



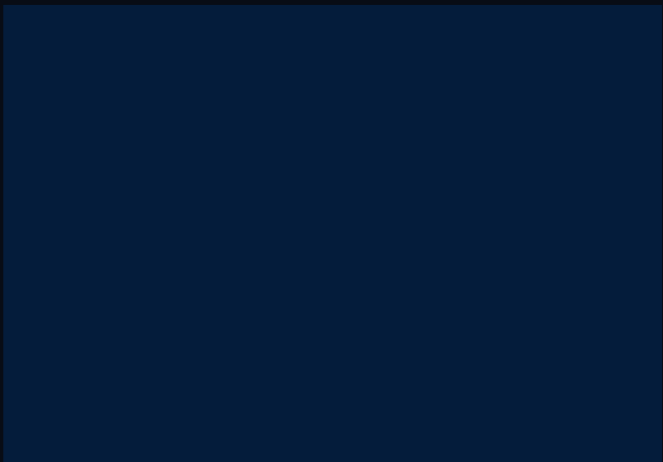
# Judging the Netherlands:

The Renewed Holocaust  
Restitution Process, 1997-2000

Manfred Gerstenfeld  
Foreword by Stuart E. Eizenstat



Jerusalem Center For Public Affairs  
Institute for Global Jewish Affairs



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JUDGING THE NETHERLANDS  
THE RENEWED HOLOCAUST  
RESTITUTION PROCESS, 1997–2000

Manfred Gerstenfeld



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Claims Conference ועידת התביעות  
The Conference on Jewish Material Claims Against Germany

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Dedicated to the memory of Isaac Lipschits (1930–2008), the biographer of my late father, Dr. Rafael Gerstenfeld. Prof. Lipschits conveyed to me many initial insights into the new Dutch restitution process of the late 1990s.



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# Foreword

Ambassador Stuart E. Eizenstat

Manfred Gerstenfeld has done a masterful job of describing the more than sixty-year cycle that began with the Nazis' destruction of Dutch Jewry, and then continued with the woefully inadequate immediate postwar efforts by the Dutch government at restitution of property, insurance claims, and other attempts to compensate Dutch Holocaust survivors and families of victims. This book deals mainly, however, with the belated but generally successful Dutch effort, in the last years of the twentieth century and early part of the twenty-first century, to rectify the past deficiencies and set a positive example of how governments can try to provide belated, although imperfect, justice, and try to rectify in some small way the pain of their citizens stemming from wartime in general and the Shoah in particular.

I was directly involved in reviving the interest of the United States and European countries in the need for belated justice for victims and survivors. For six of the eight years I served in senior positions in the Clinton administration, I filled a dual role, with my positions as U.S. ambassador to the European Union, under secretary of commerce, under secretary of state, and deputy secretary of the treasury, but also as the special envoy on property restitution and later as special representative of the president and secretary of state on Holocaust-era issues. In those capacities, I helped negotiate the return of communal properties to the surviving religious communities, Jewish and non-Jewish, of Central and Eastern Europe, which had just thrown off their communist shackles to become free, democratic countries. The churches, synagogues, community centers, schools, and even cemeteries were essential to restore religious and communal life in the postcommunist era. This was especially so for the devastated Jewish communities, which had endured the twin horrors of the twentieth century: Nazism and communism.

My work then branched off into negotiations with the Swiss, German, Austrian, and French private sectors and governments for some \$8 billion of recoveries for Jewish and non-Jewish victims of Nazism. These ranged from slave and forced labor payments to previously unpaid insurance claims; to property restitution and the return of hundreds of works of art. This represented the first time in history that private corporations compensated those they grievously injured during wartime. While I did not negotiate directly with the Dutch government, I met with Prime Minister Wim Kok during the January 2000 Stockholm International Forum on the Holocaust, to encourage him to have the Dutch insurance companies join the mechanism created to resolve Holocaust-era claims, the International

Commission on Holocaust-Era Insurance Claims. The prime minister did so. The United States urged Dutch banks to make payments to Dutch Jews whose money was never returned. Something similar, on a larger scale, was done with the Swiss banks.

The Dutch process resulted from the broader effort, in which I was directly involved, to revive the entire issue of the lack of justice for Holocaust victims and their families. There were several international conferences, each including more than forty countries beginning with the 2007 London Gold Conference, which examined the status of gold looted by the Nazis from the countries they occupied and from Holocaust victims. There was the 2008 Washington Conference on Art; the abovementioned 2000 Stockholm International Forum on the Holocaust; and the 2000 Vilnius Conference on Cultural Property. Most recently the 2009 Prague Conference on Holocaust Assets included over forty-five nations.

Manfred Gerstenfeld illuminates the distinctively Dutch way of handling the challenge, both from the government's perspective and from that of the Dutch Jewish community itself through the CJO, its umbrella institution. During my negotiations with the Swiss, Germans, Austrians, and French, the parties involved on one side were the governments and private companies, while on the other were the Holocaust claimants. The claimants were variously represented by a bevy of class-action lawyers and Jewish organizations such as the World Jewish Congress (WJC) (headed by Edgar Bronfman, Jr., and Israel Singer), corporations, and their governments. These actors, with our mediation on behalf of the U.S. government, negotiated the amounts of the settlements of the class action suits, the allocation of the payments, and the degree of legal peace they should obtain against future lawsuits, along with many other issues. The WJC and the class-action lawyers often clashed, and there was little unanimity among the class-action lawyers themselves. All this resulted in lengthy, emotionally and politically charged negotiations, which often spilled onto the front pages of major newspapers around the world. I was in the middle, mediating between these many contentious forces.

The Dutch government and Dutch Jewish communities wisely desired to avoid this unsavory, fractious process. As *Judging the Netherlands* brilliantly describes, a consensus was reached to keep the negotiations private and restrained. The Dutch Jewish community consciously kept the WJC and its sensationalist style on the sidelines. The WJC was involved in the negotiations with the Dutch banks, but played far less of a role than in other negotiations.

Gerstenfeld concludes that had more public pressure been exerted by the Dutch Jewish community and the WJC, more funds would likely have been forthcoming for Dutch Shoah survivors and their families. In that case, however, the negotiations would have been lengthier and entailed increased tension, division, and resentment within Dutch society. This was successfully avoided by employing the typically Dutch style of negotiations. In the end, the Dutch government, the Dutch Jewish community, and Dutch society in general were all

satisfied with the outcome. International media headlines that would otherwise have stained the reputation of the Netherlands were avoided.

Much emphasis was given to the fact that the Dutch Jewish community lost a larger percentage of its population during the Shoah than any other West European Jewish community. More than one hundred thousand Dutch Jews were killed during the war, and the paltry postwar efforts of the then finance minister Piet Lieftinck led to changing the law to favor members of the Amsterdam Stock Exchange to the detriment of Jewish holders of securities. Lieftinck also wanted to retroactively change insurance laws to favor the Dutch insurers at the expense of the heirs of Dutch Holocaust victims.

My view from all of the Holocaust-era negotiations in which I was involved is that while money was certainly important, especially because approximately 50 percent of Holocaust survivors worldwide live in poverty, memory and historical accountability were most important. The German slave labor negotiations, for example, yielded the largest settlement, some 10 billion DM or \$5 billion in the year 2000. The great bulk of this money went to some one and a half million slave and forced laborers, the vast majority to non-Jewish forced laborers in Central and Eastern Europe. While this sum seems large, each slave laborer who was worked nearly to death received a lump-sum payment of \$7,500, while forced laborers, viewed as an asset to the German economy, received \$2,500 each. Thus, one of the most important parts of the U.S.-German agreement was the foundation created at the insistence of German companies to support projects that would memorialize the Holocaust and help prevent future genocides. While the class action lawyers and the WJC initially objected to taking a percentage of the settlement fund for projects of tolerance, rather than meeting the immediate needs of survivors, in the end German industry was right. Money is important, but ephemeral. Projects that perpetuate memory and help future generations avoid the hatred that led to the Holocaust, can have a lasting benefit.

To its credit, the Dutch government established the Van Kemenade, Scholten, and Kordes commissions to make recommendations on how to properly compensate Dutch Jewry, given their experiences during and after the Shoah. However, Gerstenfeld describes one shortcoming in this regard. It was not primarily whether the four hundred million Dutch guilders paid by the government to the Jewish community was sufficient; he says it was not, while he believes that the payments by the Dutch insurers, banks, and stock exchange were fair. Rather, it is the stark absence of an apology from the Dutch government for the lack of action and even intent by their wartime predecessors to help the persecuted Dutch Jews. Nor, at the Stockholm conference, did Prime Minister Kok apologize for the behavior of the postwar Dutch government, although he recognized its shortcomings. When he later did extend an apology, it was with the addendum that the postwar government had not acted in an intentionally negative way toward Dutch Holocaust survivors or families of the victims.

*Judging the Netherlands* conveys the personal qualities of individuals

involved. For example, Gerrit Zalm, the finance minister under Kok, was a genuine hero who acted with a keen sense of history and morality. In the 1997 London Gold Conference, in which I represented the U.S. government, the Dutch state was entitled to twenty million guilders in gold since it could not be determined if the gold had been state property or looted from Dutch Jews. Immediately thereafter, Zalm stated: “We don’t want the gold; we will make it available to the Jewish community.” He also was willing to bravely challenge his own prime minister. At the Stockholm conference, Kok rejected a collective claim by the Jewish community on the estates of individual Jews, arguing that under Dutch law heirless property belonged to the state. Finance Minister Zalm, however, recognized the historically unique circumstances under which Dutch Jews had been killed, and he prevailed, arguing: “It cannot be that the Dutch state enriches itself through the murder of entire families.”

Credit is also due to Dr. Els Borst-Eilers, minister of public health, wellbeing, and sport, who deeply felt “great shame,” in her words, over the inaction of the immediate postwar Dutch government. She had personally witnessed Germans round up Jews in her neighborhood in Amsterdam and this made a lasting impression on her. She flatly stated that the “lack of interest in the fate of the Jews was a consequence of prewar anti-Semitism in the Netherlands. It also existed in my nice family.”

The Netherlands has come a long way since then. Today it is a leader in art restitution, and most certainly a stronger nation for having undergone the process Manfred Gerstenfeld describes so well in this book.

# Introduction

“To pass judgment on the restitution of property rights after the war is to pass judgment on the Netherlands and its people. That complicates any efforts to write the history of the restitution process.”<sup>1</sup> These words by the historian Prof. Peter Klein in the Van Kemenade Commission report summarize much of the theme of this book.

International media attention since the mid-1990s concerning stolen Jewish assets from World War II was followed at the end of 1997 by the discovery of cards from the archive of the looting bank Lippmann-Rosenthal & Co. (Sarphatistraat)—better known as LIRO—that were abandoned in an Amsterdam attic. The combination of these two factors turned the postwar restitution process of Jewish assets into an issue in the Dutch public domain during the last years of the twentieth century. It gradually became known that significant amounts of mainly financial assets, which had belonged to Jews, remained in the possession of the Dutch state, insurance companies, banks, and members of the stock exchange.

For the Dutch Jewish community the renewed restitution process and the debate it initiated were the second most important event after World War II. The main one had been the reestablishment of the hard-hit Jewish community after the war, about 75 percent of whose members had been killed. The public interest in the renewed restitution process also afforded many insights into how Dutch Jews view themselves and how they are seen by Dutch society at large. I have addressed this subject in far more detail in another book;<sup>2</sup> some attention to it is also given in this volume.

## Getting Involved

My own involvement in the new restitution process came about by chance. At the end of 1998 I attended a symposium on the history of Dutch Jewry at the Hebrew University of Jerusalem. There I made the acquaintance of businessman Avraham Roet, who had immigrated to Israel from the Netherlands after World War II. In the months before we met he had started researching what occurred after the war regarding the rehabilitation of the surviving Dutch Jews and the restitution of their looted belongings.

Roet tried to interest me in this subject. He sent me documents he had collected and reports by the Israel Institute for Research of Lost Dutch Jewish Assets during the Holocaust, which he had founded. Thereafter I attended a number of meetings Roet organized. He would become the key figure in getting the Dutch Jewish community in Israel involved in the restitution negotiations in

the Netherlands. When Roet became its main representative in this process, he asked me to advise him.

At around the same time the since-deceased Isaac Lipschits, a retired professor of contemporary history at Groningen University, was writing the biography of my late father. He was heavily involved in some aspects of the renewed restitution issue.

Lipschits shared with me his views on this issue. He said he had been invited to join commissions investigating the subject. Lipschits had refused this as he did not want to lose his intellectual independence. I decided to follow his example. When Roet asked me to assist him, I told him that I was willing to do so, but not in any official capacity.

During the following years I read thousands of pages of reports from the Dutch commissions of inquiry as well as much other material. I would often exchange views with Roet, and other Dutch Israelis involved. As I became familiar with the subject I was invited to give some lectures for the Dutch Jewish community in Israel and published several articles relevant to the subject.<sup>3</sup>

### **A Prism for Analysis**

Studying the material provided a basic knowledge of the postwar restitution process and new findings. I realized that its importance far exceeded the factual side of the postwar financial restitution and its shortcomings.

Klein had understood that the restitution process created a prism into Dutch society. Analyzing this subject shed light on the sometimes extremely ugly behavior of the Dutch authorities toward the Jews after the war. It also provided a perspective on the Dutch authorities and society at the turn of the twentieth century. Furthermore, it revealed much about the Jewish community in those periods.

### **The Purpose of This Book**

The aim of this book is thus not only to describe the research findings of the commissions of inquiry and the negotiations of the renewed Dutch restitution process. It also attempts to create a perspective about the interaction between the Jewish community and the Dutch government, as well as with other powerful segments of Dutch society: the banking sector, the insurance world, and the stock exchange.

The multiple interviews conducted for this book revealed many important insights. For instance, a number of prominent Dutchmen had, through the renewed restitution process, been confronted with an unsavory aspect of the country's postwar history. The issues that became public impacted them emotionally and



several were ashamed of what had happened. Three interviews, respectively with the ministers Wim Kok, Gerrit Zalm, and Els Borst, who acted on behalf of the government in the renewed restitution process have been attached.

This book also devotes attention to the emotional involvement. One example illustrates it well. The then finance minister Gerrit Zalm met Lipschits after a discussion of the LIRO affair in the parliament building. The minister said he wanted to present his personal apologies to him. Lipschits replied, "But Minister, when this happened you were still going around in short trousers." Zalm replied: "I am the successor of postwar finance minister Piet Liefstinck and thus responsible for what happened then."<sup>4</sup>

Henri Markens, a former chairman of the CJO, the umbrella organization of Dutch Jewry, observed: "In 2005 the CJO organized a farewell dinner when Zalm left the Finance Ministry. The outgoing minister spoke and said: 'The officials of the ministry have learned through the restitution affair to cope with emotions. Before this they were only able to deal with figures.'"<sup>5</sup>

Developments outside the Netherlands greatly contributed to the Dutch investigation of the postwar restitution process. Many, often negative aspects of the Netherlands became known through it. There is, however, at least one even more problematic element in Dutch postwar history. Had it been investigated as thoroughly as the restitution issue it would have brought to the surface extremely negative information that Dutch society prefers to exclude from its collective memory: the massive killings in the "police" actions in the former Dutch East Indies.

## **Excess of Material**

This book focuses on the negotiations on behalf of the Jewish community. The issue of looting and restitution of art has not been included as it concerns individuals. This has been investigated by a commission headed by Prof. Rudi E. O. Ekkart.

Even if I had limited myself to summarizing and analyzing the official reports, the material available on the new round of restitutions would have been much too extensive for a single book. Dealing only with matters concerning the Dutch government could easily have filled a volume larger than this one.

That would then also have focused on archive research, to the extent possible. Part of the archives, however, is not open to researchers. One example among many: the personal letters written to the commissions that are archived in the Finance Ministry.

The choice made for this book is different. The description of the essence of the research findings of the commissions of inquiry and the ensuing negotiations with the counterparts is one main aspect. This book, however, also deals with issues concerning the Jewish community. Another aim was to show the actions

and feelings of those involved and how they expressed themselves. It thus also presents, to a substantial extent, oral history. All this meant that the emphasis is on a strategic overview rather than on investigating a few issues in great detail.

There is a further reason for this. Another author has been working for many years on a book on the renewed restitution process. Part of his work focuses on the various archives. It was expected that his book would be published before this volume. This, however, has not materialized. As the issues to be studied are so many it was preferable not to overlap too much with his work in progress.

### **The Influence of the Swiss Restitution Process**

Jews had often been neglected and discriminated against in the reconstituted Dutch democracy after the war. By the end of the twentieth century the counterparts of the Jewish community had no legal commitment anymore to reimburse funds retained after the war. The issue was subject to the statute of limitations. This new restitution process was indeed about far more than the financial “allowances” by the government and “belated restitution” by other sectors of society to the Jewish community, large parts of which had been murdered during World War II.

One can ask the hypothetical question what would have happened had there not been such dramatic, almost continuous, international publicity about the dormant Jewish accounts in Swiss banks, the decades of resistance by these banks to accommodate the heirs of the owners of these accounts, and the massive criticism of the banks’ attitudes, which developed gradually. The answer concerning the Netherlands is that there would possibly not have been a new restitution process.

The Swiss restitution experience had taught the Dutch government and the other counterparts of the Jewish community that legal arguments in such negotiations are sometimes secondary. They had also shown that moral aspects can become dominant if the media and public opinion treat them as such.

A short Epilogue deals with some developments that took place in the ten years since the renewed restitution process ended.

### **Long-Suppressed Feelings**

When trying to capture the essence of the process one sees that the renewed research and publications led not only to rational discussions on financial issues and morality; they also caused the awakening of long-suppressed feelings in the Jewish community. Many recalled traumatic experiences, and some also uttered their bitterness. Several non-Jews also expressed emotional reactions.

The representatives of the Jewish community had to ask themselves, among other things, what the social consequences of these negotiations would be. On the

one hand, this concerned the community they represented; on the other, they had to assess the feelings this process would evoke in Dutch society.

Although, as mentioned, international developments were crucial in the new Dutch investigations, the process itself took place largely in isolation from these. When one talks with some of the key persons involved in the Swiss and other restitution processes abroad, one finds that they know little about what went on in the Netherlands. Yet one cannot fully understand the renewed Dutch restitution process without insights into what happened elsewhere. Therefore, one chapter of this book summarizes some important aspects of those developments.

### **Attention to Postwar Issues**

For many decades attention to Jews by historians focused on their fate during the war. Only recently there seems to be increasing interest in the postwar period. In the several thousands of pages of reports, as well as from discussions during the restitution debate, many shocking facts about the treatment of Jews by the Dutch authorities and society after the war have become known, not limited to issues concerning restitution.

