, no records have yet been located that confirm the whereabouts of the violin after its restitution to Czechoslovakia. The violin was never returned to Dr. Stein's family. Hopefully, further provenance research within the Czech Republic will shed some light on the violin's fate.

In Hungary, records in the National Archive similarly hold references to musical losses that are still unresolved. For example, nearly 100 musical instruments were lost to one family from Budapest during the war. The instruments in this collection included examples of the history of Hungarian violin making from its beginnings until 1944, and included 80 violins, 7 violas, 2 cellos, one viola da gamba, and 7 guitars. The owner of this collection was not deported and survived the war. The subsequent political upheaval under the communist regime resulted in additional hardships. None of the instruments lost in 1944 were ever returned and the whereabouts of this large collection is currently unknown.

The Dutch also sustained many unresolved musical losses arising from the Nazi era, a sampling of which are set forth in the chart below.

to the public for research. See Christoph Wolff, "From Berlin to Łód : The Spitta Collection Resurfaces." *Notes*, Second Series. Vol. 46, No. 2, Dec. 1989, pp. 311–327.

¹ The 1719 Stradivari stolen from the Warsaw Museum does not appear to be associated in any way with the violin missing from Germany, or in Russia.

**Selected Postwar Dutch Loss Reports,
Instruments of the Violin Family**

INSTRUMENT NAME	ORIGINAL OWNER OR REPRESENTATIVE	DETAIL
"Ferdinando Alberti," violin, Milan (SNK No. 657)	C. Schoemaker, Laren	Ownership unclear; prior owners Karl Binter, violin collector, and violinist D. Vos. C. Hengeveld of Utrecht, custodian. Schoemaker, a violin maker, filed the report; report date: 3.10.45
"Amati," violin (SNK No. 2712)	J. Geradts, Posterholt	Stolen by Germans upon evacuation of home. Report date: 20.10.45
"Amati," viola (SNK No. 669)	C. Schoemaker, Laren	Given for safekeeping to violin expert Hamma, for deposit in Frankfurt, through custodian C. Hengeveld in Utrecht; report date: 3.10.45
Four "contrabas" (SNK Nos. 3707, 3708, 3709, 3710)	Albertus Spruyt, Arnhem	Stolen by Germans in Arnhem. Reports filed November 3 and 5, 1945
"Johannes Cuijpers," violin (SNK No. 688)	R.L. Catz	Owner taken prisoner, violin stolen by German soldier; report date: 15.9.45
"Joseph Dalaglio," violin, 1832, Mantua (SNK No. 3484)	W.J.H. Resing, Lochem	Violin stolen from home, after owner fled upon arrival of Germans; report date 22.11.45
"Casparo di Salo," cello 1613, Brescia, lion's head (SNK No. 5232)	B. Hengeveld, Arnhem	Stolen from owner's home; report date 27.12.45
"Joseph Gagliano," violin, 1771, Naples (SNK No. 15285)	A. Bär, Naarden	Confiscated by the "Einsatzstab Rosenberg," Amsterdam; report date: 6.9.46

"J.G. Grancino," cello, 1699, Milano (SNK No. 15284)	A. Bär, Naarden	Confiscated by the "Einsatzstab Rosenberg," Amsterdam; report date: 6.9.46
"J.G. Guadagnini," violin, 1783, Turin. Certificate from Maucotel & Deschamps, Paris (SNK No. 20315)	Owner unknown. Additional references in US military files indicate that this violin was originally from the collection of a Dutch Jew who perished during the Holocaust.	Stolen. Allegedly acquired by Eldriede Bleier, of Stuttgart, for 12,000 guilders. Dutch file notes dated: 7.7.48
"Joseph Guarneri" violin, 1729 (SNK No. 16711)	Stichting Nederlandsch Kunstbezit	Thans Hindenburg, Polizei Kazerne, Netherlands War Crimes. Prior owner Hendrik Rynbergen; H. Schoppe van de N.V. Synthova Maatschappij. Sold for 65,000 guilder; report filed 25.11.46
"Josef Guarneri," violin (SNK No. 4462), mark inside the violin, "sub 6"	Dr. L. van Hussen, Eindhoven	Stolen from home during evacuation in fall of 1944; report date: 11.45
"Petrus Guarnerius," violin, 1721, Venice, two piece back, medium-width flame. Certificate from Max Möller of Amsterdam; bearing the number 7687 (SNK No. 656)	Owner appears to be Dr. Hergt, of Wiesbaden, with C. Schoemaker filing claim. C. Hengeveld appears to have sold the violin to Hergt, with violin dealer Hamma referenced in related documentation.	US Military records reflect a payment by Dr. Hergt of 30,000 RM for this violin. Violin dealer Hamma and C. Hengeveld appear to be involved in this sale; report date: 3 October, 1945
Guersan ("Gueisan" [sic]), viola da gamba (SNK No. 16011) carved head, ivory decorations on back and ribs, French	A.F. Dufour, Arnhem	Stolen; report date: 5.11.46

"Matthias Klotz," violin, 1700s (SNK No. 5257)	J.K. Ligtenberg, Den Haag	Confiscated by Germans; report date: 15.9.45
"Kuyper" viola, Italian violin, plus another violin (SNK No. 6118)	A. da Silva, Amsterdam	Stolen by Germans; report date: 4.10.45
"Leisemuller," violin (SNK No. 8757)	Mej. B. G. Spierenburg, Rotterdam	Stolen by Germans; report date: 31.10.45
"Imitatie Lupot," viola (SNK No. 5261)	J.H. Ligtenberg, Den Haag	Stolen by Germans; report date 15.9.45
"Mantegazza," violin, Mailand (SNK No. 668)	C. Schoemaker, Laren	Given for safekeeping to violin expert Hamma, for deposit in Frankfurt; custodian C. Hengeveld in Utrecht; report date: 3.10.45
"Panormo," violin, Paris (SNK No. 667)	C. Schoemaker, Laren	Given for safekeeping to violin expert Hamma, for deposit in Frankfurt; custodian C. Hengeveld in Utrecht; report date: 3.10.45
"Stainer," cello, 1700s (SNK No. 16010)	A.F. Dufour, Arnhem	Stolen; report date: 5.11.46
"Kopiert nach Stradivarius," violin 1839 (SNK No. 13547)	Mr.W.A.M. Cremers, Arnhem	Stolen from evacuated home by Germans; report date: 1.8.46
"Steiner," violin (SNK No. 2713)	J. Geradts, Posterholt	Stolen by Germans; report date: 13.11.45
Jean Baptiste Vuillaume, "An roi David," violin, Paris, 1859, with 2 bows (SNK No. 7701)	H. Frank, Amsterdam	Confiscated by Germans; report date: 2.46
"Jean Baptiste Vuillaume," violin, ca. 1843 (SNK No. 520)	Dr. C.F.P. Stutterheim, Tiel	Stolen from the Rotterdam Bank in Tiel; report date: 30.9.45
3 "kinderviolen" and 1 black pianola (SNK No. 16818)	Dutch Foundation Kunstbezit	Karl Prunk, via Treuhandverwaltung (custody); report date: 26.11.46

The last 64 years have garnered limited recoveries of such musical materials. Moreover, it is only very recently that musical compositions that were lost or suppressed during the Nazi era have gained attention through the efforts of a few, such as conductor James Conlon who aptly pointed out of this lost generation of composers:

"The Third Reich silenced two generations of composers and, with them, an entire musical heritage... Alongside Stravinsky, Strauss and other major and more fortunate figures, the varied voices of composers from Berlin, Vienna, Prague and Budapest, whether Jewish, dissident or immigrant, reveal much about the musical ferment of their time... The suppression of these composers and musicians caused the greatest single rupture in what had been a continuous seamless transmittal of German classical music... The 20th century needs to be re-scrutinized after we acquaint ourselves with the voluminous music cast out by the Nazi suppression."¹

The musical world has lagged far behind the art world in the mining of records and the development of this lost history. Inclusion of musical losses (and musical materials with provenance gaps) in online databases will enhance progress in this area, as would linking together the existing databases. In addition, the creation of a separate compilation of information pertaining exclusively to music-related losses may prove to be the most effective approach for provenance research.

¹ Maestro James Conlon. "Recovering a Musical Heritage: The Music Suppressed by the Third Reich." *The Orel Foundation*. <http://orelfoundation.org>. See also <http://www.jmi.org.uk/suppressedmusic/>; <http://www.musica-reanimata.de>; the Entartete Musik series, previously produced by Michael Haas on the Decca label.

I want to end with a few words about German composer Edwin Geist, who fled to Lithuania to escape persecution as a half-Jew in 1938, where his musical efforts continued. Geist was arrested and killed by the Gestapo in 1942. His niece, Rosian Zerner, herself a Holocaust survivor, has been trying to recover some of her uncle's music, currently in the Lithuanian Theater, Music and Cinema Museum, so that Geist's music may be rediscovered, performed, and enjoyed by a wider audience. I am very pleased to report that just two days before this presentation the Lithuanian Ministry of Foreign Affairs advised the US Embassy in Lithuania that the Ministry of Culture appears to have agreed, in principle, to turn over the Geist Collection in the Lithuanian Museum to the Geist heirs.¹

Unfortunately, these developments have been all too rare. For some musicians who survived the Nazi Era, memories of musical losses continue to haunt. Cellist Anita Lasker Wallfisch, an Auschwitz orchestra member and survivor now in her 80s in England, said of her still missing cello, "I had once been the proud owner of a beautiful cello made by Ventapane. God knows who plays on it now."²

Thank you.

¹ Some of Geist's musical manuscripts were recently discovered in the Music Department of the Berlin State Library. Ownership in this music was amicably resolved in favor of Geist's heirs, who have loaned the music to the Prussian Cultural Heritage Foundation. The first recording of Geist's compositions was made in 2007 by the *Deutsches Kulturforum östliches Europa*, supported by the German Federal Government's Commissioner for Culture and Media, winning an award from *Neue Musikzeitung*. In October 2008, Brandeis University and the Goethe Institute in Boston presented the US premiere of some of Geist's newly recovered music.

² Anita Wallfisch-Lasker. *Inherit the Truth*. St. Martin's Press, 1996, p. 150.

► Uwe Hartmann

BUREAU FOR PROVENANCE INVESTIGATION AND RESEARCH, GERMANY

PROJECT RELATED TO THE PROMOTION OF PROVENANCE RESEARCH IN GERMANY, TAKING STOCK AFTER THE FIRST YEAR

Introduction

In November 2007, the Federal Government Commissioner for Culture and the Media decided that the provenance research in Germany shall be considerably strengthened. Since 2008, the Federal Government Commissioner has been specially promoting research into cultural assets taken from their rightful owners as a result of Nazi persecution.

He is providing one million euros a year to help public establishments and institutions to research the provenance of items in their collections. The funds are channeled through the Bureau for Provenance Investigation and Research, which has been working at the Institute for Museum Research at the National Museums – Prussian Cultural Heritage Foundation in Berlin. The Bureau for Provenance Investigation and Research started its activity in June 2008. One year after initiating this way of promoting provenance research, the activity already achieved satisfactory results.

This report by the Bureau for Provenance Investigation and Research will contain a summary of the granted projects and reflect on first-year experiences.

Why Was Project Related Promotion of Provenance Research Started?

As a result of the Washington Conference on Holocaust-Era Assets and the realization of the Principles, more attention and a growing interest in the processing of the results of the National Socialist art and cultural asset robbery could be seen in Germany at large. Significant efforts to improve the provenance research considerably were also established. But soon the possibilities as well as the limits of this kind of historical research were clearly recognizable.

However, public cultural institutions and collections in Germany were largely caught unprepared for implementing the tasks resulting from the obligations laid out in the Washington Principles and the subsequently formulated Joint Declaration of the Federal Government, the Federal States and the National Association of Local Authorities (1999). Over the past ten years, investigations into unclear provenances were usually undertaken on a case-by-case basis, in response to specific information requests or restitution claims. In addition, efforts by public institutions to clarify provenance and identify former owners took place within an underdeveloped infrastructure.

Only a few museums and libraries had engaged qualified employees or charged staff members with provenance research as their primarily or almost exclusively scientific work. It also became increasingly clear that comprehensive research into the origin of historical artworks and other cultural objects – together with the goal of identifying heirs or other entitled claimants – could not be achieved in just a few short years.

Particularly with regard to the federalist system and the area of culture in Germany, one problem became clear: the majority

of the municipal museums, libraries and archives in Germany were unable to carry out systematic research because they had a low budget and a limited staff. The German states and the local authorities as the providers and sponsors of the public cultural institutions demanded more financial support and regular assistance.

The funding of provenance research projects with financial support from the German federal government is the way to give a new impetus after a period of stagnation during the past years.

The Tasks of the Bureau for Provenance Investigation and Research

The Bureau for Provenance Investigation and Research, which is affiliated with the Institute for Museum Research of the State Museums in Berlin – Prussian Cultural Heritage Foundation – has the task of supporting museums, libraries, archives and other publicly run institutions in the Federal Republic of Germany in the process of identifying those cultural artifacts in their collections or in their possession which were taken from their lawful owners during the period of National Socialist rule.

The establishment of the Bureau for Provenance Investigation and Research was the direct result of the findings issued on November 13, 2007 by the working group on matters of restitution set up by the Federal Government Commissioner for Culture and the Media Bernd Neumann. The financial resources for the day-to-day running of the Bureau for Provenance Investigation and Research have been provided by the *Kulturstiftung der Länder* (Cultural Foundation of the German Federal States).¹

¹ See: <http://www.kulturstiftung.de>.

From 2008 onwards, funds totaling one million euros will be assigned each year by the Federal Government Commissioner for Culture and the Media to support the investigation and study of the provenance of cultural artifacts in German public collections. The Bureau for Provenance Investigation and Research allocates these funds to individual projects.

The Bureau for Provenance Investigation and Research is also tasked with linking the findings of the various research projects, evaluating these and following up on issues that arise out of the projects either by conducting contextual research or by initiating further research projects. While the starting point of the Bureau's work is the loss of certain cultural assets by individuals as a result of National Socialist persecution, it is hoped that a bigger picture will emerge, shedding light on the history of important private collections, the functioning of the art trade in the National Socialist era, but also on the activity of the government officials involved in the dispossession of, in particular, the artworks owned by the Jewish population. As laid out in a cooperation agreement, the Bureau for Provenance Investigation and Research works closely with the *Koordinierungsstelle für Kulturgutverluste* (Office for the Documentation of Lost Cultural Property)¹ in publishing its findings and in the search for the lawful owners of art works.

The Bureau will work on facilitating access to the resources necessary for provenance research, for example enhancing the accessibility of relevant documents. It is also the aim of the Bureau to improve networking among individuals and institutions active in the field of provenance research and to encourage the sharing of the resulting information and experience.

¹ See: <http://www.lostart.de>.

What Kinds of Projects Can Be Promoted?

There are three different types of funding available:

1. *Short-Term Research Projects*

If administrations of museums or libraries are confronted with requests about former owners of pieces in public collections or with restitution claims and they have no information on a context of Nazi persecution and confiscation as yet, they can seize the opportunity to use the funding for starting research. The research results are supposed to help them to produce the first official statement in such cases.

Institutions which have short-term research needs, usually relating to ongoing restitution cases, can apply for grants of up to EUR 15,000. Decisions on such applications will be made within one month. The same procedure is applied with regard to applications for subsidies for drawing up legal expert opinions.

2. *Subsidies for Legal Expert Opinions*

If administrations of museums or libraries or their funding bodies need assistance with or consultations on legal technicalities, they can take the opportunity to use the funding for ordering legal expert opinions or for engaging lawyers. For this purpose, they can make an application for a grant-in-aid.

3. *Long-Term Research Projects/Systematic Checking of Collections*

Alternatively, institutions wishing to systematically study

their collections and to initiate wider research projects can apply for larger grants. Twice a year – in March and in September – the applications can be submitted.

The advisory committee to the Bureau for Provenance Investigation/Research bears significantly on the decision of which applicants are to receive this latter type of funding. The committee consists of representatives from the worlds of politics and culture as well as of experts from the fields of history and art history.

The funding bodies of institutions applying for grants are expected to match the funding to a certain degree. This kind of grant can be used for hiring research assistants for one or two years.

What Kinds of Projects Were Already Granted?

To date, 53 applications were submitted to the Bureau for Provenance Investigation/Research and funding has been allocated to 35 different projects. Among the 35 granted projects were 23 long-term research projects and twelve short-term projects. Twenty-three applications were submitted by museums, ten by libraries and two by archives.

- ▷ Checking museum collections – systematic indexing of inventories

Example 1: The Wiesbaden Museum

The research project of the Wiesbaden Museum is concerning with the paintings in the collection, which were purchased between 1935 and 1945 when Hermann Voss was the director of the Wiesbaden Museum. In addition Voss was the commissioner for the *Führerauftrag Linz* from 1943 to 1945.

- ▷ Checking library collections

Example 2: The Central and Regional Library Berlin (Zentral- und Landesbibliothek Berlin)

In 1943, the Berlin City Library purchased about 40,000 books from the municipal pawnshop. These books came from private libraries of deported Jews.

Staff members are making investigations to find the former book owners or their descendants.

- ▷ Examination of archive contents and interpretation of data for provenance research

Example 3: German Fine Art Archives Nuremberg (Deutsches Kunstarchiv im Germanischen Nationalmuseum Nürnberg)

Since 1972, the business documents of the Jewish Munich art dealer Heinemann have been owned by the museum. The Heinemann Gallery was one of the important German art galleries at the beginning of the 20th century. These documents cover the period from the formation of the company in 1872 to the expropriation (“Aryanization”) in 1939 and contain a lot of information about the art sales by the Heinemann Gallery. Many clients of the Heinemann Gallery were victims of Nazi persecution.

After finalizing the indexing and digitizing of the documents, information for research concerning about 15,000 works of art and 10,000 persons and institutions will be available online.

- ▷ Connecting the indexing of collections with historical contextual research

Example 4: Bavarian State Painting Collections, Jewish Museum Munich, the Municipal Gallery, the Munich City Museum, the Villa Stuck Museum, the Bavarian National Museum and the State Graphic Arts Collection Munich (*Bayerische Staatsgemäldesammlungen, Jüdisches Museum München, Städtische Galerie im Lenbachhaus, Münchner Stadtmuseum, Museum Villa Stuck, Bayerisches Nationalmuseum, Staatliche Graphische Sammlung München*)

The collaborative research project of the state and municipal museums in Munich entitled *The fate of Jewish art collectors and dealers in Munich 1933–1945* was started on June 1, 2009. The aim of the project is to reconstruct what happened during the *Judenaktion* in Munich in the winter of 1938/39. At that time the Gestapo seized artworks from about 30 Jewish collectors and about 70 Jewish art dealers. These works were initially acquired by the Bavarian National Museum and the Munich City Museum and then further distributed to the Munich Galleries (*Alte und Neue Pinakothek*) and other museums in Munich. The documentation of these art collections and its whereabouts is scheduled.

Perspectives

From the viewpoint of the provenance research post, the list of the tasks required in achieving sustainable research results on the origin and whereabouts of artistic and cultural assets directly or indirectly related to the National Socialist tyranny is as follows:

- ▷ Improvement and expansion of the infrastructure of provenance research, which means abridging the research paths and preventing redundancy when one and the same confiscation or acquisition proceeding is researched two or three times. This applies in particular to the intensified and in-depth examination of certain archive contents and the online publication of the corresponding indices, the verification of the auction catalogues and their examination and appraisal, as well as the question of the handling and in particular the archiving of whatever internal “business documents” have been handed down within a museum or library – for example the correspondence between a director and art dealers or public authorities.
- ▷ The acceleration and expansion of online access to informational resources on the model of an open source community of knowledge, together with a further development of user-based processes to enable more flexible search and query procedures.
- ▷ The development of provenance research as the organization of a continuous scholarly dialogue within the community of the discipline, with an exchange on the principles of action, the subject areas of research, etc.
- ▷ The creation of research associations – both institutional and international, not only among museums and libraries but also above all with universities and other research institutions and among disciplines – in particular a closer relation between the research efforts in art and current developments in cultural history and contemporary history.

Consequently one of the main goals of the Bureau for Provenance Investigation and Research is to set up a secure virtual space for the provenance research community, which is to function as a socio-technical system. The Bureau for Provenance Investigation will act as an editor and custodian of this information system and function as a contact partner. The results of research and the outcomes of projects supported by federal funding will also be incorporated in the information system.

A shift from a predominantly reactive examination of the provenance of individual objects in the collections to the systematic indexing of inventories in the course of reconstructing and documenting the developmental stages of public and private collections, especially for the second third of the 20th century, remains the major challenge of provenance research for the near future. With the project-oriented research funding established in the past year, an apparatus has been made available in Germany that can link the research on individual cases with contextual research and that can be further built upon.

► **Jacques Lust**

BELGIAN FEDERAL SCIENCE POLICY, BELGIUM

**PROVENANCE AND WORLD WAR II: ART,
RESEARCH, AND ILLUSION**

Ladies and Gentlemen:

First, I want to thank Mrs. Charlotte van Rappard-Boon. She is a long-time friend, and a courteous and devoted colleague of DS, who always combines intelligence with common sense. Also, I

am more than honored to be in the same panel with Ms. Nancy Yeide, whose recent and awaited publication on the Göring collection forms high point of publication in this field of expertise.

Second, I want to remark, that in the program of this working group panel, a question mark was unintentionally omitted in the title “Art research and illusion?” thus changing its meaning. Of course, it is a small dedication to Ernst Gombrich, a highly respected scholar of art history, who in his book *Long-life Interests* describes his fleeing of Vienna in the thirties with his family to London.

Last but not least, I want to thank Mr. Bady, who explained yesterday a lot about Belgium. Rather than spending time on explaining what the general background of the problem is, I can focus on the important details.

Last month, Mrs. van Rappard asked me a few questions. The first thing she asked me was: What happened in the area of provenance research in your country? In 1994, Belgium began a search for cultural goods that had disappeared during World War Two. In 1998, the Belgium Stvanudy Commission started investigating lost property in Belgium, and made an inquiry at thirty cultural institutions, not only at the largest museums, but also in the Royal Library of Belgium, the Royal Museum of the Army and Military History, and other institutions, which might be possible holders of Jewish property.

Afterwards, between 2003 and 2008, the Commission of Indemnification, whose president is here among us, dealt with more than 5,000 individual demands for lost property. A total of 160 special reports on cultural losses were made, and only in two cases a link was found between our museums and the concrete

cultural institutions, resulting in requests for the restitution of cultural goods. As I have said, we did the search in public museums and institutions that were mainly linked to restitution efforts initiated in Belgium after the Second World War. However, we also investigated in the municipal museums in Liege, Antwerpen, Gent, Bruges, and other cities.

In 2001, Belgium published its findings in a final report that included 300 cultural objects and groups of several objects. We did not publish the guidelines, but we might publish them after the adoption of the Terezín Declaration. We used the experience of France and Netherlands, who taught us a lot and who were also moving much faster than were.

Another very good question asked by Mrs. van Rappard was: Were new sources of materials found? Yes, we found a lot of new sources of materials deposited in archives extending over several kilometers. To give you an example of such large archive, in Belgium we have safeguarded an archive of the Ministry of Reconstruction responsible for material damages to private persons. That archive is about 27 kilometers long. Seven hundred dossiers were examined with a focus not only on the Jewish community at large, but also on every individual in Belgium. We did not publish the data on the internet as they did in the Netherlands and France, but all the information, including the restitution information, will be made available before the end of this year or at the beginning of the next one.

To keep my speech brief, I would like to make a few short points. First, I want to point out that sometimes, through our national actions, we might be duplicating research that has been already completed or inquiries that are pending. I have very much respect for the fantastic project of the ERR, which aims to bring all

the research information under one roof. However, I have been in the business now for fifteen years and we have always been talking about the group Rosenberg, which of course is important (even though in Belgium it was only a small group). But we have been working on these documents for a very long time, and we have still about forty or fifty kilometers of relevant documents to examine.

Second, I would like to make a remark on what I call the tyranny of the masterpieces. At conferences, we often hear the same case stories, and I have to say mostly from the lawyers, in which we see the masterpieces being rediscovered and reclaimed. That is of course understandable. Establishing the provenance of the masterpieces is probably easier because there are reasonably direct lines to follow during research. However, 90 percent of the art we are involved with is of lesser value and is much less known, such as musical instruments. There, conducting the provenance research is more difficult and thorough, but the information obtained throughout the process is very important. In provenance research, we are confronted with a mass of information and it is not always easy to find the right piece of data. For example, in the case of material damages, if there are a few unidentified paintings in Belgium, and 700,000 dossiers classified in an administrative way that need to be studied, it is not easy to establish the provenance of the artwork quickly. Nor is it easy to say: We will put it on the internet. That is impossible.

Third, I would like to say that sometimes, surrounded by the terrible tragic events and the importance of the provenance research, we tend to forget that there are also many other fields and restitution policies that have been developing in the past years. A simple example is the case a most European countries with a colonial past are dealing with – the issue of human

remains. This is sometimes forgotten by researchers in some of the fields whose focus is traditionally quite narrow.

My last remark has to do with the profession of a researcher. In my opinion, the expert researcher or the provenance researcher should remain a researcher in the first place, and not become a politician, as we sometimes experience when listening to some of the speeches, because then the facts suddenly seem to disappear and objective views are influenced by a personal relation to the provenance. Likewise, the politicians should not be experts in research fields because then the issues will become more politically charged. We should all focus on what we are good at.

As for provenance, it will definitely retain its crucial importance for every form of collecting. In reality we sometimes tend to forget to look for the connections leading to every point in provenance research. Sometimes the remembrance of the people is forgotten or given only a short space of four or five lines.

If you looked up the materials on postwar restitutions in Belgium, there are some people who were deported and now are completely forgotten. The museums that have their works do not have any relevant materials, because art historians have the tendency not to use too many of the historical documents, and historians do not always look at the other materials. And it is difficult to find people from both sides of the aisle, people who speak four or five languages, who could create bridges among these issues. Nevertheless, it is important to be constantly aware of the complexity of the issues at hand and to find and establish the right lines of provenance, so we can come up with objective results not only in the area of restitutions, but also in the area of history.

To conclude, I believe that the provenance research is important and we need to continue. However, there is one thing I learned while working in Belgium with the different commissions. During the talks on the Belgium agreement, the Jewish community in Belgium cooperated very closely at every step we undertook over the last ten years. And it taught us a lesson in modesty – modesty and humility towards the history, the sense of it and the tragic events of the past.

I thank you for your attention.

► **Nancy Yeide**

NATIONAL GALLERY OF ART, USA

PROVENANCE RESEARCH IN AMERICAN MUSEUMS

There has been a lot of talk at this Conference about provenance research and archival access. However, with the notable exception of my colleagues on this panel and a few people in this room, very few people at the Conference have actually engaged in provenance research. Therefore, I am especially glad to give a voice to provenance researchers. I would like to make some comments about this research because in the end, it is the research that should be the foundation upon which ownership decisions are made. On this panel we are talking about art, fine arts, and increasingly applied arts, and even musical instruments.

Provenance research starts with identifying the object in question; it cannot start anywhere else. It is often noted that artists work in genre, repeat themes, and may create multiple versions of a composition. But the visual examples should bring this home.

The Virginia Museum of Fine Arts had to sort out the histories of eight versions of the same portrait, in order to resolve an ownership claim. A provenance researcher spends a significant amount of time determining whether the object at hand is the same as that referenced in the archival documents or scholarly literature. Another problem in identifying paintings can be measurements, which can be recorded with or without frames or pedestals, inaccurately recorded, or changed over time. One might think that a painting might be trimmed down and is unlikely to become larger. However, this example proves otherwise. One of multiple versions of the *Madame de Pompadour* owned by the Rothschilds was originally square and had over the centuries been enlarged by significant additions to the composition to form an oval.

Unlike contemporary cars or houses, art objects do not carry paperwork with them to prove each transaction. And while one might wish and believe this were not the case, the simple truth is that it is. Today's expectations for what a provenance researcher can achieve often exceed reality. The art trade was never a business for title transfer documents or standards, although invoices and correspondence may exist.

The goal of provenance research is to trace the ownership and location of an object from its creation to the present. Because of the manner in which the object might have changed hands, that valuable documentation for each transaction varies widely. Whether the object was transferred by sale, gift, trade, inheritance, or in some other manner, the issue of available documentation is critical. Even evidence of those kinds of transfers that are most likely to be documented such as sales, consignments, or public auctions, may not exist or may be inconclusive. Therefore, ownership must often be determined through art historical

sources, such as *catalogues résumés*, artistic monographs, exhibition catalogues, scholarly articles, annotated sales catalogues, published reports and dealer advertisements, to name just a few. These, however, must be critically considered and corroborated.

For example, I found this little picture¹ by the artist Gerrit Dou called *Rembrandt's Mother Peeling Apples* listed in a postwar report on Göring's collection as having been sold to him by a private collector in the Netherlands. Eventually, I found the painting had been lent by the Dutch collector to a 1938 exhibit in the Netherlands, and in that catalogue, the provenance was traced to an important 1928 sale in Berlin. Meanwhile, I found that the painting was now at the Gemäldegalerie in Berlin, who had bought it at the 1928 sale. So how could it have been lent by a private collector in 1938, while owned by the Berlin museum? To make a long story short, the 1938 catalogue was in error and the Göring picture from the Dutch collector is a previously unknown version of the Berlin painting. Göring traded his Dou back to Alvan Meedle, who fled with it to Spain in 1945. It was discovered there after the war, but eventually released, and has never been seen since. I only found this out by reviewing as many documents as possible, consulting a Dou specialist and the family of the Dutch collector.

While working with archival documents, which rarely include images, one must be particularly careful to not jump to conclusions or create misconceptions. The nature of the archival record is such that it may be incomplete or inaccurate. One has to realize that although the archival documentation is extensive, the records are often vague, and it is not always possible to conclusively connect the documents with a particular object.

¹ This speech was accompanied by the PowerPoint presentation.

For example, Makart's *Beautiful Falconer* is one of the most recognized paintings in Göring's collection. It was a 1938 birthday gift from Hitler, the occasion itself captured in a widely reproduced photograph. First known from an important Romanian collection, the picture is well documented within the records of Göring's collection that were available to postwar investigators. Nonetheless, when it was recovered with Göring's collection, it was catalogued as a painting depicting Brunhilda, a topic with which she has never been associated before or since.

Most importantly, I think, the lack of documentation should not be taken to mean that a transaction did not occur. One must recognize the possibility that relevant documents created during the time of great upheaval and subject to a significant amount of relocation may no longer exist. One must weigh whether such a document ever would have existed, and if so, how it may have been lost or destroyed. And if one locates documentation, one must always attempt to corroborate the contents.

If the object is the beginning of provenance research, it is placed within a context of art collecting, and art dealing must also be understood. It is simply inaccurate to move a single transaction from the surrounding circumstances. Why did the collector collect, out of investment, passion, social or familial influences? Did he or she routinely put objects on consignment, where and how were the objects displayed? It is only within the context of the individual collector and the place and time in which he or she lived that one can understand the movement of art. Collectors move in the same social circles and are often related by marriage. And while these connections may sometimes complicate tracing an individual picture, they also provide a different avenue of research that may prove fruitful.

Collectors often have an ongoing relationship with a given dealer, buying and selling regularly to shape their collections. Relationships with important collectors were highly guarded business secrets of dealers and auction houses, whose records may be couched in attempts to protect their interests. For example, cable correspondence between the Devin Galleries in New York and its European branches routinely employed code names for collections for fear of rival dealers. Code names do not necessarily imply anything nefarious, but were normal practice.

Provenance research is interdisciplinary. It requires knowledge of art history, history, the assembly of collections and the locations of archival materials. It is like the proverb of the blind men touching different parts of the elephant and each coming to a different conclusion. I come to this area as an art historian, and I tend to concentrate on the object, while historians view the larger picture, often neglecting the specifics.

Provenance research challenges us to contact experts in a wide range of fields. For example, the larger context of the turbulent German economic situation after WW I and the world financial crisis resulting from the stock market crash set in motion several liquidation proceedings of art collections. The best research results from combined effort utilizing the expert knowledge of not just art historians and historians, but economists and legal experts as well.

Similarly, the archival research, the archival resources documenting Nazi confiscations and postwar restitution were until recently outside the scope of traditional provenance research. The wealth of Nazi era-related information that has appeared in the last ten years is remarkable. A community of scholars has discovered new resources, new methodologies, and a greater

understanding of the interconnections between documents scattered worldwide.

Previously lesser known resources include complicated texts, estate, property, import, export, and other European records that are necessary to support ownership history prior to the ascent of the Nazi regime. Even in the United States archives, I found new sources that shed light on the complexity of the movement of art during the war and in the postwar period. There is an ever-expanding circle of the types of archival documents that need to be consulted. However, as the types of materials being consulted expand, so does the possible misuse of archival documents by accidental misunderstanding of their meaning in context. For example, the US Office of Censorship routinely censored wartime correspondence between the USA and Europe, including that of dealers and collectors. These people knew they were being censored and wrote accordingly to avoid their correspondence being intercepted and lost. Consequently, you cannot take every word at its face value; you must read between the lines.

Similarly, the Office of Alien Property tasked with monitoring currency transactions between the USA and Europe as a part of economic warfare required foreign firms and individuals in the United States to register their assets and routinely investigated currency movement. The mere existence of such a report is not proof of the person having been investigated. And finally, the Art Looting Investigation Unit list of red-flag names is routinely misused despite the cautions written in the document itself. So I think that just as much, if not more care has to be taken in interpreting documents as in locating them.

Finally, since the title of my talk is Provenance Research in American Museums, I am going to mention the effort of American

museums to provide provenance training, exchange results, and make museum provenance information available. In 2001, we published the AAM Guide to Provenance Research. In 2001 and 2003, we sponsored two seminars hosting almost two hundred US museum professionals to train them in provenance research. Sessions on provenance research are held every year at the annual meetings of the American Association of Museums, and in 2001, the AAM consolidated a Best Practice Brochure for museums' guidance. The AAM also maintains tools for US museum professionals currently working on the World War Two era in provenance research field. And in 2004, we hosted the international Provenance Research Colloquium in Washington, and published the papers under the title of Vitalizing Memory. And we have all heard several times already about the Nazi internet portal.

Returning to the research itself, I have a few closing points. One concerns the need for cooperative research efforts. Working in isolation is not efficient, and can be counter-productive. In the United States, the collegial sharing of information has been successfully conducted on a fairly informal level. For example, recently I was looking into the provenance of a Manet painting at the National Gallery, and I found a document that showed it had been in a Swiss collection and next appeared in the USA in 1940. The next document I found from the United States Treasury revealed its history. It left Switzerland in 1937 for exhibition in France, and then came to the United States in 1941, where it was shortly sold and the funds deposited to the accounts of the collector's family. However, it did not travel alone. In a consultation with a colleague at Harvard, we determined that a Monet listed on a document is the *Gare St. Lazare* at the Fogg Museum, further that a Villard is now in the Museum of Fine Arts in Boston, and a Cézanne in Toledo. Through our cooperative efforts,

the uncertain provenances of four separate paintings have been clarified.

I also think that there is a need for pure research that makes the contribution to the field as a whole, in addition to the results of specific individual investigations. Sophie Lillie's book on the Viennese collections is an example of publication that made previously inaccessible documents available to a wide audience. Likewise, Burkert Schwarze's book on the Linz Collection provides not only a basic understanding of historic documents, in this case Hitler's albums, but also a record of the objects contained therein.

Finally, my work on Göring is an attempt to do the same thing. My initial intention was to help colleagues who did not have the same access to archival documents that I did by researching Göring's collection as a whole and making the results available as a foundation for further scholarship. More independent research grounded in archival documents would benefit the entire field.

To conclude, I just want to say that I am concerned about the tone of some of the conversations that took place at this Conference and with the press. I think unnecessary antagonism between sides does not benefit anyone. When the first contact is made with a museum or a private owner via a law firm, the result is that all subsequent correspondence is limited to the legal representatives of the claimant and the other party, setting up an adversarial relationship, establishing a mentality of defensiveness, and anticipation of potential litigation. This also creates an administrative layer between the provenance researchers on each side of the case, which is an impediment to the true sharing of information and documentation and its ultimate goal, the

unearthing of a true history of the object and its previous owners. As cooperative research among museums shows, the whole is greater than some of its parts.

► Sophie Lillie

INDEPENDENT SCHOLAR, AUSTRIA

THE BACKLASH AGAINST CLAIMANTS

"The world should let go of the past and live in the present." This uplifting advice comes from Sir Norman Rosenthal whose sweeping judgment on the invalidity of restitution claims reverberated through the art world last fall. In an op ed piece published in December 2008 by *The Art Newspaper*, the former exhibitions secretary of the Royal Academy of Arts provocatively called for a unilateral statute of limitations to inhibit Holocaust-era restitution claims, arguing that "each person should invent him or herself creatively in the present, and not on the back of the lost wealth of ancestors." According to Rosenthal, artworks are inherently better off in public collections than returned to claimants "distanced by two or more generations from their original owners." In an usual display of twisted logic, Rosenthal argued that the stain of Nazism could not be cleansed by the restitution of masterworks from museums since "neither Rembrandt nor Klimt were responsible for those political crimes."

Rosenthal's position was enthusiastically seconded by Jonathan Jones of *The Guardian* in January 2009. In a lengthy art blog, Jones argues that "nothing in today's art world is more absurd or insidiously destructive" than the return of artworks looted by the Nazis. Why? Because such works, according to Jones, are invariably

sold on the market. Jones scathing commentary on the deaccessioning and subsequent sale of art works is that “memory is being vandalized in the name of memory.” Museums, he says, are “beacons of civility and culture” and it would be brutish to weaken them through restitution claims.

Rosenthal’s and Jones’ arguments are indicative of a very serious and deeply disturbing backlash against Holocaust claims. Although it has to some extent accompanied restitution activity throughout the past decade, the assault on restitution regained momentum in 2006, following the return of five paintings by Gustav Klimt to the Bloch-Bauer heirs or Ernst Ludwig Kirchner’s *Streetscene* to the heirs of Alfred and Thekla Hess. In the wake of such monumental recoveries, skeptics gave in to the anxious perception that public institutions were being assailed by spurious claimants seeking undue reward for their families’ suffering.

Reactions against restitution are triggered less by actual fact than by increased possibility. Both the Bloch-Bauer and the Hess recoveries were exceedingly rare and hard-won victories. Overwhelmingly, Holocaust survivors have not received the compensation they deserve. In fact, the value of five Klimt paintings recovered by the Bloch-Bauer family exceeded the total sum that Austria pledged as global compensation for all Holocaust-related losses under the Austrian General Settlement Fund. Restitution critics – sometimes more so than its advocates – understand, however, that the issue at stake far exceeds the surrender of individual works. By subjecting museums to far-reaching scrutiny of their collections, provenance research questions the very premise on which such institutions rest. In anticipation of this imposing threat, critics fearfully monitor the increased stature being afforded to Holocaust-era claims. Ironically, Rosenthal’s rigorously defensive attitude is the best indicator that we are making headway on restitution issues.

The most convenient discrediting of restitution claims is the passage of time since these crimes took place. Backlashers like Rosenthal argue that the right to restitution should expire with the death of the original owners. They ignore the real reason why we are dealing with claims today rather than fifty years ago. The fact that we are still undoing these wrongs simply demonstrates the extent of the Nazis’ spoliation of Jewish property, as well as the inadequacy of restitution provisions in the postwar period to undo these crimes. Most governments did little to support Jewish restitution after the war and at times actively conspired to deter such efforts. Many claims failed because court proceedings privileged owners of looted art over claimants. In Austria, art restitution was typically made contingent upon export embargoes – a strategy used by the Austrian state to prevent the removal of artworks considered of national heritage. None of these factors that obstructed the timely return of Nazi loot lay in the responsibility or indeed in the realm of influence of Nazi victims.

Blaming the victim is doubly attractive when it is Jews who join in the lamentations against restitution. The son of Jewish refugees from Germany, Rosenthal has allowed himself to be recruited to attack the Jewish cause, and has put his own biography in the service of restitution opponents. Commentators such as Diethard Leopold, the son of the Austrian collector Rudolf Leopold, eagerly snapped up Rosenthal’s “idiosyncratic, non-politically-correct” view that looted works, when in public hands, make up a “universal museum.” Writing for the Austrian newspaper *Der Standard*, Leopold junior suggests that Washington Conference’s call for “fair and just solutions” might be better accommodated if paintings remained in the possession of museums rather than being returned to their rightful owners. A psychologist by training, he suggests that claims might be resolved on the premise of

“what the original owners, indeed, what the artist himself would do with their paintings today,” going so far as to recommend that one let paintings “speak for themselves.” In a self-serving and bizarre hyperbole, Leopold junior concludes that paintings – if in fact they were able to do so – would no doubt choose to be publicly displayed.