The renewed restitution process of the late 1990s underlined that the Dutch government had no intention of taking full responsibility for the shortcomings of its wartime and postwar predecessors toward the Jews. This especially concerned the neglect of the London wartime government for the fate of the Jews and the assistance given by the Dutch authorities in the Netherlands to the arrest and deportation of the Jews.

Several historians have described how the Dutch authorities and many institutions helped the Germans in the persecution of the Jews in a country where resistance was limited. Only a few of the resistance movements helped the Jews. A number of those who resisted lost their lives and others risked them to save Jewish lives. This must be underlined and great appreciation should be expressed for what they did. It does not, however, compensate for the many negative aspects of Dutch society's behavior toward the Jews in the Netherlands during the war. Individuals saving people cannot offset a nation's administrative infrastructure and many others collaborating with genocidal murderers.

### **Notes**

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4. Personal communication, Isaac Lipschits.
5. Personal communication, Henri Markens.

# Chapter One:

## The Abandonment of Dutch Jewry

The Germans invaded the Netherlands on 10 May 1940. A few days later, after a ferocious bombardment of Rotterdam by the German air force, the Dutch army capitulated.<sup>1</sup> Before the capitulation, Queen Wilhelmina fled to England without consulting the Dutch government, which followed her into exile.

The Germans had initially intended to install a military government, but now, because of the flight, Hitler saw the opportunity to name the Austrian Nazi leader Arthur Seyss-Inquart as the Reichskommissar, who reported directly to him. Seyss-Inquart was assisted by a number of other Austrian Nazis. He was later condemned to death in the 1946 Nuremberg trials and executed.

Seyss-Inquart was a skillful politician who had already gained experience in Austria in transforming Jews into second-class citizens. After the flight of the queen and the Dutch government, the highest remaining authorities in the Netherlands were the senior-ranking civil servants, the secretaries-general of the ministries.

These nonpolitical officials — in an inferior position vis-à-vis the German occupiers — were out of their depth, and helped to put the Dutch bureaucratic and institutional apparatus at the disposal of the occupiers. This greatly facilitated the deportation of the Dutch Jews after their property had been systematically looted. In the looting the Dutch bureaucracy did not collaborate directly.

### **Measures against Jews**

According to the racist criteria of the German occupier there were approximately 140,000 Jews in the Netherlands at the outbreak of the war, representing 1.6 percent of the Dutch population.<sup>2</sup> In Amsterdam they constituted as much as 9.5 percent of the city's residents. Some 107,000 Jews were deported from the Netherlands, of whom 102,000 were murdered. Most of the remainder went into hiding, were married to non-Jews and thus exempt from deportation, or fled abroad. Fewer than one thousand survived the war in Westerbork, the transit camp from which most Dutch Jews were sent to their deaths in the east, mainly in occupied Poland.<sup>3</sup>

A number of measures were gradually taken against the Jews in order to exclude them from society. When non-Jewish officials were forced to sign a declaration that they were Aryans, the issue came before the High Court of Justice, whose members had been appointed under the democratic prewar government. A majority of judges approved the German measure, even though they knew it was meant to discriminate against the Jews who were subsequently fired from their

jobs. Twelve members voted in favor and five against. The Jewish president of the court, Judge Lodewijk Visser, was suspended and later fired by the court upon the order of the Germans.<sup>4</sup>

### **The Role of LIRO**

A key role in the despoliation of the Jews was played by the looting bank, Lippmann-Rosenthal & Co. (Sarphatistraat). The Germans stole the name of a small, expropriated, well-reputed Dutch bank owned by Jews so as to create confidence with third parties. They established a pseudo-branch in 1941, specifically for the purpose of robbing the Jews of their assets. This “looting bank” was known as LIRO. Jews had to deposit their possessions there, before they were arrested and deported to the east.<sup>5</sup>

Well before the deportations, the systematic looting of Jewish properties had begun. Shortly after the founding of LIRO, all Jews had to deposit their cash, checks, bank deposits, and securities with it. For instance, on German orders, the Dutch banks sent out forms to Jewish clients for the transfer of their deposits to LIRO.

In May 1942 Jews also had to transfer their claims and insurance policies, as well as art objects, precious metals, and jewelry, to LIRO. By giving receipts and account statements on which interest was deposited and costs charged, the despoliated Jews were given the illusion that these possessions were still theirs even if they could not dispose of them.

Other institutions, established by the Germans, seized Jewish businesses, real estate, mortgages, cars, and ships. They initially administered them but later liquidated or sold them. The money thus obtained was deposited with the Vermögensverwaltungs- und Renten-Anstalt (VVRA). This foundation was legally a Dutch body; its board members were appointed by the occupiers. The VVRA administered Jewish property during the war.

Almost all goods belonging to Jews that were administered by LIRO were gradually sold. The most valuable objects were acquired by German traders, and the remainder went to Dutch buyers. Most securities were sold on the Amsterdam Stock Exchange. The Amsterdam Stock Exchange Association was a major collaborator with the German occupiers in this matter. Life-insurance policies were redeemed and the money received was deposited with LIRO. The funds thus obtained were transferred to the VVRA, and used to pay its own costs and those of LIRO. Also the expenses for the operation of the transit camps in Westerbork and Vught, where the arrested Jews stayed for a time, were paid from these accounts.<sup>6</sup> In January 1943 all individual accounts at LIRO were closed and the resulting funds were deposited in a collective account.

Jews, when arrested, had to leave their furniture and household effects in their homes. These were then collected and mainly sent to Germany, where some

of them were distributed to the populations of towns that had been bombarded by the Allied forces. At LIRO, the theft of Jewish property by employees was a regular occurrence. Dutch individuals also stole Jewish belongings. Jews who were arrested and then temporarily released often came home to find their possessions missing.

### **Assistance to the Germans**

In preparing for the extermination of the Jews living in the Netherlands, the German occupiers needed to employ only a limited number of their own personnel to carry out the measures against the Jews. They could count on the assistance of almost the entire Dutch government bureaucracy and administrative infrastructure. The institutional apparatus that helped the Germans included the ministries and municipalities.

Others who collaborated to various extents were the banks, most insurance companies, the stock exchange, as well as many individuals. There were also Dutch individuals who betrayed Jews in hiding to the German authorities for a few guilders; other collaborators included members and sympathizers of the Dutch National-Socialist Party (NSB). Some Dutch, including policemen, stole Jewish property. Several notaries and real estate brokers assisted in the transfer of stolen goods.

In July 1942 the arrests and deportations of Jews began. Dutch authorities played a major role in this ethnic cleansing. Dutch policemen rounded up Jewish families — including babies, the elderly, and the infirm — to be sent to the east. Those involved in these actions were fully aware that the task of the police is to arrest criminals, not innocent people.

Dutch trains, staffed by Dutch employees, transported Jews to camps in the Netherlands, the main one being Westerbork. Jews were guarded in these camps by Dutch military policemen.<sup>7</sup> Westerbork was a transit point from which almost all those detained were later sent to various camps in the east. Most were murdered in Auschwitz and Sobibor.

There were no extermination camps in the Netherlands, and the Dutch did not actively participate in the killing of Jews. The mass atrocities, for which Germany and so many other European nations supplied willing executors, did not take place on Dutch soil. This, however, is hardly a sign of humanity.

### **The Looting of Jewish Property**

The financial rehabilitation of the Jews in the Netherlands after the war illustrates many of the aspects discussed. The fact that the percentage of Dutch Jews murdered by the Germans and their associates in World War II was higher than

in any other West European country often limited the ability of survivors and the victims' heirs to recover property after the war. The Jewish communal institutions had been greatly weakened and could only be of limited assistance.

Various estimates have been made of the wealth of Dutch Jews at the outbreak of the war.<sup>8</sup> According to some sources the assets looted from Jews may have exceeded 90 percent of their possessions.<sup>9</sup> The worth of what was looted has been estimated as at least one billion guilders in the value of the time.<sup>10</sup>

The Kordes Commission — one of the investigatory committees of the renewed restitution process — reported that a number of Jews had left some belongings with gentile neighbors or acquaintances. These people were popularly called *bewarriers*, a Dutch word play on “Aryan keepers.” Some of these people returned these possessions to the Jews or their heirs after the war; others kept them.<sup>11</sup>

## The Dutch Myth

The myth that the great majority of the Dutch people had a highly positive attitude toward the Jews during World War II, identified with their suffering, and took risks to help them has gradually been unmasked by various Dutch scholars over the past decades. The historian Nanda van der Zee summed this up in 1997: “The vain national self-image of the most tolerant people on earth, which had assisted its Jewish fellow-citizens so ‘charitably,’ was corroded in the 1960s when another generation born after the war started to ask questions.”<sup>12</sup>

Internationally, the benign Dutch war image has held on for over fifty years. In its introduction to “The Netherlands,” the 1999 *Jewish Chronicle Travel Guide* still wrote: “The Germans transported 100,000 [Jews] to death camps in Poland, but the local population tended to behave sympathetically towards their Jewish neighbors, hiding many.”<sup>13</sup>

Israel, where at least the authorities should know better, is no exception. One former Israeli ambassador to the Netherlands told this author that he regularly corrected draft speeches of visiting high-ranking Israeli politicians to prevent them from thanking the Dutch for their “extraordinary efforts” toward the Jews during the war, without mentioning the substantial collaboration with the Nazis.

In reality only a small proportion of the Dutch population helped Jews. Holocaust historian Johannes Houwink ten Cate estimates that this number might have been around a hundred thousand, or about 1 percent of the population.<sup>14</sup> The numbers of the various types of Dutch Nazi collaborators during the war exceeded those active in the resistance. This is so even if the unknown number of those who stole Jewish property are not considered collaborators but just thieves.

It is also not widely known that the Netherlands — relative to its population — had the highest number of Waffen SS volunteers in Western Europe.<sup>15</sup> Giving these facts as much attention as the story of Anne Frank would help balance the international perception of Dutch attitudes during the war.



## **The Government in Exile in London<sup>16</sup>**

The Dutch government in exile made little effort to help the Jews. Nor was it prepared to ease the plight of returning Jews after the war.<sup>17</sup> In five years of radio speeches from London, Queen Wilhelmina devoted only five sentences to the fate of her Jewish subjects.<sup>18</sup> Nevertheless, an international myth grew about her identification with the persecuted Jews.

It took one and a half years after the deportations started before the Dutch government in London finally contacted the Polish government to obtain official information about the fate of the Dutch Jews. This despite the fact that both governments had their offices in the same building, Stratton House.<sup>19</sup>

In an interview for this volume former Dutch deputy prime minister Els Borst said: “We now know that the persecution of the Jews hardly bothered Queen Wilhelmina. She spoke all the time about the heroes of the resistance and thought that the entire Netherlands was resisting. The queen spoke in a manner of ‘all of you who fight so courageously,’ which was far from the truth.”

Borst added: “My feeling is that if all Catholics or Reformed Christians had been deported to Germany, the Dutch government in London would have instructed the population in the occupied Netherlands to help them. The government’s attitude testified that its members, like many others, saw the Jewish Dutchmen as a special group who were not ‘real Dutchmen.’”<sup>20</sup>

Henri Dentz was an official employed by the Dutch-government commissariat for repatriation. In 1943 he prepared a detailed report about the anti-Jewish measures of the German occupiers in the Netherlands during the period from July 1940 to October 1943. He estimated that 115,000 Jews had been deported, of whom 90 percent had been murdered including the mentally ill, elderly, and children. After Dentz finished this report, it was sent to all Dutch ministries in London and a number of other institutions including the Red Cross. Dentz later declared that nobody was interested in what he had written.<sup>21</sup> In his report Dentz wrote that he had deleted the greatest atrocities or written about them only briefly.<sup>22</sup>

There were other issues officials in the Dutch government in exile in London were concerned about. One was the possible impact of surviving Jews receiving significant donations from Jews abroad after the war. “It is possible...that large donations may be made available from the United States for Dutch Jews in particular. Should a similar drive grow too large, it might accentuate the gap between the non-Jewish and Jewish sectors of our people. The Government should manage to convince the donors [of this danger], however well-intentioned they may be.”<sup>23</sup>

## **Why Were So Many Dutch Jews Killed?**

Often the question is asked why so many Dutch Jews were deported and killed. One answer often given is that, since the Netherlands was well administered and

well documented, it was relatively easy to round up the Jews. Orders were given by the occupiers, and the Dutch authorities executed these efficiently and sometimes even zealously. The historian Jacques Presser writes that Adolf Eichmann, during his 1961 trial in Jerusalem, said that with respect to Dutch collaboration “the transports ran so smoothly that it was a pleasure to see.”<sup>24</sup>

Other respectable Dutch citizens just “accommodated” themselves. Presser, who wrote the official history of the persecution of Dutch Jewry during World War II, was interviewed shortly before his death in 1970 by Philo Bregstein. Presser said that when he was dismissed as a high school teacher during the war, what affected him even more than the dismissal was the name of the person who had signed the dismissal letter: “That was a man who then and years after the war — I believe even justifiably so — had a reputation of total rectitude. I could only relate it to my general situation as a Jew, and was aware that, within the context of the interests at play, I was a dispensable piece of small change.”<sup>25</sup>

Another reason sometimes given for the high Jewish death-toll is that the Netherlands is a small and flat country in which it is more difficult to hide than in Belgium or France. This is a weak argument since, in the later war years, many hiding places were found for Dutch workers who had been called up for labor service in Germany.

Several other explanations have been offered for this high percentage of Dutch Jews killed. The late historian Jozeph Michman, chairman of the Jerusalem-based Center for Research on Dutch Jewry, suggests that Hitler had special designs on the country and wanted to make it part of the Reich after the war.<sup>26</sup>

The fate of the Jews in the Netherlands during the war has been relatively well documented. The Netherlands Institute for War Documentation (NIOD, previously RIOD) was established at the end of the war. It possesses important archives and has published numerous studies on a large number of war-related issues.

### **Feeding the Myth: The Anne Frank Story**

The myth of the exceptionally benign Dutch attitude toward the Jews feeds on several motifs. One is the February 1941 solidarity strike by non-Jewish workers in Amsterdam and a few other cities. Although this was a unique event in occupied territory, there was no follow-up by the strikers in any way. Another is the Anne Frank story. Her diary is widely read throughout the world. The house in Amsterdam where she was hidden occupies a respectable place among Europe’s most visited museums. The way in which she is remembered focuses on the courage of those who took risks to hide her. Her diary statement that she believed in the good of mankind is widely quoted. Society prefers to remember its noble individuals rather than its traitors.

In 2010 the chief rabbi of the Dutch Provincial Rabbinate, Binyomin Jacobs,

said that he had never been in the Anne Frank House in Amsterdam “because this one case is an exception. The Anne Frank House encourages the belief in the myth that the Dutch were hiding the Jews from the Nazis.”<sup>27</sup>

The one-sided Dutch “resistance image” was heavily propagated in the postwar period. It conveniently ignored the fact that the vast majority of the nation accommodated itself to circumstances. The traumatized and impoverished remnants of Dutch Jewry were in no political or personal position to fight this distortion of history. They had to start from scratch to build up a new existence and, to keep their mental health, they had to look to the future. Some of the survivors were ill. After the Holocaust, many did not want to identify with the Jewish community. Furthermore, those who had been hidden during the war had mainly seen the better side of the Dutch. The majority, who had experienced a more representative reality, were no longer alive.

There is a great discrepancy between the continuing benign image and the harsh reality of Dutch wartime and postwar behavior. For many decades the myth has persevered — even in the Netherlands — that the majority of the Dutch population made an extraordinary effort to help their Jewish neighbors. We do not know who betrayed Anne Frank but it is probable that they were Dutch.

During the renewed restitution of the late 1990s Avraham Roet, the founding chairman of Stichting Platform Israel (Foundation Platform Israel, SPI), the representative body of Dutch Jewish organizations in Israel, said:

The Netherlands has high pretensions of justice, which its treatment of Jews in the first decade after the war certainly does not warrant. The Dutch government still tries to escape the essence of its responsibility for the injustice that was done to the Jews by the Dutch authorities more than fifty years ago. In view of this, is it not hypocrisy that the International Court of Justice is based in The Hague?<sup>28</sup>

## Notes

1. The Dutch fleet continued to fight.
2. L. de Jong, *Het Koninkrijk der Nederlanden in de Tweede Wereldoorlog*, vol. 4 (The Hague: Staatsuitgeverij, 1969–1992), 744–745 [Dutch]. As quoted in Bob Moore, *Slachtoffers en overlevenden: De nazi-vervolging van de joden in Nederland* (Amsterdam: Bert Bakker, 1998). [Dutch]
3. Kordes Commission, First Report, 4.
4. Jozeph Michman, “The Controversial Stand of the Joodse Raad in the Netherlands: Lodewijk E. Vissers’s Struggle,” *Yad Vashem Studies*, 1974, 13.
5. Kordes Commission, First Report, 3.
6. Ibid.
7. For the extent of Dutch collaboration, see Gerhard Hirschfeld, *Bezetting en collaboratie* (Haarlem: Becht, 1991). [Dutch]
8. See, e.g., Paul A. Volcker, “Report on Dormant Accounts of Victims of Nazi Persecution in

- Swiss Banks,” Independent Association of Eminent Persons, December 1999, Appendix 5, A152ff., which arrives at an estimate of 1.75 billion guilders in values on the eve of the war.
9. Commissie van Kemenade, “Tweede Wereldoorlog: Roof en Rechtsherstel, Eindrapport van de Contactgroep Tegoeden WO II,” Amsterdam, 27 January 2000, 93. [Dutch]
  10. *Ibid.*, 90.
  11. *Ibid.*
  12. Nanda van der Zee, *Om Erger te Voorkomen* (Amsterdam: Meulenhoff, 1997), 262–263. [Dutch]
  13. *Jewish Chronicle Travel Guide 1999*.
  14. Personal communication, Johannes Houwink ten Cate.
  15. Sytze van der Zee, *Voor Fuehrer, Volk en Vaderland: De SS in Nederland* (Alphen a/d Rijn: Sythoff, 1997), 56–57. [Dutch]
  16. See Manfred Gerstenfeld, “Wartime and Postwar Dutch Attitudes toward the Jews: Myth and Truth,” *Jerusalem Letter/Viewpoints*, 412, 15 August 1999.
  17. See Dienke Hondius, *Terugkeer*, rev. ed. (The Hague: Sdu, 1998) [Dutch]; Michal Citroen, *U Wordt Door Niemand Verwacht* (Utrecht: Spectrum, 1999). [Dutch]
  18. Nanda van der Zee, *Om Erger te Voorkomen*, 194.
  19. Dienke Hondius, “A Cold Reception: Holocaust Survivors in the Netherlands and Their Return,” *Patterns of Prejudice* 28:1 (1994): 0031–322x/47–65, based on quotation from L. de Jong, *Het Koninkrijk der Nederlanden in de Tweede Wereldoorlog*, vol. 9: *Londen* (The Hague: Staatsdrukkerij, 1979), 501–503. [Dutch]
  20. See the interview with Els Borst in this volume.
  21. Isaac Lipschits, *De Kleine Sjoa, Joden in naoorlogs Nederland* (Amsterdam: Mets & Schilt, 2001), 11–12. [Dutch]
  22. Report H. Dentz, London, 30 March 1944, 1. [Dutch]
  23. Chaya Brasz, *Removing the Yellow Badge* (Jerusalem: Institute for Research on Dutch Jewry, Ben-Zion Dinur Institute for Research on Jewish History, the Hebrew University of Jerusalem, 1995), 67.
  24. J. Presser, *De Ondergang*, vol. 2 (‘s Gravenhage: Martinus Nijhoff, 1965), 371. [Dutch]
  25. Philo Bregstein, *Gesprekken met Jacques Presser* (Baarn: de Prom, 1999), 78. [Dutch]
  26. Personal communication, Jozeph Michman.
  27. “Jacobs: Geef tolerantie plek in onderwijs,” *Reformatisch Dagblad*, 6 July 2010. [Dutch]
  28. Manfred Gerstenfeld, “Yachas hahollandim layehudim bashoah uleachareha: Mitoš umetsiut,” *Nativ*, January 2000. [Hebrew]

## Chapter Two: The Postwar Years

Like in other countries occupied by the Nazis during World War II, the Jews were systematically and meticulously removed from Dutch society step after step. By the end of 1943 the Netherlands was reported to be *Judenrein*, free of Jews. The great majority of Jews were deported and murdered. Most Jews who avoided deportation went into hiding; some others pretended that they were gentiles. All of them avoided being visible as Jews. A small number fled abroad. The Netherlands had seemingly become a society without Jews.

Although many other Dutch people were strongly affected by the war, few suffered in a way comparable to that of the Jews. Dutch society became largely accustomed to the absence of Jews. In many cases, Jews coming out of hiding or returning from the death camps were made to feel unwelcome.<sup>1</sup> When the survivors spoke of their past, they often encountered disbelief or a wish not to hear.<sup>2</sup>

In one extreme example of insensitivity, for several months after the war a number of stateless Jews of German origin were locked up in the same camps in the south of the country as German Nazis and their Dutch collaborators.<sup>3</sup>

For her master's degree, the journalist Michal Citroen wrote a study of how Jewish survivors were received in Dutch society after the war. In 1999 she published a book on the subject titled *U wordt door Niemand Verwacht* (Nobody Is Expecting You). Citroen wrote:

I was surprised, and more particularly angry, about what I found in my research. The nasty remarks the Jews heard, the disgusting bureaucracy that blocked them at every step when they were trying to build a new existence; the scandalous neglect by the authorities, the horrible egocentric behavior of all those who felt harmed, the ongoing careless anti-Semitism, [a continuation, be it milder] of that of the German occupiers, and the scandalous lack of compassion of other Dutchmen.<sup>4</sup>

A group of resistance organizations had sent a letter in 1944 — via the Dutch liberated territories in the south of the Netherlands — to the government in London proposing that the Dutch Jewish community should not be reconstituted after the war. They wrote: “The reconstitution of the Jewish community is an incorrect and undesirable goal.” They added that there was no place for separate and “moral” restitution.

These organizations wrote furthermore:

There was no Jewish community before 10 May 1940. All there was were Jewish religious services. This religious organization can be reestablished

insofar as the deported Jewish Dutchmen want this.... We are only interested in the fate of individual Dutchmen who have been deported. The fact that they have been qualified by the occupiers as Jews plays an entirely secondary role.<sup>5</sup>

This statement of these organizations was a fallacy. Many nonreligious Jewish bodies had existed before the war including social organizations, cultural bodies, and sports clubs.

### **Emigration and Name Change**

Several thousand Dutch Jews emigrated after the war mainly to the United States, Canada, and Palestine/Israel.<sup>6</sup> After the beginning of the Korean War in 1950 others followed. Some of those who stayed in the Netherlands tried to hide their Jewish identity. Karen Polak found that 250–300 Jews had officially requested the Justice Ministry to change their Jewish-sounding family names. In addition there were Jews who changed their first names, but did not register them officially.

Polak found that the reason given for these changes often was “recent” — which meant postwar — experiences with anti-Semitism. She quotes one applicant from 1946: “Already in my youth I have found many difficulties because my family name ‘Levie’ led to scorn and ridicule. Also in the business world where I earn my living, I suffer much disadvantage and trouble due to my name; this name regularly leads to hateful remarks and sometimes even to discrimination.”<sup>7</sup>

Presser described the “negative attitude” held by many Dutchmen toward the Jewish returnees in the epilogue of *Ondergang* (Destruction), his major history of the Jews during the war, published in 1965.<sup>8</sup> He mentioned, for instance, a Jewish teacher who had returned after “horrible suffering.” In a full hall he heard his boss say to him: “The good Jews are dead, the bad ones have returned.” Presser added that this boss was a “greatly respected personality with a doctor’s degree.”<sup>9</sup> Such experiences were neither universal nor rare.<sup>10</sup>

### **After the War: Alienation, Discrimination, and Indifference**

Dienke Hondius’s book *Terugkeer* (Return), on the postwar return of the Dutch Jews, was published in 1998. Its subtitle was *Antisemitism around the Liberation*. This conveyed that the returning Jews faced not only a lack of understanding but sometimes also overt anti-Semitism.<sup>11</sup> Citroen wrote: “Almost all who were interviewed have been confronted by anti-Jewish feelings after the war in contacts with the gentile population or with representatives of the authorities.”<sup>12</sup>

In July 1945, two months after the liberation of the Netherlands, a group of mainly non-Jewish intellectuals found the situation worrying enough to organize

a working-group to deal with the question of whether there was an anti-Semitic mood in the Netherlands.<sup>13</sup>

The wartime experiences of the Jews had been radically different from those of the average Dutchman, and made them greater outsiders in Dutch society. As historian Bob Moore writes, “there was resistance to accepting that the Jewish experience of the occupation had been far worse, both because it diminished the importance of the shared experience, and because it questioned the efficacy of the resistance in having been able to counteract German plans.”<sup>14</sup>

### **Jewish War Orphans**

The immediate postwar attitude of the Dutch government involved not only coldness but also an abuse of power against this vulnerable community in many areas. The remnants of the decimated community had to fight an uphill battle to have Jewish war orphans returned to Jewish family members or Jewish institutions. In the government-appointed commission that decided the fate of these children, Christians were in the majority. Other members included baptized and assimilated Jews.<sup>15</sup>

The historian Joel Fishman, in discussing the work of the Commission for War Foster Children, concluded: “Its spirit and structure were insulting for the Jewish minority” from the beginning. The journalist Elma Verhey described the Dutch authorities’ abuse of power regarding the Jewish war orphans in her book *Om het Joodse Kind* (About the Jewish Child).<sup>16</sup> The Jewish members of the commission had a hard time and from time to time rebelled or left the meetings as a protest against decisions that were taken.

In a document prepared for the Dutch government in exile in London by its officials, it was even proposed that deported parents — which in practice meant almost exclusively Jews — who had left their children in hiding with courageous non-Jews should not be allowed to resume their parental authority “until they have demonstrated that they are fit to do so. It will be bitter enough for them to understand this, and therefore it is desirable that in the bill it does not state so directly.”<sup>17</sup>

### **The Postwar Restitution Process**

On 17 September 1944 the government in exile in London instituted the Council for the Restitution of Legal Rights (Raad voor Rechtsherstel). It was installed on 20 August 1945.<sup>18</sup> As far as the looted Jewish possessions were concerned, this institution’s task was to undo as far as possible the legal measures taken by the German occupiers. One of its components, the Netherlands Property Administration Institute (Nederlands Beheersinstituut, NBI), acted as custodian of

the property of enemies. It was charged with the administration of the belongings of absent and missing persons, nearly all of them Jews.

After the war, the Dutch government adopted a law dealing with reparations that made no special provisions for Jews. This despite the fact that it was well known that as a group they had been singled out, excluded from society, and by order of the German occupation authorities systematically robbed of all their belongings. As mentioned, this was done with considerable assistance from the Dutch authorities and part of the Dutch citizenry.

The government claimed, absurdly, that additional assistance to the Jews would be another form of discrimination. Not only did the country's bureaucracy not come to the aid of this small community and its individual members, but in the important area of the restitution of looted securities, the government changed the law four days before the parliament reconvened after the war, to make this even more difficult.<sup>19</sup> All of this points to a pattern of discrimination against the Jews by postwar Dutch governments.

### **Discriminating Ministers**

The postwar Dutch government that instituted these laws was well aware of their discriminatory character. It decided that the economic interests of the country should prevail over those of the robbed and traumatized survivors. This approach was implemented under the first postwar prime minister Willem Schermerhorn and finance minister Pieter Liefstinck. They had both joined the Labor Party from other parties after the war.

Michman, a Dutch Holocaust survivor, described a meeting with Schermerhorn by Leib de Leeuw, a professor at the Haifa Technion who had been a university colleague of Schermerhorn before the war. Also present was Karel Hartog, then secretary of the executive of the NZB, the Dutch Zionist Organization. Hartog later reported on this meeting to his executive of which Michman was a member. The Dutch prime minister said that they could not expect him, as a socialist, to help restore money to Jewish capitalists.<sup>20</sup>

Michman also mentioned a statement of Joop Voet, later Dutch honorary consul in Tel Aviv, who had worked at the Netherlands Property Administration Institute (NBI). Voet was often told that "full legal restitution to the Jews would be in conflict with the postwar economic reconstruction of the Netherlands."<sup>21</sup> The reports of the commissions of inquiry at the turn of the twentieth century confirm that this was indeed the prevailing attitude.

### **Interpreting the Laws**

On several occasions, these discriminatory laws were not adhered to, but were interpreted in a manner even more detrimental to the interests of the Jews. The



commissions of inquiry at the end of the twentieth century identified a number of important cases where the postwar Dutch authorities treated Jews either unfairly or clearly worse than other citizens.<sup>22</sup>

Another important conclusion to be drawn from the reports of these commissions is that, not only had there been an abuse of law but also, in executing these unfair laws, the Dutch bureaucracy psychologically abused many survivors for a number of years.

Presser cited a letter from a Jewish survivor to the editor of a newspaper in 1951:

The years after the war have broken my spirit. I had infinite difficulties to regain my equilibrium from a spiritual and material viewpoint. And it was mainly the struggle I had to wage against the authorities. Where there should always have been commiseration, I found the amorphous being that one calls a difficult-to-approach bureaucracy.<sup>23</sup>

According to the reports of the commissions of inquiry, for many years after the war the beleaguered Jews were given the choice of fighting on for fair restitution or reaching a compromise, thereby giving up some of their justified claims. Many of the compromises arrived at should be considered as having been reached under duress.

The Dutch Jewish community in those and later years was not an equal partner in negotiations with the Dutch government. The country's bureaucracy did not facilitate the fight of this community and its members to regain their property. The application of Dutch inheritance tax laws to successive layers of relatives often enabled the state to appropriate a substantial part of the assets of those who did not return. It would have been much fairer to fix a single date for all the deported who were murdered.

The commissions of inquiry mention many examples of the misconduct of Dutch postwar governments. For instance, the Scholten Commission concluded that Finance Minister Liefstinck had favored the interests of the security traders over those of the Jews who had been dispossessed: "Apparently the minister in 1953, by doing what he considered necessary to continue the stock exchange activities, has given priority to the functioning of the Amsterdam Exchange over the breach of the legal rehabilitation system."<sup>24</sup> The Kordes Commission condemned the low price paid by the government after the war for the Westerbork camp. It added that the Jews had in fact paid the costs of their own deportation.<sup>25</sup> Both of these issues will be discussed later.

## **The Development of Reparations**

The NBI was given responsibility for the administration of LIRO. In 1948 it decided to change the name LIRO to Liquidatie van Verwaltung Sarphatistraat

(Liquidation of Administration Sarphatistraat, LVVS). By 1958 both the LVVS and the VVRA had been gradually liquidated.<sup>26</sup>

A number of remaining possessions with little monetary value came into the possession of the Claim Settlement Fund for Legal Rehabilitation of the Finance Ministry (Waarborgfonds Rechtsherstel). At the end of October 1968 this fund sold the remaining goods to forty employees.

The restitution was a complicated matter, since all registered transactions of the looting process had to be reversed by splitting collective accounts up in order to establish the belongings of individual owners. In the end those who had a claim on the LVVS received 90 percent of it. Eighty-five percent on the claims against the VVRA was reimbursed;<sup>27</sup> the remainder was deducted for administrative costs. Thus the reimbursed paid for the civil servants doing their job, a fact that was strongly condemned later by the commissions of inquiry.

An amount designated for those people who never collected their claims from the LVVS was paid to the JMW, the Jewish Social Organization (Joods Maatschappelijk Werk), insofar as it could be ascertained that these funds belonged to Jews. The JMW was entitled to use these funds for the social needs of the Jewish community. It undertook that, should the claimants later appear, they would be reimbursed.<sup>28</sup>

## German Reparations

In 1957 the West German parliament accepted a law for the reimbursement of people whose possessions had been looted, the Bundesrückerstattungsgesetz (BRüG). On the basis of this law Dutch Jews could be reimbursed for household goods and furniture that had been stolen during the war and given as a “donation” to the German population. To deal with this matter the Dutch Jewish community established the Foundation of Jewish Religious Communities and Social Organizations in the Netherlands for Reimbursement of Damage, which became known as JOKOS (Stichting van Joodse Kerkgenootschappen en Sociale Organisaties in Nederland voor Schadevergoedingsaangelegenheden).

West Germany would pay reparations for furniture that had been transferred to West Germany or Berlin, as well as for jewelry and foreign securities. In 1959 the Dutch Finance Ministry established an institution to deal with these matters, called the Central Bureau for German Reparation Claims, which became known as CADSU (Centraal Afwikkelingsbureau voor Duitse Schade-uitkeringen).

CADSU negotiated with the West German government about the interpretation of the law. Forty thousand claims against the German government were presented to CADSU on behalf of those persecuted or their heirs. Also this time the administrative costs of this body of 1.7 million guilders had to be borne by the claimants.<sup>29</sup>

In 1960 the Dutch and West German governments reached agreement about

a financial treaty on a great variety of issues. West Germany committed to paying 125 million DM for those Dutchmen who had been persecuted because of their race, religion, or worldview. Parliament only approved it in 1963. CADSU was now charged with a second major role, the division of these monies.<sup>30</sup> The Dutch government had consulted a representative of the Jewish community about how much money to request, who had said 125 million guilders — the guilder was then worth about 10 percent more than the DM — which included monies for the Jews and members of some other smaller groups that were persecuted by the Germans.<sup>31</sup>

The Dutch government in its negotiations with Germany did not request additional monies above the amount proposed from the Jewish side for other purposes, foremost for the immaterial damage of members of Dutch resistance groups. However, after an agreement was reached on the figure to be paid by Germany, the government decided to allocate 45 percent of the 125 million DM received to resistance members.<sup>32</sup> It was yet another decision of the Dutch government that greatly shortchanged Jewish and non-Jewish people persecuted by Germany.

### **Longstanding Attitudes**

The discriminatory attitudes toward the Jews were not short-lived. In an interview in 1974, the then chief rabbi of Amsterdam, Aron Schuster, a very moderate person — who was a survivor of the Bergen-Belsen concentration camp — indicated that during the first ten years after the war, the Dutch government was quite indifferent to the Jewish community, probably due to the persistence of German racial doctrine. There were strong feelings against Jewish ritual slaughter, and Jews were poorly treated regarding the return of war orphans<sup>33</sup> and financial reparations.

Rabbi Schuster recalled that in 1955 he had complained publicly about this general attitude on the occasion of the ten-year commemoration of the liberation. He gave his speech in the New Church in Amsterdam in the presence of Queen Juliana, Prince Bernhard, representatives of the government and Christian churches. Rabbi Schuster noted that only thanks to the queen's direct intervention did the situation improve to some extent.<sup>34</sup>

In 1956 F.M.A. Schokking was mayor of The Hague. A newspaper reported that during the war, when he was mayor of a small town, he on his own initiative had had three Jews arrested and delivered to the Germans, leading to their deaths. Government ministers and several other prominent Dutch politicians insisted that Schokking did not have to resign.

When he was ultimately forced to do so, Schokking was given another government position after he finally offered his apologies. This incident further illustrates the weak public position of the Jews in postwar Netherlands. The

historian Ido de Haan wrote: “Attempts to silence Jewish survivors were certainly successful in the mid-1950s. When Jews did have the courage to raise their voices, they were forcefully admonished.”<sup>35</sup>

### **How Much Money Was Stolen?**

There are no precise figures on how much money was stolen from the Dutch Jews during the war. The estimates made on behalf of the Van Kemenade Commission concern figures from during the war or shortly after it. A crucial element for translating this into corresponding values of the end of the century is thus what multiplication factor to apply for inflation and interest. Similarly there is no full clarity about how much was returned after the war to the despoiled or their heirs. The Van Kemenade Commission retained the Dutch branch of the international KPMG auditing firm to develop these figures.

In 1999 the Dutch historian Gerard Aalders published *Roof* (Looting), an important book on the wartime looting of Jewish assets. There he assessed the expropriation of Dutch Jewish property during the war, and came to an estimate of at least one billion guilders.<sup>36</sup> The numbers he offers remain the subject of debate.

Aalders gave a lecture at an international symposium organized by the Center for Research on Dutch Jewry in November 1998 in Jerusalem. He was heavily criticized by members of the public for focusing on the question of whether the postwar restitution laws were correctly applied, rather than emphasizing their doubtful moral character.

Aalders also published an article covering the main elements of his lecture in the daily *NRC Handelsblad*, in which he described what had occurred after World War II. In it he drew attention to yet another fundamental aspect of the restitution legislation. He wrote: “For the robbed Jews who had been harder hit than any other group, no extra provisions were made. A public discussion as to whether that was desirable or not has never been held.”<sup>37</sup>

### **Looking Backward**

In light of all this a more balanced view of the behavior of the Dutch during World War II needs to be provided. One could imagine the construction of a “Museum of Dutch War and Postwar Failures” next to the Anne Frank House, to be visited with the same ticket.