The backlash deceptively frames itself as a sophisticated “post”-restitution debate that transcends the boundaries of common law and morality, yet it is not above resorting to the rhetoric of moral outrage to castigate Holocaust claimants. In 2006, Michael Kimmelman of *The New York Times* wrote of the Bloch-Bauer return: “Wouldn’t it have been remarkable... if the heirs had decided... to donate one or more of the paintings to a public institution?” In so doing, Kimmelman suggests, “they would have underscored the righteousness of their battle for restitution and in the process made clear that art, even in these money-mad days, isn’t only about money.” The underlying message is clear: Jews are expected to be modest and selfless – lest assertive or confident behavior harvest anti-Semitism. Moreover, victims bear the onus of making good on history. In a peculiar conflation of fact, backlash diverts responsibility away from Nazi perpetrators and instead faults the children and grandchildren of Holocaust victims for the insufficiencies of the restitution practice.

Of course the opponents of restitution insinuate that the art market is the true catalyst of the “Shoah business.” Undoubtedly, the art trade has proven beneficial for provenance research since the value afforded to art has ensured that the issue be taken seriously. There are obviously congruent interests. Auction houses must inhibit the resale of looted art and therefore actively investigate the provenances of works they sell. Needless to say, the ulterior motive informing this commitment is to sell

works that are being deaccessioned from the world’s finest institutions. But precisely because of this vested interest, art dealers have become potent allies in promoting and upholding the principle that looted art has no resale value and cannot be sold on the open market.

Backlashers like to argue that artworks are better kept in public than private collections. They ignore the fact that continental European museums were often intimately involved in the process of dispossession. When Jones praises museums as “beacons of civility and culture,” he erroneously points to the *Hermitage* in St. Petersburg and the *Tretyakov Gallery* in Moscow – institutions notorious for harboring trophy art collected from Nazi Germany. Similarly, Jones’ sympathy for Vienna’s *Belvedere* and *Kunsthistorisches Museum* overlooks these museums’ active role in dispossessing Austrian Jews during the Nazi era, and in preventing the return of looted art through the strategic enforcement of postwar export embargoes. “Memory is being vandalized in the name of memory,” writes Jones. Indeed, it would be more appropriate to say that history is being vandalized by a new brand of revisionism.

Museums have no intrinsic, superior right to art over private individuals, and no inherent redemptive quality that justifies the display of looted art. Museums become “beacons of civility and culture” by returning looted art, not by holding on to it. They earn our respect by acknowledging the origins of their holdings, and not by concealing the questionable mechanisms by which they were acquired. And while today’s museum administrators are not responsible for past injustices, they must be held morally and politically accountable as institutions for returning property that was unrightfully acquired or traded in the Nazi-era – even if such works were acquired in good faith. The backlash argument

stands truth on its head by arguing that the very steps that have heightened the moral position of museums have in fact paved the way to their erosion and downfall.

Nazi looting not only destroyed Europe's finest private collections, but also erased from memory the names of countless individuals who collected and sponsored art at the turn of the 20th century. The Holocaust eclipsed the singular contribution of Jewish collectors such as Heinrich Rieger, Oskar Reichel or the Zuckerkandl family and allowed their legacy to be superseded by the generation of collectors active during and after the Nazi era. Among the profiteers were such individuals as the German art dealer Wolfgang Gurlitt who copiously acquired and traded art in the Nazi era; in the 1950s, his collection became the foundation of the museum now known as the Lentos Museum in Linz. Another is Gustav Ucicky, a son of Gustav Klimt, who acquired numerous Klimt works from Nazi-looted collections, many of which he bequeathed to the Belvedere upon his death in 1961. Today's process of restitution reinvests these looted works with the history of their earliest owners from which they were severed.

Responding to Rosenthal's commentary, the German minister of culture, Bernd Neumann, issued a statement pledging his government's "unerring moral commitment" to restitution. Great Britain's Department for Culture, Media and Sport similarly affirmed that it would not resile from its restitution policies. Political commitment to restitution is crucial to transforming public opinion and to prevailing against backlash. Governments are called upon to implement the appropriate legal frameworks for the return of Holocaust-era art from publicly sponsored collections. They must provide adequate funding for comprehensive provenance research and the publication of its findings, and

bind museums to uniform standards of professional conduct and good practice. Similarly, museums must take a proactive stance towards art restitution to ensure that provenance research is accomplished speedily and of their own. Proactive research serves museums and claimants by disassociating itself from market politics and ensuring that artworks receive the attention they deserve regardless of their monetary value. Finally, we are called upon as scholars to establish provenance research firmly as an academic discipline, based on theoretical groundwork and specific methodologies, if we mean to set the restitution agenda on our own terms. The justness of our cause is inalienable. We can and we shall resist the backlash against claimants to ensure the continued restitution of Holocaust-era art.

Working Group: Judaica and Jewish Cultural Property

The State of Provenance Research in State, Public and Private Collections

► **Karen Heilig**

CONFERENCE ON JEWISH MATERIAL CLAIMS AGAINST GERMANY, USA

HOLOCAUST-ERA LOOTED JUDAICA AND JEWISH CULTURAL PROPERTY: A WORLDWIDE OVERVIEW

The following is an overview based on preliminary data. It represents the results of the current best efforts research of the Conference on Jewish Material Claims Against Germany (“Claims Conference”) and the World Jewish Restitution Organization (WJRO) and is based upon information obtained by the Claim Conference/WJRO to date. It may contain factual or other errors. Governments, non-governmental organizations, and individual experts are invited to make corrections and comments on the website of the Claims Conference.¹

The main organizations of the world Jewish community active in the restitution of property looted from victims of the Holocaust, namely the Conference on Jewish Material Claims Against Germany and the World Jewish Restitution Organization, have been working with Jewish communities around the world to bring

¹ See: <http://www.claimscon.org>.

increased attention to the restitution of looted Judaica and Jewish cultural property. The organizations have been focusing on the systemic issues involved in the restitution of Judaica with the intent of improving and creating processes to enable more communities and individual owners and heirs to recover their property and to ensure that Judaica is held in appropriate places and is appropriately used. In this regard, extensive research has been done over the past years on the status of provenance inquiries and of claims processes for the identification, location, and restitution of Judaica in most, if not all, relevant countries, and discussions have been held with many, if not all, ministries of culture and other relevant organizations.

Partly in preparation for the Holocaust Era Assets Conference in Prague, in the beginning of 2009, the WJRO and the Claims Conference made public over the website² of the Claims Conference a *Descriptive Catalogue of Looted Judaica* that provides for the first time since the end of World War II a worldwide “snapshot” of what is known concerning the fate of Judaica that was spoliated by Nazi Germany and its allies. After a summary of the history of Nazi looting of Judaica and of restitution efforts after the war, detailed information is presented there for 47 separate countries, as well as a list of relevant archives, a bibliography, and a list of the leading experts in the field throughout the world.

Using the information in the Descriptive Catalog of Looted Judaica, this paper provides a summary of what is known concerning the current location of looted Judaica and the state of provenance research worldwide – with brief individual country summaries appended – and offers some suggestions for the future so as to ensure the identification and return of plundered Judaica,

² See: <http://www.forms.claimscon.org/Judaica/>.

which is important in itself but also important for safeguarding the knowledge concerning the history of the Shoah and for its remembrance.

Claims Conference/WJRO Policy

In regard to looted art and cultural property, including Judaica, the current approach of the Claims Conference/WJRO is as follows:

1. The commitment to the restitution of looted cultural and religious property to their original owners is a continuation of the commitment in the past and present to restitution of other forms of looted Jewish property.
2. The Claims Conference/WJRO prioritizes at present two areas:
 - (a) Provenance research – so that information regarding the location of looted items is publicly available;
 - (b) Establishment of fair and just claims processes for claimants.
3. The Claims Conference/WJRO does not take on the representation of individual claimants.
4. The effort to ensure that Judaica is held or used by appropriate bodies is of the utmost moral importance. Particular focus should be on *tashmishey kedusha* and *tashmishey mitzvah*. Prioritization regarding this effort is critical after completion of current research and review of existing research. The types of solution in any given case to be sought will vary from country to country and from case to case.

Definition of Judaica

By “Judaica” is meant historical and literary materials relating to Judaism. Included are not only objects that carry a quality of holiness (*tashmishey kedusha*) or that are essential to the performance of a particular ritual or commandment (*tashmishey mitzvah*), but also those that have no intrinsic quality that can be defined as sacred or holy. Included are not only archives, libraries, and objects relating to Judaism as a religion but also daily objects of Jewish life as well as those relating to Jewish organizations and Jewish life generally.

The classic example of an object carrying a quality of holiness is a Torah scroll, and the fate of Torahs and other handwritten ritual scrolls containing the name of God is of particular concern to religiously observant Jews.¹

With the destruction of the Temple in Jerusalem in 70 CE, the dual foci of Jewish life became the home and the synagogue – thereby increasing the quantity of Judaica held by individual families and communities. In addition, other features of Jewish life in the Diaspora such as the constant threat of exile and prohibitions on synagogue construction resulted in a proliferation of elaborate portable objects. At the same time, the development of Jewish law through the didactic discourse of Rabbis led to publishing of Jewish books. These and other factors contributed to the fact that on the eve of the Nazi era, hundreds of thousands of items of Judaica were being held by European Jewish families and communities.

¹ For a full description of the definition of Judaica, please see the Introduction to the *Descriptive Catalogue of Looted Judaica*, pp. 7–8, <http://forms.claimscon.org/Judaica/>.

Current Location of Judaica Looted by the Nazis and their Allies

The spoliation of Jewish cultural and religious property was an official part of the Nazis' campaign against those labeled as "ideological enemies of the Reich." Aside from objets d'art, myriad Jewish cultural and religious objects were also looted from 1933 to 1945, including various kinds of Judaica, such as ritual, sacred and/or everyday objects, books, and archives. Numerous looting agencies, both within the Reich (including those territories that were annexed to Nazi Germany such as Austria, Poland, Silesia, and Czechoslovakia), as well as agencies operating outside it in the Nazi-occupied territories and in countries allied with Nazi Germany were responsible for what can be called the greatest theft in the history of humanity.

In addition to what was taken by the Nazis and their allies, at the end of the war there was also Judaica that simply remained abandoned as the result of the murder of its owners.

Most of the Judaica of Europe was removed from its countries of origin. Much of that which had been taken by the Germans or that remained abandoned was then taken by the Soviet trophy brigades and removed again to be transferred to the former Soviet Union. While some of the looted Judaica that was not destroyed during World War II was eventually returned to the families and communities to whom it had belonged before the war, the extent of the genocide was so great that in most cases the families and communities ceased to exist.

Much Judaica, whether truly heirless or not, wound up in government repositories in many countries. In many cases, the government attempted to return the Judaica to individuals

or the Jewish communities. However, in Eastern European countries large amounts of Judaica were deposited with governmental institutions – for example in Poland, where the government deposited large amounts of Judaica in the Jewish Historical Institute in Warsaw, and in the Soviet Union, where the government deposited huge collections originally from Jewish libraries into state libraries in Minsk and elsewhere and placed archival collections in the *Osobyi Arkhiv* (Special Archive) in Moscow, now part of the Russian State Military Archive (RGVA).¹

As a result of this history – and partly, but only partly, as a result of the tremendous geographic and demographic changes in world Jewry in the middle of the 20th century – Judaica looted by the Nazis and their allies may be found today in a great many countries around the world. There are 28 countries in which foreign Judaica (Judaica that was looted by the Nazis and their allies in other countries) is specifically known to be located. But the actual number of countries in which objects of looted Judaica are to be found is much greater.

Due to a lack of records, it is not possible to provide a complete survey of how many books, ceremonial objects and Torah scrolls were internationally distributed following the war. The distribution of "heirless" Judaica by Jewish Cultural Reconstruction and the Jewish Successor Restitution Organization (entities formed by international Jewish organizations after the war), which has been studied, is only part of what happened in the West.

No distributions of heirless Judaica were made by Jewish Cultural

¹ For a full description of the spoliation of Judaica and restitution attempts after World War II, please see the "Overview: Historical Background" in the *Descriptive Catalogue of Looted Judaica*, pp. 9–33. <http://forms.claimscon.org/Judaica/>.

Reconstruction to East European countries due to the rise of communism, but a number of East European countries received foreign heirless Judaica in other ways, as previously noted. However, no study has yet been made of the distribution of Judaica brought into the Soviet Union by the trophy brigades, nor for the most part have there been studies of the distribution of Judaica in other countries of Eastern Europe.

For various reasons, some countries currently have comparatively large amounts of Judaica looted by the Nazis and their allies during the Holocaust. In some cases this is primarily foreign Judaica looted in other states that was then brought into the country. In others it is Judaica left in the country because of the murder and/or flight of its Jewish citizens. In others it is Judaica that at the end of the war was in geographic areas subject to changing borders and therefore is now in a different country. In still others it is Judaica that was looted during the war but returned by the Allies to the country, though not necessarily to the original individual and communal owners. In others it is the result of several or all of these factors.

Provenance Research on Judaica

Some provenance research has been conducted on holdings of Judaica, and some projects regarding the provenance of library holdings generally (e.g., the National Library of Austria) have been very extensive. However, for the most part there has been far less done to investigate the ownership history of Judaica than there has been in regard to paintings and other objets d'art.

In Table 1 are listed those countries that are known to have conducted at least some provenance research on Judaica. They are divided between those in which a substantial amount of Judaica

looted by the Nazis and their allies is located and those in which at least some such Judaica is located. The inclusion of a country in the table is not meant to imply that the degree of provenance research conducted to date has been adequate, nor does it imply that restitution has taken place. Generally where provenance research has been carried out, it has been conducted only on a very few collections (e.g., that of the Israel Museum in Israel, that of the Library of Congress in the United States, the Vienna Jewish Community, Breslau Jewish Theological Seminary collections in Russia, etc.).

In Table 2 are listed those countries that are not known to have conducted or to be conducting provenance research on Judaica. In some cases provenance research may have been carried out, but it has not been made public. The countries are divided between those in which a substantial amount of Judaica looted by the Nazis and their allies is or is thought to be located; those in which at least some such Judaica is or is thought to be located; and those for which there is not sufficient information to make a determination.

Table 1: Countries That Have Conducted or Are Conducting at Least Some Provenance Research Regarding Judaica

COUNTRIES IN WHICH A SUBSTANTIAL AMOUNT OF JUDAICA LOOTED BY THE NAZIS AND THEIR ALLIES IS LOCATED	COUNTRIES IN WHICH AT LEAST SOME JUDAICA LOOTED BY THE NAZIS AND THEIR ALLIES IS OR IS THOUGHT TO BE LOCATED
Czech Republic	Austria
Germany	Belgium
Israel	The Holy See
Lithuania	South Africa
The Netherlands	
Poland	
Russia	
Ukraine	
United Kingdom	
United States	

(Inclusion in the Table does not necessarily mean that the amount of provenance research is adequate or that restitution has taken place.)

Table 2: Countries not Known to Have Conducted or to Be Conducting Provenance Research Regarding Judaica

COUNTRIES IN WHICH A SUBSTANTIAL AMOUNT OF JUDAICA LOOTED BY THE NAZIS AND THEIR ALLIES IS OR IS THOUGHT TO BE LOCATED	COUNTRIES IN WHICH AT LEAST SOME JUDAICA LOOTED BY THE NAZIS AND THEIR ALLIES IS OR IS THOUGHT TO BE LOCATED	COUNTRIES FOR WHICH THERE IS INSUFFICIENT INFORMATION
Belarus	Argentina	Albania
France	Australia	Cyprus
Hungary	Bosnia and Herzegovina	FYROM
Italy	Brazil	Iceland
Romania	Bulgaria	Ireland
	Canada	Liechtenstein
	Croatia	Luxembourg
	Denmark	Moldova
	Estonia	Monaco
	Finland	Montenegro
	Greece	Slovenia
	Latvia	Turkey
	Norway	
	Portugal	
	Serbia	
	Slovakia	
	Spain	
	Sweden	
	Switzerland	
	Uruguay	

For summaries by country see annex p. 1270.

(Note that some countries have done historical research on the subject, but that is not the same as provenance research on current collections).

Suggestions for Future Action

The public focuses most of its attention on the restitution of expensive artworks, but if anything, the restitution of Judaica is of even greater moral importance. This is particularly true in regard to Torahs and other objects that are holy in Judaism. While the types of solution by which Judaica is ultimately held or used by appropriate bodies may vary from country to country and from case to case, at the very least there needs to be full public knowledge of where all Judaica looted by the Nazis and their allies is located. Specific suggestions by the Claims Conference/WJRO for future action are as follows:

- ▷ Although many aspects of the identification and restitution of looted art overlap with issues concerning Judaica, separate attention should be given to Judaica. The Claims Conference/WJRO welcomes the decision by the organizers of the Prague Holocaust Era Assets Conference to make Judaica and Jewish cultural property a separate topic at the June 2009 meeting.
- ▷ Efforts should be made to identify, and catalogue all items of Judaica, regardless of their monetary value, that are found in government and private archives, libraries, museums, and other repositories; In order to assist with the development of such efforts, the Claims Conference/WJRO at the beginning of 2009 made public a *Descriptive Catalogue of Looted Judaica* with coverage

of 47 countries and listings of archives and experts and a bibliography.¹

- ▷ Efforts should be made to research as much as possible the provenance of all unique items of Judaica and to make the results publicly known, preferably over the Internet. Unique items include items of importance to the Jewish world, due to their historic, artistic or cultural importance – irrespective of their monetary value – and include archives and libraries of Jewish organizations and entities.
- ▷ Provenance research should be the responsibility of governmental and private institutions, as well as of Jewish institutions, whether governmental or private. The Association of European Jewish Museums (AEJM) and the Council of American Jewish Museums (CAJM) have both passed resolutions in this regard, and it is hoped that the states participating in the Prague Conference will proceed with this task.
- ▷ Instruction guides and manuals on how to conduct provenance research on Judaica should be developed and made available over the Internet. At present there is nothing comparable to the *AAM Guide to Provenance Research* in regard to Judaica.² The AEJM has begun to plan for the creation of such a manual, and both AEJM and CAJM have begun to hold training workshops for provenance research.

¹ See: <http://forms.claimscon.org/Judaica>.

² Yeide, Nancy H; Akinsha, Konstantin; Walsh, Amy. "The AAM Guide to Provenance Research." Washington: American Association of Museums, 2001.

▷ All Torahs and other handwritten ritual scrolls throughout the world should be internationally registered. Torah scrolls occupy a unique place in the spiritual heart of the Jewish people and their use needs to be in accordance with the beliefs of their original owners. Due to the fact that many Torah scrolls look alike and can be resold at relatively high prices, they are subject to theft and to black market operations that cross borders. International registration systems exist that provide ways of uniquely identifying Torahs and have been proven to greatly reduce theft in those countries where they have been applied. The Claims Conference/WJRO has been working to make more widespread international registration of Torahs possible at little or no cost.¹ Hopefully such registration can also be a step towards resolving the incongruous situation that currently pertains to a number of countries where there is a resurgence of Judaism but congregations have to import Torahs while at the same time large numbers of Torahs are kept in Government repositories in the very same countries.

▷ All attempts should be made to return Judaica to its original owners – whether individuals, communities or Jewish institutions. Where the unique items comprise books, archives or libraries but the institution that formerly owned the property no longer exists, they should be archived by an appropriate institution and made available for research by qualified researchers. In cases where it is not possible to return a “unique” item, these items should be subject to public display (together with appropriate

¹ So far discussions have been held in particular with representatives of all the Jewish communities of Ukraine and with the State Committee on Archives of Ukraine.

recognition of the history of the object) at an appropriate institution.

▷ A system should be developed to circulate Judaica internationally with appropriate guaranties from judicial seizure. Due to the Holocaust and its aftermath, there are numerous situations in which the ownership of Judaica is or is likely to be disputed and where it is desirable to make items of Judaica accessible to scholars and the public in more than one country. As discussed in the Working Group on Judaica and Jewish Cultural Property in preparation for the Prague Holocaust Era Assets Conference, a system to circulate such Judaica internationally with appropriate guaranties from judicial seizure may be the best way to handle such matters and may also induce countries to make their Judaica holdings more publicly known.

Other “Judaic” Objects: Many of the ceremonial objects and books that were looted were mass-produced and cannot be linked to a specific individual or community. For these items, it is appropriate that:

▷ The fact that the item was looted be recorded when the item is on display or used in another way; a book should bear an appropriate stamp. The unique origin of the item will then be recognized for all time and will pay tribute to the Jews and Jewish communities that were destroyed; and

▷ The looted item should be held in an appropriate place and used in an appropriate manner. The item should be kept by an appropriate entity in a place befitting its religious and cultural significance.

Provenance research on Judaica throughout the world is important on moral grounds. It is important for the preservation and understanding of Jewish culture. And it is important for Holocaust remembrance. As argued in this paper, its importance should be recognized and implemented globally.

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**LOSSES OF BOOKS AND ARCHIVES FROM
PUBLIC AND PRIVATE COLLECTIONS**

During the last twelve years in Belgium, as elsewhere in Western Europe, there has been much research done in the state and public collections, unfortunately with few positive results.

Although the Belgian Study Commission with the aid of the Jewish Museum primarily researched the cultural losses of individual Jewish owners and leading personalities, in a more general way the spoliated cultural property of religious communities and associations in Belgium was also studied and investigated indirectly.

Special attention was given to the provenance of religious objects and silver collections. The investigation in the Belgian cultural institutions showed that, besides the discovery of some objects, these silver objects were not registered or deposited in Belgian cultural institutions en masse. The findings were published in the final report of the Study Commission.

After more than ten years of intensive research we now have a pretty good idea of what was looted, who was looted and who did it.

During the war years, one public incident was especially met with indignation. During the Easter Weekend of 1941, a small anti-Semitic mob ransacked two synagogues, the private house of rabbi Rottenberg, and several Jewish shops in the Jewish quarter of Antwerp. This pogrom remained an isolated event in Belgian history. Torah scrolls, sacred books and furniture were openly burned in the streets and the buildings were set on fire. National-Socialist militias were present and did not intervene. Jewish religious buildings were desecrated and spoiled by Nazi militia services and individual thieves. In 1940, shortly after the occupation of Belgium, the *Sicherheitsdienst* had targeted and ransacked Jewish and Zionist organizations such as the *Alliance Israelite* and the *Federation of Belgian Zionists*. After the liberation of Belgium, all synagogues were returned by the Belgian authorities to the local Jewish communities and the *Consistoire Central Israélite de Belgique*. Material damages were partially paid by the Ministry of Reconstruction. The synagogues were reconsecrated. The religious and cultural associations were partially compensated by West Germany (the *Brüg Legislation*) for material damages and cultural losses suffered.

In 2001 and 2002, the Belgian “Trophy” archives, after successful Belgian-Russian negotiations, were returned by the Russian Federation. The archives, mostly military documents from the Belgian Ministry of National Defense, contained 14 dossiers from Jewish organizations (such as the *Alliance Israelite-Committee Antwerp* and the editorial board of *Hatikva, Federation of Belgian Zionists*). A total of 74 dossiers of leading Jewish personalities such as *Jacques Errera, Herbert Speyer, Henri Salomon Fast, Charles Cohen* and *Léon Kochnitski* were returned to the rightful owners. The same also happened, for example, in France and The Netherlands. The reason for the small amount of documents, less than one percent of the total of the Belgian “Trophy”

archives, was that the main objective of Nazi services as the *ERR* in Belgium was the confiscation of library materials. Most of the books and libraries have not been recovered.

In the immediate postwar period, about 4,500 books were found and given back to private owners. In the 1990s, the Jewish Museum of Belgium discovered 450 Yiddish books, which had been confiscated by an “Anti Jewish National Agency” during the war years, in an attic. If we estimate that the number of books looted during the period under review has been around half a million, we must say that we are still looking for them. For those of you interested, I published a few months ago an article with photos of bookmarks from Jewish pre-War libraries. It was written with a painful lack of archives on those institutions and those from which the books were looted.

Josef Herman, the famous English-Jewish painter, came to Brussels in March 1939 to attend the Academy of Fine Arts; he lived in Brussels till May 10, 1940 before fleeing to France and then settling in Scotland. He left to the care of his landlord all his paintings and drawings. They have to this day never been found. The same happened with the paintings made by Carol Deutch who was arrested in September 1943 and died at Auschwitz in 1944.

These few examples show that, 65 years after the fact, it seems almost impossible to find a trace of these items today. We have only small clues that indicate that some countries in Eastern Europe and an institution in New York (JTSA) still hold some of the books or paintings.

On the other hand, the Jewish Museum of Belgium holds in its collection a Torah scroll that was given in 1945 to the Brussels Orthodox community by the New York section of the American

Joint Distribution Committee. It was given to us because it was *pasul* which means “of no proper use for religious service.” After long research, it can be established that no living person or surviving document exists to tell to which community in New York or elsewhere this Torah belonged.

But no matter how long it will take, we will never abandon our research and I beg you to do the same. That is why, in 2006 as president of the Association of European Jewish Museums, with the help of our committee in Venice, I was pleased to introduce and to receive a full endorsement of the Resolution on Looted Art, which binds AEJM members to undertake research and give an annual report to the General Assembly.

The National Commission of Belgium Jewish Assets has created, since 2000, two linked databases. The first one is the Mala Zimetbaum Data Base (MZDB), which gives the name of all Jews that lived in Belgium during the time of the war. The second one is called Jewish Cultural Assets – Belgium (JCA-B) which lists all the cultural assets that we searched and also data concerning the objects that were found. It contains 4,196 files concerning 225 collections. This system can be applied by each country at a very low cost, which seems important in these times of financial crisis.

With the help of the Foundation of Belgian Judaism we hope to launch next year a national and international surveys in semi-public institutions such as religious ones who might hold objects or documents that were looted during or after the war.

Let us hope that the publicity around this gathering will create opportunity for greater access to some institutions in my country and abroad that will help us to solve the cases that have been mentioned as well as many other ones.

In Europe, it is our duty as public institutions to preserve the cultural heritage and to take care of the objects and documents which were created in or brought to our country, until claimants have stepped forward.

Till then, following the International Council of Museums Code of Ethics, it is our commitment to preserve them with care, and to document and exhibit them with their full story appended for the benefit of disseminating knowledge in society.

Thank you.

► **Karen Franklin**

MUSEUM OF JEWISH HERITAGE, USA

**CURRENT STATE OF JUDAICA PROVENANCE
RESEARCH IN JEWISH MUSEUMS IN THE USA**

The Nazi program for the destruction of European Jewry consisted not only of the physical extermination of the Jewish people and the looting of their property and assets but the obliteration of the contribution of Jews in all facets of European life – from culture to science to philosophy and lastly but just as importantly to the Nazi regime, to the decimation of the Jewish religion, heritage and culture. For example: the Nazis collected the Judaica of Bohemia and Moravia which they intended to study here in Prague at the Nazi-proposed Museum of the Extinct Race.

The issue of looted Judaica includes *Tashmishey Kedusha* and *Tashmishey Mitzvah* – such as Torah and other handwritten

Scrolls, religious books; ritual and ceremonial objects; Jewish objects for daily life; and archives and libraries of Jewish organizations.

The existence of Jewish life in the Diaspora since the destruction of the Second Temple in Jerusalem in 70 AD and the accompanying persecution of the Jews by the kingdoms and later states in which they lived during a 2000-year period of exile had a great impact on the the scope of looted Judaica. For example:

- ▷ With the destruction of the Temple as a central focus of religious yearning – the dual foci of the religious and ritual life became the synagogue and the home – thereby increasing the amount of religious objects held by individual families and communities.
- ▷ Due to the destruction of centralized Jewish leadership of the Sanhedrin, Jewish legal rulings were based upon decisions of Rabbis, often residing in different countries. These didactic discussions on issues of Jewish law, which formed the basis of Jewish religious life, resulted in an increase in number of Jewish books, particularly after the invention of the printing press. Rabbis worldwide wrote and published Jewish responsa (*tshuvot*) in books that became the basis of Jewish religious life and learning and of important libraries throughout Europe.
- ▷ The fact that Jews were regularly expelled from their places of residence or had limitations upon constructing ornate synagogues often resulted in a proliferation of a significant number of elaborate portable objects (i.e., ritual and ceremonial objects, *ketubot*, *megillot*, and manuscripts) and books by communities and families.

Consequently, on the eve of the destruction of European Jewry by the Nazis, there were hundreds of thousands of items of Judaica (ritual items, ceremonial objects, books and Torahs and Megillah scrolls) held by European Jews and Jewish communities.

Some of this Judaica was simply destroyed, and some was looted in a systematic way by the organs of the Nazi regime. In addition to what was taken by the Nazis and their allies at the end of the war, there was also Judaica that simply remained abandoned as the result of the murder of its owners. Of that looted and/or abandoned, some of the Judaica were rare pieces individually crafted, or written, for communities or wealthy families, while others were mass-produced books or objects.

After the war, these items ended up scattered throughout the world. In some countries, the Judaica that was preserved was the result of murder and/or flight of its Jewish citizens. Alternatively, the Judaica was “foreign,” brought there by the Nazis or even as the result of the Allies returning Judaica to the country in which it was thought to originate.

In some cases there were attempts by countries to return the Judaica to individuals or Jewish communities but in other cases, especially in Eastern Europe, the governments deposited large amounts of Judaica with governmental entities. In Poland, for example, the government deposited large amounts of Judaica with the Jewish Historical Institute in Warsaw, and in the Soviet Union, the government deposited huge collections originally from Jewish libraries into state libraries in Minsk and elsewhere and placed archival collections in the Osobyi Arkhiv (Special Archive) in Moscow, now part of the

Russian State Military Archive (RGVA).¹ Some of these items in Moscow were brought by the Soviet Trophy Brigades.

Some Judaica is currently also located in countries in which there was no Nazi occupation. The existence of the Judaica there is a result of the distribution of heirless Judaica to Jewish communities in areas of the Western world to which Holocaust victims migrated in the immediate postwar period.

The question to be addressed is: What is to be done now, sixty years after the end of the Shoah?

Inventory and Classification

Since so little is known about the current whereabouts of looted Judaica, all countries should make an initial inventory of possibly looted Judaica in their governmental institutions (national, provincial or municipal), including institutions under quasi-government control.

In order to assist with the implementation of such efforts, the Claims Conference/WJRO at the beginning of 2009 made public a *Descriptive Catalogue of Looted Judaica* with coverage of 47 countries and listings of archives and experts and a bibliography.²

Generally, Judaica can be divided into four categories:

1. Torahs and other handwritten scrolls;

¹ For a full description of the spoliation of Judaica and restitution attempts after World War II, please see the “Overview: Historical Background” in the *Descriptive Catalogue of Looted Judaica*, pp. 9–33, <http://forms.claimscon.org/Judaica/>.

² See: <http://forms.claimscon.org/Judaica/>.

2. “Rare” or “museum-quality” Judaica (as it is clear that these items are of important historical, artistic and cultural significance to the Jewish people);
3. Archives and libraries of Jewish organizations and entities;
4. “Other Judaica items” – items that were mass-produced or printed and of which there are a number of similar items in circulation.

Institutions holding possibly looted Judaica should attempt to classify the Judaica they hold into the above four categories.

In some cases this has already begun. For example, numerous holdings of Judaica that were looted in Hungary during the Nazi era but subsequently brought to Nizhny Novgorod (formerly Gorky) are scheduled to be examined and classified by the Russian State Library of Foreign Literature. With assistance from the Claims Conference, the Russian State Library of Foreign Literature is in the process of creating an inventory with the intention of producing a catalogue of the holdings.

In cases where the institution does not have staff with the expertise necessary to differentiate between these types of Judaica, there should be a group of accredited experts who are able to assist the institutions with this task.

It is imperative that both the inventory and classification commence immediately, and once completed is publicly available. Once this classification has been completed, each institution can then proceed to the vital task of provenance research.

Provenance Research

It is critical to engage in provenance research on museum-quality Judaica. The current state of provenance research on Judaica ranges from very extensive – for example, as in the National Library of Austria – to, in most cases, very sketchy. In part, this is due to the focus to date on paintings and other objets d’art. The following principles should guide the research:

- ▷ Efforts should be made to research as much as possible the provenance of all items identified by experts as unique or rare items of Judaica; and to make the results publicly known, preferably over the Internet.
- ▷ Provenance research should be the responsibility of governmental institutions as well as of Jewish and non-Jewish private institutions. The Association of European Jewish Museums (AEJM) and the Council of American Jewish Museums (CAJM) have both passed resolutions in this regard. It is hoped that the institutions under the control or influence of the states participating in this Conference will also proceed with this task.
- ▷ Instruction guides and manuals on how to do provenance research on Judaica should be developed and made available over the Internet. At present there is nothing comparable to the *AAM Guide to Provenance Research* in regard to Judaica.¹ The AEJM has begun to plan for the creation of such a manual, and both AEJM and CAJM have begun to hold training workshops for provenance research. These should become publicly available.

¹ Yeide, Nancy H; Akinsha, Konstantin; Walsh, Amy. “The AAM Guide to Provenance Research.” Washington: American Association of Museums, 2001.

Other Principles for Looted Judaica

Torah scrolls and other handwritten ritual scrolls throughout the world should be internationally registered. Torah scrolls occupy a unique place in the spiritual heart of the Jewish people and their use needs to be in accordance with the beliefs of their former Jewish owners. Because Torah scrolls look alike and can be resold at relatively high prices, they are subject to theft and to international black market operations. International registration systems exist that provide ways of uniquely identifying Torahs and they have been proven to greatly reduce theft in those countries where they have been implemented. The Claims Conference/WJRO has been working to make international registration of Torahs possible and more widespread at little or no cost.¹ Hopefully such registration can also be a step towards resolving the incongruous situation in a number of countries with a resurgence of Judaism where congregations have to import Torahs while large numbers of Torahs are kept by government repositories there.

“Unique” Items – Jewish Archives or Libraries of “Rare” Ceremonial or Ritual Objects

All attempts should be made to return these objects to the original owners, e.g., to the archives of various Jewish organizations and institutions. In addition, where the unique items comprise books, archives, or libraries and the institution who owned them no longer exists, they should be held by an appropriate institution and made available for research by qualified researchers.

¹ So far discussions have been held in particular with representatives of all the Jewish communities of Ukraine and with the State Committee on Archives of Ukraine in this regard.

“Rare” ceremonial or ritual items should be subject to public display (together with appropriate recognition of the history of the object) at an appropriate institution.

Furthermore, for items under disputed ownership a system should be developed to circulate such Judaica internationally with appropriate guaranties from judicial seizure. Due to the Holocaust and its aftermath, there are numerous situations in which the ownership of Judaica is or is likely to be disputed and where it is desirable to make items of Judaica accessible to scholars and the public in more than one country. As discussed in the Working Group on Judaica and Jewish Cultural Property in preparation for the Prague Holocaust Era Assets Conference, a system to circulate such Judaica internationally with appropriate guaranties from judicial seizure may be the best way to handle such matters and may also induce countries to make their Judaica holdings more publicly known. Such circulation must ensure that the items are held securely and appropriately.

“Other Judaic” Objects: Many of the ceremonial objects and books that were looted were mass-produced and cannot be linked to a specific individual or community. For these items, it is our recommendation that:

1. The fact that the item has been looted should be recorded when it is either on display used for another purpose by the institution; a book should contain an appropriate stamp inside. The unique origin of the item will then be recognized and pay tribute to the Jews and Jewish communities that were destroyed; and
2. The looted item should be held in an appropriate place and used in an appropriate manner. The item should be kept

by an appropriate entity in a place befitting its religious and cultural significance.

It should be noted that in cases where it is clear where a collection as a whole came from (including the mass-produced items in the collection), the previous owners would have the right to receive ownership of the entire collection.

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**PERSPECTIVES FROM THE REMAINING ARCHIVES OF
THE EINSATZSTAB REICHSLEITER ROSENBERG (ERR)**

Adolf Hitler's ideological henchman Alfred Rosenberg was beheaded at Nuremberg, condemned to death as a war criminal, the charges for which included the looting of cultural valuables by his "Special Task Force," namely the Einsatzstab Reichsleiter Rosenberg (ERR). First organized in France (in June/July 1940), the ERR operated in all German-occupied countries. The ERR members' first priorities were books and archives, especially from prominent Jews and Masons. Their loot was quickly transported to Germany for Rosenberg's Hohe Schule, its Central Library (ZBHS) and the Institute for Study of the Jewish Question (IEJ) in Frankfurt. In occupied Soviet lands, they also found and shipped Judaica to IEJ, although there they concentrated on Bolshevik literature, Orthodox icons, and archeological exhibits. Meanwhile in Western Europe through the Möbel-Aktion program, an ERR offshoot run by ERR staff to remove furnishing from vacated

Jewish lodgings, significant Judaica of all types was added to the ERR loot, including many more books.

My extensive (300-page) international survey describing the remaining archives of the Einsatzstab Reichsleiter Rosenberg (ERR) and other records related to the fate of the ERR loot is being launched later this summer on the website of the International Institute of Social History (Amsterdam), with which I am affiliated, in cooperation with the Conference on Jewish Material Claims Against Germany (Claims Conference) and the Netherlands Institute of War Documentation (NIOD). The project, long in preparation, describes ERR files in 28 repositories in nine countries. As a hybrid between a survey and an archival finding aid, for some repositories not previously publicly described, it presents more detailed file-level descriptions of ERR documents and related materials. It also covers Hohe Schule and M-Aktion files, as well as restitution and postwar trial records (especially IMT) that have incorporated significant ERR documents, as well as those related to the identification and restitution of objects looted by the ERR.

The seizure of circa 20,000 works of art from over 200 private Jewish collections in France and Belgium was the ERR's most blatant claim to the status of a group of war criminals. In the Art-Looting Working Group, I mentioned the new database of the ERR inventories, photographs, and registration cards for individual works that they processed in the Jeu de Paume in Paris. As part of the Claims Conference ERR project, the Jeu de Paume database is now being compiled at the US Holocaust Memorial Museum, and we hope for its launch by the autumn of 2010. Significant postwar restitution was possible because those ERR documents survived, and we plan to make the full texts available. This database, however, does not cover what most of you

would undoubtedly think of as Judaica. My own investigations on that subject have been primarily devoted to libraries and archives.

In trying to find lost libraries, or even individual books, or to identify the provenance of displaced ones that have been found, it is most essential to know first what Nazi agency plundered the object(s) in question and second where they ended the war. For books, the two principal plundering agencies were the ERR and the Reich Security Main Office (RSHA), and we need to understand the turf wars between them. By the end of 1939, the RSHA had already amalgamated the SD Hauptamt along with the Gestapo, which was also a culprit in the confiscation and/or trafficking of Holocaust-related cultural goods. For confiscated books and archives, the RSHA Amt VII was the major destination repository.

Let me say a few words about each of the four major concentrations of plundered books at the end of the war. First, most has been written about the largest concentration of Jewish books and ritual silver, which ended the war in the Frankfurt area — in the ERR-supplied Institute for the Study of the Jewish Question (IEJ), and its evacuation center in Hungen. In connection with my ERR Survey, I recently found some of the ERR leases for more of the IEJ Hungen facilities, and library correspondence from the IEJ library. The millions of books, archives, and other items of Judaica recovered by the US Army were all processed for restitution in the US Central Collecting Point outside of Frankfurt known as the Offenbach Archival Depot (OAD). Although the OAD dealt predominantly with materials from ERR-plundered sources, some books plundered by the RSHA were also processed in the OAD, most numerous among which were a portion of the books from the RSHA Amt VII library that had been

left in Berlin. US restitution records retain extensive documentation, including lists of libraries, albums of library stamps and other markings and ex libris for the books processed for restitution there. There are inventories of the ritual silver and other items of Judaica that were subsequently moved from OAD or Munich CCP to the Wiesbaden CCP before being turned over to Jewish successor organizations.

Second, the counterpart concentration of ERR-plundered books destined for the Central Library of Rosenberg's Hohe Schule (ZBHS) ended the war in the remote monastery of Tanzenberg (near Klagenfurt) in Austrian Carinthia. As I have written elsewhere, this third concentration of over 600,000 books was processed for restitution by the British. Extensive records remain in the British National Archives (TNA), although I have not yet found the originals of the ERR Paris library records that the British reported finding there. Many books in Tanzenberg were identified as being from Jewish collections in France, Belgium, and the Netherlands, while many non-Jewish books were restituted to other countries, including the USSR. I have recently seen lists of owners of books, and some lists of books returned to France, among the French restitution records; those book restitution records are now split between the Quai d'Orsay Archives (soon to reopen in La Courneuve) and the Archives Nationales. Almost all of the books found in Tanzenberg were seized by or on behalf of the ERR, except for some that were "purchased" from special collections. The beginnings of a new French database cover many of the named collectors.

In the ERR seizure of library and archival materials, we see major differences in patterns of plunder in the West and on the Eastern Front. In occupied Soviet lands, in contrast to the numerous important Jewish collections in Western and Southern Europe,

the ERR was principally involved with the plunder of state institutions, rather than private collections. The ERR shipped some important Jewish library books from Belarus and Ukraine first to Frankfurt and later to Hungen. They found more in the Baltic countries recently annexed to the Soviet Union, such as those of the Jewish Research Institute (YIVO) in Vilnius. They supplied an estimated 35,000 from former Russian imperial libraries rather than from Jewish collections for ZBHS in Tanzenberg.