One major exhibit could be about Anne Frank’s belief in man’s goodness, in contrast to her later experiences when one or more Dutchmen betrayed her, her family members, and other people hiding with them. She died in the German concentration camp Bergen-Belsen. Other exhibits could show pictures of

individual Dutch collaborators who betrayed Jews and sent them to their deaths in exchange for a small reward. Yet another exhibit could include pictures of the majority of the members of the Dutch Supreme Court who, in the early days of the occupation, did not consider the German-imposed removal of non-Aryans, i.e., Jews, from Dutch official life as contradicting the country's constitution.

Dutch Jews' view of the society they live in is sometimes ambiguous. One example involves Mau Kopuit, then editor of the Dutch Jewish weekly *NIW*. In 1978, in reaction to the publication of the part dealing with the persecution of Jews of *Het Koninkrijk der Nederlanden in de Tweede Wereldoorlog*, the magnum opus of historian Lou de Jong on the Netherlands' war history, Kopuit expressed doubts about the usefulness of describing the cruelties the Jews had suffered: on the one hand, it was impossible for the survivors and their descendants to ever forget; on the other, such descriptions might give other Dutchmen evil ideas.<sup>38</sup>

Former Dutch ambassador to Israel Como van Hellenberg Hubar told a Dutch Jewish magazine that he was aware that many Dutch Jews did not come to Israel out of Zionist motives but because they no longer felt at ease in the Netherlands. He suggested, however, that one should not destroy the myth of the "good Dutchman."

The ambassador was quoted as saying:

The myth of the "good Dutchman" can have a positive effect. A myth can serve as an ideal, an example that one has to live up to. The positive norm contained in this myth is part of the norms and values of the Netherlands. If one attacks the myth, then the danger exists that the norm, in this case tolerance, is also affected. Tolerance in itself is not something obvious, but a result of the conscious choice to give space to others. One has to work on this. In this context, the destruction of the myth could be problematic.<sup>39</sup>

## Deconstructing Dutch Myths

Israeli Holocaust psychologist Shai Schellekes views the same issue differently:

In a way, an ambassador is a public relations person for his country and its people. He gets paid to show their most wonderful side. He has to show that his country is beautiful, thus he does not want the image of his country to be destroyed. From an educational point of view, though, it is much better to tell Dutch children that there is a choice between good and evil, while the collective is neither good nor evil. There were people who felt the need to risk their lives and others did the opposite. The collective myth of the good Dutchmen is only an educational hindrance.<sup>40</sup>

Fishman has also refuted a follow-up myth. He referred to the treatment of the Dutch Jews in the postwar years by the country's democratically chosen

government. The internationally known Dutch political scientist Arend Lijphart wrote that Holland “has no minorities that are disfranchised, deprived of their civil liberties, or subject to systematic discrimination.” Fishman has retorted that Lijphart’s statement could only be true if “the Jews in the Netherlands counted for absolutely nothing, and their history was of no consequence.”<sup>41</sup>

For many decades in the Netherlands attention was given mainly to the fate of Jews during the war. Slowly over the past decades the postwar period has received increasing attention. In the framework of the renewed restitution process, the Stichting Onderzoek Terugkeer en Opvang (Foundation for Research on Return and Reception, SOTO) was established to investigate the return and reception of war victims. In addition, the extensive reports of the commissions of inquiry brought to the general public’s attention many new shocking data about the postwar restitution.

Yet the limited writings available about the Dutch Jews after World War II mean that the picture of the position of postwar Jewry in Dutch society remains to be researched in much more detail.

### **The Postwar Issue Revived**

In postwar Netherlands, considerable attention has been given to documenting the history of the war. After the war an institute known today as NIOD (formerly RIOD), the Netherlands Institute of War Documentation, was established for this purpose and continues to carry out research. In contrast, the attention devoted to the immediate postwar period was very limited.

Over the decades, only a few writers, both Jewish and non-Jewish, have mentioned that many returning Jews were less than welcome in many places in the Netherlands, that Jews had been discriminated against in postwar restitution cases, and that there were postwar expressions of anti-Semitism by both the Dutch government and in Dutch society.

Some change took place during the international restitution debate at the turn of the century. It affected the Netherlands also, where new facts have been discovered that helped bring this issue to the fore. The ensuing investigations put problematic aspects of the postwar period in the limelight.

Gradually the Dutch government realized that major damage could be caused to the country’s image if fragments of negative information on Dutch behavior during and after the war would continuously be exposed in the international media. The excessively positive image of the Dutch during World War II could rapidly turn into a negative one. The Swiss experience showed how a flow of negative news items can repeatedly kindle a publicity storm.

Some books and newspaper articles continued to report additional stories that further eroded the myth of Dutch behavior during the war. In his book *Dienaren van het Gezag* (Servants of Authority), historian Guus Meershoek analyzed the

attitude of the Amsterdam police during the war. Among many examples of blatant misconduct and cooperating with the German occupation forces when rounding up Jews during raids, he mentions how on one occasion Dutch policemen entered a coffeehouse where Jews gathered, searched the people there, took away gold and silver objects that the Jews — according to German orders — should have handed over to LIRO, noted them in the police records as found objects, and then distributed them among themselves.<sup>42</sup>

### Looting Rapidly, Restituting Slowly

One can conclude that what the German occupation government had robbed so quickly, Dutch postwar bureaucracy restored partially and slowly. The remnants of the LIRO property were made available to the dispossessed and, after much struggle, 90 percent of the nominal value was ultimately paid out many years later. If one adjusts this percentage for inflation and takes into account the loss of interest, those with a claim against LIRO lost far more of their possessions than this percentage indicated.

After the war there was much criticism by Jews both of the basic restitution laws and their execution. During the renewed restitution process it has become clear how justified much of this criticism was. One Jewish lawyer in particular, Heiman Sanders, fought almost singlehandedly in court and achieved a great deal. However, the small postwar Jewish community, decimated, traumatized, and poor, was no match for the powerful Dutch bureaucracy.

The conclusions of the commissions of inquiry in the renewed restitution process convey the extent of the Dutch authorities' accommodation and collaboration with the occupying forces. Furthermore, a wide-ranging picture emerges of the many discriminatory actions of the Dutch postwar governments against the Jews. Some of these documents are available in English on the Internet site of the Dutch Finance Ministry.<sup>43</sup> Most of the material, however, exists only in Dutch.

### Notes

1. See Dienke Hondius, *Terugkeer*, rev. ed. (The Hague: Sdu, 1998) [Dutch]; Michal Citroen, *U Wordt Door Niemand Verwacht* (Utrecht: Spectrum, 1999). [Dutch]
2. Ibid.
3. Hondius, *Terugkeer*, 122.
4. Citroen, *U Wordt Door Niemand Verwacht*, 9.
5. Elma Verhey, *Om Het Joodse Kind* (Amsterdam: Nijgh & Van Ditmar, 1991), 216. [Dutch]
6. Hondius, *Terugkeer*, 166.

7. Karen Polak, *Een nieuwe naam — een nieuw bestaan? Joodse naamsveranderingen in Nederland na 1945*, ICODO-Info, najaar 1998. Quoted in Hondius, *Terugkeer*, 166.
8. J. Presser, *Ondergang. De vervolging en verdelging van het Nederlandse Jodendom 1940–1945*, vol. 2 (The Hague: Staatsuitgeverij/ Martinus Nijhoff, 1965), 512. [Dutch] (Published in English as: *Ashes in the Wind: The Destruction of Dutch Jewry*.)
9. *Ibid.*, 515.
10. *Ibid.*, 181.
11. Hondius, *Terugkeer*, ch. 6.
12. Citroen, *U Wordt Door Niemand Verwacht*, 287.
13. *Ibid.*, 181.
14. Bob Moore, *Slachtoffers en overlevenden. De nazi-vervolging van de joden in Nederland* (Amsterdam: Bert Bakker, 1998), 301. [Dutch]
15. The relevant archive has disappeared and has been misappropriated by one of the commission members. See Joel Fishman, *NIW*, 8 July 1994. [Dutch]
16. Verhey, *Om Het Joodse Kind*.
17. RIOD, Doc II-592 A (*Oorlogspleegkinderen*) 12: Proposal of a law with provisions concerning the war orphans (No. E 1/44). As quoted in Chaya Brasz, *Removing the Yellow Badge: The Struggle for a Jewish Community in the Postwar Netherlands, 1944–1955* (Jerusalem: Institute for Research on Dutch Jewry/Ben-Zion Dinur Institute for Research on Jewish History, the Hebrew University of Jerusalem, 1995), 65.
18. Government response to the reports on World War II assets, 21 March 2000.
19. Commissie Scholten, *Tweede Wereldoorlog: Roof en Rechtsherstel. Eindrapport van de Begeleidingscommissie onderzoek financiële tegoeden WO-II in Nederland*, Leiden, 15 December 1999 (hereinafter Scholten Commission, Final Report). [Dutch]
20. Personal communication, Jozeph Michman.
21. *Ibid.*
22. See Manfred Gerstenfeld, “Investigating Much, Paying Little: The Dutch Government and the Holocaust Assets Inquiries,” *Jerusalem Letter/Viewpoints*, 424, 15 February 2000.
23. Presser, *Ondergang*, 512.
24. Scholten Commission, Final Report, 12.
25. Kordes Commission, Final Report, 66.
26. *Ibid.*
27. Kordes Commission, First Report, 5.
28. *Ibid.*, 6.
29. Isaac Lipschits, *Tsedaka — Een halve eeuw joods maatschappelijk werk in Nederland* (Zutphen: Walburg Pers, 1997), 332–334. [Dutch]
30. *Ibid.*, 334; Kordes Commission, First Report, 6–7.
31. Lipschits, *Tsedaka*, 334.
32. *Ibid.*, 335.
33. On this subject, see Joel S. Fishman, “The War Orphan Controversy in The Netherlands: Majority-Minority Relations,” in Jozeph Michman, ed., *Dutch Jewish History: Proceedings of the Symposium on the History of the Jews in the Netherlands*, 28 November–3 December 1982 (Jerusalem: Tel Aviv University/the Hebrew University of Jerusalem/Institute for Research on Dutch Jewry, 1984), 421–432. On the same subject, see Verhey, *Om Het Joodse Kind*.
34. Joel Fishman, interview with Rabbi A. Schuster, 6 May 1974, unpublished personal communication.
35. Ido de Haan, *Na de Ondergang: de herinnering aan de Jodenvervolging in Nederland 1945–1995* (The Hague: Sdu Uitgevers, 1997), 116. [Dutch]



36. Gerard Aalders, *Roof* (The Hague: Sdu, 1999), 252. [Dutch]
37. Gerard Aalders, "Rechtsherstel joden heeft niet gefaald," *NRC-Handelsblad*, 25 January 1998. [Dutch]
38. *NIW*, 24 March 1978, quoted in Connie Kristel, *Geschiedschrijving als Opdracht* (Amsterdam: Meulenhoff, 1998), 282. [Dutch]
39. *Joods Journaal*, Winter 2000, 68–69. [Dutch]
40. Personal communication, Shai Schellekes.
41. Personal communication, Joel Fishman.
42. Guus Meershoek, *Dienaren van het Gezag* (Amsterdam: Van Genneep, 1999), 168. [Dutch]
43. [www.minfin.nl/ttw](http://www.minfin.nl/ttw).

## Chapter Three: International Restitution at the End of the Twentieth Century

Six million Jews were murdered during the Holocaust. Many survivors who returned to their previous hometowns had great difficulty in getting back their stolen possessions or claiming those they had inherited from murdered family members. In many West European countries the restitution process ended in the 1950s, often in an extremely unsatisfactory way for those whose goods had been stolen. In East European countries it only started on a modest scale after the fall of the Iron Curtain in 1989, as will be described in this chapter.

A variety of European governments, corporations, institutions, and individuals benefited from assets looted from Jews during World War II. Although difficult to quantify, it is probable that more Europeans participated in robbing Jews than in killing them. A substantial number of them or their heirs still hold stolen Jewish possessions to the present day.

Over the past decades, Jewish organizations and individuals have been trying to recover nonreturned stolen Holocaust assets. At the end of the last century, efforts to deal with this problem suddenly emerged as an international issue that drew considerable media attention. A number of countries in both Western and — after the fall of the Iron Curtain — Eastern Europe were involved. The issue had many facets, such as the return of public and private buildings, land, looted works of art, bank deposits and contents of safe-deposit boxes, insurance policies, securities, and compensation for slave and forced labor.<sup>1</sup>

### **Eastern Europe**

In Western Europe many Jewish victims of the German dictatorship received some restitution. The situation was much worse in Eastern Europe. The main force trying to advance the restitution issue was the World Jewish Congress (WJC). This international umbrella body of Jewish communities has existed since 1936. Israel Singer, who was its secretary-general from 1985 to 2002, was probably the first person at an international level who — after a long period of neglect — became actively interested in the injustices of the postwar restitution problems. He focused mainly on countries that were then behind the Iron Curtain.

At that time Singer was also representing another body, the Conference on Jewish Material Claims Against Germany (Claims Conference). It had been established in 1951 to negotiate postwar reparations from Germany

and has done so since. Singer pointed out that no American organization was providing social assistance to Jews behind the Iron Curtain. He observed that the Claims Conference could not do so: “Its leaders said that Nahum Goldmann, in his capacity as president of the WJC, had made an arrangement with the American government that no restitution money would be transferred behind the Iron Curtain to ensure that communist governments would not receive foreign currency.”<sup>2</sup>

Singer added:

At the Claims Conference we realized that we had — at the request of the American government — been participants in the injustice done to the Eastern European survivors. The WJC leaders had had no choice. The American government had wholeheartedly supported the Jews in the post-war restitution efforts, but once the cold war began, it insisted that nobody behind the Iron Curtain should be helped. Thus the Eastern European Jews did not receive any assistance.

These Jews were thus “double victims” — a term I coined at the time. The Nazis had persecuted them; thereafter the communists wronged them. A significant number of Jews elsewhere had received restitution after the War. Others got social support from Jewish organizations. For these people, the poorest of them all, nobody did anything.<sup>3</sup>

## **The Fall of the Iron Curtain**

After the fall of the Iron Curtain the WJC made an effort to place the restitution problems on the agenda of the new democratic states. In Singer’s words:

After the fall of communism, the Eastern European countries wanted to be acceptable to the West. They dealt with many problems except one: their obligation to reconstitute the property stolen from millions of Jews. The financial side of our claims was important, yet secondary to the historical one. There were so many scandals attached to the restitution process in these countries that would cause much publicity.<sup>4</sup>

In the Jewish world at large, however, hardly any attention was given to restitution issues during the first half of the 1990s. The WJC, the only body interested in the matter, remained focused on Eastern Europe. Singer observed: “In 1993 Stuart Eizenstat became American ambassador to the European Union and helped us enormously. We presented our case to parliamentarians of the European Union and generated broad support among socialists, conservatives and liberals. They understood that it was a matter of justice for the Jews to get restitution in Eastern Europe.”<sup>5</sup>

It would take a few more years, with Eizenstat’s help, to create greater

awareness that restitution in Eastern Europe was a matter of justice. Singer commented on the breakthrough:

In 1995 we managed to obtain a unanimous resolution from the U.S. Congress supporting restitution in order to help Jewish survivors and to rebuild Jewish life. It is rare to have the simultaneous support of people like majority leader of the Senate, Bob Dole, and House Speaker Newt Gingrich on the right, and House Minority Leader Richard Gephardt of the Democrats. Jesse Helms, chairman of the Senate Committee on Foreign Relations, also supported us.<sup>6</sup>

## Switzerland

Gradually the focus of the restitution issue would move away from Eastern Europe to Switzerland. Various people tried for decades to obtain information from the Swiss banks about possible dormant accounts of family members who had been killed or died in World War II. The banks did not cooperate, basing themselves on the country's policy of banking confidentiality. This was not one of the areas the WJC was originally involved in. In 1994, however, it would discover increasingly scandalous information about the behavior of the Swiss banks. It then decided to focus on that country. In 1995 the WJC began to publicize the restitution issue.

Singer said that changes occurred when the then WJC chairman, Edgar Bronfman, and he went to visit President Bill Clinton and Alfonse D'Amato, the Republican senator of New York on the same day. The relations between the two were extremely tense, yet both were willing to help the WJC. Clinton was approached through his wife Hillary. Singer said she knew her Bible well, including the Book of Esther. Mrs. Clinton remarked about the cooperation between her husband and D'Amato: "It is like Haman and Mordechai working together."<sup>7</sup>

In order to convince D'Amato, Singer took an old woman, Greta Beer, to see him. She told the senator that her father had a bank account in Switzerland and that she had been turned away when she inquired about it in 1946. The bank had demanded the death certificate of Beer's father from Auschwitz. This was an absurd request concerning a person murdered in an extermination camp. D'Amato then related the story on television.

## The Pressure Increases

A further major step was taken when, in 1996, the WJC convinced Alan Hevesi, the comptroller of New York City, to cooperate with them. Singer said:

His office manages many billion dollars of investments. In that year we organized a meeting of 800 state financial officers and comptrollers from

government bodies under his chairmanship. Together they managed a total of thirty trillion dollars of funds. They indicated that if the Swiss banks did not solve the dormant accounts issue, they would no longer do business with them. The Swiss thought that these threats could lead to a major worldwide boycott. Hevesi was inclined to discuss a boycott on behalf of the 800 financial officers against the Swiss banks.<sup>8</sup>

Because of this pressure, in May 1996 the Swiss Bankers Association signed an agreement with the World Jewish Restitution Organization (WJRO) and the WJC. Within the framework of this agreement an International Committee of Eminent Persons was established, headed by Paul Volcker, a former chairman of the U.S. Federal Reserve.<sup>9</sup>

The negotiations that followed between the Swiss banks and the WJC have been described by various writers.<sup>10</sup> Eizenstat summed it up:

The story of the Swiss reparations process is not a story of easy successes or idyllic justice. The Swiss banks were at best insensitive and at worst antagonistic to the Greta Beers of the world. The Swiss government was not cooperative. Only through the diplomatic efforts of the U.S. government, threats of sanctions and boycotts by lawyers and Jewish organizations, class-action lawsuits, and heated negotiations did my colleagues and I help produce results far beyond anyone's expectations.<sup>11</sup>

Sometimes small incidents attract major publicity. In September 1995 Bronfman and Singer had a meeting with the representatives of the Swiss Bankers Association in a private Swiss club in Bern. The atmosphere between the parties was bad from the beginning. The WJC representatives were late due to an unscheduled meeting with the country's president. The Swiss bankers were perceived as uncooperative. Bronfman was annoyed by the contents of the lengthy welcome speech by the president of the Swiss Bankers Association. He was even more irritated that he had to listen to all this without having even been given a chair. The story made the newspapers, and was written up in detail in various publications.<sup>12</sup>

### **Why So Much Attention?**

As publicity increased, long-known facts that governments and institutions had not wanted to acknowledge started raising worldwide interest and evoking strong reactions, even from people not directly concerned with the issue. Wrongful behavior more than fifty years earlier by European governments and corporations against non-American Jews was gradually forced onto the national agenda of the United States and successively other countries, among them the Netherlands.