Since the mid-1930s, long before the ERR was established, as I have written elsewhere, the SD had started amassing Judaica and Masonic collections from within the Reich, especially after Kristallnacht (November 1938). As the Third Reich extended its brutal occupation regime, the SD, together with the Gestapo, which had by then been amalgamated into the Reich Security Main Office (RSHA), had their hands out everywhere for important Judaica. By the end of the war the Jewish, Masonic, and other divisions of the RSHA library, based on plundered collections, greatly outnumbered those of the ERR. Thus, the surviving ERR documentation that I have been surveying is only a partial wartime record of the plunder of Judaica.

Researchers tracing the fate of books and archives from Jewish collections, or trying to determine the provenance of surviving books and archives or other Judaica far from home will accordingly also need the remaining records of the RSHA. Today, many more of the relevant RSHA records are concentrated in the Bundesarchiv record group (Bestand) R 58 than is the case of the relevant ERR records. In contrast, because the RSHA was not seriously involved in art looting, SD seizure files are not found mixed in with the postwar Western Allied restitution records I described, while there are many important ERR documents there.

Another crucial factor is that the most relevant RSHA records ended up in Eastern Europe. Indeed, many surviving records from the RSHA Amt VII, the division that ran the RSHA plundered library and archival operations were found (along with the looted archives) in Silesia by the Red Army, or by the Poles, at the end of the war. One major part of the RSHA (and earlier SD Hauptamt and Gestapo) archives describing their plunder, captured by the Poles, became available after 1989; that segment was turned over to the Bundesarchiv in a 1997 exchange.

An even more important segment had been captured by Soviet authorities. Some of those, however, had been passed on to the Stasi in East Germany, and have been gradually becoming available in the Bundesarchiv with the processing of the Stasi archives. Those contain many files documenting SD-Hauptamt seizures, especially those in 1938 and 1939. In recent years, the Bundesarchiv has been uniting all of the RSHA records in a database developed in Berlin-Lichterfelde and Hoppegarten, although it still is not detailed enough for optimal access.

However, even that database is much more accessible than is another large segment of RSHA records that remains sequestered in two large fonds in the Russian State Military Archive (RGVA) in Moscow (from the former Special Archive). Their existence in Moscow is an impediment to research, and the new Russian WW II cultural property nationalization law (1998–2000) has meant that they cannot be returned to Germany and reunited in the Bundesarchiv (R 58) with the much larger batches of RSHA records returned from the United States (1960s) and Poland (1979), and those from East Germany after 1989.

Along with those in Berlin, the Moscow RSHA files were the source of my description of the German capture of archives and

libraries in Western Europe, mentioned in my introduction to the volume *Returned from Russia*. While that volume concentrates on the return of the twice-plundered Western European archives, the same sources are important in tracing other cultural property, and especially Jewish library books.

Among those returned, the RSHA Amt VII had amassed particularly large collections of archives from Jewish communities and other Jewish organizations from all over Europe, which the Red Army found and shipped off to Moscow afterwards, as well as from Masonic lodges throughout Europe. For that loot, the RSA was often in bitter competition with the Einsatzstab Rosenberg (ERR). Competition for the spoils explains why the archives from the Jewish Community of Thessalonica are still dispersed in several different countries including the United States, Russia, and Israel. Last August, Dutch archivists returned some files to Thessalonica that had mistakenly been returned from Moscow to The Hague; those were the first that had been returned to Thessalonica since the war. The ERR also seized important Judaica and Hebraica in the former Yugoslavia, and Italy; reports from Yugoslavia are found in Moscow and New York (YIVO) with copies of the latter in Berlin.

Another example of a serious research problem from dispersed records has been my trying to piece together documentation in Moscow and Berlin about the post-1943 fate of the major portions of the RSHA Amt VII library. That third major concentration of plundered library books – with an estimated million volumes – ended the war in evacuation (from Berlin) in four Sudeten Castles and the Theresienstadt concentration camp (Terezin), as described in my recent article published in Prague. In Theresienstadt, inmates who were leading Hebrew scholars were used for cataloguing Hebraica, as is well described in published

literature. The Red Army liberated Theresienstadt, and the Sudeten castles where the other books were located, but I have found no evidence that they captured any of the Jewish books found there. The Poles managed to retrieve a train-wagon full of Judaica and Hebraica from Poland even before the castles had been emptied and the remains brought to Prague.

We now estimate that about 70,000 Jewish and Hebrew books went to Jerusalem, or were sold to Jewish booksellers from Prague immediately after the war. Others were returned to at least ten countries, which I am now trying to document in more detail. Some additional ones remain in the custody of the Czech National Library, and probably another 200,000 remain in the Jewish Museum in Prague (JMP). Today, a database in the JMP is a major step forward in identifying the provenance of books remaining from the concentration of plundered Jewish books in Czechoslovakia at the end of the war, as represented on our panel here. Those books came primarily from the RSHA Amt VII library and the SD Hauptamt exploits during the late 1930s.

I have written earlier in considerable detail about a fourth major concentration of books at the end of the war, namely the estimated two million books and periodicals collected in the ERR operational center in and around Ratibor (now Polish Racibórz). Operations there, including those with the ZBHS Buchleitstelle, started in the summer of 1943, after Goebbels ordered the evacuation of Berlin. Ratibor also became the destination for most of the books that the ERR plundered from the former Soviet Union, as well as many from the Balkans, intensifying with the German retreat from the Eastern Front starting in the summer of 1943. We can now also determine the roads to Ratibor for books from Western Europe, along with those plundered from the USSR. The vast majority of them, and particularly those plundered from the

Soviet Union, were never processed and never reached their intended destinations.

The fact that roads from East and West converged in the ERR Silesian centre determined the postwar road to Minsk for an estimated 1,200,000 volumes in the autumn of 1945. Half a million of those books had first been confiscated from “enemies” of the Nazi regime in France, the Benelux countries, and former Yugoslavia, along with another half million plundered from libraries in Belarus and other Soviet republics. Found by Red Army trophy brigades in the spring of 1945 in warehouses in a Kattowitz (now Katowice) suburb, 54 freight cars were shipped to Minsk. However, the full documentation about their retrieval and that shipment in the fall of 1945 is still classified in the Russian Ministry of Defense Central Archive (TsAMO) in Podolsk. Others books and archives from Ratibor fell into Polish hands; part of this collection was restituted to the Netherlands and Belgium in 1956.

The vast majority of those books spent the next half century imprisoned in Soviet Secret Reserves (Spetskhran) in Minsk. In the fall of 2003 in Minsk, I learned that some of the Jewish and Hebrew books were still uncatalogued. Thanks to provenance cataloguing undertaken since 1992 in the Rare Books Department of the National Library, I was able to match up book markings and dedications with close to one hundred names of confiscated “Jewish libraries” on ERR lists from France, Belgium, and the Netherlands that I had brought with me to Minsk. Perhaps these ERR lists of confiscated libraries could supplement the new database compiled on French library seizures by Martine Poulain, now on a Paris website. In Minsk, to name only three names from those lists, I found books from the Amsterdam institute (IISH), books seized in Belgium belonging to Frederick

Adler (1876–1960), secretary of the Second International, and elegant volumes owned by various members of the Rothschild clan. Those are only a few examples seized by the ERR from victims of the Holocaust in Western Europe, but librarians in Minsk still consider those books to be “compensation” for the millions of books plundered or destroyed in Belarusian libraries during the war.

My ERR archival survey is now serving as the basis for a virtual “reconstruction” of remaining ERR files, together with a detailed finding aid, in cooperation with the German Bundesarchiv. Plans call for consolidation of dispersed ERR documents in a searchable digital system as a major component of the record of wartime cultural plunder. Of considerable interest here, my survey also describes briefly additional documentation relating to postwar efforts to locate, identify, and return each of those items to their home country. We need a separate workshop to discuss methodology, other priority archives to be made available, and perspectives that I have gained in tracking down related ERR seizure documents. Growing out of my experience with this ERR project, I have a number of recommendations for further international research cooperation. Most of all, we need to cooperate with the new joint international project of archival leaders from the United States, the United Kingdom, France, and Germany to extend more Internet access to important groups of sources relating to Holocaust-Era Looted Cultural Property, as announced in the Art Looting Archival Panel at this conference. And we also need to pool the findings of specialists from individual museums and libraries that have been searching for their own still displaced valuables.

The Provenance Research in State, Public and Private Collections After 1945

► Michal Bušek

JEWISH MUSEUM, PRAGUE, CZECH REPUBLIC

RESTITUTION IN THE JEWISH MUSEUM IN PRAGUE IN THE CASE OF NAFTALI ZVI KARTAGENER

As a result of complicated historical events, there are books in our collections that did not originally belong to the Jewish Museum in Prague (hereafter “the Museum”). This is why, in 2001, the Museum launched an extensive and long-term project *Identifying the Original Owners of Books*.¹

The first phase of the provenance research was carried out between May 2001 and October 2003. During this phase, 80,527 books were examined, of which nearly 34,000 contain owner records (of individuals or institutions). For more on the details of the research, see the afore-mentioned papers. The project continued with the second phase, which was launched in May 2008 at the Spořilov (Prague) depository, where books that were shipped to the Museum from the Terezín ghetto after the WW II

¹ For more on the composition and compilation of the book collection, see Bušek, M. “Identifying Owners of Books Held by the Jewish Museum in Prague” in *Vitalizing Memory: International Perspectives on Provenance Research*. Washington 2005. Bušek, M. “Identifikace původních vlastníků knih v knižním fondu Židovského muzea v Praze” in *Budoucnost ztraceného kulturního dědictví (The Future of the Lost Cultural Heritage)*. Prague 2007. Also see Braunová, A. “The Origin of the Book Collection of the Library of the Jewish Museum in Prague” in *Judaica Bohemiae XXXVI*. The catalogue for the exhibition at the Robert Guttmann Gallery, “Hope is on the Other Page”. Prague 2007.

are kept. These books were catalogued there by a special work group (“the Talmudkommando”), which marked them with the letters “Jc”; according to this mark, we can now place these books in a historical context. Research is now being undertaken in a similar way as was done in the first phase, but now once a week rather than every day. To date, 5,798 of the approximately 30,000 books have been examined; 4,982 of these contain owner records. About 4,700 of these books belonged to institutions, only about 280 to individuals. The latter are those who can put forward a restitution claim, provided they meet the “Terms for the filing of claims for the restitution of books from the library collection of the Jewish Museum in Prague which were unlawfully seized from natural persons during the period of Nazi occupation” (hereafter “the Terms”), which came into effect in July 2007. The full wording of the Terms is available from the Museum’s website.²

As of 16 June 2009, a total of 38,961 entries have been placed in the database; of these, 26,744 are marked as belonging to institutions and 12,743 are marked as belonging to individuals.

I would now like to mention a specific case where books have been returned to the original owners or their heirs on the basis of provenance research. It was only after the adoption of the Terms that the Museum could register a claim from the descendants of Naftali Zvi Kartagener for the return of books originally owned by Mr. Kartagener. The heirs first contacted the Museum in the 1990s, when Mr. Kartagener’s daughter asked the library staff whether books belonging to her father were in the Museum’s book collection. In the period before 2001 it was not possible to answer questions concerning the origin of the books. As the collection was not fully accessible, it was practically impossible

² See: <http://www.jewishmuseum.cz/cz/czczrestit.htm#6>.

to research it. Provenance research began only after quality depositories had been built, and this resulted in creation of a database of the original owners of books. We respond to questions concerning the presence of books belonging to specific persons in our collections on the basis of information included in the database. If such books are found, a report is drawn up for the Restitution Commission, which, following the approval of the request, recommends that the restitution claim be registered and presents it to the Administrative and supervisory boards for approval. The claim is positively evaluated if the Terms are met. In the Kartagener case, the restitution claim was for five books and was registered on June 7, 2007. After a period of one year, the Terms were met and Mr. Kartagener's books were handed over to his heirs in September 2008. The list of restituted books is available on the Museum's website.¹

From the Museum's perspective, these restituted items are not rare books whose restitution significantly endangers the quality of the library collection. However relevant such a perspective may seem to the Museum, it is not taken into consideration in connection with restitution. Each restitution claim is evaluated in a comprehensive way. Rare print books and rare editions are the only items that we try to keep in our collections, but this is a matter of agreement between the claimant and the Museum, which always fully respects the decision of the new owner.

In connection with the aforementioned case, I would now like to touch upon the most basic and most frequent problems that we can encounter when dealing with restitution claims. If an heir requests that we carry out provenance research, it is always beneficial if we have available more detailed information about

¹ See: <http://www.jewishmuseum.cz/cz/czcnrestit.htm#8>.

the person in question, the places of residence, or the signature of the owner. A clear restitution claim is not even proved by a correspondence of names, if no further accurate information is known. We encounter such cases most frequently with German names. In order to prevent a breach of the property rights of another owner, we cannot put such a book forward for restitution if we are not certain that the individual in question can be demonstrably identified. This is why we prefer to keep such a book in our collection. We opt for the same procedure for books whose last owner cannot be reliably determined. In many books, the names of two or more people are included in an owner record. In such instances, it is not within the Museum's scope to determine the name of the very last owner from whom the book was confiscated. Such an instance occurred in the Kartagener case. As part of our provenance research, we identified a total of 13 books where N.C. Kartagener appeared as an owner. It was possible to clearly identify Mr. Kartagener's ownership of only five of these books. The name of another owner appeared in the other books, which is why they remained in our collection and were not restituted.

The problem in identifying names is something we encounter with hand-written marginal notes or signatures. Oftentimes, the records pertaining to ownership are illegible, the handwriting cannot be deciphered, and the form of the name cannot be accurately determined. In such cases, the owner remains unidentified in the database, although the language of the record and any legible information are included in a note. In the future, such books will be included in the category of books that cannot be returned, and will be kept in the Museum's care. As of the 15th of June 2009, we have been unable to identify the owners of 579 books.

As is known, the Museum restitutes only objects or books that were owned by individuals prior to confiscation. A legal

framework has not yet been put in place for the restitution of items to foreign corporations, which means that these items also remain in the Museum's care. When carrying out provenance research, we do not take into consideration the presence of an owner record by an individual person if there is also a record of the book in question by an institution. In the database of owners we only add an entry on the institution, which may in the future prove an acquisition of the book.

The records in the Museum's wartime (German) catalogue that are related to objects and books are of importance when determining the provenance of books that were acquired during World War II. If a record in this catalogue includes the name of an organization or association as its provenance rather than the name of a person, the Museum regards the book as the property of an institution rather than an individual, even though the owner record clearly refers to a private person. Despite the supposition that the owner probably left the books with a particular institution for safekeeping and that this institution later, during liquidation, had to hand them over to the Museum, the rule is that the items shall remain in the Museum's care if ownership by an individual cannot be fully proved. After the Museum was privatized in 1994, all the assets of the inter-war Jewish organizations in Bohemia and Moravia were transferred to the Federation of Jewish Communities in the Czech Republic, which is their legal owner. The items registered in the Museum's collections are in its care.

As for the future, the question remains whether and how the ascertained information will be made available to the general public. The Museum certainly expects to have a website presentation of its database of original owners, but the specific form of such a presentation has not yet been determined. The

project is still ongoing, which is why the information is not yet publicly available; in response to queries, however, we check the current database and look up the relevant information, which serves as documentary material in the event of restitution.

The database of owners was originally created using Microsoft Access. The appearance of the original database and its usefulness had also been presented to specialists at conferences and at a workshop in the Museum's Library. After lengthy considerations, however, it was decided that this database was unsuitable for the requirements of future website presentations. The technical processing and editing of data was not only time-consuming, but above all expensive. The possibility of using the Aleph electronic library system, which is in use at the Museum, was then proposed. Aleph was developed in Israel and enables the processing of Hebrew books, which is ideal for the Museum in view of its focus. This system is used by many public and special libraries in the Czech Republic and abroad and it is easy to search and share information about books using its online database. We intend to make use of this service particularly when entering information about books that will be part of a record pertaining to ownership. The entries can be supplemented by illustrations, which we plan to add to information on owners (scans of stamps, signatures and ex-libris, etc.) but also to the actual books (title pages). The original database was transferred to the Aleph system by members of the Library staff. For restituted books, the entries have been completed and supplemented by all the data and illustrations that we are presenting here for clarification. For the time being, the other entries include information about the location and registration of the relevant items, the name of the owner, and the kind of the ownership.

Obviously, the entire project is very expensive, time-consuming and labor intensive. In the first years, the Museum fully covered all the expenses associated with the project. For the ongoing part of the research (books from Terezín), we have managed to gain financial support from the *Conference on Jewish Material Claims against Germany*, based in New York.

We believe that our work will facilitate, at least in part, a mitigation of some of the injustices that were committed by the Nazis during the Shoah, and we trust that we will have a successful cooperation with other organizations that are working on similar projects.

► **Magda Veselská**

JEWISH MUSEUM, PRAGUE, CZECH REPUBLIC

WHERE DID ALL THE PRETTY OLD THINGS COME FROM? THE JUDAICA PROVENANCE RESEARCH AT THE JEWISH MUSEUM IN PRAGUE

The Jewish Museum in Prague (hereafter “the Museum”) was founded more than a hundred years ago. Its collections were for the most part, however, put together during WW II (hereafter “the war”). The circumstances under which the collections were established are now well-known to the public: based on an initiative from the Prague Jewish Religious Community, items owned by Jewish religious communities in what was then the territory of the Protectorate of Bohemia and Moravia (hereafter “the communities”) were shipped to Prague in 1942–1944 and were thereby protected from destruction.

Immediately after the war, the Museum and its collections were put under the control of the state and, in 1950, were official nationalized. After 1989, the Federation of Jewish Communities in the Czech Republic, which had become the legal successor to the Jewish communities, associations, and corporations, restituted the Museum’s collections from the state. In 1994, the Federation placed the collections in the Jewish Museum in Prague, the legal successor to the Jewish Museum that was founded in 1906. Despite the fact that the owner of the collections is known, the Museum considers Judaica provenance research in its collections to be one of its priorities. The aim of this research is to gain detailed information about the life of the Jewish minority in the Czech Republic.

From the perspective of provenance research, the Museum’s collections can be divided into three parts:

1. The collections of prewar Jewish museums (in Mladá Boleslav, Prague and Mikulov);
2. Items from the property of communities in the Protectorate of Bohemia and Moravia with specific areas extending into the Sudeten border regions; and
3. Items from the property of individual people that were transferred to the Museum’s collections from the warehouses of the *Treuhandstelle* (a trustee office that administered confiscated Jewish assets). As this group of items comprises mainly art objects and books we will not be discussing it in detail here. Matters concerning artworks come under the Looted Art section and matters relating to books have been described by my colleague Michal Bušek in his presentation.

We use several sources for our provenance research to identify the origin of items that were included in the Museum's collections during the war. The primary source is the actual wartime register whose entries are in German. In this catalogue, each item has its own card, which also contains information about the "collection place", i.e., the locality from where the item was sent to the Museum's collections. The category of the collection place, however, contains within itself a number of pitfalls,¹ for it does not always refer to the place where the item was actually in use; on the contrary, in some cases, it refers only to the place from where the item was sent to the Museum. Items belonging to the Jewish community in Kosova Hora are an example of this; these items were sent to the Museum from Sedlčany, a town which is also mentioned as the collection place in the wartime catalogue. This difference is even more striking on a regional level: for example, items from communities located in the Brno *Oberlandrat*, a large administrative unit, were initially assembled in Brno and then sent *en masse* to Prague. Items from individual communities were mixed together in the process of packing (which is why, in the wartime catalogue, the collection place is mentioned as, for example, Brno-Jevíčko, Vyškov). Considerable complications are also associated with, for example, wartime Prague warehouses, where shipped items were deposited prior to being registered at the Museum. For reasons that are clear (e.g., inundation of shipments, insufficient handling room, lack of staff, time constraints, mental stress, fear of deportation), information concerning the origin of many shipments (i.e., specific crates, baskets or boxes) has not been preserved, which is why, in such cases, the Prague warehouse is given as the collection place in the wartime catalogue.

¹ Veselská, Magda. "The Problem of Identifying 'Collection Points' in the German Catalogue of the Jewish Museum in Prague." In Kybalová, Ludmila; Kosáková, Eva; Putík, Alexandr (eds.). *Textiles from Bohemian and Moravian Synagogues from the Collections of the Jewish Museum in Prague*. Prague: Jewish Museum in Prague, 2003, pp. 121–131.

This situation is not satisfactory, which is why we seek to be as precise as possible with regards to information vis-à-vis the origin of items. We go about this in several ways:

- ▷ *Archive Research*: Here we focus mainly on extant wartime information relating to the individual shipments, which often mentions: a) where the items were actually used (e.g., items from the synagogue in Štěnovice that were shipped via the Blovice collection place), or b) how the items came into the possession of the communities before the war (e.g., the community in Černovice purchased the items from Prague synagogues that were closed down in 1906), or c) how the items came to be used by the communities before the war (the community in Svitavy in the Sudetenland sent its silver liturgical items to Prostějov as a deposit in 1939). Where necessary, we also explore the fate of specific communities (particularly in order to see if they were disbanded or if they merged with another community before the war; e.g., Koloděje nad Lužnicí/Týn nad Vltavou).
- ▷ *Literature Research*: We also identify items by referring to published information. Among such sources is Aladar Deutsch's book,² which describes items from individual synagogues in Prague that were closed down in 1906. This information was used when identifying items from Prague synagogues that were kept in one of the Prague warehouses, namely the Pinkas Synagogue, during the war. We also frequently use topographic and other literature, particularly books on Jewish communities in Bohemia and Moravia edited by Hugo Gold,³ as well as lists of historical and cultural monuments

² Deutsch, Aladar. "Die Zigeiner-, Grossenhaf- und Neusynagoge in Prag (Denkschrift)." Prag: 1906.

³ Gold, Hugo (ed.). "Die Juden und Judengemeinden Böhmens in Vergangenheit und

in individual regions. Also of great use are the photographs of items that are included in these books.

- ▷ *Research into the Actual Items:* Dedicatory or other inscriptions can also provide a clue for determining the origin of an item. It is necessary here, however, to take into consideration the fact that, in addition to information about the synagogue or place that the item was donated to, inscriptions contain information mainly about the donors, i.e., where they themselves came from; their place of origin, however, is not necessarily the place where they subsequently lived and/or where they went to the synagogue.

Identifying the collections of prewar Jewish museums in Bohemia and Moravia constitutes a separate area of provenance research. The Jewish Museum in Prague was founded in 1906 by a museum society that was put together for precisely this purpose. In 1942, its collection became a source of inspiration and point of departure for our Museum's collections, as well as an integral part thereof. As a collection place in the wartime catalogue, it is referred to as "Prague Museum" or the "Old Museum". For various reasons, however, it is difficult to identify the original form of the Prague collection. We tried to do this in 2006 by putting together an exhibition on this topic and publishing a catalogue to go with it, entitled *Defying the Beast*¹. This catalogue presents the complete prewar collection of the Jewish Museum in Prague, as we had managed to reconstruct it.

The fate of the Jewish Museum in Mikulov (founded in 1936) was

Gegenwart." Brünn: 1934. Gold, Hugo (ed.). *Die Juden und Judengemeinden Mährens in Vergangenheit und Gegenwart.*" Brünn: 1929.

¹ Veselská, Magda (ed.). *Defying the Beast: The Jewish Museum in Prague, 1906–1940.* Prague: Jewish Museum in Prague, 2006.

rather complicated at the beginning of the war. In 1938 the collection was transferred from the border town of Mikulov to Brno, from where in 1942 it was shipped to Prague. In the wartime catalogue, it is referred to mostly as the "Moravian Museum" collection place. We are currently trying to identify this collection, but this is a very difficult task as its prewar inventory has not been preserved; on the other hand, we have access to archive sources concerning acquisitions to the museum's collections before the war.

The Jewish Museum in Mladá Boleslav (1900) was founded by the local community and comprised of items that were no longer in use. The discovery of this fact makes it much easier to identify the content of the collection, for which a prewar list has also been preserved. The collection of the Jewish Museum in Mladá Boleslav, however, has yet to be researched in detail.

Tracing the fate of individual items from the Museum's collections after the war is an important part of its provenance research. Some items (mainly artworks and books) that were acquired for the Museum's collections from private owners via the *Treuhandstelle* were returned to them in 1945–1950. The Museum also provided items to the nearly fifty communities that were revived after the war; ten of these communities are still in existence. After the demise of the remaining communities, however, only a few of the items on loan were returned to the Museum. The rest was dispersed in different ways: some of them remained in Czechoslovakia (now the Czech Republic) and some were sent abroad illegally (i.e., without the state's permission). These items now appear at art auctions (e.g., a synagogue curtain at Sotheby's a few years ago) or in antique shops, as well as in public collections (e.g., two Torah mantles in the collections of the Jewish Museum in New York) and in private collections (e.g., a synagogue curtain that belongs to the Museum's

collections, offered for sale by a private person in 2009). The Jewish Museum in Prague, however, has never stopped considering these items as part of its holdings, which is why it promotes all activities that focus on finding and returning them.

The Czechoslovak Communist State was also not a particularly good overseer of the Museum's collections. There were two kinds of losses during the period when the Museum was in state hands (1950–1994):

1. On the one hand, the losses were linked to efforts aimed at enriching the state budget by gaining valuable resources in foreign currency (the Museum was pressured to sell items from its collections abroad); and
2. On the other hand, the state did not pay too much attention to the safety of the items that were placed in repositories. Among the notable items that went missing in this period are a number of artworks that still appear in auction halls and in antique shops from time to time (most recently, a work by Ilona Singerová was on offer at the Czech branch of the Dorotheum in 2009). Current legislation, however, does not empower the Museum to request that these works be reacquired free of charge if they appear on sale or are offered for purchase directly to the Museum.

The largest group of items that the Museum lost during the Communist regime, however, comprises the aforementioned items that were sold from the collections – primarily the Torah scrolls (approx. 1,500), which were purchased in 1964 by the Westminster Synagogue in London with the help of a philanthropic member of the synagogue. Other items were sold

or donated from the Museum's collections in the 1960s, primarily to Czechoslovak commercial partners abroad, including Jewish businessmen who sought to acquire items from the Museum for their congregations. The origin of these sales and donations is covered in my article that was published in the 2006 issue of the *Judaica Bohemiae* journal.¹

Although the collection of the Jewish Museum in Prague is one of the largest in the world (it contains as many as 40,000 items, in addition to books and archival documents) and is indeed the largest collection that comes from a precisely demarcated geographical area, there is still more Judaica on the territory of the Czech Republic. We are also focusing our attention on these additional items as part of our research into the collections of other museums in Bohemia and Moravia for the purpose of finding comparative material for the items in our collection. Our research is focused on documenting these items, both in writing and photographically. I described its first – and, it must be said, very promising – results in the 2009 issue of the *Judaica Bohemiae* journal.² As part of this research, we managed to discover – in addition to individual items – several groups of Judaica which, thanks to the enlightened views of the curators at the time, were part of the collections of local museums before WW II already. One of the largest groups of Judaica has been preserved in the Municipal Museum of Polná; a group of Judaica in the collections of the Pilsen museum is also remarkable. Also of importance is the collection of synagogue textiles in the Přerov museum, which is unique in terms of both its quality and age. In my article in the 2004 issue of *Judaica*

¹ Veselská, Magda. "Selling Off of Items from the Collections of the Jewish Museum in Prague After the Second World War, with Particular Focus on the Sale of the Torah Scrolls in 1963–1964." *Judaica Bohemiae*. 2006, vol. XLII, no. 42, pp. 179–232.

² Veselská, Magda. "Documentation of Judaica and Hebraica in Bohemian and Moravian Memory Institutions." *Judaica Bohemiae*. 2009, vol. XLIV/1, no. 44, pp. 105–114.

Bohemiae¹ I looked in more detail at collections in local museums and other museum institutions that reflect the presence of Jews in the Czech Republic.

¹ Veselská, Magda. "Jewish and Related Museums in Czechoslovakia in the First Republic." *Judaica Bohemiae*. 2004, vol. XL, no. 40, pp. 78–92.

Methodological Questions Concerning the Provenance Research of Judaica and Jewish Cultural Property

► Julie-Marthe Cohen

JEWISH MUSEUM AMSTERDAM, THE NETHERLANDS

RESEARCHING JUDAICA LOOTED IN THE NETHERLANDS DURING THE SECOND WORLD WAR: METHODS, RESULTS, AND NEEDS

In 1997, the year preceding the Washington Conference on Holocaust-Era Assets, the Dutch government started a trial investigation into the restitution of works of art that had been returned from Germany to the Netherlands after the Second World War and still remained in the custody of the Dutch authorities. In April 1998, the committee concluded that in general the approach had been formal, bureaucratic, cold and often heartless. Later, more detailed research into the provenance of over 4,000 works was carried out, scrutinizing thousands of files in the Stichting Nederlands Kunstbezit archive. The Netherlands Dutch Art Property Foundation, or SNK, had been responsible for tracing and restoring art to its rightful owners. This Netherlands Kunstbezit or Netherlands Art Property collection of 4,000 objects included very few Judaica objects. In the course of the last decade, whenever possible, objects were restored to their legal owner based on a lenient and flexible approach.

Although it was through the intercession of the Dutch government that archives of the country's prewar Jewish communities were returned from Russia in 2002, Judaica as such has not

received serious attention from the Dutch government. Research into the impact of the theft and subsequent restitution of Jewish books, manuscripts, archives, and ritual objects has only been carried out by three Jewish institutions. A general overview of Judaica looted in the Netherlands during the Second World War has yet to be compiled.

Among the issues that require further examination is the fate of Judaica that remained in the country after it was stolen. We know for a fact that ceremonial objects were stolen from synagogues on a massive scale by German officials and Dutch collaborators, as well as ordinary thieves. While repatriation of looted objects from Germany was handled by SNK's foreign department, it was SNK's domestic department that was responsible for tracing, registering and administering items found in the possession of enemy personnel or traitors in the Netherlands. How successful was this domestic department? Clearly not very. In fact, the department's failure to achieve tangible results is well-known. No Judaica items seem to have been discovered and restored. In view of the detailed study of SNK's foreign department, it is appropriate that SNK's domestic department files also came under scrutiny. This is essential if the state is to evaluate its role in the discovery, administration and restitution of looted Judaica that remained in the Netherlands.

The Jewish Historical Museum is one of the few institutions to undertake extensive research on looted Judaica in the context of an investigation into the fate of its collection during and after the Second World War. As a result of this investigation we have been able to reconstruct exactly what happened to the collection after it was confiscated by the Einsatzstab Alfred Rosenberg in 1943, and to establish how many objects were restored and how many remain missing. In 1946, only a fraction of the looted

collection was returned from the US Army's Offenbach Archival Depot through SNK's foreign department.

I would like here to discuss the method I used during the research of the history of the Jewish Historical Museum collection, showing the kind of sources I used and how the information was processed. I am not concerned here about the fate of the collection as a whole, rather about the reconstruction of what happened to individual objects. Of the 610 looted items, 180 were returned, while 430 remain missing. In conclusion, I hope to show that the same methods can be applied to an investigation that is due to start soon on Judaica that disappeared from synagogues during the war and remained in the Netherlands.

The aim of my research into the history of the museum collection was to determine which objects from the prewar collection were returned, which remain missing and which objects of unknown provenance entered the collection after the war. All this information is to be made available in a database on our website.

In my investigation I explored the full range of documents that a reconstruction of the history of a museum collection can access. A key source was a prewar inventory of the museum, which included descriptions of a total of 940 pieces. I copied these into a table, adding considerable further information during the course of my research. For example, a list found in the Stedelijk Museum archive provides information about which objects had been entrusted for safekeeping to the Stedelijk and were later confiscated by Rosenberg. Bills of lading listing items returned to the Netherlands in 1946 found in the US Military Government archives, and a list of objects that were handed over to the museum by SNK in January 1947 show which objects were returned. However, the descriptions are often poor, making identification

difficult. I therefore searched through exhibition catalogues, Jewish and non-Jewish newspaper and photo archives for objects in the museum inventory, looking for additional details not given in the inventory. This enabled me to match an object, simply described as Chanukah lamp in the inventory, to a lamp with a vase with flowers in the middle, which is part of our present collection.

To show which objects were recovered and which were still missing, the collated data was compared to the present collection. The result was around 180 matches. My research also showed that a number of objects sent from Germany entered the collection erroneously. They were not part of the prewar collection and their provenance remains unknown. We are currently putting all the data relating to missing and misplaced objects into a database to be posted on our website. We hope that our database will set a standard for other museums.

In the search for missing objects, databases of Judaica have become indispensable, as the following example shows. While searching for details of a missing object simply described as a Torah mantle, I found out that it was in fact a valuable eighteenth-century Dutch Ashkenazi Torah mantle, lent to the museum in 1936. I subsequently made an important discovery: I was able to match it with a Torah mantle in the Israel Museum Second World War Provenance Research Online database, launched in 2007. The mantle had arrived in Jerusalem through the Jewish Cultural Reconstruction organization, which had distributed unidentified and heirless objects to Jewish institutions after the war, mostly in Israel and the United States. Similar discoveries may be expected, especially since a committee was formed at the 2008 annual meeting of the Association of European Jewish Museums in Amsterdam to explore the establishment of a

specialized database of Judaica objects. This would be a major advance, since Judaica is poorly represented in existing art databases.

I will turn now to the planned research into ritual objects that were looted from Jewish communities or disappeared in other ways during the war. Our research aims to achieve the following: First, to learn about the fate of these objects; second, to determine the number of lost objects and to identify or locate as many of these objects as possible; and finally, to examine the role of the Dutch government in the tracing of hidden or lost objects and how items that were declared were dealt with.

The key source in this study is a survey involving 158 Jewish communities in the Netherlands of moveable property and real estate reported missing or damaged. Each dossier documents a claim for compensation for losses suffered due to destruction and theft, which was submitted to the state. A structural study of these dossiers will indicate the extent of the property that was lost and stolen during the war. The files also include correspondence full of many different kinds of information. For example, letters explicitly mention Germans and collaborators as the thieves. I can mention the example of the village of Hardenberg, where the brass synagogue chandelier was confiscated and acquired for the collection of Anton Mussert, the head of the Dutch Fascist Party or NSB. Other files report Holy Ark curtains that were peppered with bullet holes or a handful of Torah mantles and fragments of brass candlesticks which were all that remained and which were kept in the local museum. In addition, the dossiers reveal how ceremonial objects of liquidated communities were redistributed to communities that no longer had such items. Other sources that have yet to be explored will hopefully provide information about the fate of missing items or items presumed to be missing.

The archive of SNK's domestic department may include material about collaborators who looted Jewish objects. Catalogues of auctions held during the war will probably also include looted Judaica, as will catalogues of postwar auctions of impounded objects that were sold by the state. This includes objects that were deposited by Jews with Liro Bank, the bank that the Nazi authorities created to rob Jews, which subsequently came into possession of the state. Some Judaica objects may already have been returned to their former owners, as a letter in our museum archive about the return of two charity boxes to the Jewish community of Middelburg shows. As in the earlier Jewish Historical Museum research, we will look for details to expand the cursory descriptions of objects in the dossiers of the 158 Jewish communities. For example, prewar Jewish journals often report occasions when ceremonial objects were donated, frequently describing the item in detail. The collated information will also be tested against a unique inventory of ceremonial objects in 23 Jewish communities in the Netherlands recently completed by museum staff. A comparison of these two sources will lead to further identifications of missing or apparently missing objects and will tell us more about their fate.

This year the Netherlands Museum Association will launch a follow-up study of a voluntary investigation implemented ten years ago by a large number of museums into art acquired between 1940 and 1948. In the new study, to be subsidized by the Ministry of Education, Culture and Science, museums will examine the provenance of their collection acquired in the period from 1933 to date according to specific criteria set by the government. The Jewish Historical Museum has contacted the museum association to ensure that Judaica will not be forgotten. In addition, it will provide instructions on how to recognize Judaica. The museum has also pointed out that countless ceremonial objects were

stolen from Jewish communities and that many of those that remain may still be found in small local museums, town halls, and similar places. The following examples illustrate the point: In its response to the 1999 museum inquiry, the Historical Museum at Oldenzaal wrote that it has a portrait of a nineteenth-century local rabbi and that the chairman of the Jewish community had given it on loan to the local museum in 1941. It had until then hung in the synagogue, which was never used again after the war. The museum also reported that no discussion had taken place after the war regarding the return of the painting. Another example pertains to Culemborg, where in 1943 the mayor had ordered the commissioner of police to impound the Jewish community's religious objects and archive, which were subsequently kept at the town hall. They had been forgotten about entirely until a regional archivist discovered the archive in 1963. The ritual objects had by then been transferred to the local museum.

I have presented the Jewish Historical Museum as a case study. Naturally every museum has its own particularities, while research results depend on the kind of sources available and their number. Clearly, as many archives as possible should be consulted and information can be retrieved from different visual sources and databases which are a key aspect of our research. I have proposed elsewhere that a digital museum manual be compiled to include information about experts, research results and research methods. This should incorporate a list of sources available for consultation: archives of the Nazi period, of the Allied forces, of national governments and Jewish organizations, as well as sources such as general and Jewish newspapers, photos, inventories, correspondence, and auction and museum catalogues. To succeed in this research we need to share our expertise and knowledge, to collaborate on a national and international level and, last but not least, obtain financial support from

the international community. All governments, the Dutch government included, should recognize the importance of our research into the fate of Judaica during and after the Second World War, a subject that has been neglected for too long and which deserves to be treated as all other kinds of assets, both from a moral and legal standpoint.

► **Inka Bertz**

JEWISH MUSEUM BERLIN, GERMANY

COLLECTING FOR JEWISH MUSEUMS TODAY

During the preparatory phase of this Conference, the question was raised repeatedly, particularly by those concerned with the legal side of Holocaust-era assets, as to whether there was actually a difference between the “looted art” discussed in the room next door and the “Judaica and cultural property,” which is our subject here. Since this question is justified, I have decided to include it in my paper, but I know that the answer will leave the lawyers disappointed, for the only answer I can offer lies in the realm of history, not that of law. It has much to do with the history of Jewish museums, and this history differs in many essential ways from that of other museums.

After the era of the Holocaust, it was certainly not a given that Jewish museums would be established or re-established in Berlin or other places in Germany, or in other countries throughout formerly Axis-occupied Europe.

And yet the first post-Holocaust Jewish museum was founded in Europe even before the war had ended: in August 1944 in

Vilnius, by survivors of the Jewish resistance. The first thing they did upon returning to their heavily destroyed hometown was to go out and gather the books and artifacts they had saved from the Germans. The story of this – short-lived – museum project points to a constellation which we see again and again in many other places:

1. The first people to attend to the surviving objects were the survivors themselves and the allied forces. Their plans for these objects tell us a great deal about their outlook. On a more practical level, it seems that the “re-assembly,” the gathering of whatever could be found, was always the first step that people took, whether in the former ghetto library in Vilnius, in similar efforts by the Jewish Historical Commission in Poland, or at the collection points set up in the western zones of Germany.
2. But the subsequent decision on how to proceed with these materials was, as Robert Weltsch has put it, “a question of Jewish policy”: based on these decisions, they were either left where they had been found, moved to other places, or even sold for the benefit of the survivors.

More than sixty years later, “Jewish policy” and Jewish prospects for the future may have changed, and we may even regret some of the decisions taken at that time, but many objects in today’s Jewish museums all over the world still bear witness to and reflect the visions and decisions taken by the survivors back then and the realities they faced.

After these initial efforts, there were several decades of silence until Jewish museums were founded again under completely different circumstances and auspices and with different agendas

than before the war. And from this moment on, I can only speak about the situation in Germany, which itself is mostly a West German one.

The Jewish museums I am talking about are those that have been founded in Germany since the 1980s: in Frankfurt in 1988, in Rendsburg in 1988, in former East Berlin in 1995, in former West Berlin in 2001, and in Munich in 2007. And these are only the larger ones.

Most of these museums are situated in historic buildings, and their exhibitions and collections present Jewish History with a strong regional focus. Many go back to private initiatives by local historians.

This “rediscovery” of Jewish history and its institutionalization is in itself an interesting phenomenon of German “memory politics” and “public history.” It has taken place against the backdrop of the rediscovery of forgotten sites of persecution (for instance, the “Topography of Terrors” in 1984) and a growing public awareness of the Holocaust (which began with the screening of the *Holocaust* TV series in Germany in 1979).

Ever since their beginnings in postwar Germany, Jewish museums have been perceived – and have defined themselves – as counterpoints to the sites dedicated to the memory of persecution. In contrast to these sites, the Jewish museums intended to remember “not how Jews died, but how they lived.”

In this context, Jewish museums in Germany have been places of education, remembrance, and “public history,” as opposed to being traditional collection-based institutions and repositories of cultural artifacts.

There was a certain factual logic to this, since almost none of these museums could draw on prewar Jewish collections. Exceptions to this rule are the Jewish Museum of Frankfurt, which holds artifacts from the Nauheim Collection, and the Centrum Judaicum, which now houses part of the *Gesamtarchiv der Deutschen Juden* and the few ceremonial objects that survived in the Jewish community in Berlin. (It should be mentioned briefly here, that the holdings of the important pre-war Jewish museums in Germany were transferred to the United States, Israel and other countries by the JCR and IRSO after the war.)

Thus, the Jewish museums today are faced with the question of provenance when actively enlarging their collections and when researching their existing collections.

I would like to take a few minutes to explore the methods and problems of provenance research based on examples from the collection of the Jewish Museum Berlin.

In the following, I will present four examples from the collection of the Jewish Museum Berlin and the problems of provenance research associated with them.

The collection of the Jewish Museum Berlin originates from the former Jewish department of the city historical museum of Berlin. Collecting started in the mid-1970s and encompasses all genres of objects: ceremonial objects, fine art, architecture, photography, and archival documents. In numbers, the collection is not very large. The number of objects produced before 1945 is even smaller: It encompasses about 160 paintings and 400 Judaica objects, plus a small number of sculptures and about 5000 sheets of graphic art. Among the paintings we are left with 47 objects that have gaps in their provenance between 1933 and 1945. Up to the present

moment we have not received claims. We are currently researching the provenances in our collection and will publish the results on our website by the end of 2010. The art collection has been the focus of provenance research, so the examples I will give reflect this emphasis:

1. The first object I would like to present is a portrait of the rabbi and scholar Abraham Geiger, posthumously rendered by Lesser Ury between 1905–1907. It had been suggested that this is the same portrait which was part of the collection of the *Hochschule für die Wissenschaft des Judentums*, which was looted and stored in a building which was subsequently bombed. A second looting would not have been all too unlikely. However, closer examination of our pastel showed that it had a stamp of the artist's estate on the reverse. Thus, it proved to be the pastel version of the painting – a practice not uncommon for the artist. It remained with the artist until after his death, when the estate was divided up between the heirs. The pastel left Germany with its owners when they moved to the United States. It was sold by the end of the 1970s and acquired by the family, who then sold it to the Museum.
2. The second object is again a portrait: Theodor Hosemann painted Ferdinand Lassalle in 1865. The small painting was acquired at a Berlin art gallery in 1965. Inquiries there were answered, but negatively: documentation no longer exists. The literature about Hosemann, which is not extensive, does not mention the portrait – in fact, he painted hardly any portraits. The literature about Lassalle leads us to the photography the portrait was painted after, but not to the painting itself.

These two examples are quite typical for the problems we face when dealing with second or third tier artists. The exact provenance of the Lesser Ury pastel could be identified on the basis of the oeuvre currently being compiled. For Hosemann, such a catalogue does not exist yet. Thus, the case has to remain open until further information will surface.

3. My next example is a sculpture, a walking girl, which was handed over to the curator by the widow of the person who had received it from a young woman, whose name she claimed not to remember in the early 1940s, probably with the intention of safeguarding it before her emigration, deportation or flight. Research has shown that the sculpture was given as a prize at a sports event in 1934 to a young runner named Helene Finkelstein. We do not know if this prize-object remained with the winner or if it was handed over to the next winner of the next sports-festival. Neither do we know, if she was the person who had received it. But also the name Helene Finkelstein of that age could not be found in the existing lists. Now that the archive of the ITS has opened, there is a new possibility of finding a trace of her.
4. The next example is one of the core holdings of the Museum's collection of ceremonial objects. Its history recalls Aharon Appelfeld's novel: Zvi Sofer, a survivor and cantor to the community of Münster, collected it with his modest means. We do not have any documentation about his purchases, and we can only speculate about his motivation and methodology of collecting. What we are left with are objects, which many curators will know from their collections or from auction catalogues, manufacture production,

as for example of the silversmith Meyen from Berlin or the *Württembergische Metallwarenfabrik*. And even the pieces of greater artistic importance – such as the Berlin rimoni – bear no inscription or anything which may give a hint to their previous owners – let aside tell us about the circumstances of loot – or rescue.

What we see from this is that, no matter how different – and how difficult – provenance research proves to be in Jewish museums, it is not fundamentally different from that in other museums. In this respect the lawyers have been right in asking what distinguishes Judaica from looted art.

It takes just as long and is just as difficult. In addition, a great deal of luck is often required to bring together the missing pieces of the puzzle. So we see that Jewish museums share the concerns raised in the section devoted to “looted art”: they reject statutes of limitation and support demands for open access to all archival sources.

But even if all these demands are met, and even if we do our homework as diligently as possible, we will have to accept the fact that we will be left with some objects in our collections – or in our storerooms – which we most likely will never be able to retribute: either because the identity of the object cannot be clearly established, the circumstances under which they were looted cannot be clarified, or the former rightful owners or their living heirs cannot be identified.

It is this corpus of objects that raises ethical and philosophical questions as to the role of museums as “owners” or as “custodians” of cultural property. And it is at this point that Jewish museums assume a role that may be different from that of art

museums, since the culture to which they are dedicated was directly affected by the Holocaust.

To illustrate the predicaments facing Jewish museums and anyone collecting Judaica after the Holocaust, we might recall two works of art and the statements they make:

1. One is Daniel Libeskind’s architectural design for the Jewish Museum Berlin, which incorporates empty spaces called voids, echoes iconoclastic philosophical reflections on the “limits of representation,” and has led to statements such as: “*Ceci n’est pas un musée*”. Even so, Daniel Libeskind has shown that a Jewish museum is NOT something that can be taken for granted after the Holocaust.
2. The second is the novel *Iron Tracks* by Aharon Appelfeld. Ever since his release from a concentration camp forty years earlier, the protagonist has been obsessively riding the trains of postwar Austria. What keeps him sane is his mission to collect the menorahs, kiddush cups, and holy books that have survived their vanished owners; and the hope that one day he will find the Nazi officer who murdered his parents, and have the strength to kill him. The novel is remarkable because it combines both these tasks – which are actually two aspects of the same mission – and presents the act of collecting Judaica and the theme of revenge with the same degree of emotional intensity in a world of broken characters. The objects he collects are just as much “*sherit hapleita*” as the survivors he meets during his journey.

Again: what makes Jewish museums different from other museums?

First, one could view the matter from a legal perspective and discuss the notion of “heirless property” and the question of the legal owner, the successor to these “orphaned objects.” The fact that Jewish successor organizations were set up immediately after the war to avoid common succession by the state, especially the German state, is another sign of the special character of Judaica and Jewish cultural property among the Holocaust-era assets. And at this point historical specifics result in legal specifics of ownership.

And second, there is a more general, historical aspect: The Jewish museums of Europe – to different degrees and in different ways – are built on the ruins of the culture they are dedicated to. They assume the character of a memorial. Thus, the imperative which we share with all other museums, namely, “to preserve,” has taken on a different character. It entails using the means available to museums not only to remember, but also to restore the destroyed cultural context and the lost knowledge that once were associated with these objects. Today, special efforts are required to show the meaning of these objects, especially in a largely non-Jewish cultural context.

Jewish museums take on this role of re-contextualization. Through the exchange of information, through the preservation and circulation of objects, they contribute to memorializing and even re-building of at least a small part of Jewish cultural life in Europe.

Since the Terezín Declaration mentions the possibility of restoring objects for synagogue use, it is important to make the point here that this is not the only way to re-attribute cultural meaning to an object. Since every object incorporates cultural values which lie beyond its religious function in the aesthetic and

historical realms, and since Jewish culture has never been limited to religious practice, these “secular” aspects of an object are equally legitimate and important aspects of Jewish culture.

To reduce objects to their religious function or even to give unquestioned preference to this function would also place limitations on the idea of Jewish culture, which has always had a secular side and integrated influences from the non-Jewish world. Moreover, the preservation and study of Judaica and Jewish cultural property, even the founding of Jewish Museums, has been a vital part of modern Jewish culture, which in prewar Europe successfully built modern, partly secularized, and vividly Jewish identities.

Jewish museums can also assume a role in rebuilding Jewish life in present-day Europe: by preserving and studying objects, making them available to scholars, providing information about them, and circulating the dispersed heritage through loans. In doing so, Jewish museums have become part of the activities of remembrance, education, and research. As counterpoints to the original sites of the Holocaust, they preserve the objects that bear witness to Jewish life and allow the past to live on in the memory of generations to come.

► **Dario Tedeschi**

GOVERNMENTAL COMMISSION FOR THE RECOVERY OF
THE JEWISH COMMUNITY LIBRARY OF ROME (LOOTED
IN 1943), ITALY

**RESEARCH FINDINGS OF COMMISSION FOR GENERAL
SPOILIATION IN ITALY AND RESEARCH OF THE
LIBRARY IN ROME**

The looting of the assets of the Jewish citizens in Italy took place in two successive periods, and had a different form and scope in each of them.

The first period commenced in 1938; during it, most Jews lost their sources of livelihood as they were expelled from all public service jobs and often also from the private ones, were not allowed to engage in professional activities (e.g., as lawyers, engineers, and physicians), and their commercial and industrial activities were considerably limited. Jewish citizens were not allowed to own assets of an aggregate value exceeding a specified level; the part of their properties considered to be in excess was expropriated by the State. Young Jews were deprived of their right to education, and they were forbidden from attending public and private schools and universities, with obvious implications for their future employability.

The asset owners had tried from the very beginning to save at least a part of their possessions by selling them, often at low prices, or by registering them in the name of fake nominees who, however, did not always respect the agreements entered into. During this first period, the moral and material status of the Jewish citizens was lowered as the result of the deprivation of their civil rights, but their physical extermination had

not yet started. The Jewish population managed to survive in relative freedom, although often in precarious conditions, or even poverty.

The second period followed after the armistice declaration on September 8, 1943; German troops immediately occupied Italy and the Italian Social Republic was created. The Jews were declared to be aliens and were treated as members of an enemy nation, which resulted in arrests, murders and mass deportations perpetrated by the German forces and the Italian fascists. The Jews were not allowed to own any possessions anymore and a decree was issued against them saying that “all their movable and immovable possessions should be seized immediately to be later confiscated to the benefit of the Italian Social Republic.”

The regulations in the first period were promulgated by the Italian government of that time and had the form of laws, decrees and often even of ministerial circulars. As to the second period, besides the steps taken by the Salò Republic, other very serious measures were adopted directly by the German Commands.

A commission set up by the Prime Minister’s Office of the Italian Republic in December 1998 investigated the looting in Italy and the underlying measures as well as the consequences of the restitution and compensation measures ordered after the end of the German occupation. This Commission (known as the “Anselmi Commission” by the name of its chairwoman, of which I was a member), finalized a summary report in April 2001, the text of which, already translated to English, can be found on the website of the Prime Minister’s Office.¹

¹ See: http://www.governo.it/Presidenza/DICA/beni_ebraici/index.html.

It is a structured report which informs on the difficulties and complexity of the investigations, given the fact that the investigated events happened almost two-thirds of a century earlier, with a wide range of measures adopted, and a broad range of authorities which ordered and subsequently implemented them. This situation highlighted the need to investigate archives of many authorities and agencies scattered across the Italian territory; it was not always possible to complete this research, as in some cases the underlying documents were destroyed during wartime.¹ The access to public and private archives (such as private bank archives) was smooth. The report, although it states that a detailed reconstruction of the past events is impossible, provides information on the scope and scale of the looting, as reflected clearly in the hundreds and hundreds of both legislative and administrative measures, and almost eight thousand confiscation orders issued by the Republic of Salò. According to the Commission, the confiscation orders list all types of assets; not only valuable objects such as the immovable assets that had not yet been confiscated, but also humble household objects and strictly personal effects, even toothbrushes!

As early as in 1944, before the liberation of the entire national territory, the government of liberated Italy introduced legislation governing the restitution and compensation measures which was completed in the years to follow. The Commission considered the measures taken to be mostly positive and it pointed out that the legislation relating to the restitutions turned out to be sufficiently timely and comprehensive. The Commission also observed that in several cases the impact of these measures has not been satisfactory for various reasons

¹ "The Report" (text), p. 6, p. 36, and the following.

of different nature which are listed exhaustively in the report; I must necessarily refer to the report here as well as I am referring to the conclusive reflections and recommendations included in the final report which relate to the archives, research, individual compensations, conservation of memory, and educational purposes.

I think it is useful to mention here, taking into account firstly the draft Terezín Declaration which is going to be submitted to the Plenary Assembly and secondly the assets seized from the Jews, that Italy has already introduced some of the measures proposed by the abovementioned Declaration.

As early as 1947² a provision was enacted as requested by the Union of Israeli Communities in Italy, which established that the inheritance of the Jews who had died as a result of racial persecution without heirs shall be transferred to the Union of Israeli Communities, notwithstanding the law specifying that in case a person dies without heirs, his/her property shall be forfeited by the state. In fact, the enforcement of this Act is difficult for various reasons, one of which is the difficulty of establishing the existence of the assets already expropriated or confiscated, which had not been claimed by their owners or their heirs.

An Implementing Act promulgated in 1997³ stipulates that the assets stolen from the Jewish citizens, or from persons regarded as such, for reasons of racial persecution, which could not have been returned to their rightful owners as the latter were missing or untraceable as well as their heirs, and which are

² *Dlcp*s no. 364 as of 11 May 1947, *Gazzetta Ufficiale*, no. 119 and 120, May 27 and 28, 1947.

³ Act no. 233 as of 18 July 1997, *Gazzetta Ufficiale*, no. 171, July 24, 1997.

still retained or held by the Italian state for any reason, shall be assigned to the Union of Italian Jewish Communities who shall distribute them to the relevant Communities according to the origin of such assets and location from where they were stolen.

This Law was applied at least in two important cases. The first one was related to the assets found in the immediate postwar period close to Klagenfurt, Austria, which had probably belonged by Jews deported from the city and the province of Trieste. These were personal effects some of which were valuable, such as gold watches, bracelets and other jewels stolen from the deportees. Only a very small portion of those assets could be returned to their owners or their heirs. The remaining portion, which was placed in five large bags, had been stored for decades by the Ministry of Treasury. In compliance with the aforementioned Act, which was expressly enacted on this occasion, these assets were allocated in 1998 to the Union of Jewish Communities which, in turn, handed them over to the Jewish Community of Trieste, the territory of origin of the victims who had owned the assets in question.

Another interesting application relates to an important collection of eighteenth-century German porcelain¹ which was confiscated from a family of German origin which had fled to Italy and lived in Merano, at the moment when they were expelled from Italy and were crossing the border again to move to the United States. The Anselmi Commission has investigated this case and mentioned it in its final report,² concluding that the competent administrative authority recognized the substantial illegitimacy of this confiscation and therefore also the ensuing obligation of restitution. As all traces of the Kaumheimer

¹ The Autonomous Province of Trento, *La collezione Kaumheimer*, Trento, undated.

² "The Report", p. 146.

family appeared to be lost, the 1997 Act was applied and the collection was assigned to the Union of Italian Jewish Communities with a view of its subsequent allocation to the Jewish Community of Merano. Subsequently, the collection was returned to the Kaumheimer family as the Union of Jewish Communities was finally able to find its members.

For reasons of completeness, please note that other measures were also taken; however, these do not necessarily relate to stolen assets, such as the life annuity, equivalent at least to the minimum social pension, which is granted to all former persecution victims, etc.

During its work, the Anselmi Commission was dealing also with the destruction of the archives and libraries of Jewish communities.³ It was dealing mainly with the looting of the library of the Jewish Community of Rome, stating its importance in its final report. As I had the opportunity to mention at the previous conferences held at Vilnius, Hanover,⁴ and Liberec⁵ and as it is pointed out in the report itself, this library contained manuscripts, incunabula, *soncinati*, works printed in the 16th century by Bomberg, Bragadin and Giustiniani as well as early 16th-century publications from Constantinople and other 17th and 18th century publications from Venice and Livorno.

³ "The Report", p. 154.

⁴ D. Tedeschi. *Research of the Roman Jewish Community's Library Looted in 1943*. In "Jüdischer Buchbesitz Als Raubgut". Klostermann, Frankfurt Am Main, 2006, pp. 243–252.

⁵ Ibid. *The Libraries of the Jewish Community of Rome and the Italian Rabbinical College Looted by the Nazis: The work of the Commission set up for research by the Italian Government*, in: *Proceedings of the international academic conference held in Liberec on 24-26 October 2007*, Prague, 2008, pp. 114–122.

Following the submission of the Report prepared by the Anselmi Commission, and in compliance with the recommendations specified in its final reflections, the Union of Italian Jewish Communities submitted to the Prime Minister of that time a memorandum containing a certain number of requests. The Commission was asking the State above all to renew its commitment to continue the systematic research of the Jewish Community Library in Rome and highlighted the enormous cultural value of the looted material besides its simple market value, stressing that its research was in the interest of the country's cultural heritage in general.

This appeal was received favorably, given also the considerable cultural importance the discovery and recovery of the Jewish Community Library could have for the Italian state. A new Commission was established under the Prime Minister's office with the mission of "promoting further research in order to reconstruct the events relating to the bibliographic heritage of the Jewish Community in Rome which had been dispersed after the looting perpetrated towards the end of 1943 and, if this heritage or a part thereof is discovered, to outline the measures governing its recovery."

I had the honor of being a member of this Commission,¹ which

¹ The members of the Commission were as follows: Mr. Dario Tedeschi (Chairman; Union of the Italian Jewish Communities); Ms. Anna Nardini (Prime Minister's Office), Ms. Bruna Colarossi (Prime Minister's Office), Ms. Rosa Vinciguerra (Ministry for Cultural Heritage and Activities), Ms. Marcella Conti (Ministry of Justice), Mr. Michele Sarfatti (Director of the Centre of Contemporary Jewish Documentation), Mr. Mario Toscano (University La Sapienza in Rome), Ms. Filomena Del Regno (University La Sapienza in Rome), Mr. Lutz Klinkhammer (German Historical Institute in Rome), Mr. Sandro Di Castro (Union of the Italian Jewish Communities).
The Ministry of Foreign Affairs was represented successively by: Minister Plenipotentiary Piergiorgio Cherubini, Minister Plenipotentiary Fabrizio Piaggese, Minister Plenipotentiary Maurizio Lo Re, Minister Plenipotentiary Alessandro Pignatti, Minister Plenipotentiary Sergio Busetto and Minister Plenipotentiary Daniele Verga.

grouped historians and expert archivists as well as representatives of the Prime Minister's Office and of other relevant Italian Ministries (such as the Ministries of Foreign Affairs, Cultural Heritage and of Justice). When the Commission accepted this mission, it was well aware of the enormous difficulties related to such a research, in particular because all traces of the library disappeared when it was sent to an unknown destination on railway wagons of which only the initials were known as well as the fact that they belonged to German Railways. As a result, no mention of the Library of Rome was found in the bibliography relating to the Nazi depredations despite its considerable extent. Towards the end of 2005, i.e., when this issue was raised in Italy and the details of the looting were spread among the experts thanks to the work of the Commission, Patricia K. Grimsted wrote about it in one of her documents.

In relation to this, it should be mentioned that in the postwar period, parts of the looted archives and libraries were found in various locations controlled by the Allied troops and returned to the institutions or individuals to whom they had belonged. This relates to books belonging to the Library of the Italian Rabbinical College, which were returned and during some time were considered to represent the entire contents of this library. However, in 2005, during a conference held in Hannover, the astonished Commission delegation that participated in it received a Pentateuch, printed in Amsterdam in 1680 and bearing the bookplate of the Italian Rabbinical College. This book, whose history would be too long to narrate here, but which can be found in the Acts of this Symposium,² is assumed to be a part of a group of books stolen by the Nazis that

² On this subject, see Hoogewoud F.J., *Eine späte Rückgabe*. In *Judischer Buchbesitz als Raubgut – Zweites Hannoversches Symposium*. Frankfurt am Main, 2006.

has not been found yet. The Commission learned later from an interview held during its work that a group of valuable incunabula belonging to this library had been lost. The Commission was then asked to include in its research not only the Jewish Community Library in Rome but also the so far undiscovered part of the Rabbinical College in Italy that had the same fate and was also of unquestionable importance.

The research activities of the Commission took many directions and followed various lines of inquiry. These activities have been amply described in the final report to which we must refer. It is possible to mention here just the fact that the research has been conducted not only on the basis of the study of publications relating to the Nazi looting of books and other assets but also due to the correspondence with experts in the relevant fields and above all due to visits to archives dispersed around the world which were supposed to keep the records related to the looting. The research was carried out in archives in Germany, the United States, and the Russian Federation as well as in other countries. The list (which is just partial) of the missing books has been digitized to facilitate the search in the library catalogues. The copies of stamps and bookplates affixed to the missing books were also distributed.

Despite this in-depth research, which had been strongly encouraged by the Commissioners for quite a long time, the Jewish Community Library in Rome (and the still dispersed part of the library of the Italian Rabbinical College) has not been found. However, the activities of any commission are limited and in this case, apparently no further extension was possible of the already broad and engaging research performed by the Commission. However, some significant results have been achieved.

Firstly, as mentioned in the final report, a certain amount of information and of documents has been acquired which throws some light on the looting, thus potentially paving the way for further research. Secondly, the correspondence and personal contacts, the participation in international conferences and the publication of reports including the present one have attracted the interest of experts to a subject rarely dealt with until now.

An interesting document was found in the *Bundesarchiv* in Berlin. It was a monthly report signed by Hans Maier – who had been the head of the *Einsatzstab Reichsleiter Rosenberg* (ERR) group active in Italy – informing the headquarters that the last shipment of books from the Synagogue in Rome was sent to Frankfurt on December 23, 1943. This confirms that, from various Nazi agencies dealing with the looting, many of which competed among themselves, the looting in Rome was accomplished by the ERR.¹ This document thus provides an important clue that is useful also for research purposes. The ERR report of November 1944² contains also a reference to the looting committed the previous year.

In the *Jewish National & University Library* in Jerusalem, a hard-copy catalogue of books from the Italian Rabbinical College was found dating back probably to the thirties, as well as an application form for books to be consulted. The Commission obtained a microfilm copy of this catalogue and a photocopy of the form, but has so far been unable to establish how the catalogue made it to this location. Apparently, this was the catalogue prepared by Fabian Herskovitz which is known

¹ Letter of 21 January 1944 of the *ERR Sonderkommando Italien* signed by Maier, *BundesArchiv*, NS30/32.

² Report of 28 November 1944, *Bericht über den Besuch in Bad Schwalbach und Hungen*, signed by Wunder, ERR - Stabsführung/I, Ratibor, Centre de Documentation Juive Contemporaine de Paris, CXLI-150.

to have been seized by the Nazi looters in 1943, shortly before the two Roman libraries were stolen. It is highly likely that the catalogue found is the document described as “No 142 – Collegio Rabinico Italiano. Rome. Italian manuscript (book index)” in the “Monthly Report” prepared by the OAD as of 31 May 1947.

As for the books, apart from the abovementioned discovery of the Pentateuch belonging to the Italian Rabbinical College, two manuscripts were found at the *Jewish Theological Seminary* of New York, which belonged beyond any doubt to the Jewish Community in Rome as they bear the stamp of this community indicating that they were owned by it. The Commission obtained a microfilm copy but was unable to determine exactly whether these manuscripts formed part of the books looted.

Finally, according to a document written by Estelle Gilson,¹ a manuscript and a *cinquecentina* – which belonged to the Jewish Community Library in Rome – can be allegedly found in the library of the *Hebrew Union College* in Cincinnati. However, the Library has informed the Commission that they did not know the abovementioned documents existed.

And, last but not least, we should mention the research conducted in Russia by the Russian State Library of Foreign Literature led by Ms. Ekaterina Genieva. As early as in 2003, during an official meeting between Mr. Mario Bondioli Osio, Minister Plenipotentiary, and M. Khoroshilov, Russian Deputy Minister of Culture, it was said that the possibility that the searched library could be located in Russia was “far from being excluded.”

¹ Gilson E., *The Fate of the Roman Jewish Libraries*. In De Benedetti G. *October 16, 1943*. Indiana: University of Notre Dame Press, 2001.

The Commission found also indirect evidence which somehow corroborates this hypothesis, and which is amply illustrated in its final report. Among the various directions taken by the research, the Russian track was perceived as an alternative to the surveys conducted in the United States on the basis of another assumption, i.e., that the libraries of Rome ended up on the Anglo-American territory.

Research was therefore conducted in libraries and archives in Moscow and Saint Petersburg. The results have not been favorable; however, they cannot be considered to have been completed as the research could not have been conducted on certain sites to which access was prohibited. The Russian party proposed to explore other sites within the vast Russian territory; however, before starting this research, which would be both costly and uncertain, it is necessary to complete the research on the sites in Moscow and Saint Petersburg which have not yet been visited.

It is possible to conclude that, given the almost total absence of documents referring to the looting of libraries of the Jewish Community in Rome and of the Italian Rabbinical College, the Commission expended a long and tedious effort in order to trace back the journey of the libraries after being stolen from the place where they were stored, and to identify the Nazi organization responsible for the looting.

Hope was expressed that, at some point in the future, the data obtained as a result of the Commission’s work could be combined with other data obtained by other researchers, possibly as a result of exploration of the Russian archives which are not accessible at present, and thus enable to find an irreplaceable cultural heritage which should not have disappeared based on the qualified estimate of the Commission.

As stated in the final part of the Commission's report,¹ despite the fact that its efforts rendered only partial results, it is necessary to highlight again the importance and usefulness of further investigations.

Even before the library is found, it is necessary to reconstruct the history of its looting in the context of the ERR activities and the Nazi policy of plundering of works of art and of all documents related to the history and life of Jews, which represented a substantial part of the German racial politics. The exact reconstruction of the ERR's activities in Italy, identification of the specialized staff directly involved in the operation, reconstruction of the passage and storage of the heritage, their activities, comparison of facts with the facts from other libraries and archives looted, dispersed, but sometimes found and returned to their rightful owners, are all important and significant aspects of a research project. This project has been launched but must be completed not only in order to reconstruct this specific event but also due to the light it can shed on the Nazi policies during the occupation of Italy and on the looting of cultural assets and libraries in other occupied territories.

The Commission felt that its efforts helped to pave certain ways for the research, which nevertheless requires a deeper, patient and careful investigation of archives given the fragmented and dispersed nature of the resources to be studied.

As to the latter, the priority is to deepen the analysis of the documents kept in the archives in the United States and Germany, and to examine the documents in the Russian archives,

¹ *Report on the activities of the Commission for the Recovery of the Bibliographic Heritage of the Jewish Community in Rome, looted in 1943.* See: <http://www.governo.it/Pr>.

provided the constraints the Commission had to face during its activities in Russia are overcome. The result of this effort should be the reconstruction of a specific chapter of the history which can only be understood in the broader context of the events of WW II and of the early years of the postwar period.

Distribution of Collected Judaica and Jewish Cultural Property After 1945

► Dov Schidorsky

THE HEBREW UNIVERSITY OF JERUSALEM, ISRAEL

THE HEBREW UNIVERSITY'S BOOK SALVAGING ACTIVITIES IN POSTWAR CZECHOSLOVAKIA AND THE PROBLEMS OF RESTITUTIONS IN ISRAEL

My subject is books. Not the money, insurance policies, artwork, or immovable property that the Nazis confiscated and stole, but books – entire public and private collections of books and even a single book. Most of the books, by themselves, were of no monetary value or of only little such value. Their importance was and is that they constituted and constitute a link to their persecuted and missing owners – a tie to their spiritual world, which was destroyed and is lost. They constitute a shard of memory; their contents represent the spiritual heritage of Judaism, which the Nazis had sought to destroy. After the Holocaust, hundreds of thousands of these books – including forty to seventy thousand books that were found after WW II in various locations in Czechoslovakia – were transferred to the Jewish National and University Library (JNUL). The books and the libraries had thus come to the same places to which the persecuted Jews had wandered seeking shelter.

Schopenhauer claimed that libraries constitute the permanent memory of humanity. Here the traumatic remembrance of the victims was absorbed into the remembrance tradition and was

allotted a symbolic location and cultural site in the JNUL in Jerusalem. And so the people of the book as an integrated corporate body could develop and strengthen a collective memory that is intertwined with the fate of the book.

In his letter to the Allied leaders dated September 20, 1945, Chaim Weizmann drafted the Zionist policy regarding claims for the restitution of the assets of the dead and heirless Jews. Weizmann sought to prevent the return of the ownerless property to the oppressor countries and to have it instead entrusted to the Jewish Agency for Israel, which represented the World Zionist Organization. In this letter, he wrote the following:

- ▷ The problem of restitution embraces... valuables of various kinds taken from Jewish institutions and individuals, as well as Jewish cultural, literary and artistic treasures...
- ▷ But many of the institutions have been swept away, and will never be restored while considerable numbers of Jews have been murdered and left no heirs... It should need no argument to prove that property by crime rendered masterless should not be treated as *bona vacantia*, and fall to the governments which committed the crimes, or to any other governments, or to strangers having no title to it...
- ▷ The true heir, therefore, is the Jewish people and those properties should be transferred to the representative of the Jewish people, to be employed in the material, spiritual, and cultural rehabilitation of the Jews.
- ▷ The Jewish Agency for Palestine therefore makes the following submissions:

- That with regard to the problem of Jewish property forming the subject-matter of indemnification and restitution, in so far as the individual or communal owners of such property cannot be traced, the title should pass to the representatives of the Jewish people...
- That in so far as such assets are to be employed in rehabilitating in Palestine the Jewish victims of racial and religious persecution, they should be entrusted to the Jewish Agency for this purpose.

In accordance with the principles outlined in this letter, the Jewish Agency authorized the Hebrew University and the JNUL to represent it with regard to the Jews' cultural property and in particular with regard to the "Diaspora Treasures" (as the manuscripts and books that had been confiscated and stolen by the Nazis were called). At the beginning of 1946, the University established two committees: the Committee to Salvage the Diaspora Treasures and the Legal Committee. The latter committee was charged with providing a legal basis for the restoration of the Diaspora Treasures to the Jewish people. The legal arguments were to be accompanied by a consideration of the relevant perspectives of social justice, morality and practicality – all with regard to three claims to be made regarding the treasures: a demand for the return to the Jewish people of cultural assets which remained ownerless and heirless; the claim that the University and the JNUL be recognized as the sole trustees for cultural assets; and the claim for special compensation to be provided out of the cultural treasures located in the public libraries in Germany. The Legal Committee recommended that the Jewish Agency be asked to separate the handling of the cultural property from that of the other assets, and to charge the University and the JNUL with the handling of the former type of property. The

Jewish Agency did consequently recognize these institutions' rights to serve as trustees for such assets and gave the University a power of attorney to enable it to take the steps necessary to obtain the cultural assets, including the conduct of negotiations with the Allied authorities in Central Europe regarding this matter.

In order to implement the above-mentioned policy, the University sent some twelve emissaries to different countries in Europe during the years 1946–1976, including to Czechoslovakia. As is known, hundreds of thousands of books, the remnants of the libraries and collections of the victims and of displaced European Jews, were to be found in various locations in Czechoslovakia. Part of the Reich Security Main Office Library in Berlin, a library created by the Nazis and which included thousands of books and entire collections that had been stolen from Jews, had been evacuated to various castles in Bohemia and Moravia. Another part, which included most of the Hebraica books, was transferred to the Terezin Ghetto. The various places in which the books were sheltered and the manner in which they were taken in at the various castles to which they were brought is described in detail in the published research of Patricia Grimsted and it needs no repetition here. Within the few minutes allocated to me, I would like to answer the following questions in brief: who were the University's emissaries who operated in Czechoslovakia; what problems did they encounter while transferring the books to Jerusalem; and what is the prognosis regarding the restitution processes for hundreds of thousands of books absorbed in Israel. My comments here are based on the confidential reports of the emissaries that were published in Hebrew in my book "Burning Scrolls and Flying Letters" which was published by the Hebrew University's Magnes Press last year.

The first emissary was Gershom Scholem, a professor of Jewish philosophy and an expert on Jewish mysticism, who reached Prague in June of 1946. His main contribution was that he succeeded in having the institutions with whom he conducted negotiations recognize the status of the Hebrew University as the representative of the Jewish people and as the heir of the Jewish cultural assets that remained ownerless or heirless. He also persuaded these institutions that by virtue of its status as such, the University was entitled to claim these assets and to hold them in a trust framework. Scholem was able to obtain the consent of the Jewish Community Council of Moravia and Bohemia for the transfer of the Terezín books to the Hebrew University in Jerusalem. This consent was accompanied by certain conditions. Important as they are, it is impossible to dwell upon them now. Regarding the books located in the various castles, he proposed that a commission from the Jewish community go to the castles and examine the books, with the consent of the Czechoslovakian government. Afterwards, negotiations would be conducted with the authorities so that they would waive the formal ownership rights that they held pursuant to the Czechoslovakian law, according to which whatever the Germans had brought into the country belonged to the country. Finally, he proposed, the transfer of the books to University, in trust, could be approved.

The second emissary was a librarian and professor of philosophy, Hugo Bergman. Bergman was a Prague native and had previously served as a librarian at the Charles University in Prague. He had contacts and acquaintances at the Jewish institutions and at the Ministry of Education in Prague, dating back from the time that he was the director of the JNUL during the nineteen-twenties. (He had hosted Tomas Masaryk at the time of his visit to Jerusalem in the summer of 1927, and had heard him speak of

Zionism and say “I see Zionism above all from the moral side, I see in it a drop of the oil of prophecy.”)

Bergman stayed in Prague from the 6th through the 14th of November in 1946. He persuaded the Charles University Library to give up their demand to receive the books held at Terezín and persuaded the Ministry of Education to grant approval for the removal of these books. He visited the Nimes Castle and on the basis of Scholem’s proposals, Bergman conducted negotiations with the Jewish Communities Council regarding the transfer of the books held at that castle.

He took care that the Communities Council transmitted to the Czechoslovakian Ministers Council the recommendation that the books be transferred.

Dr. Arthur Bergman, Hugo’s brother, was sent to conclude the negotiations and to implement their outcome. He had worked for the Czechoslovakian government in the past, and his contacts from that period helped him to carry out the tasks with which he had been charged. He succeeded in advancing the handling of the Terezín books which were stored for delivery at the Prague railroad station. The Nimes Castle books were transferred to the management of the Jewish Communities council and were stored in the Jewish cemetery in Prague. His work regarding the consolidation of bibliophile Sigmund Seeligmann’s collection – part of which was held at the Nimes Castle and part of which was among the Terezín books – should be specially noted.

The preparation of the shipment was entrusted to the fourth emissary, Ze’ev Shek. Shek was a native of Olomouc, a Zionist activist and a Hebrew teacher in Prague, who worked in Czechoslovakia from September 1947 through July of 1948. While using

various ploys to work around the standard procedures, as well as his wisdom, Shek succeeded in gathering 35,000 books from the various castles, and thousands of the Terezín books into the Jewish Community's storeroom in Prague. He took care of the sorting and packing of the books, and he handled the export licenses and the deliveries via Antwerp to Palestine. His mission contributed to the fact that the institutions in Czechoslovakia came to understand the need of the hour and were able to appreciate the creative power of the Jewish people in Palestine, who were concerned with the preservation of their spiritual assets in the Diaspora, even as they struggled for survival during the War of Independence in 1948.

The emissaries faced numerous obstacles in their attempts to achieve their goals. One main difficulty was presented by the remaining members of the Jewish communities in Prague, where the emissaries encountered opposition or at the very least a pronounced lack of goodwill, which complicated and delayed the negotiations. The discussions held between Scholem and the Council of Jewish Communities of Bohemia and Moravia – which had been given custody of the books that had been transferred from the Terezín ghetto and had originated in the Reich Security Main Office Library in Berlin – were a good example of this type of difficulty.

The community leaders, who were considered to be Zionists, made various arguments – some quite strange – in opposition to Hebrew University's request to receive custody of the books. They argued that they had no right as a community to decide the fate of the books, which had been given to the community in trust; that claims for restitution needed to be made before the books were disposed of; that the books should be kept in Prague because they would be safer there than in Jerusalem; that the

Association of German Jews would have to give its consent to the transfer because the Association had had custody guardian of the books in the past; and that the books were to be set aside for a projected institute of Jewish studies in Prague.

These differences in the attitudes of the Diaspora communities and those of the Hebrew University and JNUL emissaries with regard to the transfer of the communities' collections can only be understood against the background of the internal debates that were held in the immediate postwar era in Jewish Palestine, and later in Israel, as well as in the Jewish Diaspora – regarding the revival, restoration and viability of the Jewish communities in Europe after the Holocaust. This debate also explains the Hebrew University's policy of seeking to establish exclusive right of the Jewish nation – as embodied by the Jews in Palestine (and later, in Israel) – to receive the ownerless and heirless cultural treasures.

It should be recalled that these European communities had essentially been destroyed, and what remained were survivors, including displaced persons, who had come to their current communities from various different countries. Few of them even knew how to read Hebrew. Despite all the destruction and the economic and existential distress, the idea of re-building viable Jewish communities on the remains of the old ones took form. Of course, the Communists and anti-Zionists generally supported this approach, but, surprisingly, even ardent Zionists in the various communities frequently took a similar position. In contrast, the stand taken by the Hebrew University emissaries was fervently Palestine-oriented – they believed strongly that the Jewish communities that had been destroyed during the war should not be revived. And as Hanna Arendt had phrased it: "Only in centers of Jewish scholarship and intellectuality could a living tradition awaken."

The emissaries' activities were also adversely affected by political events that caused various governments to object to the transfer of the books outside the country. For example, after the 1948 Communist Revolution in Czechoslovakia, the majority of the government ministers and of the Zionist leaders who had headed the Czechoslovakian Jewish community retired or were forced to resign, and they were all replaced by individuals with Communist orientations. The process of receiving the many approvals and documents required for the transfer of the books from the Terezín ghetto was consequently slowed down, and the new government placed numerous obstacles in the path of the Hebrew University emissaries, with government clerks doing their jobs as if under duress.

In addition to all of the above-mentioned problems, the Charles University in Prague wished to establish a Central Library of Judaism in the context of its National and University Library and it therefore asked that the Judaica and Hebraica be transferred to it.

The emissaries' reports are worth studying. They supplement each other in terms of the details of the struggle to save the books in Czechoslovakia. They indicate the sense of mission that beat in the hearts of these four emissaries. The first of these had arrived in Prague without any exact instructions, and the absence of any detailed information regarding the locations of the books and of their contents encumbered their activities. Sholem and Shek argued that if they had arrived in Prague in the summer of 1945 at the time of the liberation of the Terezín ghetto, their jobs would have been much easier. Because of the actual timing of their arrivals, the four emissaries required two years of negotiations and tremendous expenses in order to transfer the books to Jerusalem. These negotiations were accompanied

by a struggle with an ungainly bureaucracy, by suspicion, and sometimes by a hostile attitude and deliberate deception. The emissaries had to act with great wisdom, to use a cautious and diplomatic approach, and not a few scams in order to overcome the many obstacles that they faced. The considerable expenses were paid by the University with the assistance of the JDC and the Jewish Agency. On the other hand, despite the bureaucratic obstacles it created, the Jewish community eventually related positively to the transfer of the books to Jerusalem and even took part in some of the financing. In addition, the work of Otto Muneles and Hana Velovková from the Jewish Museum also furthered the goals of the Hebrew University.

The available documentation does not provide a satisfactory answer as to the quantity of books that eventually reached Jerusalem from Czechoslovakia. There are no records of the receipt of the books at the JNUL. The books remained in storerooms in Antwerp for many months. It should be recalled that in December of 1947, transportation to Mount Scopus in Jerusalem became difficult in light of the War of Independence. In April of 1948, such transportation was suspended and at the end of June of the same year, the University's campus and its surroundings were declared to be a demilitarized zone, detached from Jewish Jerusalem. The library was required to carry out all its activity in Jewish Jerusalem, in various buildings spread out throughout the city. Storage areas for the absorption of thousands of books were not available, and the books were therefore delayed in the port at Antwerp. One document from the beginning of 1949 states that 70,000 books had been saved in Czechoslovakia and were being held at the Antwerp port, while efforts were being made to transfer the Terezín books. A later document, from the beginning of 1950, indicates that some 40,000 books had left the port of Antwerp and were en route to Israel.

The Hebrew University adopted a system of guidelines and supervision, in the context of which policies could be determined regarding the distribution of the books among the JNUL and the Hebrew University departmental libraries on the one hand, and among the JNUL and other Israeli libraries outside of the Hebrew University on the other hand. These mechanisms prevented discrimination and ensured as just a distribution as was possible among the various institutions in Israel, i.e., the Hebrew University and the public libraries. One of the system's important components was a public advisory committee comprised of representatives of the institutions that were interested in receiving the books. Such recipients consented to an appropriate set of conditions, such as a ban on the sale of the books and coordinated responses to claims for restitution. An internal university committee determined the policy for the books' distribution within the Hebrew University framework. By the mid-1960s, some 300,000 books had found their way to Israel's cultural institutions, institutions of learning, and scientific and religious institutions.