Why did long-forgotten issues suddenly become a matter of interest for the

international media? Why did it not happen earlier or later? One explanation is that it was related to the end of the conflict between the Soviet Union and its political satellites on the one hand, and the Western world on the other.

A few years later the main import of the end of the Cold War had been psychologically absorbed. The mid-1990s were a relatively quiet period politically. The principal new problems in the world order would emerge more clearly only in the twenty-first century. It almost seemed that the international press was looking for major subjects to write about. At the same time, a window seemed to have been opened on a century that was moving toward its end.

In 1995 it was fifty years since the end of World War II. This landmark date brought with it renewed attention to several long-forgotten subjects. One of these was what had happened to Jewish property.<sup>13</sup>

### **Impact on the Jewish Polity**

Some consider the common memory of the Holocaust and the establishment of the state of Israel to be the prime elements of world Jewish identity in our era. Gradually the issue of looted Holocaust assets became an important part of the picture. Material restitution often went hand in hand with “moral restitution”; governments were acknowledging their predecessors’ failures and frequently acknowledged moral responsibility for their behavior. The moral-restitution issue gradually came to be accepted by governments, usually through public pressure. This has to be stressed since — based on statute-of limitation laws — the validity of judicial claims had expired long ago.

The renewed restitution process also fostered changes in the Jewish polity. The international cooperation of Jewish bodies gave greater strength to the cause. The organizational structure of some Jewish communities was somewhat modified. The need to negotiate collectively forced some Jewish organizations to work together for a specific purpose. Thus several national and international Jewish umbrella organizations were reinforced.

At the same time, the Holocaust-assets controversy accentuated internal conflicts within Jewish communities and international organizations. The subject was highly emotional, and there were radically different opinions among Jews as to what policies to pursue. These attitudes often reflected different Jewish self-images and also the perceived or real personal interests of some of the individual players.

### **The Nature of the Debate**

The debate covered such questions as whether Jews should press for their rights, which often meant confronting their national governments like other interest

groups, or whether they should waive their rights because they feared that raising the issue might harm how they were perceived by non-Jews. This anxiety could be regarded as a mixture of Jewish diaspora mentality and Holocaust trauma.

In some cases the Holocaust-assets controversy caused individual Jews in political and other prominent positions in non-Jewish society to feel that they must come to grips with apparent conflicts of interest in the two spheres of their lives. Many of these issues will come to the fore later in this volume when the Dutch restitution process is analyzed.

From a political viewpoint, the controversy also led to a change in the external relations of various Jewish bodies with parts of European society. This influenced the situation of Jews throughout the continent. The battle over Holocaust assets continues to concern several East European countries, in some of which anti-Semitism is endemic even though few Jews live there anymore. These countries have confronted their past even less than those in Western Europe.

Israeli historian Efraim Zuroff summarized the situation:

Although the study of the Holocaust and its historical lessons has traditionally been regarded in the Western world as one of the most effective means of combating anti-Semitism, racism, and xenophobia, in post-Communist Central and Eastern Europe, Holocaust-related issues have been a major cause of anti-Semitic incidents and growing animus toward Jews. In these societies, which are being forced for the first time to confront the complicity of their own nationals in the crimes of the Holocaust, practical issues such as the acknowledgment of the crimes, commemoration of the victims, prosecution of the perpetrators, and documentation of the events are proving to be a major source of tension and conflict between Jews and non-Jews.<sup>14</sup>

### **Who Speaks for the Jews?**

There are many facets to the public debate and the negotiations of Jewish organizations with their public and private counterparts in Europe. One important question is: who is entitled to speak for the Jews and represent them in negotiations? Survivors who have emigrated to Israel, for example, rightly claim that the remaining Jewish community in their country of origin must take their interests and opinions into account as well.

The Polish situation is an extreme case. An estimated one million Jews of Polish origin live abroad — mainly in Israel and the United States — while only thousands have remained in the country. Another example among many is the Czech Republic, where the number of Jews of Czech origin abroad is at least ten times the number of those living in the country itself.

The governments concerned often prefer to deal with weak local communities than with international Jewish organizations such as the WJC and the WJRO. Sometimes, however, it was so difficult for small communities to confront their government on restitution issues that they preferred to leave the task mainly to the international Jewish organizations.

Jews from many countries were involved in the claims against Swiss banks. This gave a certain validity to the claim that their representatives should be international Jewish bodies. What, however, should the role of international Jewish organizations have been with regard to claims in a national context in Norway, France, or the Netherlands? Local Jewish organizations often asked whom these international Jewish bodies represent. The international Jewish organizations claimed that Jews were persecuted because of their ethnicity and not because of the passport they held, adding that local communities were often too weak to defend their claim.

Other major issues of both a financial and a political nature were the size of the restitution payments and who was entitled to them. Indeed, to whom did the money value of possessions of the murdered Jews now belong? Should the organized Jewish communities mainly benefit from them even if many Jews were not their members? Who should oversee the distribution of the money returned? There were several possible interested parties: the local Jewish community, the survivors living in that community, those who had emigrated, and the children of survivors who had meanwhile passed away.

### **Maintaining the Memory**

The international Jewish organizations are usually of the opinion that part of the funds should be allocated to maintaining the memory of those who were murdered in the Holocaust, and to the education of younger generations to ensure that there will be no recurrence of similar events.

An important question, with political overtones, is: with whom should Jewish organizations create alliances on these matters? This was particularly relevant in the negotiations with Germany on the issue of slave and forced labor, but was applicable to several other situations as well. One unexpected scenario was that some American state insurance commissioners, supported by Jewish allies, exerted pressure on European insurance companies, threatening to punish their American subsidiaries if they did not deal appropriately with restitution matters.

Another major example of an alliance created was the committee of American state and city funds, headed by then New York City comptroller Hevesi. The committee exerted pressure, among other things, in the controversy with the Swiss banks, and later with regard to the Dutch banks and the Amsterdam Stock Exchange.



### **A Stronger Material Base**

An additional financial aspect of the claims settlement is that, despite dwindling numbers, several Jewish organizations in Europe now have a stronger material base thanks to it. This enables them to provide better religious, educational, and cultural services to their members. This may differ from community to community. In some small East European communities such as Croatia, the number of Jews identifying as such was growing because local Jewish community organizations were involved in the distribution of the funds.

Those negotiating on behalf of the Jewish people are also sometimes psychologically affected. The continuing exposure of material documenting the betrayal of the Jews by so many Europeans who were not Nazi-sympathizers and were sometimes even their opponents, is indeed depressing. The book cover of *Pack of Thieves* by the American author Richard Z. Chesnoff summarizes this well in its subtitle: “*How Hitler and Europe Plundered the Jews and Committed the Greatest Theft in History.*”<sup>15</sup>

### **Moral and Educational Issues**

One moral obligation of great importance for the Jewish organizations dealing with Holocaust-assets claims was to refrain from creating false hopes among survivors. Another concerned the moral responsibility of various states for the fate of their Jewish citizens at the time of the German occupation. It took decades until the French government finally admitted that France is responsible for war crimes committed against Jews by the French Vichy authorities.

In Austria, in the decades before the Anschluss, anti-Semitism permeated many aspects of social life, including all political parties.<sup>16</sup> Some aspects of this continued for decades after the war. The country’s coalition government that was formed at the beginning of 2000 included the extreme right-wing Freedom Party headed by Jörg Haider, which prompted strong international criticism.

By contrast, Alfred Gusenbauer, the leader of the Social Democrat Party — who would later become the country’s chancellor — acknowledged in April 2000 that, after the war, his party had been too lenient in bringing to court former members of the Nazi Party. He also apologized to Simon Wiesenthal for false accusations made against him in the past by leading figures of his party.<sup>17</sup>

Over the past decade Austrian leaders such as Prime Ministers Franz Vranitzky and Victor Klima as well as Presidents Thomas Klestil and Heinz Fischer gradually admitted the truth. Fischer even said in an interview that his country’s 1955 Declaration of Independence falsely represented Austria as a victim of the Nazis rather than as a perpetrator of crimes.<sup>18</sup>

### **Avoiding the Falsification of History**

Sweden started, rather suddenly at the end of the 1990s, to play an important role in education about the Holocaust. Although a neutral country during the war, its wartime past is problematic as it was a sizable trading partner of Nazi Germany.<sup>19</sup> Göran Persson, a Social Democrat and then Swedish prime minister, took the initiative to introduce systematic Holocaust education in the country's schools, and also organized a world conference on the subject in Stockholm in January 2000.

At the same time, there is substantial anti-Semitism at the highest level of his party. For instance, Sweden's most important Social Democrat since World War II, the late former prime minister Olof Palme, was a Holocaust inverter who compared Israel's acts to those of the Nazis.

European nations have often written their wartime history in a very one-sided manner. The emergence of the restitution issue begged a thorough revision of these stories.<sup>20</sup> In the writing of wartime and postwar history, several countries occupied by the Nazis have tended to overemphasize the importance of their resistance movements, often ignoring the role of Jews in them, and minimizing any accommodation or collaboration with the Nazis. Much historical research also remains to be done on how several democracies and the Vatican helped important Nazis escape punishment after the war.<sup>21</sup>

The renewed restitution process also shed light on the substantial wartime collaboration with the German occupiers in several European countries. It also exposed how — even after the restoration of democracy in the postwar period — these countries often discriminated against their surviving Jews. One aspect of this was that it revealed the continuing influence of Nazi or anti-Semitic ideas about Jews in Western society.

Investigations in recent years have brought to light the many additional cases of postwar discrimination against Jewish citizens, including in such countries as Norway and the Netherlands, which often view themselves as model nations ruled by law. Indeed, the Holocaust restitution process has become a detailed, documented indictment of the behavior of democratic European governments and societies in the postwar decades.

### **Norway**

The first West European country where the renewed issue of restitution of Jewish property came to the fore was Norway. Information on the major failures of the postwar restitution process in Norway was revealed by the journalist Bjørn Westlie, who wrote an article on the topic in 1995, marking fifty years since the end of World War II. He pointed out that, after the war, the Norwegian government had done major injustice to the small Jewish community in the restitution process.<sup>22</sup>

After these revelations the Norwegian authorities promised an investigation but did not do anything. Some of those involved set out to sabotage the process. Finally a commission was appointed under the chairmanship of Oluf Skarpnes. Two representatives of the Jewish community, Berit Reisel and Bjarte Bruland, were appointed to the commission. The latter was a young non-Jewish historian who had published a thesis on the issue of restitution.

These two representatives encountered great difficulties when serving on the commission. They then decided that they would present a minority report.<sup>23</sup> Reisel relates that Skarpnes threatened her when she was unwilling to align herself with the majority. Later she was physically attacked on the street and her phone was tapped. Her impression is that all these events were related. When it became known that there would be a minority report, which was unprecedented in Norway, the media devoted much attention to it. The government eventually accepted the minority report instead of that of the committee's majority. Thereafter the Norwegian parliament agreed with this decision.<sup>24</sup>

### **Why This Sudden Interest?**

Avi Beker, who was involved in many restitution negotiations on behalf of the WJC, summarized the sudden interest in the subject:

In the course of 1995–7 Western media were flooded with information on stolen Jewish property which had not been returned. The phenomenon itself was amazing: material on the confiscation of property, bank deposits and gold transactions, which would usually be suitable for historical journals, found its way onto the front pages of national newspapers, capturing international media interest with extraordinary intensity. It was as if the facts had been revealed for the first time, and material which in the past had been the basis of Hollywood action movies, suddenly appeared to be the historic reality.<sup>25</sup>

Eizenstat said he did not think the successes would have been possible under any other administration:

Clinton formalized his support for the WJC's positions in a letter he sent to Bronfman on 2 May 1996. In that letter he said that he viewed the return of Jewish assets both as a question of justice and a moral matter. He also expressed his ongoing support for the fight to return the Jewish assets in Swiss banks.

This political support was enhanced by the energies of the Holocaust survivor community, which had become a political force. Bronfman and his top aide, Israel Singer, were also leaders of the Claims Conference, through which Germany funneled its Holocaust payments. Survivors like Ben Meed and Roman Kent founded the American Gathering of Holocaust Survivors

in the early 1980s. The survivors were coming to the end of their lives and wanted to tell their stories, to come to terms with the past, and finally, to obtain justice.

This played in the broader political framework of the end of the Cold War when more people started reflecting on the unfinished business of World War II. There were many opportunities for doing that, among them the 50<sup>th</sup> anniversary celebrations of D-Day, the Battle of the Bulge, and the end of World War II. These led to retrospectives by journalists. Peter Gumbel, for example, wrote an article in the *Wall Street Journal* about ownerless bank accounts. To an outside observer it may seem that all these things came together under a unique constellation of stars to make the restitution possible.<sup>26</sup>

## Notes

1. An overview of the prewar economic position of the Jewish population in Nazi-occupied countries is given in Paul A. Volcker, "Report on Dormant Accounts of Victims of Nazi Persecution in Swiss Banks," Independent Association of Eminent Persons, December 1999.
2. Manfred Gerstenfeld, interview with Israel Singer, "Restitution: The Second Round," *Post-Holocaust and Anti-Semitism*, 14, 2 November 2003.
3. Ibid.
4. Ibid.
5. Ibid.
6. Ibid.
7. Ibid.
8. Ibid.
9. Avi Beker, ed., *The Plunder of Jewish Property during the Holocaust: Confronting European History* (Houndmills: Palgrave, 2001), 15.
10. Ibid.; Stuart E. Eizenstat, *Imperfect Justice: Looted Assets, Slave Labor, and the Unfinished Business of World War II* (New York: PublicAffairs, 2003), 51; John Authers and Richard Wolffe, *The Victim's Fortune* (New York: HarperCollins, 2002).
11. Eizenstat, *Imperfect Justice*, 51.
12. Authers and Wolffe, *Victim's Fortune*, 5–10.
13. Beker, *Plunder*, 10.
14. Efraim Zuroff, "Eastern Europe: Anti-Semitism in the Wake of Holocaust-Related Issues," *Jewish Political Studies Review* 17:1–2 (Spring 2005): 63.
15. Richard Z. Chesnoff, *Pack of Thieves: How Hitler and Europe Plundered the Jews and Committed the Greatest Theft in History* (New York: Random House, 1999).
16. Bruce F. Pauley, *From Prejudice to Persecution: A History of Austrian Anti-Semitism* (Chapel Hill: University of North Carolina Press, 1992).
17. *Jerusalem Post*, 7 April 2000.
18. See Manfred Gerstenfeld, *The Abuse of Holocaust Memory: Distortions and Responses* (Jerusalem: Jerusalem Center for Public Affairs/Anti-Defamation League, 2009), 136–137.
19. See, e.g., Gerard Aalders and Cees Wiebes, *Zaken Doen tot Elke Prijs* (Amsterdam: SDU, 1990). [Dutch]

20. For surveys on Holocaust denial, see Deborah E. Lipstadt, *Denying the Holocaust: The Growing Assault on Truth and Memory* (New York: Free Press, 1993); Michael Shermer and Alex Grobman, *Denying History: Who Says the Holocaust Never Happened and Why Do They Say It?* (Berkeley and Los Angeles: University of California Press, 2000), 276–277; Gerstenfeld, *Abuse of Holocaust Memory*, ch. 3, 47–59.
21. Mark Aarons and John Loftus, *Unholy Trinity: The Vatican, the Nazis, and the Swiss Banks* (New York: St. Martin's Griffin, 1998).
22. Manfred Gerstenfeld, *Behind the Humanitarian Mask: The Nordic Countries, Israel and the Jews* (Jerusalem: Jerusalem Center for Public Affairs, 2008), 54.
23. See Berit Reisel and Bjarte Bruland, "Report on the Confiscation of Jewish Property in Norway during World War II," part of *Official Norwegian Report 1997*, 22 June 1997.
24. Gerstenfeld, *Behind the Humanitarian Mask*, 55–57.
25. Beker, *Plunder*, 10.
26. Manfred Gerstenfeld, interview with Stuart Eizenstat, "Restitution Issues and the Activism of American Jews," *Post-Holocaust and Anti-Semitism*, 18, 1 March 2004.

## Chapter Four: Toward the Second Round of Dutch Restitution

The postwar Dutch restitution process ended mainly in the 1950s even though some parts went on into the 1970s. There was also significant restitution from West Germany. An important one was the payments for looted furniture transported to Germany during the war. These payments were made through a new Dutch government organization, CADSU.<sup>1</sup> Restitution issues were largely forgotten until they came to the fore again in the mid-1990s.

The social and economic conditions of war victims did, however, receive attention in intermediate decades. In 1972 the Dutch parliament passed the Victims of Persecution (1940–1945) Benefits Act (Wet Uitkeringen Vervolgingslachtoffers 1940–1945, WUV). This law would help alleviate the financial problems of many war victims.

The WUV law became effective on January 1973. It dealt with financial support for people who had been persecuted because of their race, religion, or worldview, as well as their descendants, by the German occupiers during the occupation of the Netherlands and the Japanese occupiers in the former Dutch East Indies.<sup>2</sup> The law was based on the solidarity of the Dutch population with those who had been persecuted. This issue of social assistance should not, however, be confused with that of restitution.

### **The Commission on Sleeping Jewish Funds**

Nothing significant happened on restitution issues for a long time. In 1986 the JMW took the initiative to create a commission to research the fate of Jewish foundations that had disappeared during World War II. This commission was called SLAJOFO (an abbreviation for Sleeping Jewish Funds).<sup>3</sup> Its chairman Jaap Soesan says it was established after a publication was found about Jewish foundations after the war. Some of them had been revived while others remained dormant.<sup>4</sup>

Soesan says that initially this was the sole document the commission had at its disposal. Later he met the archivist Odette Vlessing at the Amsterdam municipal archive. She found a document sent by the Jewish Council to the German occupiers in 1942. It listed 124 Jewish organizations and foundations as well as the members of their boards at the time. There were also data on how much money these foundations had and the banks where it was deposited.

A few years after the war, another commission, COCOJOFO (Commissie

tot Coördinatie van Joodse Fondsen), had existed with the same aim. Its work had borne no results.<sup>5</sup> Its archives and documents had been transferred to the municipal archives.

## **New Research**

Soesan mentions that, at the beginning of the 1990s, a book appeared called *Business at Any Price*,<sup>6</sup> authored by Gerard Aalders and Cees Wiebes. This book dealt mainly with the Swedish Wallenberg Group, controlled by a powerful family of bankers and industrialists. The authors related that during the war, the Wallenbergs had acquired from intermediaries securities that had been looted from Dutch Jews.

Aalders, who was then a university lecturer, was asked to investigate the issue of the dormant Jewish foundations. Initially part of his work was paid for by the JMW. It stopped these payments, however, after a short time. The SLAJOFO commission then stopped functioning because the JMW had withdrawn its participation.

A new, privately financed foundation was created to deal with the issues of Jewish possessions looted during the period 1940–1945. This enabled Aalders to carry out additional research for a few months. Shortly thereafter he was hired by the RIOD (later called NIOD), where he continued this research.<sup>7</sup>

Soesan also mentions that someone gave him a copy of an Official Gazette, which mentioned that the state held money in its Consignment Office of the Finance Ministry. Part of this obviously came from the accounts of murdered Jews. In view of this the then finance minister Onno Ruding offered in 1985 the Jewish community two million guilders — which did not include any interest — which was accepted by its representatives.<sup>8</sup>

Soesan was a private businessman, and an outsider in the circuit of the official Dutch Jewish bodies. He held no position there, nor was he a scholar. Though Soesan would persevere and acquire substantial knowledge, his actions were not at the source of the revival of the restitution issue toward the second half of the 1990s. Roet says: “Soesan had a good intuition and has shown to be a great fighter. His greatest merit was that he involved Aalders in the research.”<sup>9</sup>

## **Appointing the Van Kemenade Commission**

Developments outside the Netherlands would precede the revival of the Dutch Holocaust-assets restitution issue. As mentioned, major international media publicity had developed about Jewish money from the Holocaust period possibly held in dormant Swiss bank accounts and the way these banks had prevented clarification of this issue.

At that time the Dutch government thought there might be Dutch Jews who had money in dormant foreign accounts. It appointed on 10 March 1997 a commission of prominent Dutchmen headed by former minister Jos A. van Kemenade in order to monitor this matter. Its official name was Second World War Assets Contact Group.<sup>10</sup>

The membership of this commission consisted of relative heavyweights in view of what initially was a rather limited assignment. This seems to indicate that the Dutch government had understood from the Swiss experience that it was better to appear proactive on the Holocaust-assets issue. By appointing senior Dutch personalities, including several prominent Jews, to the Van Kemenade Commission the government made it likely that the commission's findings would have wide public credibility. Later additional commissions of inquiry would be established.

### **The World Jewish Congress**

The Netherlands could have been confronted with the renewed restitution issue much earlier. In November 1996 the WJC had organized a conference in Oslo about the Holocaust-assets restitution problems and how to deal with them. Singer later said: "There were so many perpetrators and collaborators in so many different countries, we couldn't tackle them all at once."<sup>11</sup> He added that the WJC chose to start by confronting Norway.

Singer remarked: "We could also have fixed the Netherlands as our first target. We wanted, however, to start with a nation where we were reasonably sure we would win. We thus chose Norway, not for moral or justice reasons, but strategic ones. It was a guilty country with a small number of Jews."<sup>12</sup> This decision led to a situation where the Netherlands would become involved in this matter only later.

Joop Sanders, who would become the secretary of the CJO at its foundation, gives a very different version. He says he was one of the 150 Jewish representatives who had participated in the Oslo conference. There the leaders of the WJC and the WJRO had set out their plans. Sanders says that at the conference he gave a short, rather superficial report on the Netherlands. He remarks that the WJC could not have started with the Netherlands because the information was minimal.<sup>13</sup>

### **Part of the LIRO Archives Found**

The reemergence of the restitution issue on the Dutch public agenda was further catalyzed by internal developments.<sup>14</sup> A very important one was the accidental discovery, at the end of 1997, of over three thousand cards from the LIRO archive in the attic of an Amsterdam building that had been abandoned by an agency of



the Finance Ministry. The Dutch authorities had destroyed the other cards at the end of the 1970s.

The ones newly found contained details about what had been stolen from individual Jews. It would later also be revealed that, in 1968, Dutch government employees in charge of the restitution of looted Jewish property raffled off among themselves some remaining minor assets at low prices.<sup>15</sup>

The LIRO cards had been discovered by students who were living in the building in order to prevent its being taken over by squatters. On the top floor there were a number of cabinets with archives, some of which were not locked. Part of the LIRO archives were found in one of those open cupboards. Anyone who came into the house could have looked at them if he wished.

### Contacting Journalists

The students contacted Joeri Boom and Sander Pleij, two journalists of the weekly *De Groene Amsterdammer*. To get an expert opinion, these approached the late Isaac Lipschits, then a retired professor of contemporary history at Groningen University. They quoted Lipschits's reaction:

I shivered when I saw these cards. We knew that they had existed and had searched for them in vain. I asked the Finance Ministry several times whether the LIRO administration still existed and, if so, where it was. I was told that there was nothing left. They told me that the archive had probably been destroyed. This material was extremely important for research into the possessions of the Jewish victims of persecution. The government can now no longer juggle it away.<sup>16</sup>

Boom and Pleij wrote that the archive had been found in a building on one of Amsterdam's canals — the Herengracht in Amsterdam. Until 1979, an agency of the Finance Ministry had occupied this building. The LIRO archives had been transferred to it in about 1961.

More than thirteen years after the find Boom recalls:

In 1997 I had just become a reporter at the *Groene Amsterdammer* after an internship there. The phone rang and I picked it up. The person on the line described a card he had found and told me what was written on it. I understood immediately what he was talking about.

I had been trained as a historian. By chance we had in a seminar given attention to the Lippmann Rosenthal Bank in the Sarphatistraat. When I was taught about it, I was surprised that the looting of the Jews took place in such an organized way, in fact with Dutch permission.

The telephone conversation gave me a feeling of: "We have to investigate this." And also of "I am going to pick up these cards now, come whatever

may. Even if I have to enter the building under false pretenses.” I wasn’t totally sure but thought: “Journalistically, this is important. It is a historical sensation. It concerns a concealed episode in Dutch history.”

I told the person who opened the door of the building on the Herengracht what I came for. He replied, “Just come in. It lies there and there.” Thus I found the LIRO cards. I had something in my hands which revealed a year from during the war on it. It mentioned the name of a Jewish fellow-citizen and his last small possessions, for instance, a fountain pen or gold earrings. One then knows that one has a tangible part of the past in one’s hand. It concerns people who have been murdered in the most brutal way. Dutchmen have done nothing against it. I found it very shocking. It comes close to you because it belongs to a person about whom one can start searching whether he has survived the war.

I thereafter asked my colleague, Sander Pleij, whether he was willing to help me. At that time we wrote many articles together. Also in this case we did as much as possible jointly. I suspected that something was very wrong. It couldn’t be that one could find these cards in a place where such sensitive material didn’t belong. I called the Finance Ministry and was immediately put through to the ministry’s spokesman. He started to explain very nicely that we should return these cards. Thereafter he threatened that we could expect a police raid to collect them. I then thought: “There is something very important wrong here.”

A journalist often needs, for a subject he is researching, a person who knows much more about it than he does. Such an expert can explain not only to us but also to readers the background of what has happened. Thus we contacted Prof. Isaac Lipschits.<sup>17</sup>

Pleij recalls:

When we found the LIRO cards, Joeri Boom and I were totally flabbergasted. We were young reporters and suddenly confronted with a part of history. It became a big story. Even Japanese tourists were filming the building at the Herengracht where the cards had been found. That for us, of course, was not relevant.

When the finding of the LIRO cards was published, Jewish and non-Jewish subscribers called us to tell us that their mother had suddenly started to talk about the war, or how their parents and grandparents had reacted to this news. Other friends called us to hear whether the names of their families were on the cards. Thanks to an older Jewish journalist who advised me as a friend, I understood how large the impact was on people whose parents had been murdered. We talked about it with some Jewish friends. The only outsider we trusted was Prof. Lipschits, whom we did not know before.

All this made us focus strongly on this project. We didn’t sleep for two

nights and copied the cards. We thought the police could come at any moment as the Finance Ministry had said that they wanted the cards back.<sup>18</sup>

A few months before the archives were discovered most of the remaining material had been moved out of the building by the agency. Some parts of it, including the LIRO archives, were forgotten. Leo Verwoerd, the director of the agency, reacted after the discovery: “The archives we manage are huge, one could imagine something like this would happen. I am not saying this in order to justify it. It is tragic that this happened, not only historically speaking but also because there is a social component. Nobody among our personnel knew about these cards.”<sup>19</sup> A spokesman for Finance Minister Zalm stated that “this should never have happened. We should have been much more careful.”<sup>20</sup>

After the much publicized discovery of the LIRO archives, the Dutch interest in Holocaust assets shifted away from the possible holdings of Dutch citizens in Swiss dormant accounts. The issue now focused far more on how the Netherlands behaved after the war toward the remnants of the despoiled Jewish community. One small but much publicized aspect of this, the auction in 1968 among agency employees of some remaining Jewish belongings, would be investigated as a priority by the Kordes Commission.

The LIRO archives story thus added a new dimension to the restitution debate in the Netherlands. It was now clear that the Dutch government had failed on an issue that had suddenly become a matter of public interest. Such documents belong in archives and should not be found in an abandoned attic.

Sanders says that the Swiss dormant accounts did not initially get much attention in the Netherlands. This changed after the first two lists were published in July and October 1997. “They only contained nine Dutch names, most of which were non-Jews. The best-known one was the war criminal Pieter Menten.”<sup>21</sup>

## **Who Represents the Dutch Jewish Community?**

The Centraal Joods Overleg (CJO), the Dutch Jewish community’s umbrella organization for external affairs, asked the government whether the Van Kemenade Commission could also investigate the Dutch postwar restitution.

The CJO was a new organization. It had been created in 1997 so that the Jewish community could speak to the government with one voice rather than having individual organizations approach it. Such representative umbrella organizations had already existed for many years in several other Jewish communities including France, the United Kingdom, and Germany, the three major Jewish communities in Europe.

When the CJO was established a major motive was to speak with one voice to the government about matters concerning Israel. Another consideration was that the membership of the religious Jewish organizations as a percentage of

all Jews in the Netherlands had decreased substantially. By adding a number of other bodies one could claim to speak for the non-religiously identified sector as well.<sup>22</sup>

### **The CJO Confronted with the Restitution Issue**

With the reemergence of the Holocaust-assets issue, the Jewish community and thus the CJO suddenly found themselves confronted with a subject of a magnitude for which they were unprepared. The organization lacked not only the organizational infrastructure but also the business skills, the historical understanding, and the financial means for such an undertaking.

Most of the CJO's board members were volunteer leaders with professional careers outside their work for the Jewish community. Whereas lay leaders in the United States are often wealthy individuals, the CJO board was composed mainly of people who, besides their day-to-day work, also headed a CJO member organization that consumed part of their time.

The CJO is a heterogeneous body. Its members are the Ashkenazi, Progressive, and Portuguese religious communities, the JMW, the FNZ (the Federation of Dutch Zionists), as well as CIDI (the Center for Information and Documentation on Israel), members of which also include non-Jews.

Membership in Jewish organizations in the Netherlands has declined substantially in recent decades. Furthermore, many potential leaders of the community left the country in the years after the war. The organizations grouped in the CJO have only about eight thousand members, with very diverse opinions. The highest estimate of Jews in the Netherlands today is over fifty thousand, which includes up to nine thousand Israelis and a much smaller number of Russian and other immigrants.<sup>23</sup>

### **The CJO Represents the Dutch Jewish Community**

Despite the fact that the CJO represented only a minority of Dutch Jewry, those who were members of Jewish organizations, the Dutch government, banks, insurance companies, and the stock exchange considered it their counterpart in negotiations on Holocaust assets. Later SPI, the new umbrella body of Dutch Jewish organizations in Israel, would become an observer in the CJO negotiating delegation.

In November 1999, after the CJO reached a settlement with the Dutch Association of Insurers for wartime insurance policies belonging to Jewish Nazi victims, both parties were taken to court by a Dutch organization and a California-based organization representing Jewish war victims.<sup>24</sup> The Dutch court rejected their claim, saying that the CJO represented the Dutch Jewish community and

was the most suitable body to sign such an agreement.<sup>25</sup> In summer 1999 a special advisory council to the CJO was established; various organizations representing survivors participated in it.<sup>26</sup> Representatives of the council participated in a variety of meetings.<sup>27</sup> The advisory college was also one of the signatories to the Jewish organizations' agreement with the banks and the stock exchange.<sup>28</sup>

Zalm remarks:

From the beginning the Dutch government had a rather neutral position about who should be our Jewish partners in the discussions. The CJO was by far the largest organized representation of the Jewish community in the Netherlands. There were some people who criticized the negotiations, but they didn't belong to any organization. I later found out that the agreement with the CJO had very broad support within the Jewish community.<sup>29</sup>

The CJO's main task would be for several years to deal with the issues of wartime looting and postwar reparations. Sanders observes that the renewed Holocaust-assets restitution process gave the CJO a role and importance far beyond what its founders had imagined.<sup>30</sup> Markens puts it succinctly: "I suddenly became part of a process that I had never experienced and that was unique."<sup>31</sup>

Markens remarks that, on behalf of the CJO, a delegation went to meet Minister Zalm at the Finance Ministry in December 1997. On that occasion Zalm apologized for the ministry's negligence in dealing with the LIRO cards. He found what had happened extremely unpleasant. Zalm later would provide half a million guilders from the Finance Ministry for a helpdesk where people could inquire about assets they had lost.

## **The Helpdesk**

Sanders says:

In March 1998 the helpdesk, Stichting Centraal Meldpunt Joodse oorlogsclaims (Foundation for the Central Registration of Jewish War Claims), started its activities. It was related in a certain way to the great publicity about the dormant accounts in the Swiss banks and the stolen gold. For many people in the Dutch Jewish community this had evoked feelings that they had been treated unfairly by the Dutch authorities after the war. This led to many questions about the possibilities to present claims from that period in order to correct the injustice.

In the meantime many questions from the community were directed to bodies such as the JMW, CIDI, and the religious organizations. Others wrote to the ministries and to the commissions of inquiry. It was often difficult to provide answers. In particular the issue of where to direct one's claims was problematic because often there were so few data. Thus the CJO wanted to have a central helpdesk where people could address their claims and obtain

information. The awareness of this need was there already in August 1997 but after the LIRO affair the number of inquiries increased greatly.

Later also in Israel an annex of the helpdesk was established. Well over a thousand claims were submitted. The government was interested to finance these helpdesk activities because this enabled it to get a much better picture of the restitution problems. Furthermore, the authorities did not know what they should do with the letters they received from a large number of individuals.

In total almost ten thousand requests for information or claims were addressed to the helpdesk. Half of these contained no relevant information at all. Only 7 percent contained data that were fit to be investigated. Thirty-three percent of the requests concerned insurances, 22 percent banks, and 21 percent household effects. As far as the latter is concerned, the JMW investigated whether payments for the household effects had been made from the JOKOS foundation. It turned out that this had almost always been the case.<sup>32</sup>

## Studies

As usual in such situations, studies were undertaken. The Van Kemenade Commission embarked on the overall project. Later Frans Kordes and Rudi Ekkart would head commissions dealing with, respectively, Jewish claims of LIRO and related bodies and origins of looted art. At the same time there was a commission of inquiry on the assets of Dutchmen in the Dutch East Indies/Indonesia from 1940 to 1958. It was headed by A. G. van Galen.

On 17 June 1997 the Official Gazette published a letter from Minister Zalm in which he agreed to the enlargement of the Second World War Assets Contact Group.<sup>33</sup> In this framework a study into the restitution of financial balances would be undertaken on behalf of the Dutch banks and insurers from World War II. The letter also said an independent commission would be established, made up of people who enjoyed the confidence of the Netherlands Bankers' Association (NVB) and the Dutch Association of Insurers (VVV), as well as the Dutch Central Bank (DNB). This was the Scholten Commission.

As a side effect of the creation of these commissions, the matters under study largely disappeared from the public eye for a prolonged period. The new facts discovered by the researchers would only be released in the reports, published much later.

## Notes

1. See Isaac Lipschits, *Tsedaka - Een halve eeuw joods maatschappelijk werk in Nederland* (Zutphen: Walburg Pers, 1997), 334. [Dutch]
2. *Ibid.*, 229.

3. Commissie Slapende Joodse Fondsen.
4. Personal communication, Jaap Soesan.
5. See Lipschits, *Tsedaka*, 343–344.
6. Gerard Aalders and Cees Wiebes, *Zaken Doen tot Elke Prijs* (Amsterdam: SDU, 1990). [Dutch]
7. Personal communication, Jaap Soesan.
8. Scholten Commission, Final Report, 604–605.
9. Personal communication, Avraham Roet.
10. Van Kemenade Commission Report, 6.
11. Manfred Gerstenfeld, interview with Israel Singer, “Restitution: The Second Round,” *Post-Holocaust and Anti-Semitism*, 14, 2 November 2003.
12. Ibid.
13. Personal communication, Joop Sanders.
14. Manfred Gerstenfeld, “Wartime and Postwar Dutch Attitudes toward the Jews: Myth and Truth,” *Jerusalem Letter/Viewpoints*, 412, 15 August 1999.
15. See Kordes Commission, First Report, 9.
16. Joeri Boom and Sander Pleij, “Het archief dat zoek was,” *De Groene Amsterdammer*, 3 December 1997. [Dutch]
17. Personal communication, Joeri Boom.
18. Personal communication, Sander Pleij.
19. Boom and Pleij, “Het archief.”
20. Ibid.
21. Personal communication, Joop Sanders.
22. Ibid.
23. See Hanna van Solinge and Carlo van Praag, *De Joden in Nederland anno 2009* (Diemen: AMB, 2010). [Dutch]
24. Respectively, Verbond Belangenbehartiging Vervolgingslachtoffers and Comite Ex-Nederlandse Vervolgden uit de Bezettingstijd at Sherman Oaks, California.
25. Press release, “Rechter stelt Centraal Joods Overleg en Verbond van Verzekeraars in het gelijk inzake de overeenkomst oorlogspolissen,” CIDI, 11 November 1999. [Dutch]
26. The members of this Adviescollege Restitutie & Verdeling are: Het Nederlands Auschwitz Comite, Comite Ex-Nederlandse Vervolgden uit de Bezettingstijd in Californie, Verbond Belangenbehartiging Vervolgingslachtoffers (VBV), het Ondergedoken Kind (HOK), Joodse OorlogsKinderen (JOK), Pressiegroep Afwikkeling Joodse Oorlogsclaims (PAJO), Joodse Naoorlogse Generatie (JONAG), and Stichting Wetenschappelijk Onderzoek Onteigend Joods Bezit (SWOOJB).
27. One example: when the CJO meets representatives of the NVB on 16 March 2000, M. Gelber is present on behalf of the advisory council.
28. See chapter thirteen.
29. See the interview with Gerrit Zalm in this volume.
30. Personal communication, Joop Sanders.
31. Personal communication, Henri Markens.
32. Personal communication, Joop Sanders.
33. Brief minister van Financien aan de voorzitter van de Tweede Kamer der Staten-Generaal nr. BGW 97/1491-M, 13 juni 1997 (Kamerstuk 25 806 nummer 3), Scholten Commission, First Report, 6.