In recent years, a very important development concerning restitution in the State of Israel has taken place. In February of 2006, a parliamentary commission was established for the purpose of locating and returning assets of Holocaust victims which are located in Israel. Following the commission's deliberations, the Knesset, in December of 2006, enacted the Restitution of Assets of Holocaust Victims Law – 2006. There are, located in the State of Israel, many assets that belonged to individuals who perished in the Holocaust and whose heirs, who have rights to these assets, have not yet been located and whose assets have not yet been restored to them. These include real property assets, personal property, funds, deposits, securities, insurance policies and various rights. Books and manuscripts are included among

personal property. Some of these assets are currently managed by the Custodian General and some are held by private and public entities. As stated above, the books and manuscripts were distributed among many public libraries throughout the country. The Law that was enacted in 2006 is intended to increase the efforts at restoring the assets of Holocaust victims that are located in Israel to the heirs of their previous owners. This is to be done through the establishment of a special Company for this purpose, to whose ownership all the assets of Holocaust victims that are located in Israel will be transferred, and which has been charged:

- ▷ To take steps to locate assets of Holocaust survivors and transfer them to the Company;
- ▷ To take steps to obtain information regarding the assets and to locate heirs and the holders of other rights in the assets; and
- ▷ To return the Holocaust victims' assets or their fair value to those entitled to them.

If there are no heirs or any other parties with rights, the Company may sell the assets and make use of the accumulated funds to provide assistance to needy Holocaust survivors, or to support institutions and public entities whose purpose is Holocaust commemoration, documentation, education or explanation.

But this is a mixed blessing. According to the letter of the Law, thousands of books that were received in Israeli libraries as cultural assets of Holocaust victims are covered by it, thus being a legitimate subjects of the restitution process. In other words, the Law does not distinguish between the different ways in which

the assets came to Israel. It does not distinguish between those bought by European Jews and sent and deposited in Palestine before WW II, those that were contributed to the Israel Museum and those that were purchased by Yad Vashem and – in contrast – those that came to Israel as a result of the work of the University emissaries.

In conclusion, the absence of lists and inventories of the assets that were received and taken in at the JNUL, the distribution and dispersal of some 300,000 books among tens of libraries throughout the State of Israel, the absence of any detailed documentation in the sixty years since they were brought to Jerusalem – all these are factors that make the restitution process a very complex one. Given the current circumstances and conditions, the production of proof for each and every item, by autopsy in the stacks, would seem to be – from the financial and purely practical point of view – an insurmountable task.

► **Eleonora Bergman**

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COLLECTION OF JUDAICA AFTER 1944

The approach taken to looted Jewish property found after WW II was different in Poland than in Western Europe. In the American occupation zone, the redistribution of these findings was based on a firm conviction that, after the presumed total destruction, chances for the rebirth of Jewish life in Eastern Europe were nil, so the decision was made to send these items first of all to Jewish communities in Palestine (later Israel) and the United

States. Other destinations were Great Britain and South America. Therefore, we will most probably never know if the collection of the Mathias Bersohn Museum of the Warsaw Jewish Community (taken by the Germans in March–April 1940) and most of the collection of the Main Judaic Library in Warsaw (taken as early as December 1939) survived, and if so, where they went.

In the occupied Polish territories, we know of at least three collection points where looted Jewish property was stored: objects from Warsaw and its surroundings went to the National Museum in Warsaw; belongings of victims of the Majdanek camp to the Castle of Lublin; and Judaica from the territory of the so-called Warthegau (Warta River District) which had been incorporated into the Third Reich were amassed in the Municipal Museum in Toruń. In the German territory which became Poland after 1945, such as in Lower Silesia, several castles' cellars were used for storage.

In Poland, former Jewish property, when discovered in such places by Polish officials, was declared property of the state. Much of this property was given to the Central Committee of the Jews in Poland, a body that represented all of decimated Polish Jewry. The Committee was established almost immediately after Polish territories began to be liberated by the Red Army in July 1944. The Committee was relatively independent (funded by the Joint) and it provided a reliable address for both the Polish government and the foreign public in all matters involving Jewish claims.

One of the Committee's departments was the Jewish Historical Commission which, on December 28, 1944 officially became the Central Jewish Historical Commission. Its first headquarters was in Łódź which had not been destroyed during the war (except for all the large synagogues that were burnt by the Nazis

in November 1939). By 1945, the Commission had several dozen local branches and correspondents in various towns. The main task of the Commission was to gather documentation of Nazi crimes on the one hand, and testimonies of Jewish survivors and documentation of Jewish resistance on the other. In 1946, the Commission decided to organize an archive, a library, a museum, a photographic collection and a publishing house of its own.

By the end of 1946, the Commission was already in possession of its greatest treasure, the first portion of the clandestine archive of the Warsaw Ghetto (the so-called Ringelblum Archive), found in the ghetto's ruins (the second part was found four years later). Besides that, it already had about 8,000 archival files, several dozen diaries, and about 2,000 survivor testimonies. It had several thousand books found in the ruins of ghettos or preserved by Polish neighbors; roughly 250 paintings, sculptures, items of ritual art, as well as ghetto currency and ghetto stamps; in addition, it had approximately 3,000 photographs taken by Germans during deportations and exterminations.

On May 3, 1947, the Central Committee of the Jews in Poland decided to move the entire Commission, along with all of its collections, to the renovated building of the former Main Judaic Library and to transform the Commission into the Jewish Historical Institute (JHI). It started its full operations in October 1947. It continued collecting archives, books and artifacts. In early 1948, a significant collection was discovered in a Lower Silesian castle in the village of Kunzendorf (now Trzebieszowice); it was secured by the JHI branch in Wrocław and then transferred – certainly with official permission – to the main building of the Institute in Warsaw. This cache included several thousand books (some of them from the Main Judaic Library in Warsaw and the Jewish Theological Seminary in Breslau/Wrocław), several hundred

manuscripts and old prints, three *parokhot* (Torah ark curtains), and eleven *Megilloth Ester* (Scrolls of the Book of Esther).

The state's central and local authorities, as well as municipal institutions, were cooperative in achieving the Institute's goals. In minutes of the board meeting of the Central Committee of the Jews in Poland on September 27, 1947, we read about plans for the Institute: "... We will receive all the archives of Jewish communities from the state archives... We will receive artifacts from the state museums as deposits for our museum..." The first happened indeed, although some of the archival collections were later withdrawn from the Institute in 1968). As for the latter, museum artifacts came to JHI mainly from the German collection points. In June 1949, the Municipal Museum in Toruń, following the instructions of the Ministry of Culture and Art, transferred to JHI 89 artifacts looted from synagogues of the Chełmno Province, among them from the synagogue of Chełmża, one of the largest Jewish communities of the region. The National Museum in Warsaw gave JHI some pieces of a wooden Torah ark, probably from one of Warsaw's small private synagogues, whose number had amounted to over 400 prior to 1939. Because virtually all of them were destroyed, this modest ark took on a special significance as a symbol of what had been. Also in 1949, the Ministry of Culture enriched the JHI art collection by paintings by Jan Gotard, Eliaz Kanarek, David Greifenberg and Efraim and Menasze Seidenbeutel. These paintings had only just returned from London, where they had been sent for an exhibition in 1939. In 1950, JHI received over 100 artifacts, mostly ritual objects, from the Joint, which was not allowed to continue its activity in Poland.

In 1951, the Ministry of Culture and Art passed on to JHI a large collection of Judaica found in another Lower Silesian castle, this one in Eckersdorf (today's Bożków). It included ritual objects of

Greek Jews from Thessaloniki who had been murdered at Auschwitz. In 1952, following instructions from the Central Administration of Museums, an agency of the same Ministry, the State Museum at Majdanek (on the site of the former Nazi concentration camp and extermination center) contributed to JHI approximately 1,100 objects, including those of ritual as well as everyday use that had belonged to the murdered Jews and destroyed Jewish communities of the Lublin region. Part of this find remained in Lublin.

First the Central Jewish Historical Commission and then JHI, its successor, cooperated with two other Jewish institutions: the Central Jewish Library (CJL) – probably established in late 1944 – and the Jewish Society for the Promotion of the Fine Arts which was re-established (it had a prewar predecessor) in October 1946. Both organizations' goal was to recover as much as possible of the scattered Jewish material heritage. The efforts of the CJL in its attempts to find remaining Jewish books stored in attics, the basements of churches and convents and in municipal, state and private collections were supported by the Ministry of Education. In May 1948, the CJL moved, along with its books, to the Jewish Historical Institute building. In early 1950, the CJL was closed down, as were all independent organizations in Poland at the time. Its collection was merged with that of JHI, eventually resulting in the creation of one of the most important scholarly Jewish libraries in Europe.

The Jewish Society for the Promotion of Fine Arts was closed at the same time as CJL and its collection, too, was included in the holdings of the Institute. The Society's collection consisted of approximately 700 paintings, only partly restored. These were works by well-known Polish Jewish artists, such as Maurycy and Leopold Gottlieb, Artur Markowicz, Roman Kramsztyk,

Maurycy Trębacz, Efraim and Menasze Seidenbeutel and Jan Gortard. There were also several dozen sculptures, including *Messiah* by Henryk Glicenstein.

In March 1950, Ber Mark, then JHI director, wrote: "Recently we marked the fifth anniversary of the establishment of the Jewish Historical Commission. For five years we have been working on collecting, unearthing and putting in order materials concerning our most recent, so tragic and heroic past; we have had five years of renewed research of the history of the Jews in Poland."

Other significant collections of Jewish art in Poland are stored in the National Museum in Warsaw, the National Museum in Krakow, the Historical Museum of the City of Krakow and the Historical Museum of the City of Warsaw. Among them, only the Krakow collections came from prewar purchases directly from the owners. The collection at the Historical Museum of Warsaw includes, to a major extent, silverware (candlesticks, chalices, and goblets). It was created based on purchases on the art market.

The newest and one of the largest collections of Judaica is in Oświęcim, at the Auschwitz Jewish Center. In 2004, a number of candlesticks and Chanukah lamps were found, as well as pieces of the permanent interior furnishings of the Oświęcim community's synagogue. They were hidden under its floor and discovered in the course of archaeological excavations. Only a small portion of the collection is on display and only a few exhibits have thus far been renovated.

In December 2004, a small part of the Leon Vit Saraval collection – 34 manuscripts and six incunabula – arrived in Wrocław from Prague. Before WW II, this collection constituted a major part of the holdings of the Jewish Theological Seminary in Breslau/Wrocław.

Plundered by the Nazis, the priceless collections of the Seminary's library have been scattered in many directions. Some fragments are at JHI, some can be found in New York, Moscow and Jerusalem. The former Czech part of the Saraval collection is now preserved at the Wrocław University Library.

To sum up, the position of JHI, after all its transformations over 60 years, was and still is unique. It is recognized both by Jewish organizations in Poland and abroad and by the state authorities as the main repository for Jewish-related cultural treasures in Poland. The Institute's collection bears witness to the Holocaust. It belongs to the history of the destruction of the Jews of Poland, Germany, Austria and Greece. The Institute's mission is to preserve these holdings and to make this history known worldwide.

This paper is based on files of the Central Committee of the Jews in Poland, JHI Archives, File No. CKŻP 303/I and:

- ▷ The first two issues of the "Biuletyn Żydowskiego Instytutu Historycznego przy C.K. Żydów w Polsce" (Bulletin of the Jewish Historical Institute of the Central Committee of the Jews in Poland). March and November 1950.
- ▷ Maurycy Horn. "Działalność Żydowskiego Instytutu Historycznego w Polsce w latach 1944–1979" (Activities of the Jewish Historical Institute in Poland 1944–1979). In 35 lat działalności Żydowskiego Instytutu Historycznego w Polsce Ludowej. Dzieje Instytutu i jego zbiory (35 years of the Jewish Historical Institute's Activities in People's Poland. A history of the Institute and Its Collections). PWN, Warszawa, 1980.
- ▷ Magdalena Sieramska. "Z problematyki wojennych strat żydowskiej sztuki kultowej" (On issues regarding war losses

of Jewish ritual art). In *Cenne, bezcenne/utraczone* (Valuable, priceless/lost), No. 2 (14), April 1999, pp. 8–13, 18.

- ▷ Magdalena Sieramska. "The Jewish Historical Institute Museum". In Jewish Historical Institute. *The First Fifty Years 1947–1997*, ŻIH, Warsaw 1996, pp. 55–61.

Roundtable

► Lucille Roussin

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FATE OF THE THOUSANDS OF JEWISH RITUAL OBJECTS STOLEN FROM JEWISH FAMILIES AND INSTITUTIONS THROUGHOUT EUROPE DURING THE HOLOCAUST

By the end of World War II little remained of the once prosperous German Jewish community. Most of the synagogues lay in ruins, and their precious Torah Scrolls and ceremonial objects, and those of Jewish families, had been stolen. Much of this property had to be classified as “ownerless” because the rightful owners and all their kin had been murdered by the Nazis. Under normal circumstances such heirless property escheats to the state, but it was unthinkable that heir Jewish property should escheat to the very state that had tried to annihilate the Jews.

This situation had already been contemplated before the end of the war and several Jewish commissions had been formed to deal with the issue and from these organizations the Jewish Restitution Successor Organization was formed. The JRSO was formally recognized in the US zone of occupation, but not officially until 1948. Under Article 13 of Military Government Law 59, Designation of Successor Organizations, which stated that “the organization had to be representative of the entire group or class which it is to be authorized to represent.” Although there is no

specific reference to the Jews, it was clear through correspondence between the Jewish organizations and the American authorities that the regulation referred to the Jewish people as a whole.

The Jewish Cultural Reconstruction, Inc. (JCR) was established in 1947 and charged with the mission of recovering Jewish property of cultural value. A Memorandum of Agreement was signed on February 15, 1949 by the authorized representative of the US Military Governor and Joshua Starr for the JCR, Inc. and Benjamin B. Ferencz as the authorized representative of the Jewish Reconstruction Successor Organization (JRSO).¹ The properties transferred to the JCR were primarily Jewish books, Torah scrolls and Jewish ritual objects that could not be restituted under the authority of Military Government Law 59, which provided for the restitution of property to identifiable owners. The Office of Military Government for Germany, United States (OMGUS) defined such unidentifiable property as “property for which no claims have been received. ... and no identification of prior ownership can be reasonably established.”² The agreement specified that the JCR would act as trustee for the Jewish people, “distributing it to such public or quasi-public religious, cultural or educational institutions as it sees fit to be used in the interest of perpetuating Jewish art and culture.”³ In an appendix to the memorandum of agreement it is specifically stated that JCR, Inc. would file an annual report and would deliver any property identified as restitutable to the military authorities.⁴

¹ National Archives College Park (NACP) RG 260, Ardelia Hall Collection, Box 66 (390 45 18 2–5).

² Plunder and Restitution at SR-188.

³ NACP, RG 260, Ardelia Hall Collection, Box 66 (390 45 18 2–5).

⁴ It is interesting to note that the cost of shipping from the location of the property to the restitutees was to be borne by the restitutees. Ibid.

But how was this property to be identified? In 1946 the Commission on European Jewish Cultural Reconstruction issued a "Tentative List of Jewish Cultural Treasures in Axis-Occupied Countries," which listed cultural treasures known to have existed before World War II.¹ The extensive list includes only movable objects from known collections and arranged by country. As helpful in identifying known collections as it was, the Commission itself stated that the "lack of readily available, reliable data concerning Jewish cultural treasures in European countries before they were overrun by the Nazis has long been felt as a serious obstacle to intelligent action."²

Jewish cultural property was sent to the Offenbach Archival Depot. There were over one thousand unclaimed Torah scrolls and over 17,000 Jewish ritual objects, most of them silver. However, of the approximately 9,000 objects nearly 60 percent were beyond repair and were sent to Sheffield, England for melting down.³ The JCR Advisory Committee classified the ritual objects as "art objects suitable for museums" and other ceremonial objects that should be available for presentation to synagogues."⁴ Dr. Mordechai Narkiss, director of the Bezalel Museum in Jerusalem, classified the objects and noted that there were 133 cases of museum quality objects and 54 cases of synagogue materials. Of these, 72 cases of museum materials and 11 cases of synagogue materials were shipped to New York. In all, 40 percent of the

¹ Research Staff of the Commission on European Jewish Cultural Reconstruction, *Tentative List of Jewish Cultural Treasures in Axis-Occupied Countries* (1946), available at <http://www.lootedart.com/commonFiles/template> (hereinafter "Tentative List of Jewish Cultural Treasures"). See also, *Plunder and Restitution: The US and Holocaust Victims' Assets, Findings and Recommendations of the Presidential Advisory Commission on Holocaust Assets in the US and Staff Report* (Dec. 2000) at SR-187 (hereinafter "Plunder and Restitution").

² *Tentative List of Jewish Cultural Treasures* at 8.

³ *Plunder and Restitution* at SR-191.

⁴ *Plunder and Restitution* at SR-190.

objects went to Israel, 40 percent to the USA and other countries in the Western Hemisphere and 20 percent to other countries.⁵

But not all German Jewish communities had been totally annihilated and the distribution of Jewish cultural objects outside of Europe provoked resentment and criticism from the remaining Jewish communities. In 1950 the JRSO filed a claim for some 450 ceremonial objects that had belonged to the Frankfurt Jewish Museum. Later that year, some members of the Frankfurt Jewish community gained access to the boxes in which the objects were stored and took some for themselves and returned others to the Frankfurt Municipality. Some months later the JCR did return some of the objects to the Frankfurt Museum.⁶ However, there were also surviving Jewish communities in Munich, Augsburg, Nuremberg, Regensburg, Würzburg and Fürth in Bavaria, and Karlsruhe, Mannheim and Heidelberg in Baden.⁷

An exhibition at the Vienna Jewish Museum in 1995, "Beschlagnahmt. Die Sammlung des Wiener Jüdischen Museums nach 1938" (Seized. The Collection of the Vienna Jewish Museum) reunited Jewish ceremonial objects, photographs and other items from the Museum that had been seized immediately after the Anschluss and scattered among other institutions as "historical artifacts of the Jews."⁸ Many of the objects reunited and exhibited had been found only between 1992 and 1995.

Photographs of many silver Jewish ritual objects, including

⁵ *Ibid.* at SR-190–191.

⁶ *Ibid.* at 191–192.

⁷ Ayaka Takei, "The 'Gemeinde Problem': The Jewish Restitution Successor Organization and the Postwar Jewish Communities in Germany, 1947–1954," *Holocaust and Genocide Studies*, Vol. 16/2 (2002), 266–288; at 271.

⁸ Bernhard Purin, *Beschlagnahmt. Die Sammlung des Wiener Jüdischen Museums nach 1938* (Vienna Jewish Museum, 1995).

objects that were certainly privately owned, as well as synagogue and museum properties, are to be found in a large album in the Ardelia Hall Collection at the National Archives College Park.¹ Publication of these objects, or even an illustrated database placed on the Internet, might result in identification and restitution of some of these objects. Prototypes for such a searchable database are on the Israel Museum web site and on the Judaica section of the Central Registry of Information on Looted Cultural Property, sponsored by the Commission for Looted Art in Europe, which acts as a representative for the European Council of Jewish Communities and the Conference of European Rabbis.²

Torah Breastplate

In 2001 I was privileged to be the attorney who negotiated the first restitution of a valuable Torah Breastplate to the American heirs of the family that had owned it for almost a century. Although the provenance was certain – the piece was published in 1928 in Theodor Harburger’s monumental work, *Die Inventarisierung jüdischer Kunst und Kulturdenkmäler in Bayern* – it took a year of negotiating with the municipal government of Fürth before the breastplate was restituted to the family.

Rimmon

Just last year I was able to retribute this 18th Rimmon to the heirs of Ernst Levite, from whose house in Monchsroth it was stolen on Kristallnacht. This piece, too, was illustrated in Harburger’s book. Theodor Harburger’s monumental work, the aforementioned *Die Inventarisierung jüdischer Kunst und Kulturdenkmäler in Bayern* (1928, republished 1998), has not been used efficiently in

¹ NACP RG 260, Ardelia Hall Collection, Box 106.

² See: <http://www.lootedartcommission.com>.

doing provenance research on objects of Judaica, nor have the online resources. Both the Council of American Jewish Museums and the European Council of Jewish Museums have endorsed the principle of provenance research and restitution. Further research may reveal that Jewish ceremonial objects currently in museums or private collections around the world were stolen from German congregations that still exist or have been revived and should be returned to them. As archives are opened and provenance research is conducted and objects are posted on the Internet, many more Jewish ceremonial objects may finally go home.

► **Hila Tene-Gilad**

THE MINISTRY OF JUSTICE, ISRAEL

A DISCUSSION OF POSSIBLE OWNERSHIP OF JUDAICA FROM THE HOLOCAUST ERA

I would like to thank the organizers and honorable members of the workshop for the discussion held here today and for the opportunity to address you today. I come before you this afternoon with no concrete propositions but rather with thoughts about various possibilities when tackling this complicated issue of looted Holocaust era Judaica.

It is unnecessary to go into details before this respectable forum of the Nazi regime’s systematic annihilation of an estimated six million Jews – men, women and children – as well as many others during the Holocaust. Throughout the Nazis’ twelve years in power, alongside the persecution and unspeakable slaughter they used to “purify” Europe of the Jewish people, the Nazis also

committed the most enormous pillage, plundering and confiscation of property in history. Thus, the Nazi genocide of the Jewish people was accompanied by the massive and systematic looting of Jewish property, movable and immovable, communal and individual, public and private.

There are several specific and unique agreements and declarations that were mostly established throughout the last decade, such as the Washington Conference on Holocaust-Era Assets (in 1998), Resolution 1205 of the Parliamentary Assembly of the Council of Europe (of 1999), and the Vilnius Forum Declaration (of 2000), all calling for the implementation of identification, registry, and legislation measures to promote the restitution of looted Jewish property. Without a doubt, European countries have made, and are still taking, important steps in the right direction.

I come before you with full conviction that there is an unbreakable bond between the looted Jewish cultural property and the Jewish People and that Judaica artifacts are an irrefutable part of the Jewish people, and as such, should be restituted to the Jewish People – to the State of Israel, Jewish communities, and Jewish Museums worldwide.

Uniting plundered Judaica and Hebraica artifacts, whether it be artwork or religious artifacts and other Jewish cultural property, with the Jewish people by way of returning it to its original, rightful owners or their heirs, holds a sensitive and significant meaning far greater than that attached to restitution of other types of assets. These properties are of high religious and sentimental value not only for their beauty, but mainly for their religious, ceremonial and cultural significance, especially when handed down for many generations.

For those who survived the horrible events of the Holocaust, these artifacts often represent the very last personal link to their families and communities that were ruthlessly lost in the Holocaust. Furthermore, in many cases, one or several Judaica artifacts belonged to entire communities that were decimated during the Holocaust. Preserving these items and commemorating these communities is at the heart of this debate and is of the utmost importance to the Jewish people and to the State of Israel.

Items of Judaica represent the unique bond between the Jewish people and the Jewish culture, heritage and religion passed down from one generation to the next. Judaica is an indispensable part of the Jewish daily life and has shaped Jews' unique identity through the years. Recognition of the Jewish people as the legitimate owners of such looted property will make historic moral justice, defend fundamental rights, both political rights and the right for title and ownership, and will honor the millions of lives lost, as well as those who survived against all odds.

Those few survivors have overcome the greatest hardships known to mankind, in incomprehensible and inhuman conditions. They were bullied and forced into giving up all of their property that was dear to their hearts – property that for moral reasons still belongs to them and to their Jewish culture.

Restitution

Thus, only the return of property pillaged from Jewish individuals and communities during the Holocaust to its original rightful owners, their heirs, their communities or to the homeland of the Jewish people can fully commemorate these persons and communities, as this cultural property symbolizes the last testimony of these communities.

It is important to remember that Israel, the homeland of the Jewish people, and its national commemoration institutions such as Yad Vashem, Beit Hatefutsoth are the continuation of, and memorial to, the legacy of all individuals who perished during the Holocaust, and of the approximately 3,400 communities that were entirely destroyed during that dark time.

The quest for restitution is not only a matter of justice or compensation, but to a greater extent, a matter of morality. Many Holocaust survivors are growing old and needy, and so when it comes to finding a fair and just way out for the injustices committed, time is of the essence.

Major Principles Regarding Judaica

There are several important principles regarding restitution of cultural property, and especially Judaica, that must be implemented.

- ▷ In cases where reliable information regarding the original owners or their heirs exist, all the necessary steps and measures should be taken in order to return this cultural property to its original owners or their legal heirs, in accordance with the above Declarations.
- ▷ Property known or suspected as looted during the Nazi era must be cataloged and published, including on internet websites, particularly in cases when information regarding its owners or their heirs exist.
- ▷ In addition, efforts must be taken to recognize the rights of private persons which owned a small number of Judaica and other cultural property objects, and the struggles and

obstacles they have to face when asking for restitution. This includes the difficulties in locating such property, foreign culture and language barriers, difficulties in dealing with foreign legal systems, not to mention the financial hardships arising from the need to travel to foreign states and managing legal proceedings.

- ▷ Additionally, issues like the opening of archives and full provenance, as discussed in detail for the last two days, should also be addressed.

Possible Alternatives

In light of the aforementioned principles, there is a wide spectrum of alternatives for restitution and action regarding cultural property, and especially Judaica.

All these options of course relate to heirless property, since at the base of this discussion is the notion that when the original rightful owners or their heirs are found, these artifacts shall be restituted to them.

- ▷ One option is maintaining the current status quo, according to which cataloguing, registration and documentation shall continue and when an original owner or heir is located, a specific item will be returned.
- ▷ Another course of action is to reassign Holocaust Era looted Judaica to the State of Israel as part of a moral and ethical amendment on the part of the relevant states, acknowledging Israel as the national home for the Jewish people, as stated, *inter alia*, in the Balfour Declaration and the Declaration of Independence of the State of Israel.

The State of Israel was, and remains, a sanctuary for the largest number of Holocaust survivors gathered together after the Second World War, a place for those survivors to re-build their lives in their national homeland, and a place where perished communities are commemorated.

- ▷ Another possible option is the establishment of a “Successor Organization” for Judaica. The legal basis for such an organization, may be through international legal mechanisms, or through the understanding that “cultural property which has a fundamental significance from the point of view of the spiritual values and cultural heritage of the people”¹ should be returned to that people.

Due to the many years that passed since the horrors of the Holocaust, and the wide extent of Judaica that may be found in the future especially with the opening of new archives in countries in Eastern Europe, it is suggested to establish an organization that will wrestle with the problem and decide on the fate of certain Judaica artifacts, be it in Israel, Jewish communities, Jewish museums, and so on. The Terezín Institute could serve as such an organization.

It is suggested that this Organization shall commence with a detailed cataloguing of existing Judaica artifacts, and later conclude an allocation formula for these artifacts, possibly through two main routes:

- Either through allocation of Judaica artifacts among the relevant stake-holders – the State of Israel, Jewish

communities worldwide, and Jewish museums, according to an agreed allocation mechanism;

- Or by making Judaica artifacts available for long and short-term loans to bodies such as Yad Vashem Israel Museum, Beit Hatefutsoth, and Jewish museums and Jewish communities world-wide for display, as well as for further research, study, and provenance evaluation.

When addressing this issue, the close and intimate ties between Judaica and Jewish individuals and communities, as well as the Jewish people as a whole must remain at the center of the discussion. Judaica represents Jewish religion and heritage that is closely linked to the Jewish people and the Jewish State. Looted Holocaust-era Judaica must be restituted to the Jewish world, firstly to the original owners or their heirs, and in their absence, to Jewish hands for education and commemoration of those who did not survive the Shoah’s atrocities.

¹ See: <http://unesdoc.unesco.org/images/0011/001140/114032e.pdf#page=92>.



ANNEXES

Conference Program

(updated as of June 24, 2009)

Friday, June 26	
15.00	Opening of the Exhibition "Memories Returned" (Museum of Decorative Arts) <i>By special invitation only</i>
17.00	Press Conference (Žofín Palace, Small Hall)
18.00	Opening Ceremony (Žofín Palace, Large Hall)

Welcoming Remarks:

- **Václav Havel**, Former President, Czech Republic
(videomessage)
- **Štefan Füle**, Minister for European Affairs,
Czech Republic
- **Simone Veil**, Former President, European
Parliament, France
- **Elie Wiesel**, Author, Nobel Laureate, USA

Special Performance:

- Cantor Prof. **Naftali Herstik**

19.00	Reception
21.00	Adjourn

Saturday, June 27	
Informal Expert Discussions	
10.00–10.45	Working Group (WG) Looted Art (PCC*, South Hall) Opening Statements WG Holocaust Education, Remembrance and Research (PCC, Meeting Hall I) Opening Statements
10.45–11.00	Coffee Break
11.00–12.30	Informal Expert Discussions

WG Looted Art (PCC, South Hall) CZ|EN "Archives"

Chair:

- **Michael Kurtz**, U. S. National Archives and Records Administration, USA
- **Patricia Kennedy Grimsted**, Ukrainian Research Institute, Harvard University, USA
Documenting Looted Art: Perspectives from the Archives of the Einsatzstab Reichsleiter Rosenberg (ERR)
- **Petr Bednařík**, Documentation Centre of Property Transfers of Cultural Assets of WW II Victims, Czech Republic
Archive Research on the Issue of Lost Works of Art in the Czech Republic
- **Anne Georgeon-Liskenne**, French Foreign Office/ Archives, France
French Archival Sources and Researches about Cultural Jewish Property, Spoiled by Nazis before 1945
- **Božena Kovářová**, Moravian District Archive, Brno, Czech Republic
Archival Records in the Moravian District Archive in Brno
- **Marc Masurovsky**, USA
A New Paradigm for Restituting Looted Cultural Property

WG Holocaust Education, Remembrance and Research (PCC, Meeting Hall I) CZ|EN "Genocide of the Czech Roma and New Educational Projects in the Czech Republic and Abroad"

- **Petr Lhotka**, Museum of Romani Culture, Czech Republic
Genocide of Czech Roma
- **Jana Horváthová**, Museum of Romani Culture, Czech Republic
Education about Roma Genocide: A Czech Example
- **Gerhard Baumgartner**, Austrian Roma Documentation Centre
Austrian Roma Under the Holocaust and the Problems of Restitution

Exhibition Presentation (PCC, Meeting Hall I) "Library of Rescued Memories"

- **Edvard Serotta**, Centropa, Austria

12.30–13.30	Buffet Lunch (PCC, Zoom)
13.30–15.00	Informal Expert Discussions (cont.)

WG Looted Art (PCC, South Hall) CZ|EN "Restitutions"

Chair:

- **Inge van der Vlies**, Hoogleraar Staats-en Bestuursrecht, Netherlands Kunst en Recht
- **Graham Beal**, Detroit Institute of Art, USA
Four Cases from One Museum, Four Different Results
- **Agnes Peresztegi**, Commission for Art, Hungary
Recovery, Restitution or Renationalisation
- **Lynn Nicholas**, USA
The Washington Principles: Ten Years Later
- **Jean-Pierre Bady**, CIVS, France
Restitution and Compensation in four Countries of Western Europe: Belgium, France, Luxemburg and Netherlands
- **Raymond J. Dowd**, Dunnington Bartholow and Miller LLP, USA
Fritz Grunbaum's Stolen Art Collection: Legal Obstacles to Recovery

WG Holocaust Education, Remembrance and Research (PCC, Meeting Hall I) CZ|EN "Genocide of the Czech Roma and New Educational Projects in the Czech Republic and Abroad" (cont.)

- **Jan Špringl**, Terezin Memorial, Czech Republic
The Terezin Memorial's New Approaches to Education Programs
- **Mirka Ludvíková**, Jewish Museum, Prague, Czech Republic
The Prague Jewish Museum's New Approaches to Education in the ECC
- **Oded Breda**, Beit Terezin, Israel
The Role of Beit Terezin, Education and Remembrance
- **Karl Bernd Vogel**, Foundation Leo Baeck Terezin, Germany
Leo Baeck Center in Terezin
- **Denisa Haubertová**, Office of the Government, Czech Republic
Proposal for a European Institute for Legacy of the Shoah

15.00–15.30	Coffee Break
15.30–17.00	WG Looted Art (PCC, South Hall)

WG Looted Art (PCC, South Hall) CZ|EN "Feedback: Cooperation of Respective Entities Towards Provenance Research"

Chair:

- **Michael Franz** – Koordinierungsstelle für Kulturgutverluste, Germany (tbc)
- **Shauna Isaac**, Sage Recovery, United Kingdom
Technology and the Accessibility of Information
- **Mečislav Borák**, Documentation Centre of Property Transfers of Cultural Assets of WW II Victims, Czech Republic
Identification of Works of Art Belonging to Holocaust Victims and the Possibility of Restitution to the Original Owners
- **Anna Rubin**, Holocaust Claims Processing Office, USA
Presumptions: Applying Lessons Learned from Compensation Programs
- **Miriam Friedman Morris**, USA
Artist David Friedmann: A Daughter's Search for Lost and Stolen Art

- **Angelika Enderlein**, Bundesamt für zentrale Dienste und offene Vermögensfragen, Germany
Introduction of the new database on the "Central Collecting Point Munich" (CPP)

19.30–21.00	Reception (U.S. Ambassador's Residence)
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Hosted by the Embassies of Austria, France, Germany, Israel, the Netherlands, Poland, Russia, Sweden, the United Kingdom and the United States

Sunday, June 28

9.00–9.45	Opening Plenary Session (PCC, South Hall) CZ EN
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Chair:

- **Miloš Pojar**, Chairman of the Conference Organizing Committee, Czech Republic

Opening Remarks:

- **Štefan Füle**, Minister for European Affairs, Czech Republic
- **Stuart Eizenstat**, Former Deputy Treasury Secretary and Under Secretary of State, USA
- **Tom Eric Vraalsen**, Chairman, Task Force for International Cooperation on Holocaust Education, Remembrance and Research, Norway

10.00–11.30	Concurrent Expert Sessions I
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*Special Session: Caring for Victims of Nazism and Their Legacy (PCC, Conference Hall) **CZ | EN***

“History and Perspective of Care Support Provided to Victims of Nazism and Their Legacy”

Chair:

- **Tomáš Kosta**, Ministry of Foreign Affairs, Czech Republic
- **Władysław Bartoszewski**, Chancellery of the Prime Minister, Poland
Remembrance and Responsibility
- **Jiří Šitler**, Ministry of Foreign Affairs, Czech Republic
History of International Discussions on Compensations to Victims of Nazism as Seen by Delegations Representing Central and Eastern European Countries
- **Günter Saathoff**, Remembrance, Responsibility and Future Foundation, Germany
Political Importance and Administration of the Financial Compensation Process According to the Law on the Creation of the Foundation “Remembrance, Responsibility and Future”

- **Hannah M. Lessing**, General Settlement Fund and National Fund of the Republic of Austria for Victims of National Socialism, Austria
Restitution Programs Provided by the Republic of Austria

- **Greg Schneider**, Conference on Jewish Material Claims Against Germany, USA
Providing Sustainable Funding for the Social Welfare of Holocaust Survivors

WG Holocaust Education, Remembrance and Research (PCC, Meeting Hall I)
“Holocaust Education: Experiences Gained and Challenges Ahead”

Opening Remarks:

- **Benedikt Haller**, Ministry of Foreign Affairs, Germany
- **Jan Munk**, Terezin Memorial, Czech Republic

Chair:

- **David Marwell**, Museum of Jewish Heritage, USA

- **Wolf Kaiser**, House of the Wannsee Conference, Germany
Overview of the Field of Education
- **Natalia Rykova**, Moscow Bureau for Human Rights, Russia
Education about the Holocaust in Russia
- **Nancy Petschek-Kohn**, Holocaust and Human Rights Education Center, USA
Holocaust Education over the Past 10 Years

WG Immovable Property (Private and Communal) (PCC, Meeting Hall IV)
“Overview and Political Context”

Chair:

- **Nigel Ross**, World Jewish Relief, United Kingdom
- **Tomáš Kraus**, Federation of Jewish Communities, Czech Republic
Opening Remarks
- **Andrew Baker**, American Jewish Committee, USA
Review of Political Commitments
- **Herbert Block**, World Jewish Restitution Organization, USA
Status Report on Communal Property
- **Gideon Taylor**, Conference on Jewish Material Claims Against Germany, USA
Overview of the Restitution Process

- **Moshe Sanbar**, Center of Holocaust Survivors, Israel
Property Restitution from Jewish Perspective

*WG Looted Art (PCC, South Hall) **CZ | EN***
“Legal Issues”

Chair:

- **Charles A. Goldstein**, Commission for Art Recovery, USA
- **Olaf S. Ossmann**, IAJLJ, Germany
One collection, one persecution, one decision – but different ideas of “Just and Fair Solutions” – hurdles in different national processes for heirs of art collections
- **Georg Heuberger**, Conference on Jewish Material Claims against Germany, Germany
Holocaust Era Looted Art: A World Wide Overview
- **Marc-André Renold**, The University of Geneva, Switzerland
The Renewal of the Restitution Process: Alternative Dispute Resolution Methods
- **Stephen J. Knerly Jr.**, Association of Art Museum Directors, USA
Selected Issues for American Art Museums Regarding Holocaust Era Looted Art
- **Norman Palmer**, Spoliation Advisory Panel, UK
Integrity, Transparency and Pertinacity in the Treatment of Holocaust-Related Art Claims

*WG Judaica and Jewish Cultural Property (PCC, Meeting Hall V) **FR | EN***
“The State of Provenance Research in State, Public and Private Collections”

Chair:

- **Felicita Heimann-Jelinek**, Jewish Museum Vienna, Austria
- **Karen Heilig**, Conference on Jewish Material Claims against Germany, USA
Holocaust-Era Looted Judaica and Jewish Cultural Property: A World-Wide Overview
- **Daniel Dratwa**, Jewish Museum of Belgium
Losses of Books and Archives from Public and Private Collections
- **Karen Franklin**, Museum of Jewish Heritage, USA
Current State of Judaica Provenance Research in Jewish Museums in the US

- **Patricia Kennedy Grimsted**, International Institute of Social History, Ukrainian Research Institute, Harvard University, Netherlands
Perspectives from Remaining Archives of the Einsatzstab Reichsleiter Rosenberg (ERR)

11.30–11.45	Coffee Break
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11.45–13.15	Concurrent Expert Sessions II
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*Special Session: Caring for Victims of Nazism and Their Legacy (PCC, Conference Hall) **CZ | EN***
“Responsibility in Partnership: Improving the Social Situation of the Victims of Nazism”

Chair:

- **Martin Salm**, “Remembrance, Responsibility and Future” Foundation, Germany
- **Marta Malá**, Foundation for Holocaust Victims, Czech Republic
The Social Situation of the Victims of Nazism: A Czech Example
- **Nathan Durst**, AMCHA Jerusalem, Israel
Requirements for State Social Systems: the Experience of a Non-profit Organisation
- **Kazimierz Wóycicki**, Office for War Veterans and Victims of Oppression, Poland
Co-operation of the State Social Systems with the Non-profit Sector in Supporting the Victims of Nazism – Experience and Future Outlook
- **Alexander Pochinok**, Council of Federation of the Federal Assembly of the Russian Federation, Russia
Further Development of the State Social Programs for the Victims of Nazism in Co-operation with Local Initiatives
- **Igor Cvetkovski**, International Organisation for Migration, Macedonia/ Switzerland
Supporting Gypsies in Central and South East Europe: A Practical Model of Co-operation between the Non-profit Sector and Local Authorities

HOLOCAUST ERA ASSETS CONFERENCE EU2009.CZ

JUNE 26–30, Prague

WG Holocaust Education, Remembrance and Research (PCC, Meeting Hall I) “Remembrance, Memorials and Museums”

Chair:

● **Michael-Thomas Baier**, Federal Ministry for European and International Affairs, Austria

● **Richelle Budd-Caplan**, Yad Vashem, Israel
The Educational Sustainability of Holocaust Remembrance

● **Thomas Lutz**, Topography of Terror Foundation, Germany
Memorial museums and ITF

● **Sara J. Bloomfield**, Director, United States Holocaust Memorial Museum, USA
The Mission and Impact of the United States Holocaust Memorial Museum

WG Immovable Property (Private and Communal) (PCC, Meeting Hall IV) “Works in Progress – Examples from Communities – Part I”

Chair:

● **Herbert Block**, World Jewish Restitution Organization, USA

● **Faina Kukliansky**, Jewish Community of Lithuania, Lithuania
The Case of Lithuania

● **Joseph Zissels**, Euro-Asian Jewish Congress, Ukraine
The Case of Ukraine

● **Alexander Necak**, Federation of Jewish Communities, Serbia
The Case of Serbia

● **Maxim Benveniste**, Organization of Jews in Bulgaria, Bulgaria
The Case of Bulgaria

● **Marta Malá**, The Foundation for Holocaust Victims, Czech Republic
The Case of the Czech Republic

WG Looted Art (PCC, South Hall) **CZ | EN** “The Search for Works of Art and Other Cultural Assets – A Business or Moral Obligation?”