## Chapter Five: The Kordes Commission Reports

After the LIRO cards were found in December 1997, the finance minister appointed an additional commission of investigation. Its chairman, Frans Kordes, was a former head of the State Comptroller's office. The other members of the commission were H. Addens and J. M. Polak.

The Kordes Commission dealt mainly with the claims resulting from the despoliation of the Jews in the Netherlands through the instrument of the LIRO. The commission presented its first report on 29 January 1998.<sup>1</sup> It dealt solely with the issue of the sale of the last remaining minor assets of the LIRO to forty employees of the Agency of the Finance Ministry/Claim Settlement Fund in October 1968.<sup>2</sup> This brought in a total of 1,806 guilders.

In order to prepare its second report, the Kordes Commission undertook an investigation as to where potentially useful archive material could be found. The commission cooperated on this with the Finance Ministry and the RIOD. At the same time that the final report of the Kordes Commission appeared, a book on the relevant archives, titled *Archieven Joodse Oorlogsgetroffenen* (Archives Concerning Jewish War Victims), was published.<sup>3</sup>

### **Investigating the Raffle of LIRO Assets**

In its first report the Kordes Commission concluded that the way the remaining minor assets had been sold in 1968 was not proper because:

- It should have been taken into account that these items belonged to Jews who had been murdered. Out of reverence for the memory of the persecuted, it should have been obvious to contact the JMW so as to discuss what would be the best way to handle these goods.
- Selling goods only to employees should be considered improper because it could create a conflict of interests. That this actually happened can be seen from the fact that the items were sold for values mentioned in a taxation report made ten years earlier.

The commission stated that there was no legal basis to claim the goods back as the Claim Settlement Fund (Waarborgfonds Rechtsherstel), which held these goods, had been entitled to sell them.<sup>4</sup>

Chartered accountant and KPMG partner Frits Hoek, who worked for the Kordes Commission, comments:



When we had to discuss the matter of the raffle of the remaining minor LIRO assets we consulted the two lawyers on the commission — Addens and Polak — and perhaps even a third one. At a certain moment, it became clear that legally the case was closed. The original owners could not be found and the sale had taken place many years ago. Thus the statute of limitations applied. To sum it up, there was no legal case, but morally what had happened was objectionable.<sup>5</sup>

The Kordes Commission decided to establish a monitoring point where people could both by phone and by writing provide potentially useful information for its work. Several hundred reactions were received. “In a number of letters the authors mentioned in detail their sorrow about the war and in some even bitterness about their treatment after the war.”<sup>6</sup>

### **The Kordes Commission’s Final Report**

The Kordes Commission presented its final report in December 1998.<sup>7</sup> Its conclusions show how coldly the surviving Jews were treated by the Dutch postwar governments and other authorities. The report recommended that payments be made to the Jews for the many wrongs done to them.<sup>8</sup>

The Kordes Commission’s main conclusions regarding the illegal and/or immoral financial shortchanging of the Jews by the postwar Dutch governments were as follows:

a) On the order of Reichskommissar Seyss-Inquart the VVRA paid 25.9 million guilders it held from looted Jewish accounts for the building, maintenance, and operation of the camps of Westerbork and Vught, from where the Jews were deported to their death. After the war the government returned 5.6 million guilders to the Jewish community, this being the appraised value of the camps after the great majority of the Jews had been killed. The commission concluded that the refusal of the Dutch postwar democratic government to pay the remaining 20.3 million guilders at the time meant, in fact, “that the Jews themselves paid for this part of the deportation.” The commission wrote: “This must be an unbearable thought for the Netherlands.”<sup>9</sup>

The commission could have added that the buildings were not worth more at that time because the great majority of the original inhabitants had been murdered several years before. According to the Kordes Commission, the government thought that paying the remaining 20.3 million guilders would be unfair toward other parts of the population. It is interesting to note that a government that was so unfair toward the Jews did worry about fairness toward others.<sup>10</sup>

The Kordes Commission came to the conclusion that the payment for Westerbork and Vught could not be considered as

a matter that was a commercial-legal transaction, where assets were bought for their taxation value. The commission's view is that the problem is larger and that for its assessment, not only legal arguments should be considered. The dominant issue here is the emotional argument that these camps were financed with Jewish money and were the locations from which the Jews were deported to Auschwitz and other extermination or concentration camps.<sup>11</sup>

Even this calculation was too low because the guilders paid by the government after the war were, due to the prevailing inflation, worth less than those with which the camps had been purchased.

The current value of the sum appropriate to be restituted for the camps was about 450 million guilders if one uses the multiplier of 22 as accepted by the CJO and the insurance companies.<sup>12</sup> This alone would greatly exceed the total payment to be made to the Jewish community, as recommended by the Van Kemenade Commission, of 250 million guilders. It was also more than the final "allowance" of four hundred million guilders accorded to the Jewish community by the Dutch government.

b) The German administrators of the LIRO bank paid eight million guilders in taxes to the Dutch authorities in 1943. These were due because some Jews whose properties had been looted were considered to still owe taxes. In 1952 2.5 million guilders were repaid. Many of these payments related to taxes for years when the account holders had already been gassed.<sup>13</sup>

The Kordes Commission concluded that it was illegal not to repay these monies to the Jews, as the payments had been made based on a German law that had been canceled retroactively by the Dutch government. It was also illegal in the Netherlands to take tax money from accounts without the express agreement of the account holders.

c) The costs of administering the postwar restitution of Jewish possessions from the LIRO, LVVS, and the VVRA (two major looting bodies) were borne by the Jews themselves, for a total of 12.9 million guilders. The Kordes Commission concluded that this restitution was a normal government task and that the government should have borne the costs.

The report states: "The situation is not like that of a bank that gives service to an account holder and charges fees for it. We are dealing here with an action undertaken on behalf of the government in order to do justice to victims. The costs of this must be borne by the government."<sup>14</sup>

d) Various administrative costs incurred by the NBI,<sup>15</sup> the body that acted, among other things, as the postwar custodian of the property of missing persons — nearly all of them Jews — were charged to the accounts of murdered Jews: approximately four million guilders. Again, the Kordes Commission concluded that these costs should have been borne by the Dutch government.<sup>16</sup>

e) In the 1960s, the Dutch government negotiated claims with the West German government for restitution. For this purpose the government set up a special body, CADSU, which withheld a certain percentage of each claim paid out. Jews thus had to pay for a government service provided in order to restore possessions stolen at a time when the government was not able to protect them. Costs charged to the Jews amounted to 5.7 million guilders.

The Kordes Commission proposed that the amounts concerning c), d), and e) above, which came to a total of 22.6 million guilders, should be restituted and used for Jewish community purposes. The commission wrote that these monies should have been paid by the Dutch government. "A service of this type is comparable, for instance, to the mediation of employment agencies or the allocation of social payments or precautions against sudden floods. The costs of such actions are never charged to those concerned. The same policy must be followed regarding the Jewish victims. The looting of their property is clearly part of the suffering they underwent."<sup>17</sup>

Including the other issues, the Kordes Commission reached a total figure of 48.6 million guilders, mainly in wartime values, which had been improperly withheld from the Jewish community. The commission did not translate this sum into current values. Even a financial specialist could not easily calculate the current value of many of the figures mentioned in the reports of the commissions of inquiry. This matter would become a subject of the discussions between the Dutch government and the CJO.

Although these issues were subject to the statute of limitations, the commission recommended that a payment be made to the Jewish community. While the NVB and the VVV had made it clear that they would forgo the statute of limitations and pay whatever money they still held in real actual values, the Dutch government was not prepared to do the same.

## **Inheritance Taxes**

The total figure of the Kordes Commission's recommendation, however, did not include reimbursement for the accumulated inheritance taxes through which the Dutch state expropriated important parts of the estates of the murdered Jews. The Dutch inheritance tax laws were intended for a normal society in which generations die slowly, and the average difference between deaths of parents and children is around twenty-five years or more. These laws were not suited for the unprecedented situation in which about 75 percent of the members of the Jewish community were murdered over a two- to three-year period. In 1951 and 1953 the tax inspector M. Drukker had published detailed articles on this issue.<sup>18</sup>

After the war the Dutch government decided not to take these extraordinary circumstances into account. There were debates on this issue, both in parliament and in professional circles and media. There were three options.<sup>19</sup> The first was

to choose a uniform date of death for all the murdered. The second was to choose one arbitrary date of death per year. Both these options would have meant that inheritance taxes would be applied to each estate only once, or at most twice.

The government's choice of the third option to try and find out the real date of death of all murdered meant that tax had to be paid several times in the case of the death of a number of relatives on various dates. The issue was taken into account to an unspecified extent in the payment proposed by the Van Kemenade Commission.<sup>20</sup> The then CJO chairman, Judge Ernst Numann — who soon thereafter would become a member of the Dutch Supreme Court — said it was “perplexing” that the government opted at that time for this “solution.”<sup>21</sup>

### **The Debate on Inheritance Taxes**

Jews were highly critical of the Kordes Commission's opinion that it was proper to apply the Dutch inheritance tax laws to the possessions of the murdered Jews. This subject lends itself to an academic case study. It is a paradigm of how a normal law in a democratic country can become a perverse tool if applied in an extreme situation, particularly against a politically weak community such as the surviving Jews.

Shortly before the Van Kemenade Report was published, the historian Gerard Aalders wrote an article in which he claimed that — in current values — the difference between the two methods was 300–400 million guilders to the disadvantage of the Jews.<sup>22</sup>

Two researchers who had contributed to the Van Kemenade Report, Frits Hoek and Peter Klein, claimed that Aalders's estimate was far too high, though without bringing much proof.<sup>23</sup> To the best of our knowledge, this issue has never been finally clarified.

### **Conclusions of the Commission**

The Kordes Commission concluded that the bodies created after the war to deal with the restitution made great efforts to return what remained of what had been looted to the Jewish survivors or their heirs. As mentioned, these organizations were LIRO/LVVS and the VVRA. The same was true for CADSU, whose activities were carried out much later.<sup>24</sup>

The Kordes Commission also found that part of the relevant archives had been destroyed or could not be found. A major problem was that very little data were available about the importance of the liquidated Jewish businesses. The commission wrote: “It is no longer possible nowadays to get a full view of the monetary value of Jewish businesses that had been liquidated.”<sup>25</sup>

Aalders remarked that one could only base oneself on unreliable taxation

values. He considered that — based on a RIOD study — the amount concerned might be between 150–300 million guilders.<sup>26</sup> Hence the conclusion must be that even if the figures concerned could be evaluated only very approximately in current money values at the end of the twentieth century, they amounted to several billions of guilders.

### **Analyzing the Report**

The Kordes Commission's report shows that the Dutch postwar governments have shortchanged the Jews and the Jewish community in various ways. Some administrative decisions were outright discriminatory, such as those where the Jews had to pay for services concerning their own assets while similar services were given free of charge to other citizens. Other measures were found to be illegal. The conclusion is that the Dutch government had abused its position toward the segment of the population that was hardest hit during the war. The borderline between intentional and unintentional discrimination in these situations is vague.

The Kordes Commission expressed itself on issues of what was reasonable to pay, for instance, regarding the two transit camps Westerbork and Vught. The commission, however, did not relate to an issue that was crucial as far as the money was concerned: the loss of value of the currency. The first issue came to tens of millions of guilders; the second concerned hundreds of millions. The Kordes Commission decided to leave it to the government to decide to what extent the currency's loss of value would be taken into account.<sup>27</sup>

The Kordes Commission noted that the Dutch state usually does not pay interest for monies it holds for third parties, or that it owes.<sup>28</sup> This had been the case as well for the earlier restitution of funds due to Jews. The commission did not think interest was due this time either, because that would be contrary to the principle of every citizen being equal.

This was an absurd conclusion that made no economic sense. It is one thing when one does not pay interest over a few years; quite another if it concerns five or six decades. If that approach had been followed, the payments to the Jewish community would have been symbolic at best.

### **The CJO's Reaction**

In February 1999 the CJO published a document that consisted mainly of comments on the final Kordes Commission report and the first Scholten Commission report.<sup>29</sup> In this document, the CJO expressed its appreciation for the way the Kordes Commission had approached the issue and its proposal to pay compensation to the Jews for the injustices done to them in the postwar restitution process.

The CJO pointed out that additional research was necessary on issues that had not been properly covered. These included confiscated Jewish businesses whose value had largely not been reimbursed, mortgages, real estate, other assets that had not been transferred to Germany, and contents of safes in banks. The CJO also asked that the basic material used by the commissions be made accessible to researchers.

As far as the Kordes Commission was concerned specifically, the CJO noted that the issue at stake was “restitution” and not a payment as “compassionate money.” Material damage had been caused to Jews by insufficient payments for what had been looted. The CJO said the government should also take into consideration the devaluation over the years.

The CJO also opposed the Kordes Commission’s proposal to leave the distribution of the monies to a government-appointed commission. The CJO said the monies had to be returned to the Jewish community, which had the right to use these funds as it saw fit. It also came out against the commission’s proposal to maintain the statute of limitations. The CJO pointed out that this objection did not deny the correctness of the rule of equality for everyone. It claimed, however, that nothing could be compared to the systematic extermination of the Jewish community in the Netherlands and how its possessions had been looted.<sup>30</sup>

### **Kordes’s Reaction**

In December 1998, shortly after the publication of the final report of the commission over which he had presided, Kordes was interviewed by the *Volkskrant*.<sup>31</sup> Like several other prominent Dutchmen involved in the second round of the restitution, he reacted emotionally to the findings of his public assignment: “Decisions... were taken that cannot be understood. Taxes were collected from Jewish money that had been stolen. That should not have been permitted.” Kordes then repeated what was written in the commission’s report. He mentioned that Westerbork and Vught had been built with Jewish money and twenty-five million guilders had been used for the construction and maintenance of these camps: “After the war the Finance Ministry just paid back 5 million guilders after a cold taxation of the then value of the buildings. That should not have been permissible. We thus let the Jews pay for their own extermination.”

Kordes mentioned that in 1944 he had been arrested in a roundup in Rotterdam. He was sent to forced labor in Germany but managed to escape before the end of the war and returned to the Netherlands. Kordes added that he had been lucky and said that after the war “the fate of the Jews did not worry me. Nobody cared. There was complete silence. The fate of the Jews was suppressed by the entire Netherlands, including myself. We had to participate again in the world and there was no time to think about the past.”

*NRC Handelsblad* ran an article by Karel Berkhout about the Kordes

Commission titled “Authorities Withheld Many Millions from Jews.” Its subtitle was “Never have the Dutch authorities been so heavily criticized as by the Kordes Commission about the dealing with the Jewish claims after the Second World War.” The article concluded: “The Dutch authorities may have made major mistakes, as far as Kordes is concerned; however, they will not have to pay much.”<sup>32</sup>

## Praise for Kordes

Several of those interviewed felt that Kordes had involved himself greatly, both personally and emotionally, in his commission’s work. Hoek says:

Kordes devoted four days per week to the work of the commission. We received hundreds of letters and we intended to answer them all. This required archive research. Kordes and I did that together.

He was very motivated and involved in the research. Kordes was intrigued by it. We also received letters with requests to investigate certain matters. We found many things that were objectionable. This same word could be used for many matters concerning postwar restitution. On a number of occasions when Kordes and I read texts from these archives, we almost cursed, saying “How was that possible?” We were shocked to see how postwar finance minister Liefstinck and the entire cabinet were unwilling to pay for the full costs of the Westerbork camp. When one writes a report, however, one prefers to use neutral language.

Hoek concludes: “The Kordes Commission Report evolved gradually. It contains many items that were objectionable and suggests what must be reimbursed. The entire archive of the Kordes Commission, including these letters, has been deposited with the Finance Ministry.”<sup>33</sup>

Markens says the CJO had a good relationship with Kordes. Victor Halberstadt, a member of the Van Kemenade Commission, summed up the feelings of many others who had come in contact with Kordes during the work of his commission: “I certainly had no problems with him, nor did anybody else.”<sup>34</sup>

## Notes

1. “Rapport Commissie van Onderzoek Liro-archieven Commissie Kordes,” 29 January 1998 (hereinafter Kordes Commission, First Report). [Dutch]
2. Ibid., 1.
3. “Archieven Tastbare goederen Claims. Tweede rapport Commissie van Onderzoek Liro-Archieven Commissie — Kordes,” 9 December 1998 (hereinafter Kordes Commission, Final Report), 5. [Dutch]
4. Kordes Commission, First Report, 1.
5. Personal communication, Frits Hoek.

6. Kordes Commission, First Report, 6.
7. Kordes Commission, Final Report.
8. Ibid.
9. Ibid., 8.
10. Ibid., 65.
11. Ibid., 8.
12. See chapter ten of this volume.
13. Kordes Commission, Final Report, 70.
14. Ibid., 25.
15. The Netherlands Property Administration Institute (NBI).
16. Kordes Commission, Final Report, 60.
17. Ibid., 31.
18. M. Drukker, *Weekblad voor Privaatrecht, Notaris-ambt en Registratie*, 28 April and 5, 12, and 19 May 1951, nos. 4188, 4189, 4190, and 4191. Also 12, 19, and 26 December 1953, nos. 4325, 4326, and 4327.
19. Gerald Aalders, *Berooid: De beroofde joden en het Nederlandse restitutiebeleid sinds 1945* (Amsterdam: Boom, 2001), 104. [Dutch]
20. Van Kemenade Commission, Final Report, 108.
21. Petra de Koning, “Joodse erfenissen onvoldoende vergoed,” *NRC Handelsblad*, 26 January 2000. [Dutch]
22. Gerard Aalders, “Overheid verdiende aan ellende holocaust,” *NRC Handelsblad*, 25 January 2000. [Dutch]
23. F. Hoek en P. W. Klein, “Misleidende visie op rechtsherstel,” 1 February 2000. [Dutch]
24. Kordes Commission, Final Report, 5.
25. Ibid.
26. Aalders, *Berooid*, 428, n. 4.
27. Kordes Commission, Final Report, 10.
28. Ibid.
29. Joop Sanders, ed., “Interim — Reactie: Tweede Wereldoorlog; Roof en rechtsherstel,” Centraal Joods Overleg, 10 February 1999 (hereinafter CJO, Interim — Reaction). [Dutch]
30. Ibid.
31. Toine Heijmans, “De joden zijn vreselijk kil benaderd,” *Volkskrant*, 10 December 1998. [Dutch]
32. Karel Berkhout, “Overheid onthield joden vele miljoenen,” *NRC-Handelsblad*, 10 December 1998. [Dutch]
33. Personal communication, Frits Hoek.
34. Personal communication, Victor Halberstadt.