Chair:

● **Anne Webber**, Commission for Looted Art in Europe, UK

● **Nawojka Cieslinska-Lobkowicz**, Freelance Art Historian and Provenance Researcher, Poland
The Obligation of the State or a Hobby of the Few. The Implementation of the Washington Principles in Poland

● **Lucien Simmons**, Sotheby's, USA
Provenance and Private Ownership: Just and Fair Solution in the Commercial Art Market

● **Helena Koenigsmarková**, Museum of Decorative Arts, Prague, Czech Republic
The Museum of Decorative Art in Prague's Experience with Looted Objects in its Collection and their Identification

● **Monica Dugot**, Christie's, USA
Impact of the Washington Conference Principles on Art Market Practices: Moving the Discussion Forward

● **Felicita Thurn**, Dorotheum, Austria
Dorotheum: Provenance Research and Due Diligence in the Art Trade in Central Europe

WG Judaica and Jewish Cultural Property (PCC, Meeting Hall V) **FR | EN** “The Provenance Research in State, Public and Private Collections after 1945”

Chair:

● **Felicitas Heimann-Jelinek**, Jewish Museum Vienna, Austria

● **Michal Bušek**, Jewish Museum, Prague, Czech Republic
Restitution in Jewish Museum in Prague in Case of Naftali Zvi Kartagener

● **Magda Veselská**, Jewish Museum, Prague, Czech Republic
Where Did All the Pretty Old Things Come From?: The Judaica Provenance Research at the Jewish Museum in Prague

HOLOCAUST ERA ASSETS CONFERENCE EU2009.CZ

JUNE 26–30, Prague

“Circulation of Judaica and Jewish Cultural Property of Disputed Ownership”

● **Eleonora Bergman**, The Emanuel Ringelblum Jewish Historical Institute, Poland
Collection of Judaica after 1944

13.15–14.30	Buffet Lunch (PCC, Zoom)
14.30–16.00	Concurrent Expert Sessions III

Special Session: Caring for Victims of Nazism and Their Legacy (PCC, Conference Hall) **CZ | EN | FR** “Legal and Social Status of Victims of Nazism and Maintenance of their Legacy”

Chair:

● **Reuven Merhav**, Ministry of Foreign Affairs, Israel

● **Michael Teupen**, Federal Association for Providing Information and Consultations to Victims of National Socialism, Germany
Social and Legal Status of Victims of Nazism in Germany

● **Alex Faiman**, B'nai B'rith Europe, UK
Keeping Starvation at Bay for Holocaust Survivors and Other Victims of Nazism

● **Čeněk Růžička**, Committee for Compensation of the Romany Holocaust, Czech Republic
History, Perception, Memory, Social Care for Romany Survivors

● **Esther Toporek Finder**, The Generation After, Generations of the Shoah International, USA
The Second Generation of Holocaust Survivors

● **Dagmar Lieblová**, Terezín Initiative, Czech Republic
Meaning and Function of Prisoners of Nazism Organisations in Society

WG Holocaust Education, Remembrance and Research (PCC, Meeting Hall I) “Researching the Holocaust and Access to Archives”

Chair:

● **Paul Dostert**, Conseil National de la Résistance, Luxembourg

● **Steven T. Katz**, Elie Wiesel Center for Judaic Studies, USA
Under-Researched Areas of the Holocaust

● **Paul Shapiro**, Center for Advanced Holocaust Studies, USA
Research Resources Priorities and Opportunities for the Coming Decade

● **Susanne Uslu-Pauer**, Archive of Jewish Community, Vienna, Austria
Archive of the Jewish Community of Vienna

WG Immovable Property (Private and Communal) (PCC, Meeting Hall IV) “Works in Progress – Examples from Communities” (Part II)

Chair:

● **Tomáš Kraus**, Federation of Jewish Communities, Czech Republic

● **Jehuda Evron**, Holocaust Restitution Committee, USA
The Case of Poland

● **Dan Mariaschin**, B'nai B'rith International, USA
The Case of Romania, Slovenia and Croatia

● **Philip Carmel**, Lo Tishkach Foundation, Belgium
Protection and Preservation of Cemeteries

WG Looted Art (PCC, South Hall) **CZ | EN** “Provenance Research”

Chair:

● **Charlotte van Rappard-Boon**, Inspectorate for Cultural Heritage, Netherlands

● **Carla Shapreau**, University of California, Berkeley, USA
Musical Cultural Property: The Nazi Era and Post-War Provenance Challenges

● **Uwe Hartmann**, Arbeitsstelle für Provenienz Recherche, Germany
Project Related to the Promotion of Provenance Research in Germany, Taking Stock after the First Year

● **Jacques Lust**, Belgian Federal Science Policy, Belgium
Provenance and World War II: Art, Research and Illusion

● **Nancy Yeide**, National Gallery of Art, USA
Provenance Research in American Museums

● **Sophie Lillie**, Independent Scholar, Austria
The Backlash against Claimants

WG Judaica and Jewish Cultural Property (PCC, Meeting Hall V) **FR | EN**

“Methodological Questions Concerning the Provenance Research of Judaica and Jewish Cultural Property”

Chair:

- **Felicitas Heimann-Jelinek**, Jewish Museum Vienna, Austria

- **Julie-Marthe Cohen**, Jewish Museum Amsterdam, Netherlands
Researching Judaica Looted in the Netherlands during the Second World War: Methods, Results and Needs

- **Inka Bertz**, Jewish Museum Berlin, Germany
Collecting for Jewish Museums Today

- **Dario Tedeschi**, Governmental Commission for the recovery of the Jewish Community Library of Rome (looted in 1943), Italy
Research Findings of Commission for General Spoliation in Italy and Research of the Library in Rome

“Distribution of Collected Judaica and Jewish Cultural Property after 1945”

- **Bernhard Purin**, Jewish Museum Munich, Germany
The “Inofficial” Distribution of Jewish Ritual Objects after WW II

- **Dov Schidorsky**, The Hebrew University of Jerusalem, Israel
The Hebrew University’s Book Salvaging Activities in Postwar Czechoslovakia and the Problems of Restitutions in Israel

16.00–16.15	Coffee Break
16.15–17.45	Concurrent Expert Sessions IV

Special Session: Caring for Victims of Nazism and Their Legacy (PCC, Conference Hall) **CZ | EN**

“Legal and Social Status of Victims of Nazism and Maintenance of their Legacy” (cont.)

Chair:

- **Reuven Merhav**, Ministry of Foreign Affairs, Israel

- **Frank-Ludwig Thiel**, Law office Görnandt-Heinz-Thiel, Germany
Ghetto-Rente Issues

- **Ehud Moses**, Conference on Jewish Material Claims Against Germany, Israel
Dissemination of Relevant and Updated Information to Victims of Nazism

- **Anděla Dvořáková**, Czech Association of Fighters for Liberty, Czech Republic
Victims of Nazism as War Veterans

- **Christoph Heubner**, International Auschwitz Committee, Germany
Current State of Concentration Camp Memorials

WG Holocaust Education, Remembrance and Research (PCC, Meeting Hall I) “The Future of Holocaust Remembrance”

Chair:

- **Karel Fracapane**, Shoah Memorial, France

- **Astrid Messerschmidt**, Universität Flensburg, Germany
Europe’s Changing Demography

- **Monique Eckman**, Geneva School of Social Work, Switzerland
Holocaust Education as a Human Rights Tool

- **Wesley Fisher**, Conference on Jewish Material Claims Against Germany, USA
Funding Needs of a Sustainable Basis for Holocaust Education, Remembrance and Research

WG Immovable Property (Private and Communal) (PCC, Meeting Hall IV) “Where do we go from here?”

Chair:

- **Andrew Baker**, American Jewish Committee, USA

- **David Peleg**, World Jewish Restitution Organization, Israel
Presentation: The Role of the WJRO

- **J. Christian Kennedy**, U.S. Department of State, USA
Presentation: Principles of Property Restitution
Discussion
Closing Remarks

WG Looted Art (PCC, South Hall) **CZ | EN**

“Where are we now and where do we go from here?”

A brief summary of WG Looted Art conclusions and experts’ recommendations.

WG Judaica and Jewish Cultural Property (PCC, Meeting Hall V) **FR | EN**

“Roundtable”

- **Lucille Roussin**, Fashion Institute of Technology/SUNY, USA
Fate of the Thousands of Jewish Ritual Objects Stolen from Jewish Families and Institutions Throughout Europe During the Holocaust

- **Hila Tene-Gilad**, The Ministry of Justice, Israel
A Discussion of Possible Ownership of Judaica from the Holocaust Era

19.00	Reception (Wallenstein Garden)
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Remarks:

- **Přemysl Sobotka**, President of the Senate, Parliament of the Czech Republic

- **Madeleine Albright**, Former Secretary of State, USA

HOLOCAUST ERA ASSETS CONFERENCE EU2009.CZ

JUNE 26–30, Prague

Monday, June 29

9.00–12.30	Plenary Session (PCC, Forum Hall) CZ EN FR
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Chair:

- **Alexandr Vondra**, Member of the Senate, Czech Republic

Keynote Addresses:

- **Jan Kohout**, Minister of Foreign Affairs, Czech Republic
- **Ján Figel**, EU Commissioner, Slovakia

Official Signing of the Czech EU Presidency – European Commission Memorandum

Reports by Special Session and Working Groups

- Special Session: Caring for Victims of Nazism and Their Legacy

Felix Kolmer, International Auschwitz Committee, Czech Republic

- WG Holocaust Education, Remembrance and Research

Benedikt Haller, Ministry of Foreign Affairs, Germany

- WG Immovable Property (Private and Communal)

Tomáš Kraus, Federation of Jewish Communities, Czech Republic

- WG Looted Art

Helena Krejčová, Documentation Centre of Property Transfers of Cultural Assets of WW II. Victims, Czech Republic

- WG Judaica and Jewish Cultural Property

Lena Arava-Novotná, Institute of Jewish Studies, Charles University, Czech Republic

Statements by Heads of Delegations

12.30–13.30	Buffet Lunch (PCC, Zoom)
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Speaker:

- **Rep. Robert Wexler**, U.S. Congress, USA

13.30–16.30	Plenary Session (cont.) CZ EN FR
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Chair:

- **Alexandr Vondra**, Member of the Senate, Czech Republic

Opening Remarks

- **Jiří Daniček**, Federation of Jewish Communities, Czech Republic

Statements by Representatives of NGOs:

- **Ronald Lauder**, World Jewish Congress and World Jewish Restitution Organization, USA

- **Julius Berman**, Conference on Jewish Material Claims Against Germany, USA

- **Andrew Baker**, American Jewish Committee, USA

- **Ellen M. Heller**, American Jewish Joint Distribution Committee, USA

- **Anne-Marie Revcolevschi**, Fondation pour la Mémoire de la Shoah, France

- **Martin Salm**, Stiftung Erinnerung, Verantwortung und Zukunft, Germany

- **Noach Flug**, International Auschwitz Committee, Israel

- **Dan Mariaschin**, B'nai B'rith International, USA

- **Jonathan Joseph**, European Council of Jewish Communities, UK

- **Emil Kalo**, World ORT, Bulgaria

- **Lord Janner**, Holocaust Educational Trust, UK

Statements by Heads of Delegations

16.30	Concluding Remarks
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- **Yehuda Bauer**, Historian, Israel

17.00	Press Conference (PCC, Small Theatre)
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19.00	Special Performance "Golem 13" (National Theatre)
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World Premiere of Kabbalistic Drama by George Whyte set to music by Noam Sheriff

Remarks:

- **Vladimír Špidla**, EU Commissioner, Czech Republic Reception

HOLOCAUST ERA ASSETS CONFERENCE EU2009.CZ

JUNE 26–30, Prague

Tuesday, June 30

9.30	Concluding Ceremony (Former Riding Hall, Terezín)
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Welcoming Remarks:

- **Jan Munk**, Director, Terezín Memorial, Czech Republic

- **Jana Vaňhová**, Commissionaire of the Region, Czech Republic

Keynote Address:

- **Jan Fischer**, Prime Minister, Czech Republic

Terezín Declaration

10.30	Concert "Defiant Requiem" by Murry Sidlin
12.30	Closing Lunch (Terezín Memorial, Magdeburg Barracks) Hosted by the European Commission
13.30–15.00	Guided Tours of the Terezín Memorial (optional)

List of Participating Countries

Albania	Italy
Argentina	Latvia
Australia	Lithuania
Austria	Luxembourg
Belarus	Malta
Belgium	Moldova
Bosnia and Herzegovina	Montenegro
Brazil	The Netherlands
Bulgaria	Norway
Canada	Poland
Croatia	Portugal
Cyprus	Romania
Czech Republic	Russia
Denmark	Serbia
Estonia	Slovakia
Finland	Slovenia
France	Spain
FYROM	Sweden
Germany	Switzerland
Greece	Turkey
The Holy See (Observer)	Ukraine
Hungary	United Kingdom
Ireland	United States
Israel	Uruguay

List of Participating Organizations

American Jewish Committee	Bundesamt für zentrale
American Jewish Joint	Dienste und offene
Distribution Committee	Vermögensfragen
Arbeitsstelle für	Bundesverband Information &
Provenienzrecherche/-	Beratung für NS-Verfolgte
forschung	Büro für Genealogie
Archives Nationales	
de Paris	Center of Organizations of
Association of Art Museum	Holocaust Survivors
Directors	Central Council of Jews in
Association of the Jewish	Germany
Academics	Central Jewish Board of the
Auschwitz Foundation	Netherlands
Auschwitz Institute for Peace	Centropa
and Reconciliation	CET Academic Programs
Austrian Roma	Christie's
Documentation Centre	Commission for Art Recovery
	Commission for Looted Art in
Basel Institute on Governance	Europe
Beit Theresienstadt	Commission pour
Belgian Federal Science	l'indemnisation des
Policy	victimes de spoliations
Ben Uri Gallery, The London	Committee for the
Jewish Museum of Art	Preservation of Jewish
B'nai B'rith International	Cemeteries in Europe
Boston University	Committee for the Redress of
Bucharest University	the Roma Holocaust

Conference of European Rabbis	Eisenstein Malanchuk LLP	Holocaust Claims Processing Office	Israel Museum in Jerusalem
Conference on Jewish Material Claims Against Germany	Estonian Red Cross	Holocaust Claims Processing Office of the New York State Banking Department	J. Paul Getty Trust
Covington & Burling	Euro-Asian Jewish Congress	Holocaust Educational Trust	Jewish Agency for Israel
Cultural Heritage Inspectorate	European Jewish Congress	Holocaust Restitution Committee	Jewish Community Austria
Czech Bar Association	Fashion Institute of Technology	Holocaust Survivors' Foundation	Jewish Community of Bosnia and Herzegovina
Czech Council for Victims of Nazism	Federation of Jewish Communities in Serbia	Hoogleraar staats- en bestuursrecht, kunst en recht, Universiteit van Amsterdam	Jewish Confederation of Ukraine
Czech Union of the Freedom Fighters	Federation of Jewish Communities of the CIS	Hungarian Jewish Archives	Jewish Museum Berlin
Czech-German Fund for the Future	Federation of Jewish Communities in the Czech Republic	Institute of Geography – Russian Academy of Sciences	Jewish Museum in Prague
David Friedmann Art	Federation of Jewish Communities of Hungary	Institute of Jewish Studies – Charles University in Prague	Joods Historisch Museum
DePaul University	Fondation pour la Mémoire de la Shoah	Interdepartmental Task Force	Jüdisches Museum Wien
Der Beauftragte der Bundesregierung für Kultur und Medien	Forum 2000 Foundation	International Association of Jewish Lawyers and Jurists	Kaldy Foundation
Detroit Institute of Art	Foundation “Polish-German Reconciliation”	International Organization for Migration	Koordinierungsstelle für Kulturgutverluste
Direction des Archives du ministère des Affaires étrangères et européennes	Foundation for Holocaust Victims		Kreab Gavin Anderson
Direction des musées de France	Foundation Leo Baeck Terezín		Landesstelle nichtstaatliche Museen, Ref. Jüdische Museen
Documentation Centre of Property Transfers of Cultural Assets of WW II Victims	Fundatia Caritatea		Law Firm Pejchal, Nespala and Partners
Dokumentations- und Kulturzentrum Deutscher Sinti und Roma	German Insurance Association		Law Office of Richard A. Altman
Dorotheum	Hebrew University of Jerusalem		Law Office Turek-Mucha-Kostohryz
Dunnington, Bartholow & Miller LLP	Herrick, Feinstein LLP		Leuka Trust
	Holocaust & Human Rights Education Center and Children & Artists of Terezín		Living memory, p. b. o.
			Lithuanian Jewish Community
			Lo Tishkach Foundation

Memorial de la Shoah	Silesian Land Museum in Opava	United States Commission for the Preservation of America's Heritage Abroad	Vienna Jewish Community
Moravian District Archive Brno	Simon Wiesenthal Center, New York	United States Holocaust Memorial Museum	Weinberg Foundation
Moscow Bureau for Human Rights	Sotheby's	Universitaet Flensburg	World Jewish Congress
Munger, Tolles & Olson LLP	Spoliation Advisory Panel	University of Amsterdam	World Jewish Relief
Musée d'Art et d'Histoire du Judasme	Staatliche Kunstsammlungen Dresden	University of California, Berkeley	World Jewish Restitution Organization
Museum of Decorative Arts in Prague	Sterling and Francine Clark Art Institute	University of Geneva	World ORT
Museum of Jewish Heritage	Stiftung "Erinnerung, Verantwortung und Zukunft"	University of Jyväskylä	World Zionist Organization
Museum of Romani Culture in Brno	Task Force for International Cooperation on Holocaust Education, Remembrance and Research	Urząd do Spraw Kombatantów i Osób Represjonowanych	Yad Vashem
National Archives and Records Administration	Terezín Initiative		
National Fund of the Republic of Austria for Victims of National Socialism	Terezín Memorial		
National Gallery of Art	Topography of Terror Foundation		
Netherlands Museum Association	Ukrainian National Fund "Mutual Understanding and Reconciliation"		
Norton Simon Museum of Art	Ukrainian Research Institute, Harvard University		
Office of Lord Janner	UNESCO		
Organization of the Jews in Bulgaria "Shalom"	Union of Councils for the Jews in the Former Soviet Union		
Rechtsanwälte Görnandt / Heinz / Thiel	United Jewish Organizations of Williamsburg		
RESCAM, LLC			
Restitutions Committee			
Sage Recovery			

To the Presentation

Annex to Presentation by Jiří Šitler on “History of International Discussions on Compensations to Victims of Nazism as Seen by Delegations Representing Central and Eastern European Countries”¹

► Jiří Šitler

MINISTRY OF FOREIGN AFFAIRS, CZECH REPUBLIC

CZECH PAYMENTS TO NAZI VICTIMS AND RESISTANCE FIGHTERS²

In general, pension entitlements of Nazi victims and participants in the resistance movement, their survivors and other eligible persons are regulated by special provisions of the pension benefits legislation.

In addition, there are several special laws granting these persons access to extra benefits. These include lump-sum payments which are separate from the claimants' statutory pension entitlements and are payable irrespective of whether the claimants are collecting any pension. The criterion of eligibility for these lump-sum payments is Czech citizenship. Another type of payments is extra monthly benefits payable to claimants who are collecting a pension (a supplementary pension benefit and a special pension contribution).

¹ See presentation p. 291.

² Source: Czech Social Security Administration.

In addition to the payments administered by the Czech Social Security Administration (in an aggregate sum of more than EUR 100 million), the Czech government transferred money to benefit Nazi victims into funds and foundations such as the Czech-German Future Fund, the Ezra Foundation, the National Endowment Fund for Holocaust Victims, etc. (in an aggregate sum of approx. EUR 30 million).

Please note that, according to the Czechoslovak legislation, the term “political prisoner” also includes people who were persecuted on the basis of race.

The above-indicated special laws are as follows:

Act No. 217/1994 concerning lump-sum payments to certain victims of Nazi persecution

This legislation granted lump-sum compensation payments to:

- (a) Czechoslovak political prisoners;
- (b) Surviving spouses of Czechoslovak political prisoners;
- (c) Surviving children of executed Czechoslovak political prisoners and Czechoslovak political prisoners who were deceased in prison.

The lump sum payable to Czechoslovak political prisoners and their surviving spouses was CZK 2,300 per each commenced month of imprisonment. In addition, surviving spouses of political prisoners who were executed or died in prison received a lump-sum payment of CZK 100,000. Surviving children of political prisoners who were executed or died in prison received

a lump-sum payment of CZK 100,000 distributed in accordance with the number of the prisoner's surviving children.

Results of Processing:

25,395 claims made under this Act were granted, including:

- ▷ 9,194 claims of Czechoslovak political prisoners;
- ▷ 5,087 claims of surviving spouses of Czechoslovak political prisoners;
- ▷ 11,114 claims of surviving children of Czechoslovak political prisoners.

The total distributed amount was CZK 1,645,398,409; i.e., the average payment per person was CZK 64,792. This included:

- ▷ CZK 441,441,149 paid to Czechoslovak political prisoners;
- ▷ CZK 404,471,500 paid to surviving spouses;
- ▷ CZK 799,485,760 paid to surviving children.

Act No. 39/2000 concerning lump-sum payments to members of Czechoslovak armies formed abroad and of Allied armies in 1939–1945

This legislation granted lump-sum compensation payments to:

- (a) Members of Czechoslovak armies formed abroad or persons who performed military service in Allied armies;

- (b) Their surviving spouses.

Members of Czechoslovak armies formed abroad and persons who performed military service in an Allied army and whose military service lasted at least one year, were eligible for a lump-sum payment of CZK 120,000 plus an extra CZK 1,000 per each month of military service beyond the one-year limit. Members of Czechoslovak armies formed abroad and persons who performed military service in Allied armies whose service was shorter than one year but longer than three months, were eligible for a lump-sum payment of CZK 1,000. A lump-sum payment of CZK 120,000 was available to those who proved that they were wounded in action and granted a disability pension on account of the wound. Surviving spouses were eligible for one half of the amount that would have been payable to the deceased spouse. However, if the deceased spouse was killed in action, the surviving spouse received a lump-sum payment of CZK 120,000.

Results of Processing:

4,202 claims made under this Act were granted, including:

- ▷ 2,639 claims of members of Czechoslovak armies formed abroad or persons who performed military service in Allied armies;
- ▷ 1,563 claims of surviving spouses of members of Czechoslovak armies formed abroad or persons who performed military service in Allied armies.

The total amount distributed was CZK 387,725,325; i.e., the average payment per person was CZK 92,272. This included:

- ▷ CZK 288,710,000 paid to members of Czechoslovak armies formed abroad or persons who performed military service in Allied armies;
- ▷ CZK 99,015,352 paid to surviving spouses.

Act No. 261/2001 concerning lump-sum payments to participants in the national struggle for liberation, political prisoners and persons concentrated in military labor camps because of their race or religion, and amending Act No. 39/2000 concerning lump-sum payments to members of Czechoslovak armies formed abroad and of Allied armies in 1939–1945

This Act granted lump-sum compensation payments to:

- (a) Members of the First Czechoslovak Army in Slovakia, Czechoslovak partisans, participants in foreign or domestic resistance movements, participants in the May 1945 uprising, Czechoslovak volunteers in Spain and members of the State Defense Guard;
- (b) Surviving spouses of the above persons;
- (c) Surviving children of the above persons, provided that both parents were killed in the course of resistance activity or one of the parents was killed and the other parent was no longer alive at the time.

For the purpose of this Act, “participants in the national struggle for liberation” included citizens who, between March 15, 1939 and May 8, 1945, were imprisoned in military labor camps on the territory of Czechoslovakia within its borders as they existed on

September 29, 1938 because of their race or religion, or were hiding in such territory for the same reasons for a total period of at least three months.

Participants in the national struggle for liberation and persons regarded as participants in the national struggle for liberation were eligible for a lump-sum payment of CZK 120,000, provided that their resistance activity lasted at least one year, plus an extra CZK 1,000 per each month of activity beyond the one-year limit.

Participants in the national struggle for liberation and persons regarded as participants in the national struggle for liberation, who participated in such struggle for less than one year but for at least three months (or two months, if they served in a partisan unit) were eligible for a lump-sum payment of CZK 60,000.

A lump-sum payment of CZK 120,000 was available to participants in the national struggle for liberation who were wounded and granted a disability pension on account of the wound. Surviving spouses were eligible for one half of the amount that would have been payable to the deceased spouse. However, if the deceased spouse was killed or executed, the surviving spouse was eligible for a lump-sum payment of CZK 120,000. Surviving children of participants in the national struggle for liberation were entitled to the same lump-sum payments as surviving spouses.

Results of Processing:

5,088 claims under this Act were granted, including:

- ▷ 3,905 claims of participants in the national struggle for liberation;

- ▷ 1,179 claims of surviving spouses of participants in the national struggle for liberation;
- ▷ 4 claims of surviving children of participants in the national struggle for liberation.

The total distributed amount was CZK 438,103,000; i.e., the average payment per person was CZK 86,105. This includes:

- ▷ CZK 368,885,000 paid to participants in the national struggle for liberation;
- ▷ CZK 68,738,000 paid to surviving spouses;
- ▷ CZK 480,000 paid to surviving children.

Act No. 357/2005 concerning the recognition of participants in the national struggle for the establishment and liberation of Czechoslovakia and certain categories of their survivors, a special contribution to supplement the pensions of certain persons, a lump-sum payment to certain participants in the 1939–1945 national struggle for liberation, and amending certain laws

This legislation is of a different nature. It again applies mostly to resistance fighters – holders of certificates of participation in a resistance movement – and to specified categories of their survivors; however, it introduces several types of benefits payable either on a monthly basis, together with the person’s pension, or as a lump-sum payment.

Results of Processing:

134 claims for lump-sum payments under this Act were granted, including:

- ▷ 108 claims of direct participants;
- ▷ 25 claims of surviving spouses;
- ▷ 1 claim of a surviving child.

The total amount distributed in lump-sum payments was CZK 3,630,000; i.e., the average payment per person was CZK 27,090. This includes:

- ▷ CZK 3,240,000 paid to direct participants;
- ▷ CZK 275,000 paid to surviving spouses;
- ▷ CZK 15,000 paid to a surviving child.

36,648 claims for monthly payments (supplementary pension benefits or pension contributions) under this Act were granted by March 2009.

The aggregate amount of supplementary pension benefits and contributions distributed to these claimants by March 2009 was CZK 58,015,893.

Annex to Presentation by Georg Heuberger on “Holocaust Era Looted Art: A Worldwide Overview”¹

► Georg Heuberger

CONFERENCE ON JEWISH MATERIAL CLAIMS
AGAINST GERMANY, GERMANY

I. CLASSIFICATION OF COUNTRIES

Countries That Have Made Major Progress Towards Implementing the Washington Conference Principles on Nazi-Confiscated Art

- ▷ Countries in which the Holocaust took place: Austria, Czech Republic, Germany, the Netherlands

Countries That Have Made Substantial Progress Towards Implementing the Washington Conference Principles on Nazi-Confiscated Art

- ▷ Countries in which the Holocaust took place: Belgium, France, Luxembourg, Norway, Slovakia
- ▷ Other countries involved in the history of the Holocaust and its aftermath: Canada, Israel, Liechtenstein, Switzerland, United Kingdom, United States

¹ See presentation p. 940.

Countries That Have Taken Some Steps Towards Implementing the Washington Conference Principles on Nazi-Confiscated Art

- ▷ Countries in which the Holocaust took place: Croatia, Denmark, Russia
- ▷ Other countries involved in the history of the Holocaust and its aftermath: Australia, Finland, Ireland

Countries That Do Not Appear to Have Made Significant Progress Towards Implementing the Washington Conference Principles on Nazi-Confiscated Art

- ▷ Countries in which the Holocaust took place: Belarus, Bosnia and Herzegovina, Bulgaria, Estonia, FYROM, Greece, Hungary, Italy, Latvia, Lithuania, Poland, Romania, Serbia, Slovenia, Ukraine
- ▷ Other countries involved in the history of the Holocaust and its aftermath: Argentina, Brazil, the Holy See, Portugal, Spain, Sweden, Turkey, Uruguay

Countries for Which There Is Insufficient Information to Make a Judgment

- ▷ Albania, Cyprus, Kosovo, Malta, Moldova, Montenegro, as well as various other countries – e.g., Japan – involved in the world art trade

II. SUMMARIES BY COUNTRY

ALBANIA

Albania has no restitution law in place that covers movable property.

Albania's cultural institutions do not conduct provenance research, and it is not known if restitution of any objects from cultural institutions has taken place.

Albania participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

ARGENTINA

In 1997, Argentina created the "Argentine Commission of Inquiry into the Activities of Nazism in Argentina" (CEANA). CEANA concluded that no looted art was or is held by the *Museo Nacional de Bellas Artes* but admitted that it had not checked any other state-run museum and that it faced difficulties researching the activities of Argentina's art market during the Holocaust, particularly those of the Witcomb, Wildenstein and Muller art galleries. The work of the Commission as well as its final report was criticized by several historians.

Argentina's cultural institutions do not conduct provenance research. No restitutions of cultural and religious objects have taken place.

Argentina participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

AUSTRALIA

No research has thus far been conducted on looted cultural and religious artworks that might have entered Australia during or after World War II. Due to the lack of research it is not possible to determine if looted cultural and religious artworks are currently held in Australia except for the findings by those of Australia's major museums that have launched provenance research. The organization Museum Australia has not issued any guidelines concerning provenance research.

Australia's cultural institutions do conduct provenance research. It is not known if any restitution has taken place.

Australia participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

AUSTRIA

While Austria had some restitution laws in place immediately after the war had ended, it did not provide a hospitable climate for claimants trying to retrieve their artworks. The situation changed with the 1996 *Mauerbach Auction*, at which the remaining looted artworks kept by the Austrian state were auctioned off for the benefit of its Jewish community. This was followed by the creation of the 1998 Federal Art Restitution Law, the establishment of a Historical Commission, the creation of a Commission for Provenance Research, and the formation of a Restitution

Committee that *de facto* decides on specific restitution cases. While the Restitution Law has several shortcomings and will potentially be revised by Austria's current government, it allows state-run museums to de-accession artworks if they are proven to have been looted or otherwise misappropriated. Thus far, Austria's museums, federal and non-federal alike, have restituted approximately 13,000 objects.

Heirless objects, in accordance with the Federal Art Restitution Law, are to be transferred to the National Fund of the Republic of Austria for Victims of National Socialism. In 2006, the National Fund posted an online database¹ of some these heirless objects to allow additional claimants to come forward. Currently some 9,000 objects are listed.

Austria's state-run cultural institutions, mostly museums, but also libraries and archives, are conducting provenance research and have restituted objects. However, some private or semi-private museums, notably the Foundation Leopold, are not restituting spoliated objects. Some research has indicated that the Foundation Leopold might hold up to eight paintings that were looted by the Nazis.

Austria participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

BELARUS

Belarus has no restitution law in place that covers movable property. However, some cultural institutions hold objects of unclear

¹ See: <http://www.kunstrestitution.at>.

provenance, including the State Museum of History and Culture of Belarus in Minsk, the National Library of Belarus, and the State Historical Archive of Belarus.

Belarus' cultural institutions do not conduct provenance research. It is not known if any restitution has taken place.

Belarus participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

BELGIUM

In 2001, the "Commission for the Indemnification of Members of the Belgian Jewish Community Whose Assets Were Plundered, Surrendered or Abandoned during World War II" was created. In 2008, the Commission released its final report. The Commission was preceded by the so-called "Study Commission on Jewish Assets" which had as its goal research on the provenance of objects held in cultural institutions. The Study Commission unveiled 331 objects with unclear provenance in state institutions, but noted that its provenance research was not completed and that further research was required.

Subsequently, additional research was carried out, and a number of Belgian museums are planning on publishing their research results in the course of the current year. At the same time, no provenance research has been carried out on private and foreign museums and galleries in Belgium.

Belgium participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

BOSNIA AND HERZEGOVINA

Bosnia and Herzegovina has no restitution law in place that covers movable property.

Bosnia and Herzegovina's cultural institutions do not conduct provenance research, and it is not known if restitution of any objects from cultural institutions has taken place. At the same time, some museums, notably the National Museum of Bosnia and Herzegovina, hold artifacts of unclear provenance.

Bosnia and Herzegovina participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

BRAZIL

In 1997, Brazil set up a "Commission for the Investigation of Nazi Assets" that tried to establish if illicitly confiscated assets were transported into the country, including more than a hundred works of art which were known to have been exported and sold in Brazil. It is not known if the Commission published a final report or issued any recommendations.

Brazil's cultural institutions do not conduct provenance research, and it is not known if restitution of any objects from cultural institutions has taken place.

Brazil participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

BULGARIA

In 1992, Bulgaria passed the Law on Restoration of Property Rights, but it is not clear to what extent there has been restitution of moveable property.

Bulgaria's cultural institutions do not conduct provenance research, and it is not known if restitution of any objects from cultural institutions has taken place.

Bulgaria participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

CANADA

In 2001, the Canadian Museums Association, together with the Canadian Jewish Congress, sponsored the conference "A Matter of Justice" that proposed recommendations on Holocaust-era cultural property. Five years later, a subsequent meeting was held with the participation of the Claims Conference/WJRO at which the decision was made to survey Canadian cultural institutions in regard to their efforts at provenance research.

Consequently, the Department of Canadian Heritage commissioned the Canadian Art Museum Directors' Organization (CAMDO) to conduct a survey of 84 member institutions. While the survey only yielded twelve completed surveys, the total number of works that require provenance research was estimated to be 822, which includes 378 paintings and sculptures. The survey also showed that none of the responding museums have a dedicated provenance research budget. Only three institutions have

had claims made against works in their collections, with one carrying out the restitution. The findings were summarized in a report entitled “Report on Provenance Research Needs for Holocaust-Era Cultural Property in Canadian Art Museums – Summary” (February 2008).

Canada’s cultural institutions conduct provenance research and have restituted objects that were previously spoliated. In addition, the “Canadian Heritage Information Network” (CHIN), which is maintained by the Government of Canada, allows cultural institutions to post objects with provenance gaps.

Canada participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM’s Code of Ethics.

CROATIA

In 1997, the Government of Croatia not only established a Historical Commission to investigate the fate of property of victims of National Socialism but also adopted the Law on Restitution and Compensation for Property Seized During and After World War II. In 1989, some libraries that had been looted from Jews and handed over to the National and University Library were restituted to the Jewish community.

It does not appear that Croatia’s cultural institutions conduct provenance research. It is not known if restitutions from museums have taken place. Nonetheless, according to experts, it is very likely that some museums in Zagreb, but especially the *Muzej za umjetnost i obrt* (Museum of Arts and Crafts) hold looted cultural and ritual objects.

Croatia participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM’s Code of Ethics.

CYPRUS

It is unknown if any cultural property looted from Jews is located in Cyprus. No research has taken place, and it seems unlikely that cultural institutions in Cyprus are conducting provenance research.

Cyprus participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM’s Code of Ethics.

CZECH REPUBLIC

In 1998, the Czech Republic formed a Joint Working Commission aimed to mitigate property injustices inflicted on Holocaust victims. Two years later, in 2000, the Parliament passed Restitution Act No. 212/2000, which stipulates the responsibility of the director of a contacted cultural institution to return art objects if they were looted. In case of a dispute, the ruling by an independent court is decisive. The original deadline of December 2006 for presenting claims has since been abolished. The database “Restitution-Art”, sponsored by the Ministry of Culture, lists about 3,400 cultural objects with provenance gaps.

A year after the restitution law was passed, the “Documentation Centre of Property Transfers of Cultural Assets of WW II Victims” was founded. The Center’s major aim is to research historical and economic questions regarding confiscated Jewish cultural property, in particular art objects.

Cultural institutions in the Czech Republic are conducting provenance research and have restituted objects that were spoliated. However, some looted artifacts, notably hundreds of thousands of books that went to the National Library in Prague, have not been researched or restituted. Some private museums, which are not bound by the restitution law, particularly the Jewish Museum, are also conducting provenance research and have restituted objects. Objects that have been restituted may nonetheless be subject to export restrictions.

The Czech Republic participated in the 1998 Washington Conference on Holocaust Era-Assets and is a signatory to ICOM's Code of Ethics.

DENMARK

At a meeting in 2007 with the Claims Conference/WJRO and the Jewish Community of Denmark, the Ministry of Culture of Denmark pledged to make public an investigation of the holdings of the national institutions that was done in 2001. The investigation showed that none of the Danish museums had relevant objects in their collections, and the Ministry of Culture concluded that it is not necessary to have museums research their entire collections, in view of the perception that Denmark does not in fact have any looted items.

Provenance research will only be carried out by Danish museums if they are faced with a restitution claim.

Denmark participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

ESTONIA

At the time Estonia regained its independence in 1991, illegally alienated property was largely restored to former legal owners or compensation was paid. There was no distinction drawn between Jewish property that was nationalized and non-Jewish property, especially since no information is available if valuable works of art belonging to Jews in 1940–1941 or expropriated in 1941 after the German occupation had begun were nationalized.

In 1998 the “Estonian International Commission for Investigation of Crimes Against Humanity” was formed. The specific topic of looted cultural property was not part of the Historical Commission's research task. It does not seem that cultural institutions in Estonia are conducting provenance research.

Estonia participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

FINLAND

Finnish museums have very recently begun to conduct provenance research. A brief overview of provenance research being conducted in Finland's cultural institutions may be found online¹. Until funding ran out, the DEAL project (Distributors of European Art Legacy – Finland as Relocation Region of Nazi-Looted Art), founded in 2001, was carrying out research into spoliated art in Finland.

Finland has no restitution law, and no artwork has been

¹ See: <http://www.museot.fi/provenance-research-in-finnish-museums>.

restituted. At least two museums are believed to hold looted artworks: the Sinebrychoff Art Museum and the Kuopio Art Museum.

Finland participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

FRANCE

Following the end of World War II, France enacted a number of restitution laws. In 2000, a Historical Commission, chaired by Jean Mattéoli ("Mattéoli Commission"), was formed. One of the Historical Commission's recommendations was for the creation of an office dealing specifically with spoliated Jewish property. In 1999, the "Commission for the Compensation of Victims of Spoliation (CIVS)" was formed. The CIVS office deals, among other claims, with requests for looted cultural property, however, it can only provide for monetary compensation payments and does not exert any influence over the restitution of objects held in French cultural institutions.

As there is no restitution law or clear procedure that allows for the restitution *in rem* of a looted cultural object in France's museums, requests for artworks held by France's cultural institutions have to be pursued through lawsuits. The situation is slightly different concerning the approximately 2000 MNR objects (*Musées Nationaux Récupération*), all of which were recovered from Germany after World War II and given to the custody of the French National Museums. Most MNR objects are thought to be heirless, although the French government does not question the fact that the Germans acquired or "appropriated" them in France between 1940 and 1944. Today the remaining MNR artworks are still to be found in museums throughout France, including in

the Louvre, the Musée d'Orsay, and the Centre Georges-Pompidou. In 1996, the Museums Department of the French Ministry of Culture and Communication published an online¹ listing of its MNR collection. Eight years later, in 2004, a *Catalogue raisonné* of some of the MNR collection still being held in France's cultural and governmental institutions was published. Since 1997, 41 MNR paintings, including works by Picasso or Monet, have been restituted.

More recently, in 2008, some of the MNR's were exhibited at the Israel Museum in Jerusalem and then in Paris. The exhibition, entitled *Looking for Owners: Custody, Research and Restitution of Art Stolen in France during World War II*, aimed to potentially find more pre World War II owners. French museums have yet to do provenance research on their collections more generally.

France participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

FYROM

According to experts, it is thought that a number of Macedonia's cultural institutions hold artifacts that may have belonged to Jewish victims of the Holocaust.

Museums in Macedonia do not conduct provenance research, and it is not known if any restitution of Jewish-owned cultural movable artifacts has taken place. There is no specific law in place for the restitution of looted Jewish cultural and religious property.

¹ See: <http://www.culture.gouv.fr>.

Macedonia participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

GERMANY

After the end of World War II, Germany passed several restitution laws that, among other issues, also covered looted cultural objects – e.g., the 1957 Federal Restitution Law (BRÜG). More recently, in 1999, Germany announced a mutual statement and agreement aimed at the identification and restitution of Nazi-looted cultural items, especially if they had belonged to Jews. This mutual agreement is a request, and therefore not binding. It does not obligate Germany's museums to investigate their cultural assets. However, for a number of museums, in addition to the regional finance office (*Oberfinanzdirektion*), the mutual agreement was an impetus to start provenance research.

In 1994, the Coordination Office of the States for the Return of Cultural Treasures was established, and in 2001, the Central Office for the Documentation of Lost Cultural Assets was inaugurated in Magdeburg. 2001 also marked the launch of the web-based database *www.lostart.de*, which serves as a depository for information on public losses, trophy art, and on cultural goods which were transported or stolen as a result of Jewish persecution. One listing deals exclusively with Jewish collectors and their losses. Only very few restitutions have resulted from *www.lostart.de*.

Also in 2001, Germany issued the legally non-binding "Handreichung" (*Handreichung zur Umsetzung der 'Erklärung der Bundesregierung, der Länder und der kommunalen Spitzenverbände*

zur Auffindung und zur Rückgabe NS-verfolgungsbedingt entzogenen Kulturgutes, insbesondere aus jüdischem Besitz) or guidelines outlining ways to discover and restitute looted cultural property. In November 2007, the handout was revised following the disputed restitution of a painting by Ernst Ludwig Kirchner.

In 2003, the Advisory Commission on the Return of Cultural Property Seized as a Result of Nazi Persecution, especially from Jewish possession, also known as the "Looted Art Commission", was inaugurated. The Commission's aim is to serve as a mediator between the current owner of an artwork in question and former owner(s). As both parties need to agree to have the Commission serve as a mediator, until now it has only made recommendations in four cases.

Since 2006, the "Federal Office for Central Services and Unresolved Property Issues" (*Bundesamt für zentrale Dienste und offene Vermögensfragen* or BADV) deals with looted art that is still in German governmental possession, including the Remainder of Stock CCP (Restbestand Central Collecting Point) covering among other objects, approximately 2,300 paintings, sculptures, or graphics. Most paintings were collected for Hitler's planned museum in Linz or belonged to Hermann Göring's vast art collection. In 2007, BADV published an online database.

A number of Germany's cultural institutions conduct provenance research, and restitutions have taken place.

Germany participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

GREECE

Greece initiated a number of directives and restitution laws at the end of World War II and in 1944 was the first European government to clearly state that the Greek state should under no circumstances benefit from abandoned or confiscated Jewish property.

Greece's biggest loss of Jewish cultural property covers the archives of various Jewish communities in Greece, including the archives of Athens, Ioannina, Larissa, Volos, Didymoteicho, Kavala and Salonika; all of which were looted by the Nazis. Most of these archives are believed to be in the Russian State Military Archive. However, part of the Salonika cultural property can be found in Poland.

Little to no provenance research is being conducted by Greece's cultural museums, and no restitutions have taken place. Recently the Ministry of Culture has sent a request for information on the subject to the museums.

Greece participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

THE HOLY SEE

Little to no research has been done on the extent to which the Vatican may have received looted artworks. It does not appear that the Vatican museum conducts provenance research. It is not known if any restitution has taken place.

The Holy See participated in the Washington Conference on Holocaust-Era Assets but is not a signatory to ICOM's Code of Ethics.

HUNGARY

Hungary claims to have lost more than 40,000 objects of art, including paintings, decorative art and other objects such as medals during World War II. However, about 90–92 percent of the artworks taken out of the country were returned between 1945 and 1948, with approximately 20 percent remaining in Hungary's cultural institutions – including artworks looted from Hungarian Jews.

The National Gallery and the Museum of Fine Arts are known to hold looted art. Despite numerous legal attempts, Ms. Nierenberg, who is claiming the artworks of her late father, the Hungarian banker Baron Mor Lipot Herzog, who had collected between 1,500 and 2,500 artworks, has been denied any restitution. The Herzog collection is not the only collection of Jewish artworks kept by Hungarian cultural institutions. According to experts in the field, Hungarian museums still store several hundred works of art obtained under questionable circumstances.

Hungary has never set up a historical commission to investigate Hungary's role and participation in the financial and physical annihilation of its Jews, and it has not initiated any provenance research by its cultural institutions. While a few restitutions have taken place, important works of art have consistently been kept from being restituted to their rightful owners.

Hungary participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

IRELAND

Despite a questionable history involving Dr. Adolf Mahr, it does not appear that the National Museum of Ireland has conducted provenance research. The Hunt Collection's investigatory commission cleared it of all wrongdoing, but the Simon Wiesenthal Center as recently as 2008 published a report entitled "The Hunt Controversy: A Shadow Report".

It is not known if other museums in Ireland conduct provenance research or if any restitution of cultural property has taken place.

Ireland did not participate in the 1998 Washington Conference on Holocaust-Era Assets but is a signatory to ICOM's Code of Ethics.

ISRAEL

Israel was the recipient of much looted cultural and religious property sent to the country by Jewish Cultural Reconstruction (JCR). Some 1,200 artworks and Judaica objects were sent to Israel, specifically to the Bezalel Museum in Jerusalem. Those objects that were kept at the Bezalel Art Institute were later transferred to the Israel Museum in Jerusalem created in 1965. Other objects, especially Judaica items, were distributed among various cultural and religious organizations in Israel.

With the exception of the Israel Museum in Jerusalem, cultural and religious organizations in Israel do not appear to conduct provenance research.

In 2006, the "Company for Location and Restitution of Holocaust Victims Assets" was established under the Holocaust Victims Assets Law (Restitution to Heirs and Endowment for Purposes of Assistance and Commemoration). This organization may be in a position to request the restitution of cultural or religious objects, but no clear understanding is yet in place. However, according to experts in the field, the Company may take on the role of conducting provenance research in a number of Israeli cultural institutions.

Israel participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

KOSOVO

A number of museums and other cultural institutions were either partially or totally destroyed or plundered during the Kosovo war, while other collections were removed from Kosovo to Serbia at the beginning of 1999.

The spoliation of Jewish cultural property in Kosovo has not been researched. Museums and other cultural institutions in Kosovo do not conduct provenance research.

Kosovo, then part of Serbia, did not participate in the 1998 Washington Conference on Holocaust-Era Assets. Kosovo is not a member of ICOM and therefore not a signatory to ICOM's Code of Ethics.

LATVIA

In 1998, the "Commission of Historians of Latvia" was established and instructed to study the issue of "Crimes against

Humanity Committed in the Territory of Latvia under Two Occupations, 1940–1956,” including the topic “Holocaust in Latvia in 1941–1944”. However, the confiscation of privately owned Jewish art collections and the looting of Judaica during World War II have not been researched, and there is little to no information available.

Latvia has no restitution law in place. Nevertheless, in September 2008, Latvia’s prime minister established a “working group” which aims to explore the issue. It does not appear that Latvia’s cultural and religious institutions are conducting provenance research. It is not known if any restitution of cultural property has taken place.

Latvia participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM’s Code of Ethics.

LIECHTENSTEIN

In 2001, the Liechtenstein government appointed an Independent Commission of Historians pursuant to various initiatives and questions raised in public about Liechtenstein’s role during World War II. A final report was published in 2005.

There is no indication that looted cultural property found its way into Liechtenstein’s museums. This assertion was confirmed by research by a member of the Historical Commission that showed that no spoliated artworks historically reached Liechtenstein’s three main cultural institutions.

Liechtenstein did not participate in the 1998 Washington Conference on Holocaust-Era Assets, nor is Liechtenstein a signatory to ICOM’s Code of Ethics.

LITHUANIA

Lithuania has passed a few restitution laws, mostly covering immovable property claims, but no restitution law is in place covering specifically the restitution of Jewish cultural property. In 1998, the “International Commission for the Evaluation of the Crimes of the Nazi and Soviet Occupation Regimes in Lithuania” was formed, which soon split into two separate Commissions with one dealing specifically with the destruction of the Jewish community as a spiritual and religious community, as well as the confiscation of property. Some research is still ongoing.

Lithuania has returned a number of Jewish religious artifacts, notably in 2002 when it returned 309 Torah scrolls and megillot. However a number of cultural institutions in Lithuania still hold looted Jewish artifacts, among them the National Museum (which continues to hold Torah scrolls).

Cultural institutions in Lithuania do not appear to conduct provenance research. In addition, very few of the Jewish cultural and religious objects held have been catalogued or otherwise recorded.

Lithuania participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM’s Code of Ethics.

LUXEMBOURG

In 2001, Luxembourg created a Historical Commission, “The Special Study Commission on the Spoliation of Jewish Assets in Luxembourg during the War Years 1940–1945”, which aimed to research Jewish looted cultural property. In July 2007, the

Commission published an intermediate report entitled *Le Rapport intermédiaire de la Commission spéciale pour l'étude des spoliations des biens juifs pendant les années de guerre 1940–1945*. As part of its work, the Historical Commission was able to identify one silver object in the National Museum that was spoliated during the Holocaust.

The National Museum seems to be the only museum in Luxembourg that conducts provenance research, notably by publishing five lists on its website referencing acquisitions made between 1940 and 1944. There is no restitution law in place for looted Jewish cultural and religious property in Luxembourg.

Luxembourg participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

MALTA

It does not appear that cultural institutions in Malta are conducting provenance research. It is not known if any restitution has ever taken place. It is also not known whether looted art may have historically entered Malta other than possibly through the art trade since the war.

Malta did not participate in the 1998 Washington Conference on Holocaust-Era Assets, but is a signatory to ICOM's Code of Ethics.

MOLDOVA

Moldova has no restitution law in place that covers movable property.

Moldova's cultural institutions do not seem to conduct provenance research, and it is not known if restitution of any objects from cultural institutions has taken place.

Moldova did not participate in the Washington Conference on Holocaust-Era Assets but is a signatory to ICOM's Code of Ethics.

MONTENEGRO

In March 2004, Montenegro passed a restitution law which aims to provide for restitution in kind, when possible, with cash compensation or substitution of other state land when physical return is not possible. The law does not draw a distinction between religious and privately owned property.

It does not seem that cultural institutions in Montenegro are conducting provenance research. It is equally unknown if any restitution of cultural property has taken place.

Montenegro, then part of Serbia, did not participate in the 1998 Washington Conference on Holocaust Era Assets but is a signatory to ICOM's Code of Ethics.

THE NETHERLANDS

Soon after World War II ended, the Netherlands enacted restitution laws that provided for the restitution of looted cultural property. Specifically the SNK (*Stichting Nederlandsch Kunstbezit*) was put in charge of recuperating artworks from abroad but also, if possible, returning some of the objects to their rightful owners and collecting lists of confiscated Jewish property.

By 1950, five years after the war, a number of works of art had been restored to their owners in the Netherlands. The remaining works stayed in the custody of the state subject to an original owner or heir turning up: these non-restituted artworks subsequently became known as the NK-collection, or *Nederlands Kunstbezit-collectie*, of 4,217 artworks.

In 1997, the Ekkart Committee was tasked to carry out a pilot study researching the provenance of parts of the NK-collection. The actual research was then carried out by the project bureau entitled Origins Unknown (*Herkomst Gezocht*) and was completed in 2004. Objects falling under the NK-collection are viewable on the Origins Unknown website, in addition to any recommendations that have been issued for return of cultural objects, such as for the Goudstikker collection.

In 1998, Dutch State Museums launched an investigation for objects acquired between 1940 and 1948, and subsequently published the report entitled *Museale Verwervingen 1940–1948* (Report Museum Acquisitions) in January 2000. However, experts suspect that additional provenance research is necessary, including in regard to non-state museums, and that up to 4,000 artworks that originally belonged to Jews might still be in museums in the Netherlands. As of the beginning of 2009, the museums of the Netherlands have begun to examine their collections for works looted from Jews beginning in 1933 with the aim of publishing a list of such works by 2013.

The Netherlands participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

NORWAY

The process of reclaiming property in Norway after the war was especially difficult for Jews, as catalogues of particularly valuable ownerless property were only printed in 1947. Since 90 percent of the artworks referenced in the catalogue were not reclaimed, the rest were sold off at auctions or donated to the National Gallery or other state institutions.

In an attempt to make up for past insufficient restitution efforts, in 1996 the "Norwegian Commission on Restitution" was appointed and tasked with conducting a survey on what happened to Jewish property in Norway during and after World War II. The so-called minority report was subsequently adopted by Norway's government, and a restitution fund was set up covering the total joint amount of losses endured by Norway's Jewish community. The fate of artworks during World War II is considered to have been fully researched.

Norway's museums do not seem to conduct provenance research, including Norway's National Gallery which was handed a number of looted Jewish artworks. The only exception seems to be the National Library which examined its collection during the work of the restitution committee in 1996/97. Such provenance research is needed in view of the likely importation of looted artworks since the war through the art trade.

Norway participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

POLAND

Cultural losses experienced by Poland began to be recorded as early as September 1939, and by 1944, a first list of objects destroyed and removed from public and private collections was created. In 1945 the Polish Ministry of Culture created the “Bureau for Restitution and Reparations” to identify cultural losses and prepare restitution claims. In 1991 the Foreign Ministry established the “Bureau of the Government Plenipotentiary for Polish Cultural Heritage Abroad” located at the Ministry of Culture and Art (presently the Department of National Heritage). This office seeks to identify and locate cultural losses. As part of the office’s task, catalogues of war-time losses have been created, with parts of the catalogue available online. However, the catalogue does not distinguish between objects that were destroyed, objects that survived, and/or objects that were looted from Jews.

The total amount of confiscated Jewish-owned cultural property in occupied Poland has thus far not been documented and is therefore unknown. Estimates of the spoliation of Jewish book collections are as high as 70 percent, with some libraries, especially private school and religious libraries having been completely destroyed. Nonetheless, remnants of Jewish libraries can be found in a number of Polish libraries, for example in the Jagiellonian University Library.

Cultural institutions in Poland do not conduct provenance research, or in very few cases, do not make any existing provenance research publicly available. At the same time, it is known or in some cases thought that a number of museums such as the John Paul II Collection in Warsaw, the Warsaw National Museum, and the Gdansk Museum not only hold looted Jewish cultural property but also religious objects. In addition, artefacts that

originally belonged to the Jewish Community of Thessalonica, Greece, and other foreign Jewish communities are in the Jewish Historical Institute in Warsaw.

There is no restitution law in place covering the restitution of Jewish-owned cultural and religious property. As a result, referencing all sorts of difficulties, some museums will, when faced with a restitution claim, not retribute an artwork if claimed by its former owners or their heirs.

Poland participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM’s Code of Ethics.

PORTUGAL

In 1998, Portugal launched a Historical Commission tasked with researching the country’s involvement in gold transactions between Portugal and Germany between 1936 and 1945. The Commission’s task did not cover any research into looted art reaching Portugal – which served as a transit country – or looted cultural and religious property currently located in Portugal. On the other hand, documents in the United States archives point to the fact that Portugal’s ports served as a transit point for looted art that was subsequently shipped to the United States. The Commission’s work was concluded in 1999 and was criticized by the World Jewish Congress.

Museums in Portugal generally do not seem to conduct provenance research. It is suspected that a number of museums, such as the *Fundação Medeiros e Almeida*, may hold looted cultural property.

Portugal participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

ROMANIA

In 2003, Romania established an "International Commission on the Holocaust in Romania" which released its final report a year later, in 2004.

Cultural institutions in Romania do not conduct provenance research. Romania has no restitution law in place that covers looted cultural property.

Romania participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

RUSSIA

As World War II was ending and immediately after it, Red Army trophy brigades removed enormous quantities of art, books, and archives from Germany and other enemy territory. Since German holdings included cultural property looted from Jews throughout most of Europe and other Jewish cultural property had been left abandoned due to the genocide, large quantities of Jewish cultural property from such countries as Germany, Austria, the Netherlands, France, Belgium, Greece, Bulgaria, and Hungary were removed to the Soviet Union.

While some Russian cultural institutions have published reports on trophy property in their possession, including items that originally belonged to Jews, most research has focused on

documenting Russia's losses (including some originally Jewish property) rather than property looted from Jews in other countries that today can be found in Russia's museums, libraries and archives. The Federal Law on Cultural Valuables Displaced to the USSR as a Result of World War II and Located on the Territory of the Russian Federation (1998/2000) provides for the potential restitution of cultural treasures under specified conditions to governments, primarily governments of those countries that fought against the Nazi regime or were victimized by the Nazis. Restitution of archives to France, Belgium, the Netherlands, Luxembourg, and prospectively Austria and other countries – as well as to the Rothschild family – has included restitution of archives taken from Jewish communities and individuals. There are artworks that were looted from Jews and that remain in Russia's museums, but there is no known case of restitution of such artwork.

Some cultural property taken by the trophy brigades that included items that originally belonged to Jews was distributed under Stalin to what were at the time union republics of the Soviet Union. No research on this distributed cultural property has been done, however.

The Russian Federation participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

SERBIA

In October 2006, Serbia passed a restitution law that enables the restitution of communal movable and immovable property. Applications for restitution of property or payments of

reimbursement or recompense had to be submitted by 30 September 2008. The Federation of Jewish Communities filed a general application for communal movable property that may be identified in future years.

Cultural institutions in Serbia generally do not conduct provenance research. However, it is known that some museums hold looted Jewish cultural property, most notably the National Museum in Belgrade, which holds the *Šlomovič Collection*, known to contain several paintings looted from Jews.

Serbia did not participate in the 1998 Washington Conference on Holocaust-Era Assets but is a signatory to ICOM's Code of Ethics.

SLOVAKIA

The Slovak Republic enacted restitution laws shortly after the end of World War II that also covered looted Jewish cultural property. These restitution laws were soon followed by Czechoslovak laws, which also in some cases were intended to apply to Jewish and non-Jewish properties alike, as long as those assets had been taken by the communist regime.

In 2001, the Central Union of Jewish Communities of Slovakia (UZZNO) was formed and tasked with the identification of unreturned properties of murdered Slovak Jews. In 2007, the Claims Conference/WJRO and the UZZNO reached agreement with the Slovak Ministry of Culture on publication of a provenance research survey previously conducted and on continued encouragement of provenance research by the museums of Slovakia. In June 2008 the Slovak Ministry of Culture reported that it had carried out these activities.

The Slovak Republic participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

SLOVENIA

Slovenia recently initiated research into the fate of real estate and movable property looted from Slovenian Jews during or after the Holocaust. The findings of the research team should contribute to the creation of a restitution law.

It is not known if national institutions hold looted Jewish cultural and religious property, as in-depth research has just begun. It seems unlikely that cultural institutions in Slovenia conduct provenance research. It is also not known if any restitution has taken place.

Slovenia participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

SPAIN

In 1997, Spain established a historical commission aimed at investigating the country's economic relations with the Third Reich. A year later, a final report was issued which has been heavily criticized by experts in the field. The Commission did not investigate Spain's role as a transit country for potentially looted cultural property or art looted from Jews that reached Spain in other ways. Spain does not have a restitution law that covers cultural and religious Jewish property that was spoliated during World War II.

Spain's cultural institutions do not conduct provenance research. It is known, however, that there is looted art in the country – e.g., the Thyssen-Bonemisza Collection is currently embroiled in a lawsuit concerning a painting by Pissarro originally owned by Julius Cassirer.

Spain participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

SWEDEN

In 1997, the Swedish government established "The Commission on Jewish Assets in Sweden at the Time of the Second World War." The Commission's final report "Sweden and Jewish Assets," released in 1999, concluded that cultural property looted from Jews might have entered Sweden but more research was needed. As a result, the "Swedish Committee of Enquiry" was set up and in 2002 was able to present its own final report. Two years prior to that, in 2000, the Swedish Research Council launched a governmental research program entitled "Sweden's Relations with Nazism, Nazi Germany and the Holocaust." While the Council presented its preliminary assessments in 2006, in-depth research has not yet started.

Most of Sweden's museums, with a few exceptions such as the Jewish Museum, do not appear to conduct provenance research. Swedish museums do hold looted art, however. Although the Moderna Museet in Stockholm does not dispute that a painting by Emil Nolde that it holds was looted, it has not to date restituted the painting.

Sweden participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

SWITZERLAND

In 1945, the Federal Council ordered that looted art that had reached the territory of the Federation should be returned and that the art museum in Basel should serve as a depository for remaining looted art. The art restitution law was largely seen as ineffective, mainly due to lack of publicity and the short time frame provided, but also because it only included objects that were had been misappropriated in occupied territories, thereby excluding the looting of cultural property in Germany and Austria.

In 1996, the Swiss Federal Assembly created the "Independent Commission of Experts Switzerland-Second World War" (ICE), which was headed by Jean-Francoise Bergier ("Bergier-Commission"). As part of the Commission's work, research was initiated into cultural assets that found their way into Switzerland during World War II. In 2001, the ICE published its report on looted cultural assets (primarily works of art) in Switzerland.

Four years prior to that, in 1997, the historian and journalist Thomas Buomberger was appointed by the Swiss Federal Office of Culture and the National Informational Office for the Preservation of Cultural Goods to research Switzerland's position as a transit country for looted art. Around the same time, in 1996/97 the Swiss Federal Office of Culture initiated a research study to investigate what art transactions took place with Nazi Germany during World War II and what, if any, artworks were still located in Switzerland's federal museums. In 1998, the research, which focused on the provenance of artworks in Switzerland's federal museums, was published. However, considering that most museums are under the auspices of the cantons and are not federal, in addition to the fact that most important collections are in

private hands, the survey did not cover a lot of artworks. In 1998 the Federal Assembly of Switzerland established an office at the Swiss Federal Office of Culture that exclusively deals with looted-art. Recently this office has been conducting a survey of the cantonal and communal museums.

While some museums in Switzerland conduct provenance research, the results are generally not known or made public. A number of restitutions have taken place.

Switzerland participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

TURKEY

Turkey has not initiated any research into looted cultural and religious property that may have reached Turkey during the Holocaust or afterwards. It does not appear that Turkey's cultural institutions are conducting provenance research. Research into Turkey's role is further complicated by the fact that not all archives are open for public viewing and research.

Turkey participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

UKRAINE

Ukraine holds thousands of objects originally owned by Jews that were looted by the Nazis. Many of these objects belonged to Jews outside the Soviet Union and were either brought directly to Ukraine by Red Army trophy brigades or were distributed

to Ukraine under Stalin. In the 1990's the "National Commission on the Restitution of Cultural Treasures to Ukraine under the Cabinet of Ministers" was established which primarily deals with Ukrainian losses and does not deal with Jewish cultural and religious property currently held in Ukrainian institutions. Although attempts have been made at creating a restitution law, to date nothing concrete has materialized.

Ukrainian museums generally do not conduct provenance research. However, museums, libraries and archives hold cultural and religious artifacts taken from Jews in Ukraine during World War II or taken from Jews in other countries and brought to Ukraine as part of those trophy items that Ukraine keeps based on the law that gives people and organizations that suffered property damage during the German invasion of the Soviet Union during World War II legal title to German property captured by the Red Army.

Although there has recently been some restitution of Torah scrolls to the Jewish communities of Ukraine, there are no known cases of restitution of artworks or other cultural property that originally belonged to Jews.

Ukraine participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

UNITED KINGDOM

In 1998 the National Museum Director's Conference (NMDC) established a working group to examine issues surrounding the spoliation of art during the Holocaust and World War II period. As a result, a statement of principles and proposed actions for

member institutions was drawn up. A year later, in 1999, the Museums and Galleries Commission (MGC) drew up guidelines for dealing with spoliated items in non-national museums. Also in 1999, an independent “Spoliation Advisory Panel” was established which has ruled on a handful of cases.

Some of the United Kingdom’s cultural institutions conduct provenance research, namely those 28 that are mentioned on the NMDC’s webpage as holding objects with unknown provenance. There is no restitution law in place for looted cultural property, in addition to the fact that under current law, British galleries are barred from disposing of art that they hold in trust for the nation. The “British Museum Act” clearly forbids museums from deaccessioning any part of their collection, with certain exceptions such as duplicates. Changes in the law are currently under consideration by Parliament.

The United Kingdom participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM’s Code of Ethics.

UNITED STATES

The United States has played a significant historic role in international restitution efforts, but it has also been a recipient of looted art. In the postwar years, looted objects found their way to the United States, but given the intensive demand for cultural objects at the time, it was not standard practice for museum collectors and dealers to investigate the provenance of works that came into their possession. A significant number of works with questionable provenance entered both public and private collections in the United States.

The 1998 Presidential Advisory Commission on Holocaust Assets in the United States (PCHA) only marginally focused on looted art that reached the United States and on provenance research in cultural institutions. However, in its final report in 2000, the Commission recommended that all museums should disclose their known objects and make provenance research information available.

In 1998 the Association of Art Museum Directors (AAMD) established a Task Force on the Spoliation of Art during the Nazi/World War II Era and adopted guidelines detailing procedures on how to deal with Nazi-era looted art. Soon thereafter, in November 1998, the American Association of Museums (AAM) followed suit and published its “Common Guidelines Concerning the Unlawful Appropriation of Objects During the Nazi Era.” These guidelines were subsequently amended in April 2001.

In September 2003, the “Nazi-Era Provenance Internet Portal”¹ was launched: As of April 2009, 164 museums are participating in the Portal, with an additional 33 museums asserting that they do not hold any relevant objects as defined by the AAM. Generally speaking, most major museums in the USA have posted provenance research. However, a number of smaller museums, especially university museums, have not and are pointing to the high cost of provenance research. While the US government can urge museums to participate in the Portal and conduct provenance research, it has no leverage to enforce compliance since most museums are private or are under state and/or municipal authorities. No general claims resolution system has been set up for dealing with Nazi-era art claims, and claims are mostly dealt with on an ad hoc basis that requires claimants ultimately to go through the courts.

¹ See: <http://www.nepip.org>.

In July 2006, the Claims Conference/WJRO published a report entitled “Nazi-era Stolen Art and the US Museums: A Survey”. The survey, which covered 332 museums, showed that while there are some good developments, improvements are still needed: among other findings, the report showed that the number of artworks posted on NEPIP (at that time 18,102 items listed by 151 participating museums) only reflected a small percentage of “covered objects” as defined by the AAM.

While many museums are conducting provenance research and a number of artworks have been returned, in a more recent development, some museums have started to file suits against claimants to quiet title, thereby invoking technical legal defenses in order to avoid restituting objects and compelling claimants to spend large sums in legal fees.

The United States participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM’s Code of Ethics.

URUGUAY

Uruguay has not established a historical commission, and it is not known to what extent looted cultural property entered the country during the Holocaust period or after World War II.

Cultural institutions in Uruguay do not appear to be conducting provenance research. There is no restitution law in place for looted cultural property.

Uruguay participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM’s Code of Ethics.

III. WASHINGTON CONFERENCE PRINCIPLES ON NAZI-CONFISCATED ART

Released in connection with the Washington Conference on Holocaust-Era Assets, Washington, DC, December 3, 1998.

In developing a consensus on non-binding principles to assist in resolving issues relating to Nazi-confiscated art, the Conference recognizes that among participating nations there are differing legal systems and that countries act within the context of their own laws.

- I. Art that had been confiscated by the Nazis and not subsequently restituted should be identified.
- II. Relevant records and archives should be open and accessible to researchers, in accordance with the guidelines of the International Council on Archives.
- III. Resources and personnel should be made available to facilitate the identification of all art that had been confiscated by the Nazis and not subsequently restituted.
- IV. In establishing that a work of art had been confiscated by the Nazis and not subsequently restituted, consideration should be given to unavoidable gaps or ambiguities in the provenance in light of the passage of time and the circumstances of the Holocaust era.
- V. Every effort should be made to publicize art that is found to have been confiscated by the Nazis and not subsequently restituted in order to locate its pre-War owners or their heirs.

- VI. Efforts should be made to establish a central registry of such information.
- VII. Pre-War owners and their heirs should be encouraged to come forward and make known their claims to art that was confiscated by the Nazis and not subsequently restituted.
- VIII. If the pre-War owners of art that is found to have been confiscated by the Nazis and not subsequently restituted, or their heirs, can be identified, steps should be taken expeditiously to achieve a just and fair solution, recognizing this may vary according to the facts and circumstances surrounding a specific case.
- IX. If the pre-War owners of art that is found to have been confiscated by the Nazis, or their heirs, can not be identified, steps should be taken expeditiously to achieve a just and fair solution.
- X. Commissions or other bodies established to identify art that was confiscated by the Nazis and to assist in addressing ownership issues should have a balanced membership.
- XI. Nations are encouraged to develop national processes to implement these principles, particularly as they relate to alternative dispute resolution mechanisms for resolving ownership issues.

Annex to Presentation by Stephen J. Knerly Jr. on “Selected Issues for American Art Museums Regarding Holocaust Era Looted Art”¹

▶ Stephen J. Knerly Jr.

ASSOCIATION OF ART MUSEUM DIRECTORS, USA

REPORT OF THE AAMD TASK FORCE ON THE SPOILIATION OF ART DURING THE NAZI/WORLD WAR II ERA (1933–1945)

June 4, 1998

AAMD Statement of Purpose: “The purpose of the AAMD is to aid its members in establishing and maintaining the highest professional standards for themselves and the museums they represent, thereby exerting leadership in increasing the contribution of art museums to society.”

I. STATEMENT OF PRINCIPLES

- ▷ AAMD recognizes and deplores the unlawful confiscation of art that constituted one of the many horrors of the Holocaust and World War II.
- ▷ American museums are proud of the role they, and members of their staffs, played during and after World War II,

¹ See: presentation p. 953.

assisting with the preservation and restitution of hundreds of thousands of works of art through the US Military's Monuments, Fine Arts and Archives section.

- ▷ AAMD reaffirms the commitment of its members to weigh, promptly and thoroughly, claims of title to specific works in their collections.
- ▷ AAMD urges the prompt creation of mechanisms to coordinate full access to all documentation concerning this spoliation of art, especially newly available information. To this end, the AAMD encourages the creation of databases by third parties, essential to research in this area, which will aid in the identification of any works of art which were unlawfully confiscated and which of these were restituted. Such an effort will complement long-standing American museum policy of exhibiting, publishing and researching works of art in museum collections in order to make them widely available to scholars and to the general public (see III. below).
- ▷ AAMD endorses a process of reviewing, reporting, and researching the issue of unlawfully confiscated art which respects the dignity of all parties and the complexity of the issue. Each claim presents a unique situation which must be thoroughly reviewed on a case-by-case basis.

II. GUIDELINES

AAMD has developed the following guidelines to assist museums in resolving claims, reconciling the interests of individuals who were dispossessed of works of art or their heirs together with the fiduciary and legal obligations and responsibilities of art museums

and their trustees to the public for whom they hold works of art in trust.

A. Research Regarding Existing Collections

1. As part of the standard research on each work of art in their collections, members of the AAMD, if they have not already done so, should begin immediately to review the provenance of works in their collections to attempt to ascertain whether any were unlawfully confiscated during the Nazi/World War II era and never restituted.
2. Member museums should search their own records thoroughly and, in addition, should take all reasonable steps to contact established archives, databases, art dealers, auction houses, donors, art historians and other scholars and researchers who may be able to provide Nazi/World-War-II-era provenance information.
3. AAMD recognizes that research regarding Nazi/World-War-II-era provenance may take years to complete, may be inconclusive and may require additional funding. The AAMD Art Issues Committee will address the matter of such research and how to facilitate it.

B. Future Gifts, Bequests, and Purchases

1. As part of the standard research on each work of art:
 - (a) Member museums should ask donors of works of art (or executors in the case of bequests) to provide as much provenance information as possible with regard to the Nazi/World War II era; and

- (b) Member museums should ask sellers of works of art to provide as much provenance information as possible with regard to the Nazi/World War II era.
2. Where the Nazi/World-War-II-era provenance is incomplete for a gift, bequest, or purchase, the museum should search available records and consult appropriate databases of unlawfully confiscated art (see III. below).
 - (a) In the absence of evidence of unlawful confiscation, the work is presumed not to have been confiscated and the acquisition may proceed.
 - (b) If there is evidence of unlawful confiscation, and there is no evidence of restitution, the museum should not proceed to acquire the object and should take appropriate further action.
 3. Consistent with current museum practice, member museums should publish, display or otherwise make accessible all recent gifts, bequests, and purchases thereby making them available for further research, examination and study.
 4. When purchasing works of art, museums should seek representations and warranties from the seller that the seller has valid title and that the work of art is free from any claims.

C. Access to Museum Records

1. Member museums should facilitate access to the Nazi/World-War-II-era provenance information of all works of art in their collections.

2. Although a linked database of all museum holdings throughout the United States does not exist at this time, individual museums are establishing web sites with collections information and others are making their holdings accessible through printed publications or archives. AAMD is exploring the linkage of existing sites which contain collection information so as to assist research.

D. Discovery of Unlawfully Confiscated Works of Art

1. If a member museum should determine that a work of art in its collection was illegally confiscated during the Nazi/World War II era and not restituted, the museum should make such information public.
2. In the event that a legitimate claimant comes forward, the museum should offer to resolve the matter in an equitable, appropriate, and mutually agreeable manner.
3. In the event that no legitimate claimant comes forward, the museum should acknowledge the history of the work of art on labels and publications referring to such a work.

E. Response to Claims Against the Museum

1. If a member museum receives a claim against a work of art in its collection related to an illegal confiscation during the Nazi/World War II era, it should seek to review such a claim promptly and thoroughly. The museum should request evidence of ownership from the claimant in order to assist in determining the provenance of the work of art.

2. If after working with the claimant to determine the provenance, a member museum should determine that a work of art in its collection was illegally confiscated during the Nazi/World War II era and not restituted, the museum should offer to resolve the matter in an equitable, appropriate, and mutually agreeable manner.
3. AAMD recommends that member museums consider using mediation wherever reasonably practical to help resolve claims regarding art illegally confiscated during the Nazi/World War II era and not restituted.

F. Incoming Loans

1. In preparing for exhibitions, member museums should endeavor to review provenance information regarding incoming loans.
2. Member museums should not borrow works of art known to have been illegally confiscated during the Nazi/World War II era and not restituted unless the matter has been otherwise resolved (e.g., II.D.3 above).

III. DATABASE RECOMMENDATIONS

1. As stated in I.D. (above), AAMD encourages the creation of databases by third parties, essential to research in this area. AAMD recommends that the databases being formed include the following information (not necessarily all in a single database):

(a) Claims and claimants;

(b) Works of art illegally confiscated during the Nazi/World War II era;

(c) Works of art later restituted.

2. AAMD suggests that the entity or entities creating databases establish professional advisory boards that could provide insight on the needs of various users of the database. AAMD encourages member museums to participate in the work of such boards.

AMERICAN ASSOCIATION OF MUSEUMS GUIDELINES CONCERNING THE UNLAWFUL APPROPRIATION OF OBJECTS DURING THE NAZI ERA

I. INTRODUCTION

From the time it came into power in 1933 through the end of World War II in 1945, the Nazi regime orchestrated a system of theft, confiscation, coercive transfer, looting, pillage, and destruction of objects of art and other cultural property in Europe on a massive and unprecedented scale. Millions of such objects were unlawfully and often forcibly taken from their rightful owners, who included private citizens, victims of the Holocaust; public and private museums and galleries; and religious, educational, and other institutions.

In recent years, public awareness of the extent and significance of Nazi looting of cultural property has grown significantly. The American museum community, the American Association of Museums (AAM), and the US National Committee of the International Council

of Museums (AAM/ICOM) are committed to continually identifying and implementing the highest standard of legal and ethical practices. AAM recognizes that the atrocities of the Nazi era demand that it specifically address this topic in an effort to guide American museums as they strive to achieve excellence in ethical museum practice.

The AAM Board of Directors and the AAM/ICOM Board formed a joint working group in January 1999 to study issues of cultural property and to make recommendations to the boards for action. The report that resulted from the initial meeting of the Joint Working Group on Cultural Property included the recommendation that AAM and AAM/ICOM offer guidance to assist museums in addressing the problems of objects that were unlawfully appropriated during the Nazi era without subsequent restitution (i.e., return of the object or payment of compensation to the object's original owner or legal successor).

The efforts of the Working Group were greatly informed by the important work on the topic that had gone before. In particular, three documents served as a starting point for the AAM guidelines, and portions of them have been incorporated into this document. These include: Report of the AAMD Task Force on the Spoliation of Art during the Nazi/World War II Era (1933–1945); ICOM Recommendations Concerning the Return of Works of Art Belonging to Jewish Owners; and Washington Conference Principles on Nazi-Appropriated Art released in connection with the Washington Conference on Holocaust-Era Assets co-hosted by the US Department of State and the United States Holocaust Memorial Museum.

The Presidential Advisory Commission on Holocaust Assets in the United States (PCHA) was created in June 1998 to study and report to the president on issues relating to Holocaust victims' assets in the United States. AAM and the Association of Art Museum

Directors (AAMD) worked with the PCHA to establish a standard for disclosure of collections information to aid in the identification and discovery of unlawfully appropriated objects that may be in the custody of museums. In January 2001, the PCHA issued its final report, which incorporated the agreed standard for disclosure and recommended the creation of a searchable central registry of the information museums disclose in accordance with the new standard. AAM and AAMD agreed to support this recommendation, and these guidelines have been amended to reflect the agreed standard for disclosure of information.

Finally, AAM and AAM/ICOM acknowledge the tremendous efforts that were made by the Allied forces and governments following World War II to return objects to their countries of origin and to original owners. Much of the cultural property that was unlawfully appropriated was recovered and returned, or owners received compensation. AAM and AAM/ICOM take pride in the fact that members of the American museum community are widely recognized to have been instrumental in the success of the post-war restitution effort. Today, the responsibility of the museum community is to strive to identify any material for which restitution was never made.

II. GENERAL PRINCIPLES

AAM, AAM/ICOM, and the American museum community are committed to continually identifying and achieving the highest standard of legal and ethical collections stewardship practices. The AAM Code of Ethics for Museums states that the “stewardship of collections entails the highest public trust and carries with it the presumption of rightful ownership, permanence, care, documentation, accessibility, and responsible disposal.”

When faced with the possibility that an object in a museum's custody might have been unlawfully appropriated as part of the abhorrent practices of the Nazi regime, the museum's responsibility to practice ethical stewardship is paramount. Museums should develop and implement policies and practices that address this issue in accordance with these guidelines.

These guidelines are intended to assist museums in addressing issues relating to objects that may have been unlawfully appropriated during the Nazi era (1933–1945) as a result of actions in furtherance of the Holocaust or that were taken by the Nazis or their collaborators. For the purposes of these guidelines, objects that were acquired through theft, confiscation, coercive transfer, or other methods of wrongful expropriation may be considered to have been unlawfully appropriated, depending on the specific circumstances.

In order to aid in the identification and discovery of unlawfully appropriated objects that may be in the custody of museums, the PCHA, AAMD, and AAM have agreed that museums should strive to:

1. Identify all objects in their collections that were created before 1946 and acquired by the museum after 1932, that underwent a change of ownership between 1932 and 1946, and that were or might reasonably be thought to have been in continental Europe between those dates (hereafter, "covered objects");
2. Make currently available object and provenance (history of ownership) information on those objects accessible; and
3. Give priority to continuing provenance research as resources allow.

AAM, AAMD, and PCHA also agreed that the initial focus of research should be European paintings and Judaica.

Because of the Internet's global accessibility, museums are encouraged to expand online access to collection information that could aid in the discovery of objects unlawfully appropriated during the Nazi era without subsequent restitution.

AAM and AAM/ICOM acknowledge that during World War II and the years following the end of the war, much of the information needed to establish provenance and prove ownership was dispersed or lost. In determining whether an object may have been unlawfully appropriated without restitution, reasonable consideration should be given to gaps or ambiguities in provenance in light of the passage of time and the circumstances of the Holocaust era. AAM and AAM/ICOM support efforts to make archives and other resources more accessible and to establish databases that help track and organize information.

AAM urges museums to handle questions of provenance on a case-by-case basis in light of the complexity of this problem. Museums should work to produce information that will help to clarify the status of objects with an uncertain Nazi-era provenance. Where competing interests may arise, museums should strive to foster a climate of cooperation, reconciliation, and commonality of purpose.

AAM affirms that museums act in the public interest when acquiring, exhibiting, and studying objects. These guidelines are intended to facilitate the desire and ability of museums to act ethically and lawfully as stewards of the objects in their care, and should not be interpreted to place an undue burden on the ability of museums to achieve their missions.

III. GUIDELINES

A. Acquisitions

It is the position of AAM that museums should take all reasonable steps to resolve the Nazi-era provenance status of objects before acquiring them for their collections – whether by purchase, gift, bequest, or exchange.

1. Standard research on objects being considered for acquisition should include a request that the sellers, donors, or estate executors offering an object provide as much provenance information as they have available, with particular regard to the Nazi era.
2. Where the Nazi-era provenance is incomplete or uncertain for a proposed acquisition, the museum should consider what additional research would be prudent or necessary to resolve the Nazi-era provenance status of the object before acquiring it. Such research may involve consulting appropriate sources of information, including available records and outside databases that track information concerning unlawfully appropriated objects.
3. In the absence of evidence of unlawful appropriation without subsequent restitution, the museum may proceed with the acquisition. Currently available object and provenance information about any covered object should be made public as soon as practicable after the acquisition.
4. If credible evidence of unlawful appropriation without subsequent restitution is discovered, the museum should notify the donor, seller, or estate executor of the nature

of the evidence and should not proceed with acquisition of the object until taking further action to resolve these issues. Depending on the circumstances of the particular case, prudent or necessary actions may include consulting with qualified legal counsel and notifying other interested parties of the museum's findings.

5. AAM acknowledges that under certain circumstances acquisition of objects with uncertain provenance may reveal further information about the object and may facilitate the possible resolution of its status. In such circumstances, the museum may choose to proceed with the acquisition after determining that it would be lawful, appropriate, and prudent and provided that currently available object and provenance information is made public as soon as practicable after the acquisition.
6. Museums should document their research into the Nazi-era provenance of acquisitions.
7. Consistent with current practice in the museum field, museums should publish, display, or otherwise make accessible recent gifts, bequests, and purchases, thereby making all acquisitions available for further research, examination, and public review and accountability.

B. Loans

It is the position of AAM that in their role as temporary custodians of objects on loan, museums should be aware of their ethical responsibility to consider the status of material they borrow as well as the possibility of claims being brought against a loaned object in their custody.

1. Standard research on objects being considered for incoming loan should include a request that lenders provide as much provenance information as they have available, with particular regard to the Nazi era.
2. Where the Nazi-era provenance is incomplete or uncertain for a proposed loan, the museum should consider what additional research would be prudent or necessary to resolve the Nazi-era provenance status of the object before borrowing it.
3. In the absence of evidence of unlawful appropriation without subsequent restitution, the museum may proceed with the loan.
4. If credible evidence of unlawful appropriation without subsequent restitution is discovered, the museum should notify the lender of the nature of the evidence and should not proceed with the loan until taking further action to clarify these issues. Depending on the circumstances of the particular case, prudent or necessary actions may include consulting with qualified legal counsel and notifying other interested parties of the museum's findings.
5. AAM acknowledges that in certain circumstances public exhibition of objects with uncertain provenance may reveal further information about the object and may facilitate the resolution of its status. In such circumstances, the museum may choose to proceed with the loan after determining that it would be lawful and prudent and provided that the available provenance about the object is made public.

6. Museums should document their research into the Nazi-era provenance of loans.

C. Existing Collections

It is the position of AAM that museums should make serious efforts to allocate time and funding to conduct research on covered objects in their collections whose provenance is incomplete or uncertain. Recognizing that resources available for the often lengthy and arduous process of provenance research are limited, museums should establish priorities, taking into consideration available resources and the nature of their collections.

Research

Museums should identify covered objects in their collections and make public currently available object and provenance information.

Museums should review the covered objects in their collections to identify those whose characteristics or provenance suggest that research be conducted to determine whether they may have been unlawfully appropriated during the Nazi era without subsequent restitution.

In undertaking provenance research, museums should search their own records thoroughly and, when necessary, contact established archives, databases, art dealers, auction houses, donors, scholars, and researchers who may be able to provide Nazi-era provenance information.

Museums should incorporate Nazi-era provenance research into their standard research on collections.

When seeking funds for applicable exhibition or public programs research, museums are encouraged to incorporate Nazi-era provenance research into their proposals. Depending on their particular circumstances, museums are also encouraged to pursue special funding to undertake Nazi-era provenance research.

Museums should document their research into the Nazi-era provenance of objects in their collections.

Discovery of Evidence of Unlawfully Appropriated Objects

If credible evidence of unlawful appropriation without subsequent restitution is discovered through research, the museum should take prudent and necessary steps to resolve the status of the object, in consultation with qualified legal counsel. Such steps should include making such information public and, if possible, notifying potential claimants.

In the event that conclusive evidence of unlawful appropriation without subsequent restitution is found but no valid claim of ownership is made, the museum should take prudent and necessary steps to address the situation, in consultation with qualified legal counsel. These steps may include retaining the object in the collection or otherwise disposing of it.

AAM acknowledges that retaining an unclaimed object that may have been unlawfully appropriated without subsequent restitution allows a museum to continue to care for, research, and exhibit the object for the benefit of the widest possible audience and provides the opportunity to inform the public about the object's history. If the museum retains such an object in its collection, it should acknowledge the object's history on labels and publications.

D. Claims of Ownership

It is the position of AAM that museums should address claims of ownership asserted in connection with objects in their custody openly, seriously, responsively, and with respect for the dignity of all parties involved. Each claim should be considered on its own merits.

Museums should review promptly and thoroughly a claim that an object in its collection was unlawfully appropriated during the Nazi era without subsequent restitution.

In addition to conducting their own research, museums should request evidence of ownership from the claimant in order to assist in determining the provenance of the object.

If a museum determines that an object in its collection was unlawfully appropriated during the Nazi era without subsequent restitution, the museum should seek to resolve the matter with the claimant in an equitable, appropriate, and mutually agreeable manner.

If a museum receives a claim that a borrowed object in its custody was unlawfully appropriated without subsequent restitution, it should promptly notify the lender and should comply with its legal obligations as temporary custodian of the object in consultation with qualified legal counsel.

When appropriate and reasonably practical, museums should seek methods other than litigation (such as mediation) to resolve claims that an object was unlawfully appropriated during the Nazi era without subsequent restitution.

AAM acknowledges that in order to achieve an equitable and appropriate resolution of claims, museums may elect to waive certain available defenses.

E. Fiduciary Obligations

Museums affirm that they hold their collections in the public trust when undertaking the activities listed above. Their stewardship duties and their responsibilities to the public they serve require that any decision to acquire, borrow, or dispose of objects be taken only after the completion of appropriate steps and careful consideration.

1. Toward this end, museums should develop policies and practices to address the issues discussed in these guidelines.
2. Museums should be prepared to respond appropriately and promptly to public and media inquiries.

IV. COMMITMENT OF AAM

As part of its commitment to identifying and disseminating best practices, AAM will allocate resources:

1. To disseminate these guidelines widely and frequently along with references to other guidelines, principles, and statements that exist on the topic;
2. To track the activity and purpose of the relevant databases and other resources and to compile bibliographies for dissemination to the United States museum community;

3. To collect examples of best practices and policies on Nazi-era provenance research and claims resolution from the museum field, both in the United States and abroad, as guidelines for other museums;
4. To make the above information available to the museum community through reports, conference sessions, and other appropriate mechanisms;
5. To assist in the development of recommended procedures for object and provenance information disclosure;
6. To provide electronic links from AAM's Web site to other resources for provenance research and investigate the feasibility of developing an Internet tool to allow researchers easier access to object and provenance information about covered objects in museum collections;
7. To encourage funding of Nazi-era provenance research.

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Annex to Presentation by Karen Heilig on “Holocaust-Era Looted Judaica and Jewish Cultural Property: A Worldwide Overview”¹

► Karen Heilig

CONFERENCE ON JEWISH MATERIAL CLAIMS AGAINST
GERMANY, USA

SUMMARIES BY COUNTRY

This country-by-country overview focuses on where Judaica looted by the Nazis and their allies is known to be located and whether provenance research has been conducted on Judaica in the given country. This overview does not focus on restitutions that have already taken place or on the legal provisions or procedures in each country for restitution. (Please see the Claims Conference/WJRO paper on looted art for a worldwide overview of restitution issues.) Because items distributed by Jewish Cultural Reconstruction (JCR) clearly were looted by the Nazis and their allies, information on Judaica distributed by the JCR that entered a country is listed first.² More detailed information on each country, including sources, may be found in the Claims Conference/WJRO Descriptive Catalogue of Looted Judaica at <http://forms.claimscon.org/Judaica/>.

¹ See presentation p. 1068.

² Information on object distribution by the JCR/JRSO kindly provided by Dana Herman (Herman, Dana, *Hashavat Avedah: A History of Jewish Cultural Reconstruction, Inc.* PhD thesis, Department of History, McGill University, Montreal, October 2008, p. 264).

ALBANIA

Little or no information is available as to whether Albania holds any significant Judaica. So far as is known, no provenance research has been conducted on Judaica holdings in Albania.

ARGENTINA

Argentina received 5,053 books and 150 museum and synagogue pieces from the JCR after World War II. So far as is known, no provenance research has been conducted on these JCR holdings or on other Judaica that may have reached Argentina during or after World War II.

AUSTRALIA

Australia received 33,077 books from the JCR after World War II. While some provenance research has been carried out on looted art holdings in Australia's cultural institutions, so far as is known, no provenance research has been conducted on these JCR holdings or on other Judaica that may have reached Australia during or after World War II.

AUSTRIA

A number of provenance research projects in Austria have focused at least in part on Judaica holdings. Some Judaica objects have been restituted by Austria's Ministry of Culture following research conducted by the Commission for Provenance Research and a positive recommendation by the Restitution

Committee. The database of the National Fund of the Republic of Austria for Victims of National Socialism (National Fund) provides an online listing of art objects “which might have been, according to latest provenance research, seized under the National Socialist regime.” The database does not provide a separate listing for Judaica, but a few Judaica objects can be found in various categories.

The Jewish Museum of Vienna has been conducting provenance research on most of its holdings, but is currently still working on the remaining part of the collection. Past research has shown that the Museum, which is not the legal successor to Vienna’s pre-war Jewish museum, holds 50 percent of the collection of the pre-War museum, while the other 50 percent has been lost. Some of the ongoing research is on private donations – e.g., objects from the Max Berger collection. In addition, provenance research has been carried out on the Jewish Community’s library holdings, which, like the ceremonial objects, are on permanent loan to the Jewish Museum. Preliminary research indicates that due to restitution errors after the war, part of the Community’s holdings today do not correspond to the holdings of the original library.

It is not known to what extent provenance research is being conducted on Judaica holdings in Austria’s state and regional museums.

(See also Israel, Poland, Russia.)

BELARUS

Libraries in Belarus, in particular the National Library of Belarus (NBB), hold books and other Judaica looted by the Nazis and

their allies from a number of Jewish communities in Europe. Many of these books have not been identified or catalogued. Specific library collections known to be held by the NBB include the Library of Jewish Societies of France (“Bibliothèque ‘Efim Pernikof’”) and the libraries of prominent French Jewish families, such as that of the Rothschild family. Some books stemming from Yugoslav Jewish communities, as well as a few books from the Jewish Sephardic community in Salonika are also held in Belarus.

In addition to books, Jewish religious artifacts are in various archives and museums such as the State Museum of History and Culture of Belarus in Minsk. Torah scrolls are known to be in the State Historical Archive of Belarus, the Historical Museum of Mogilev, and the Historical Museum of Vitebsk., and presumably are to be found in other state institutions as well.

So far as is known, no provenance research is being conducted on Judaica held in Belarus.

BELGIUM

Belgium received 824 books from the JCR after World War II.

Between 1944 and 1967 the Office de Récupération Économique (ORE) became the official Belgian service for the discovery, identification, and restitution of cultural goods on an international level. Among other responsibilities, the ORE was also entrusted with auctioning off objects, including 565 Hebrew books whose origins were unknown but were assumed to have been plundered and were of Jewish origin. The books were sold to the Central Jewish Consistory of Belgium in 1948.

The Jewish Museum of Belgium conducted full provenance research in 2002 in conjunction with the country's Historical Commission. Additional provenance research, as far as is known, especially on the above-mentioned Judaica or on other Judaica held in Belgium, is not being conducted.

(See also Russia.)

BOSNIA AND HERZEGOVINA

It is unclear how much Judaica and of what sort is in Bosnia and Herzegovina. The Library of the National Museum of Bosnia and Herzegovina holds ancient Jewish books, including a Haggadah, but the provenance of these books is unclear.

So far as is known, no provenance research is being conducted on Judaica held in Bosnia and Herzegovina.

BRAZIL

Brazil received 2,463 books from the JCR after World War II. In addition, the Advisory Council on the Question of Jewish Cultural and Religious Objects that was established by the Jewish Trust Corporation under the British Occupation Authorities donated looted Jewish books to the Jewish community in Sao Paulo.

So far as is known, no provenance research is being conducted on these books or on other Judaica that may have reached Brazil during or after World War II.

BULGARIA

Due to the lack of a Jewish library within the boundaries of contemporary Bulgaria, the Jewish Research Institute at the Central Consistory of Jews was founded in 1947. An infusion of money allowed the purchase of several hundred manuscripts as well as 6,000 books in Hebrew, Ladino and Bulgarian. By 1951, the decision was made to move the institute into the system of the Bulgarian Academy of Sciences, first to the Institute of Bulgarian History and, from January 1964 onwards, to the Institute of Balkan Studies. Religious objects, on the other hand, were kept at the Central Sofia Synagogue. Today most of these pieces may be found at the General Religious Council of Israelites and at the Jewish Museum of History in Sofia, founded in 1993 (under the guidance of the National Museum Centre at the Ministry of Culture). During the 1960s and 1970s, some of the Hebraica was moved from the Ashkenazi synagogue to the library of the Bulgarian Academy of Sciences and in 1980, this collection became part of the Central Record Office.

So far as is known, no provenance research is being conducted on Judaica held in Bulgaria.

CANADA

Canada received 2,031 books and 151 museum and synagogue pieces from the JCR after World War II. Special attention in the distribution of objects was given to the Jewish Studies Department at the University of Manitoba and to the Dominican Institute of Medieval Studies in Montreal. In addition, one special book, an Usiel Hague book on Jews in China, was presented to the Royal Ontario Museum in Toronto. The Canadian Jewish Congress was responsible for distributing these books and ceremonial objects. There are

no surviving inventories that would help establish what kinds of objects were distributed and where they went, so the current location of many of these objects is unknown. Generally speaking, most objects were silver chanukiot, Torah ornaments, and old books, including prayer books. No or few items were Torah scrolls or other items with a quality of holiness. About 400 books are still in the collection of the Canadian Jewish Congress, though some may have gone to Montreal's Jewish Public Library. About 45 European ceremonial objects are also still with the Canadian Jewish Congress, although a few are on loan to various museums. In addition, the Aron Museum in Montreal, Canada's first museum of Jewish ceremonial art objects, holds an extensive Judaica collection that includes objects that surfaced on the antiques market in the aftermath of World War II, as well as Judaica objects received from Jewish Cultural Reconstruction.

Canada maintains a national on-line database of cultural and religious objects in Canada's cultural institutions: Canada Heritage Information Network (CHIN), "Artefacts Canada National Database". As the result of discussions called for by the Claims Conference/WJRO and the Canadian Jewish Congress, this database, which contains listings of Judaica (e.g., a silver Torah breastplate held by the Royal Alberta Museum), will be expanded to allow institutions to add provenance information to artefact files.

So far as is known, little to no provenance research is being conducted on Judaica objects held in Canada's cultural institutions.

CROATIA

Jewish archival sources, including items presumably looted by the Nazis and their allies, are held by the Central State Archives

in Zagreb and 12 regional archives in Croatia as well as by the National and University Library in Zagreb, the Archive of the Croatian Academy of Sciences and Arts in Zagreb, and many museums throughout Croatia. The Museum of Arts and Crafts likely holds looted cultural and ritual objects.

The Jewish community of Zagreb holds about 7,000 Hebrew books (Talmudim, prayer books, etc.) that most likely belonged to Jews who moved to Yugoslavia after the Nazis' accession to power. These books were transferred from the National and University Library to the Jewish Community in 1990. A selection of these books has been kept at the National Library to ensure their preservation.

So far as is known, little to no provenance research is being conducted on Judaica objects held in Croatia's cultural institutions.

CYPRUS

No information is available on Judaica that may have entered Cyprus during or after World War II. So far as is known, no provenance research has been conducted on Judaica objects held in Cyprus' cultural institutions.

CZECH REPUBLIC

Large numbers of Jewish ritual objects, books and other individual and communal Jewish property resulting from Nazi looting policies in the Protectorate of Bohemia and Moravia as well as elsewhere are located in the Czech Republic.

The Jewish Museum in Prague has been conducting provenance research on most of its holdings, including its library collection (based on owner's marks, dedications, ex libris, and other provenance clues). As part of the Museum's continuous research efforts, war-time inventories and postwar catalogues are being digitized. According to the Museum's "Preliminary Report for the Holocaust Era Assets Conference"¹ the Museum currently does not have any registered institutional claims but is working on one individual claim for artworks involving 46 prints and drawings by Hella Guth.

Additional provenance research is being carried out by the Czech Republic's governmental institutions, with information on objects with provenance gaps being noted in "The Database of Works of Art from Property of Victims of the Holocaust." The database holds approximately 3,400 looted works, including Jewish ritual objects. A brief survey of the database shows that probably more than 380 religious objects are held in Czech government museums. These objects include rare Hebrew books and manuscripts, Torah scrolls and ceremonial objects. The database lists 42 manuscripts that were originally from the Jewish seminary in Wroclaw that were deposited in the National Library of the Czech Republic. These manuscripts have since been restituted to Wroclaw. Similarly, 40 manuscripts and incunabula stemming from the Saraval Collection that were identified in the National Library were subsequently restituted to Poland. Prague's National Library, the "Clementinum," holds books that either belonged to the "Terezín collection" or that were looted by the RSHA.

Provenance research is being carried out on Judaica holdings

¹ See: <http://www.jewishmuseum.cz/en/avice25.htm>

in cultural institutions in the Czech Republic. Some restitutions have already taken place.

(See also Israel, Russia and United Kingdom.)

DENMARK

So far as is known, no provenance research is being carried out on Judaica holdings in Denmark's cultural institutions other than the Danish Jewish Museum.

ESTONIA

So far as is known, no provenance research is being carried out on Judaica holdings in Estonia's cultural institutions.

FINLAND

So far as is known, no provenance research is being carried out on Judaica holdings in Finland's cultural institutions.

FRANCE

France received 8,193 books and 125 museum and 219 synagogue pieces from the JCR after World War II. Specifically, the Musée d'art et d'histoire du Judaïsme, the successor museum to the Musée d'art juif de Paris, established in 1948 by a private association in order to pay homage to a culture that had been destroyed by the Holocaust, received Judaica objects

from the JCR and the Centre de Documentation Juive Contemporaine received books.

Although provenance research on art objects is carried out in France – e.g., the MNR collection – so far as is known, no provenance research is being conducted on Judaica holdings in France’s cultural institutions.

(See also Belarus, Poland, Russia.)

FYROM

Little is known regarding what Judaica is held in Macedonia. Some Judaica from Macedonia was transferred during the communist period to the Jewish Museum in Belgrade, Serbia.

So far as is known, no provenance research is being carried out on Judaica holdings in Macedonia’s cultural institutions.

(See also Serbia.)

GERMANY

Germany received 11,814 books and addition 31 museum and 89 synagogue pieces from the JCR after World War II.

Germany is home to numerous provenance research projects, some of which also include research into Judaica holdings. For example, the Municipal Library of Nuremberg is researching its collection entitled “Sammlung Israelitische Kultusgemeinde” (Jewish Community Collection), formerly the “Stürmer-Bibliothek.” Some

of these objects are noted on Germany’s looted art database *www.lostart.de*, for example a Tanach dating from 1800. Another example of a research project that includes Judaica concerns the remnants of the library “Forschungsabteilung Judenfrage” (Research Section Jewish Question) of Walter Frank’s “Reichsinstitut für die Geschichte des neuen Deutschlands” (Reich Institute for the History of the New Germany) which can today be found at the University of Munich’s Historicum Library. Additional relevant research projects include those at the Bavarian State Library, the Stiftung Preussischer Kulturbesitz, and the University of Leipzig.

Some provenance research into Judaica holdings is also carried out by Germany’s museums and other cultural institutions: most researched objects can be found on *www.lostart.de*.

It is not known how many restitutions of Judaica objects have been taking place. It is also not known whether all relevant cultural institutions that hold Jewish ritual and religious objects are conducting provenance research.

(See also Israel, Poland, Russia, United States.)

GREECE

The Jewish Museum of Greece in Athens holds a few looted Judaica objects, with the Central Board of Jewish Communities in Greece being responsible for these items.

So far as is known, no provenance research is being conducted on Judaica holdings in Greece’s cultural institutions.

(See also Belarus, Poland, Russia.)

THE HOLY SEE

The staff of the Institute of Microfilmed Hebrew Manuscripts of the Jewish National and University Library, Jerusalem, reviewed the provenance of Hebrew manuscripts held by the Holy See in the 2008 publication *Hebrew Manuscripts in the Vatican Library, Catalogue*, and found that none had been looted by the Nazis and their allies. Provenance research remains to be done on 108 additional Hebrew manuscripts more recently acquired by the Vatican.

So far as is known, no provenance research has been done on other types of Judaica held by the Holy See.

HUNGARY

In 1998 Laszlo Mravik published *The "Saccco di Budapest" and the Depredation of Hungary 1938-1949: Works of Art Missing as a Result of the Second World War* (Budapest: Hungarian National Gallery Publications, 1998/2), a catalogue that lists works of art taken from Hungary by the Red Army. While most data refer to fine art, two looted Judaica collections are mentioned: a) the Judaica collection of Dr. Ignac Friedmann, and b) the Judaica collection of Dr. Fülöp Grünwald.

So far as is known, no provenance research is being conducted on Judaica holdings in Hungary's cultural institutions.

(See also Russia)

ICELAND

Iceland recently conducted provenance research in 45 state funded institutions and concluded that there are no indications that any cultural institution is holding artworks or other objects that may have been spoliated by the Nazis. It is unclear whether there are any Judaica holdings in Iceland's cultural institutions.

IRELAND

So far as is known, no provenance research is being conducted on Judaica holdings in Ireland's cultural institutions.

ISRAEL

Israel received 191,423 books, as well as 2,285 museum pieces, 976 synagogue pieces, 804 Torah scrolls and 87 Torah fragments (in addition to 127 scrolls that had to be buried) from the JCR after World War II. Israel was the recipient of the largest number of Judaica objects distributed by the JCR after the war, but the distribution itself was mostly carried out outside of the JCR's control. The Ministry of Religious Affairs, which assumed responsibility, was subsequently put in charge of the distribution of religious objects to various synagogues, yeshivas, and other organizations.

Numerous Israeli institutions, including the Israel Museum and the Hebrew University, both located in Jerusalem, hold religious "heirless" objects that were sent to Israel by the JCR. Among other Judaica objects, the Hebrew University holds, for example, the Berlin Gemeinde Library as well as the Breslau collection (part of the original library of the Breslau Jewish Theological Seminary, as well as

samples of the Baltic collection that was discovered after the war. Because of its position, the Hebrew University and the Jewish National and University Library (JNUL) soon started to claim property held in German libraries and noted that the Jewish people were entitled to demand specific compensation in the form of literary Judaica and Hebraica held by public libraries in Germany. These included manuscripts and old Hebrew and Jewish printed books held in public libraries. In book-hunting trips by officials of the Hebrew University, notably to the Czech Republic and to Austria, numerous books were successfully claimed by its representatives. So far as is known, no provenance research is being conducted by the Hebrew University on its collections.

Overall, Israel was the recipient of approximately 700,000 to 800,000 books that had been looted by the Nazis and their allies from Jewish individuals and communities, with some 300,000 books finding their way to Israel's cultural, scholarly, scientific and religious institutions, in particular the newly founded universities in Tel Aviv, Bar Ilan, Haifa and Ben Gurion. Provenance research is almost non-existent.

Other cultural institutions, in particular museums such as the Tel Aviv Museum, also hold looted Judaica, such as items that originally belonged to Frankfurt's Jewish Museum as well as objects from synagogues in Frankfurt. So far as is known, no provenance research is being carried out in the Tel Aviv Museum and in most other cultural institutions in the country.

The only exception appears to be the Israel Museum in Jerusalem, which has posted online provenance information on its collections, including a section on Judaica. As of August 2007, about 720 objects were listed, most of which stem from the Wiesbaden collecting point and were handed over to the

museum by JCR. The database provides a description and, in many cases, a picture of the object, as well as the Wiesbaden collecting point number and information on whether the object was received through the JCR. Most objects were originally brought to Israel by Mordechai Narkiss, the director of the Bezalel National Museum, the predecessor of the Israel Museum. Throughout his missions to lay claim on "unclaimed" Jewish property, he brought back about 1,200 objects of Judaica, paintings, and works on paper that had not been returned to their owners and were presumed heirless. Most of the Judaica objects are Torah decorations, such as curtains, finials, mantles, shields and pointers that came largely from ransacked synagogues. Some other items originated from private residences or institutions such as homes for the aged, community centers and schools, which were also looted. These include Seder plates, etrog containers and Chanukiot, as well as smaller, easily concealed items such as Sabbath cups and spice boxes.

ITALY

The only known ongoing research project aimed at researching Judaica – albeit outside of the country – is the search for the Jewish Community Library of Rome, which was looted in 1943. The research is carried out by the Commission for the Recovery of the Bibliographic Heritage of the Jewish Community in Rome.

So far as is known, no provenance research is being conducted on Judaica holdings in Italy's cultural institutions.

KOSOVO

Little or no information is available as to whether Kosovo holds any significant Judaica. So far as is known, no provenance research has been conducted on Judaica holdings in Kosovo.

LATVIA

So far as is known, no provenance research is being conducted on Judaica holdings in Latvia's cultural institutions.

LIECHTENSTEIN

The Independent Commission of Historians, established in 2001, was tasked with researching if Judaica objects found their way into Liechtenstein. According to the Commission members, no evidence was available as to whether looted Judaica holdings entered Liechtenstein and/or are currently in Liechtenstein. Archival holdings, restitution files and other documents did not provide sufficient information.

LITHUANIA

In 2002, the Lithuanian government returned more than 309 Torah scrolls and megillot that had been hidden during World War II to world Jewry at a ceremony in Vilnius. However, the government has not yet returned Torah scrolls remaining in Lithuania's National Museum and in the National Library of Lithuania. The National Library of Lithuania's Judaica Catalogue provides over 1,500 bibliographic records of prints in

Hebrew and Yiddish published in Lithuania (from the beginning of Jewish book printing in 1789 to 1940). The largest single bloc of Jewish books now part of the Library belonged to the "Hevrah Mefitse Haskalah", the biggest Jewish library that operated under the Jewish community in Vilnius. The National Library also holds library records that originally belonged to the Yeshiva Telz as well as to YIVO.

So far as is known, no provenance research is being conducted on these or other Judaica objects held by cultural institutions in Lithuania.

LUXEMBOURG

According to information provided by Luxembourg's Historical Commission, one Judaica object (a silver pitcher) was handed over to the National Museum in 1941. There is currently discussion of persuading the Museum to transfer this object to the Jewish Community. Aside from this one object, no Judaica is known to have been spoliated. Torah scrolls were hidden with private persons to avoid their confiscation and generally handed back to the Jewish Community after the war. Private Judaica objects were hidden among Luxembourg's community and subsequently generally returned to their original owners.

So far as is known, beyond the work of the Historical Commission, no provenance research is being conducted on Judaica objects held by cultural institutions in Luxembourg.

(See also Russia.)

MALTA

Little or no information is available as to whether Malta holds any significant Judaica. So far as is known, no provenance research has been conducted on Judaica holdings in Malta.

MOLDOVA

So far as is known, no provenance research is being conducted on Judaica objects held by cultural institutions in Moldova.

MONACO

So far as is known, no provenance research is being conducted on Judaica objects held by cultural institutions in Monaco.

MONTENEGRO

So far as is known, no provenance research is being conducted on Judaica objects held by cultural institutions in Montenegro.

THE NETHERLANDS

The Netherlands received 1,813 books from the JCR after World War II.

Provenance research has been taking place on the Judaica objects in the so-called NK-collection. The online database (“Origins Unknown Database”), lists among other objects four Judaica

pieces in the NK collection. Partly as a result of the restitution of an eighteenth-century tin Maccabee lamp, an exhibition was launched entitled “Geroofd, maar van wie?” (Looted, But From Whom?) in Amsterdam’s Hollandsche Schouwburg (Dutch Theatre). In addition, the Jewish Historical Museum of Amsterdam has launched research and has been able to complete an inventory of Jewish ritual objects in the Netherlands, in addition to researching its own history. As part of its own research, the Museum discovered that it holds objects that were erroneously restituted to the Museum after the war, such as a pair of zinc finials and a finial by Peter van Hoven. The Museum is working on a database of missing and misplaced objects.

While the extent to which other cultural institutions conduct provenance research on Judaica objects is not known, a study of Dutch State Museums showed that that some museums held Jewish property for safekeeping during the war as temporary gifts or purchases to prevent art belonging to Jews being confiscated by the Nazis. It further showed that the Ministry of Culture, Education and Science purchased several collections from Jewish owners in 1943 and 1944 with the aim of keeping these artworks in the Netherlands. In almost all cases the artworks were returned. Where owners did not survive and the items were not claimed, the artworks were investigated, and some restitution took place. In the case of ritual objects from Jewish synagogues that were hidden during World War II, these were often given to Dutch museums following the end of the war. As there were few to no survivors who would have made the reopening of synagogues possible, many of these objects remained in the museums. However, there are no “transfer” registries that would officially confirm this.

(See also Russia.)

NORWAY

Historical research on movable property was completed by the Norwegian Commission on Restitution, and compensation was given to the Jewish Community of Norway. However, so far as is known, no provenance research is being conducted on Judaica objects held by cultural institutions in Norway.

POLAND

Looted Judaica is in many cultural institutions throughout Poland. For example, the Jagiellonian University Library (Biblioteka Jagiellonska¹) holds the remnants of Krakow's Jewish libraries. Other looted Judaica is in the Jewish Historical Institute in Warsaw, the Warsaw National Museum, the Krakow Historical Museum and elsewhere. A problem in assessing which Polish museums may hold looted Judaica is that, while most museums have inventories of their collections (which are almost never accessible to outsiders), Judaica is very often not even catalogued.

The Jewish Historical Institute in Warsaw holds over 11,000 Judaica pieces, most of which were transferred to it by the Government of Poland. Some of these objects came in the late 1940s from former German territories, such as Lower Silesia, Breslau/Wroclaw and Western Prussia. The Institute holds objects from Berlin's Jewish Community, from the Jewish Community in Vienna, several hundred objects from Greece, as well as some files from Paris regarding what was taken from Jews in Paris. The Institute also holds objects from Maidanek and Auschwitz.

¹ See: <http://www.bj.uj.edu.pl>.

The Museum of the History of Polish Jews has created a Judaic Collection Database that lists Torah scrolls and other Judaica objects currently held in museums and other institutions in Poland. However, the database is not publicly available. In general, even though provenance research may have been conducted in some Polish cultural institutions, the results are not generally accessible.

(See also Russia, United States)

PORTUGAL

So far as is known, no provenance research is being conducted on Judaica objects held by cultural institutions in Portugal.

ROMANIA

Torahs and other Judaica objects are known to be in government collections in Romania, but there is little information.

A number of ritual objects are located at the Jewish Museum in Bucharest that were originally collected by Rabbi Rosen during his tenure as Chief Rabbi of Romania. The organization "Menora – The Authority for the Restoration of Diaspora Synagogues to Israel" is currently working on 192 Torah scrolls brought to Israel for needed repairs from the following Romanian communities: Klusch, Targo, Borish, Yassi, Dorochoi and Shatz. All of these 192 Torah scrolls were initially stored in the basement of the Jewish Community Center of Bucharest.

So far as is known, no provenance research is being conducted on Judaica objects held by cultural institutions in Romania.

RUSSIA

Much Judaica looted by the Nazis and their allies was among the vast numbers of items brought to Russia by the Soviet Trophy Brigades. The largest holdings of Judaica in Russia are in the Special (Osobyi) Archive (TsGOA, TsKhIDK 1982–1989), now part of the Russian State Military Archive (RGVA), Moscow. These include historical archives of Jewish international organizations, of Jewish political organizations and parties as well as papers of Jewish intellectuals. The holdings originally included part of the archive of the Alliance Israelite Universelle (series of records from the Paris headquarters, the Vienna Allianz and the Alliance from Brussels), of the B'nai B'rith Order (archives of lodges from Germany, Austria, Poland, Yugoslavia, Greece and Czechoslovakia), and of the Zionist organizations and parties (from France, Germany, Austria, Belgium, the Netherlands and Greece). Most material that was or is currently held in the Moscow archive was initially gathered by the National Socialist movement in their effort to create a Research Institute on the Jewish Question in Frankfurt and, to a lesser degree, for possible display in the projected "Führermuseum" in Linz. In addition to the holdings of the RGVA, Judaica brought by the Trophy Brigades is known to include Torahs that were transferred to the Historical Museum in Moscow, Hungarian Judaica that was transferred to libraries and museums in Nizhnii Novgorod, among other institutions and locations.

In terms of provenance research, extensive efforts have been made to describe the cultural losses of Russia as a result of World War II (for a variety of reasons little is known concerning Russia's losses of Judaica, though the database *www.lostart.ru* of the Federal Agency for Culture and Cinematography does list a few such items), but there have been fewer efforts to describe foreign Judaica looted by the Nazis and their allies that is currently

located in Russia. The latter have mostly been done in cooperation with foreign institutions: for example, the Catalogue of Manuscripts and Archival Materials of Jüdisch-Theologisches Seminary in Breslau Held in Russian Depositories (Project Heritage Revealed. Moscow: Rudomino, 2003).

Restitution of archives from the RGVA to the Governments of France, Belgium, the Netherlands, and Luxembourg – as well as planned restitution of archives to the government of Austria – has included Jewish archives that have subsequently been returned by the respective governments to individual heirs and communities, while the Austrian Rothschild Archives were returned directly to the Rothschild family.

So far as is known, no provenance research is being conducted on Judaica objects other than archives held in the cultural institutions of the Russian Federation, and no Judaica objects other than archives have been restituted. It is unknown whether Judaica objects were among those items returned by the Soviet Union to the communist governments of Eastern Europe in the 1950s and 1960s.

SERBIA

It is likely but not known whether Torah scrolls and other Judaica are held in the cultural institutions of Serbia other than the Jewish Historical Museum in Belgrade. Some Jewish cultural property looted by the Nazis and their allies that was restituted to Jewish communities in Croatia, Macedonia, and elsewhere in Yugoslavia after the war was subsequently given to the Jewish Historical Museum in Belgrade and is currently located there.

So far as is known, no provenance research is being conducted on Judaica objects held by cultural institutions in Serbia.

(See also Russia.)

SLOVAKIA

The Museum of Jewish Culture in Bratislava holds Judaica, as do smaller museums and small Jewish communities throughout Slovakia, some of which was looted by the Nazis and their allies.

The Ministry of Culture surveyed the art museums and galleries of Slovakia, which claim not to hold artworks taken from Jews during the Holocaust. So far as is known, this research did not include Judaica, and no provenance research is being conducted on Judaica objects held by cultural institutions in Slovakia.

(See also Russia.)

SLOVENIA

Some research into the historical fate of Jewish movable property, including Judaica, has been started, but so far as is known, no provenance research is being conducted on Judaica objects held by cultural institutions in Slovenia.

SOUTH AFRICA

South Africa received 7,269 books and 150 museum and 66 synagogue pieces from the JCR after World War II. Books sent

to the Jewish Board of Deputies in Johannesburg in November 1949 were distributed to Cape Town, to the University of Witwatersrand in Johannesburg, and to the Landau collection, the original Hebrew and Jewish Studies collection. Most books were kept in Johannesburg but have disappeared since and are presumably privately held. It is assumed that some of the books were sent to synagogues and school libraries. However, Yiddish books could have also gone to the library of the South African Yiddish Cultural Federation, which no longer exists. The Jewish Studies Library at the University of Cape Town holds a collection of approximately 280 books (of the approximately 400 originally sent to Cape Town) looted by the Nazis during World War II and distributed by the JCR after the war.

As for ceremonial objects, these are now partially displayed at the Jewish museums in Johannesburg (Beyachad Jewish Museum) and Cape Town and the Durban Jewish Club and are being used in synagogues. A few objects have gone into private collections. Some provenance research has been carried out on the ceremonial objects received from the JCR.

So far as is known, aside from that done by the Jewish museums, no provenance research is conducted on Judaica objects held by cultural institutions in South Africa.

SPAIN

So far as is known, no provenance research is being conducted on Judaica objects held by cultural institutions in Spain.

SWEDEN

Sweden received 696 books from the JCR after World War II. There is no concrete information on other Judaica looted by the Nazis and their allies currently held in Sweden. However, the Nordiska Museet (Nordic Museum) in Stockholm is known to have a large Judaica collection, much of which was purchased by Mr. Klein, the Museum's curator before World War II. Mr. Klein conducted business in Hamburg, Germany around 1920, and purchased Judaica from an antique dealer called Mr. Weil. Mr. Weil's Judaica may have come from German Jews. In addition, the Jewish Museum in Stockholm holds a Judaica collection.

So far as is known, with the exception of the Jewish Museum in Stockholm, no provenance research is being conducted on Judaica objects held by cultural institutions in Sweden.

SWITZERLAND

Switzerland received 7,843 books from the JCR after World War II, including part of the Breslau collection that had been stored in the Wiesbaden collecting point and which was deposited into the Genf, Zürich and Basel libraries.

Switzerland's Historical Commission was not specifically tasked with researching Judaica that might have entered the country during the war. However, information regarding Judaica also did not surface in the course of the Commission's work.

Various museums of Switzerland hold isolated Judaica pieces in their collections. Some provenance research has been conducted, but none of it has been made public.

TURKEY

So far as is known, no provenance research is being conducted on Judaica objects held by cultural institutions in Turkey.

UKRAINE

There is no central database that lists Judaica looted by the Nazis and their allies that is held in Ukrainian cultural institutions, but various local projects exist that try to document the very large number of Jewish artifacts held by various Ukrainian museums, libraries and archives.

Although provenance research is not generally conducted, some information is nonetheless available. For example, the Museum of Historical Treasures of Ukraine has made an online listing of more than 400 Jewish silver ritual objects in its collections that were originally used by Jewish communities in Kyiv, Zhytomir, Vinnitsa, Belopolie, Elisavetgrad, Lohvitsa, Meldzhibozh, Tul'chin, Odessa, Kherson, Yampol', Volochisk, or were owned by former Jewish museums in Odessa, Chernovtsky or Lvov. Central to the collection are the Torah crowns, 39 in total, with a special one made by Zhitomir masters in 1875. The museum also holds Torah scrolls, 50 rimonim, some 100 Torah shields, 50 yadim (Torah pointers), 5 Chanukah lamps, 7 oil lamps, and more than sixty bsamin or godes. (Without further provenance research, it is not possible to distinguish what was taken by the Nazis and their allies from what was nationalized by the communists.)

Ukrainian government archives, museums, and libraries hold a large number of Torahs and other ritual scrolls confiscated from synagogues. A list of Torahs compiled by the State Archives of

Ukraine indicates that a total of 679 Torahs are held in Ukrainian archives, 105 Torahs are held by museums under the Ministry of Culture, and one Torah is held by a library under the Ministry of Culture. Some of these Torahs – mostly Torah fragments – held by the State Archives of Ukraine have recently been turned over to the Jewish communities of Ukraine.

Archives and libraries hold large collections of Jewish records, manuscripts, and books. In particular, the National Vernadsky Library of Ukraine holds about 150,000 Jewish books as well as many manuscripts.

So far as is known, with few exceptions no provenance research is conducted on the Judaica objects held in cultural institutions in Ukraine. However, German and other archival records concerning the looting in Ukraine and elsewhere have been made available.

UNITED KINGDOM

The United Kingdom received 19,082 books, 245 museum pieces, 66 synagogue pieces and 12 Torah scrolls from the JCR after World War II. The Jewish Museum in London is one of the institutions holding these items.

The National Museums Directors Conference's searchable list of objects with incomplete provenance for the period 1933 to 1945 also lists museums with Judaica holdings: for example, the Victoria and Albert Museum lists two Judaica objects with gaps in their provenance. The British Library holds eleven or twelve thousand books seized from German libraries and institutions between June 1944 and 1947 that may include looted Judaica.

Libraries at major universities, such as the Cambridge University Library, the Trinity College and Girton College libraries and the Bodleian Law Library at Oxford University hold vast Judaica collections.

Up to 1,564 Torah scrolls were sold in 1963–1964 by the Czechoslovak state and what was then the State Jewish Museum in Prague to the Westminster Synagogue. From Westminster Synagogue in London, where the scrolls were renovated under the auspices of the Czech Memorial Scrolls Trust, over 1,400 of the scrolls have been entrusted on loan to Jewish and non-Jewish organizations around the world, of which more than 1,000 are in the USA. However, all Torah scrolls remain the property of the Trust. While the majority of the scrolls are currently entrusted to synagogues and other Jewish institutions, some were placed with universities and libraries, including the Royal Library Windsor and the White House. In September 2008, a newly designed Czech Scroll Museum was opened at London's Kent House displaying some of the remaining scrolls lying on the original wooden racks where they were placed when they arrived, along with some of the Torah binders that were tied around the scrolls.

It is not known if libraries and museums, other than those participating in the National Museums Directors Conference spoliation project, conduct provenance research on their Judaica collections.

UNITED STATES

The United States received 160,886 books, 1,326 museum pieces, 1,824 synagogue pieces and 110 Torah scrolls (of which an unknown number had to be buried) from the JCR after World War II.

Objects distributed by the JCR entered more than 400 recipient institutions, including university and other libraries, archives, museums, and synagogues.

Major recipients of objects distributed by the JCR include, among others, the Jewish Museum New York and the Hebrew Union College Museum Cincinnati; the libraries of Harvard, Brandeis, Yale, and Columbia Universities; Yeshiva University; and The Library of Congress. In 2000, the Presidential Advisory Commission on Holocaust Assets in the United States and the Library of Congress reached an agreement which stipulated that the “JCR collection should be handled in a manner suited to its special provenance” and that the Library of Congress should further identify and provide special access to the JCR collection. As a result of this agreement, the Library of Congress created the Holocaust-Era Judaic Heritage Library.

After Germany’s invasion of Poland, including the free city of Danzig, the Jewish Community of Danzig sent most of their ritual objects to the United States for safekeeping. Some of these objects can now be found at New York’s Jewish Museum.

Some museums in the United States are conducting provenance research on their Judaica collections. A listing of Judaica objects with provenance gaps may be found on the Nazi-Era Provenance Internet Portal of the American Association of Museums.

Except for the Library of Congress, so far as is known, little or no provenance research is being conducted on Judaica held by libraries in the United States.

(See also United Kingdom.)

URUGUAY

Uruguay received 1,670 books from the JCR after World War II.

So far as is known, no provenance research is being conducted on Judaica objects held by cultural institutions in Uruguay.

Additional countries that may have holdings of Judaica looted by the Nazis and their allies but for which there is little to no available information include, but are not limited to, Algeria, Libya, Morocco, and Tunisia, as well as former republics of the USSR to which items brought by the Soviet Trophy Brigades were reportedly distributed such as Georgia, Kazakhstan, and Uzbekistan.

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