## Chapter Six: The Scholten Commission Reports

The Official Gazette of 17 June 1997 published a letter from Minister Zalm in which he agreed to the expansion of the Second World War Assets Contact Group.<sup>1</sup> It mentioned that, within this framework, an independent investigation would be carried out into the restitution of financial assets from World War II concerning banks and insurance companies in the Netherlands.

The letter also said that an independent commission would be appointed whose members would enjoy the confidence of the government, the NVB, the VVV, and the Dutch Central Bank. It names the appointees: Mr. W. Scholten, chairman, Mr. R. Hazelhoff, Dr. J. A. Sillem, and Dr. G. Zoutendijk. The commission was installed by the Van Kemenade Commission on 13 July 1997, and would become known as the Scholten Commission.<sup>2</sup>

The NVB, the VVV, the Central Bank (DNB), and the Finance Ministry had all asked the Van Kemenade Commission to investigate the postwar restitution issue with regard to the banks and insurers.<sup>3</sup> Forty percent of the costs were paid by the NVB and the VVV each, while the Central Bank paid 20 percent.<sup>4</sup>

The Scholten Commission dealt mainly with the looting of securities, bank accounts, insurance policies, and other private possessions of the Jews but did not include businesses. Its chairman was a former vice-chairman of the Council of State. Most members of the commission were former board members of banks or insurance companies.

Reservations were expressed as to whether they were impartial enough to supervise an independent inquiry into institutions to which they had belonged in the past. Furthermore, the report of the Scholten Commission was being financed by the very institutions it was investigating, thus creating a potential conflict of interest. Particularly in a delicate matter as this one, even the impression should have been avoided.

### **Criticism of the Commission's Composition**

On 4 July 1997, before the installation of the commission, the CJO sent a letter to the finance minister. It expressed surprise that the Jewish community had not been asked to propose candidates for the commission. The CJO also underlined that, when the commission was established, there was no mention that it should have the confidence of the Jewish community. The CJO warned that the research could only be considered objective and independent if the commission included members who had the confidence of the victims and their descendants.<sup>5</sup>

The finance minister replied that Scholten would be willing to meet the CJO when the work of his commission began. He added that this should lead to a relationship of confidence. After the initial meeting took place the CJO did not repeat its request to expand the commission with a Jewish representative.<sup>6</sup> It became clear later, after the first report had been published, that the relationship between Scholten and the CJO remained problematic.

Christiaan Ruppert, the secretary of the Projectgroup Claims World War II and then an official at the Finance Ministry, says that when the ministry had its first administrative contacts with the CJO its officials told them that they had tried in vain to convince the Van Kemenade Commission that there should be Jewish members in the Scholten Commission.<sup>7</sup>

Van Kemenade installed the Scholten Commission. One would thus have expected Scholten to report to him. However, Scholten saw his commission as not obliged to report to the Van Kemenade Commission. Several of those interviewed stressed that Scholten was a difficult person to deal with. In light of his position as deputy chairman of the Council of State he was popularly called “the deputy king of the Netherlands.” This was because the queen is head of this council.

Ruppert mentions that there were, however, many informal contacts between the secretariats and researchers of the two commissions. This very often took place without Scholten’s knowledge. He adds that the rather negative CJO reaction to the first Scholten Commission report also led to contacts between the researchers of the Scholten Commission and the CJO. This gradually led to an understanding of the methodology to be used.<sup>8</sup>

## **The Commission’s First Report**

The first report of the Scholten Commission was published on 16 December 1998. It dealt with a number of restitution issues. These included financial assets with banks, the role of the authorities and, in particular, the Consignment Office of the Finance Ministry (Consignatiekas) and the State Property Administration Office (Dienst der Domeinen) of the Finance Ministry, as well as the legislation concerning absent owners or those who cannot be found. The report also dealt with patents, copyrights, and mortgages.

Ronny Naftaniel, director of CIDI and a member of the CJO board, said:

Shortly before the first report was published Scholten invited the representatives of the CJO in order to discuss the report. We gave our criticisms. Scholten noted these diligently. When he presented the report he answered in his introduction already the criticism that we wanted to express. He was a very shrewd man. We now understood how he operated. When the final report was presented we did not play his game.<sup>9</sup>

After the war the Dutch government had received monies that had belonged to

Jews, via the Consignment Office of the Finance Ministry and the State Property Administration Office. Both of these bodies deal with unmanaged estates.<sup>10</sup> The Scholten Commission tried to estimate which part came from Jewish war victims. The commission said that all estimates were very uncertain.<sup>11</sup>

In 1985 an estimate was made of how much originally Jewish money the Consignment Office of the Finance Ministry might have received. In the same year the finance minister allocated two million guilders to Jewish institutions.<sup>12</sup> These funds were designated by the JMW for purposes such as maintenance of Jewish cemeteries, the Jewish Historical Museum, and various other uses.<sup>13</sup>

## The Banks

As far as the banks were concerned three possibilities were investigated. The first was that the net deposit of an account holder had been transferred to the LIRO either upon this person's orders or without such instructions. A second issue researched was whether the net deposit had remained with the original bank. A third issue checked was whether there was a possibility that the deposit was no longer with the bank but also had not been transferred to LIRO.<sup>14</sup>

The commission concluded that, during World War II, about fifty million guilders had been transferred by banks to LIRO. This involved 42,500 accounts. The rightful owners or their heirs of 31,500 accounts were found. Many of them had received 90 percent of their claim in 1957, twelve years after the liberation. However, a number of owners had already earlier accepted lower percentages of restitution.<sup>15</sup>

The report mentioned that in case of death — more accurately the murder — of account holders inheritance taxes were retained. It happened as well that a number of intermediate heirs had also died. Thus in a number of cases inheritance taxes had been levied several times on the same estate.<sup>16</sup>

The commission did not state explicitly that the Dutch government had, by this levying of multiple inheritance taxes, been a beneficiary of the murder of many Dutch Jews.

## Other Issues

The Scholten Commission dealt with a number of other issues as well. It came to the conclusion that, as far as patents were concerned, the anti-Jewish measures of the German occupiers had had little impact.<sup>17</sup> As for copyrights, the only data easily available after the war concerned music. The commission concluded that the restitution of copyrights for music after the war had been dealt with in a satisfactory manner.<sup>18</sup>

During the war Jewish holders of mortgages had to register these with the

Niederländische Grundstücksverwaltung (Dutch Real Estate Management, NGV), a foundation that had been created in August 1941. The NGV then took over all the rights of the mortgage owner and dealt with them as it saw fit.<sup>19</sup> After the expropriation it left the management to intermediaries and brokers, usually members of the NSB party.<sup>20</sup>

The Scholten Commission did not succeed in developing a reliable estimate of the value of the looted mortgages. It concluded that the total amount received for the mortgages — often at too-low values — was about 21–23 million guilders. The report noted: “The looting was accompanied by many cases of ‘dark misconduct’ by the Dutch administrators.”<sup>21</sup> For example, these sold real estate at a low price to strawmen who afterwards sold them on to others at higher prices.<sup>22</sup>

The commission also came to the conclusion that in practice the postwar rehabilitation did not follow a single methodology. The commission remarked that, with the exception of Germany, the Netherlands had been the West European country most damaged by the war. The rehabilitation of Jewish assets had to compete with a large number of other problems and was not a priority.<sup>23</sup>

## Reactions to the First Report

Only a minority of the financial institutions that were approached agreed to cooperate with the commission’s researchers. This was one reason why the first report from the Scholten Commission was considered methodologically flawed by a number of sources.<sup>24</sup>

The CJO published detailed critical comments on this report, which will be discussed below. Several media reactions to the Scholten Commission’s first report were critical. The *Volkskrant* concluded that the research was rather limited and “in addition totally unverifiable.”<sup>25</sup> The article noted that of the 122 banks that were approached, only 39 reacted and only 11 were subjected to further investigation.

The paper raised the question as to whether the report was so weak because it had been paid for by the banks and insurance companies and “accompanied by persons of confidence from their own world.” The article summarized the report as “unconnected facts, uncontrollable statements, lack of comment and no recommendations.”<sup>26</sup>

The *NRC Handelsblad* reached similar conclusions: “The main objections are that the findings of the commission are unverifiable. The banks that are mentioned are anonymous and the sources in the footnotes are often limited to ‘company archives.’ This anonymity had been the condition for access to the archives but it undermines the scholarly reliability of the research.”<sup>27</sup>

The Jewish weekly *NIW* wrote in an editorial:

There is much to criticize about the formal legal method the Scholten

Commission follows. The issue is to find out where there is still money left and how it got there. But one also has to find out how it was possible that the rehabilitation had such a low priority, as the commission admits. Looking back, perhaps this low priority, combined with lack of understanding, jealousy, formalism and legal sophistry, led to actions that, although formally correct, were perhaps not very morally correct. The Scholten Commission does not provide its own insightful views about the damage caused by formal legal acts. This cannot be the intention of this report, which was awaited with such great expectations.<sup>28</sup>

The Israel Institute for Research of Lost Dutch Jewish Assets during the Holocaust, established by Avraham Roet, asked Ralph Blitz to prepare a document in reaction to the first Scholten Commission report. He wrote this together with Roet.<sup>29</sup> Its title is illuminating: “Gaps and Obscurities.” The document contains more than one hundred detailed questions.<sup>30</sup>

Lipschits, one of the first authors to draw attention, decades ago, to postwar discrimination against Dutch Jews, noted another shortcoming of the commission’s researchers. He visited one of the banks that were willing to cooperate. He was very well received by its archivist and given a detailed file on the safe-deposit boxes belonging to Jews, which had been broken open — on German orders — during the war. The archivist told Lipschits that the researchers of the Scholten Commission had been told about these files but had shown no interest in them.<sup>31</sup>

## The CJO’s Reaction

In February 1999 the CJO sent an interim reaction to the Dutch parliament commenting on the first reports of the Kordes and Scholten commissions.

With regard to the Scholten Commission, the CJO emphasized that the business sectors being investigated were represented in the commission whereas the Jewish community was not. It also charged the Scholten Commission with “abuse of their confidence,” a radical statement for the prudent representatives of Dutch Jewry.

The CJO also wrote that, at the beginning of the work of the Scholten Commission, there was a gentleman’s agreement between it and the institutions to be investigated concerning the framework and the contents of the investigations. However, the contents of this agreement were not mentioned in the commission’s report.<sup>32</sup>

The CJO accepted the conclusion that to a large extent there had been rehabilitation of bank deposits after the war. It also stated that the banks still held deposits of Jews from the World War II period and that their size was not clarified in the report. The CJO posited that this was because so few banks had

answered the questions posed by the Scholten Commission. The CJO commented that banks in particular, but insurance companies as well, should be forced to cooperate. It added that the names of the banks that were being investigated must be published and also that “maximum openness concerning the methods and the sources used is desirable.”<sup>33</sup>

Yet another critical observation of the CJO concerned the statement by the Scholten Commission that the amount of slightly more than two million guilders that had been given to the Jewish community in 1985 for the Jewish share in the Consignment Office of the Finance Ministry was reasonable. The CJO observed that no proof for this statement was offered.<sup>34</sup>

### **Naftaniel’s Observations**

Naftaniel published an article in May 1999 titled “The Scholten Commission Is Deaf.” On the basis of Aalders’s book *Roof* (Looting) he concluded that: “Instead of passive resistance many banks during the war contributed to fencing of stolen goods and collaboration.”<sup>35</sup> Naftaniel remarked that this conclusion was opposed to that of the Scholten Commission.

Naftaniel concluded: “Instead of trying to obtain as many facts as possible, to categorize them in an orderly way and to draw cautious conclusions from them, the commission gave the impression of wanting, in particular, to provide arguments with which those who gave them the assignment can exculpate themselves as much as possible.”<sup>36</sup>

On 7 July 1999 Naftaniel sent a letter to his colleagues in the CJO. He wrote that he considered a recent meeting with the Scholten Commission to have been extremely unpleasant. The letter mentions an example of Scholten’s insensitivity: twice during the meeting he insulted the CJO by calling it “De Joodse Raad” (the Jewish Council). This had been the name of the Dutch Jews’ representation during the German occupation. After the war its leaders were accused by many Jews of collaboration with the Nazis. Naftaniel writes: “I told Scholten that this term was used during the war and sounded very negative to us. He reacted by mumbling that he always used this term.”<sup>37</sup>

Ruppert comments: “Both Zalm and I were present when Scholten made the remarks about the ‘Jewish Council.’ I do not think he intended to insult anybody. However, Scholten was a formal man and therefore difficult to deal with for everybody. Also his war history was very different from that of Kordes, who belonged to the same generation but had actually been in personal danger.”<sup>38</sup>

## The Commission's Final Report

The final report of the Scholten Commission is a document of 667 pages. These include the full first report as well as the commission's reply to the CJO's interim reaction. The report was published on 15 December 1999 and consists of three parts.<sup>39</sup>

Three new subjects were discussed in this report. The first part dealt with life insurance, life annuities, pensions, and funeral insurance. The second part analyzed the restitution of securities. The third section addressed social security and arrangements made for government officials.

The report's conclusions summarized the main subjects of the commission's research concerning the postwar rehabilitation after the looting during the war.<sup>40</sup> These can be summed up as follows:

1. Money and bank deposits: this concerns a total amount of fifty million guilders expressed in monies at the time of the looting. In almost all cases 90 percent of the claims had been restituted by 1956 or 1957.
2. Mortgages: the total amount of what was received by the NGV was between 21–23 million guilders. Over the period 1950–1957 more than 75 percent was paid back by the NGV.
3. Securities: the total amount looted was about three hundred million guilders. In 1953–1954, 90 percent was reimbursed in half of the cases. This included the increase in value since 1941, dividends, and similar income. In the other half of the cases the original security or a duplicate of it was returned to the previous owner or he was reimbursed fully.
4. Life insurance policies. The looting of these was valued at about twenty-six million guilders. In most cases the policies were reinstated after the previous owners had paid the premiums due for the past period.

The amounts mentioned above were estimates. Securities were by far the most important item investigated. The analysis of the securities issue would play a major role in the public discussion of the renewed restitution process for another reason as well. In the negotiations between the CJO and its counterparts in the private sector, the discrepancy between what was initially offered by the stock exchange but in fact by the banks — which controlled it — as restitution and what was finally paid was huge. This will be discussed in more detail in chapter thirteen.

## The Amsterdam Stock Exchange

During its research the Scholten Commission identified an additional candidate for restitution: the Amsterdam Stock Exchange. On its own initiative the

Vereniging van de Effectenhandel (Amsterdam Stock Exchange Association, hereinafter VvdE) had collaborated during the war in an important way with the German occupiers. The board members of the VvdE approached the German representative at the Dutch Central Bank, Anton Bühler. The VvdE asked that the looted securities be traded on the Amsterdam Exchange.<sup>41</sup> The VvdE then received German permission to trade the Jewish securities. As a result, the stock exchange became subject to Jewish restitution claims.

About 75 percent of the looted Jewish assets that were handed over to LIRO were securities. Based on ordinance 148/1941 (the first LIRO ordinance) of 8 August 1941, about five hundred thousand securities had been surrendered to LIRO by Jews. In 1944 LIRO mentioned that this concerned a sales value of about three hundred million guilders.

The Scholten report noted that after the war, the VvdE's chairman C. F. Overhoff — long considered an important Resistance figure — declared falsely that this had been done to protect the former Jewish owners.<sup>42</sup> The sole motivation for approaching the German authorities was that the members of the VvdE did not want to lose the 4–5 percent of their turnover that the Jewish holdings represented. Aalders had earlier concluded: “Those traders who bought ‘infected’ securities did so consciously.”<sup>43</sup> In his book *Roof* he noted many aspects of the misconduct of the stock exchange.

In an interview Lipschits explained that LIRO had become a member of the VvdE. It could thus trade shares that had been looted from the Jews. “This was often done by selling many securities at one time, which brought down prices. This was called ‘Dumping [Securities] Days’ [*Smijtdagen*].”<sup>44</sup>

## No Charges Pressed

During the war many Amsterdam stock market traders made good profits on the sale of shares and bonds expropriated from the Jews. When Overhoff's firm went bankrupt in 1948, it was discovered that he had been stealing money from it for over ten years. Aalders thinks this made him more inclined to accommodate the Germans.<sup>45</sup>

After the war, the Dutch prosecutor decided not to press charges against Otto Rebholz, a German who had acquired the Dutch nationality and then was naturalized as a German again. He was the key figure in the stock market collaboration regarding Jewish-owned securities. In 1950 the prosecutor wrote: “The main argument against any further prosecution is that others, purely Dutch financiers, did the same as Rebholz and traded at least ten times more Jewish securities. It should be advised against to bring into disrepute the names of many well-known bankers, perhaps — or very probably — without condemnation.”<sup>46</sup>

After the war the VvdE's members reached an agreement not to provide data



on wartime transactions of securities to the dispossessed, i.e., the Jews, which made it almost impossible for them to obtain proof that buyers had acted in bad faith.<sup>47</sup>

## **Lieftinck Favors Traders over War Victims**

The Scholten Commission concluded:

As far as the restitution of securities is concerned, at crucial moments the VvdE made use of the economic interest of undisturbed stock trading to force rulings, policies and decisions on property that were not in agreement with the Dutch sense of justice and are still not today....

Threatening a stock exchange strike, the stockbrokers — who acted in bad faith with regard to securities belonging to Jews — claim that they can no longer be held responsible for these actions and that they have very rarely paid restitution.

The commission expressed its opinion that the successor of the VvdE, the AEX Exchanges, should declare that its predecessor's attitude with regard to the looting was improper.<sup>48</sup>

The Scholten Commission also held then-finance minister Lieftinck coresponsible for the fact that by 1953 — eight years after the end of the war — almost nothing had been realized concerning legal restitution “in the form of the return of stolen goods — even where bad faith in the purchase of Jewish securities could be assumed.” The commission concluded that Lieftinck clearly put the interests of the exchange above the legal fundamentals of the restitution.<sup>49</sup> Morally he took a position in favor of the collaborating brokers and against the interests of the war victims.

## **Restitution of Securities**

The Scholten Commission stated that “the final material outcome of the restitution concerning securities has been satisfactory.”<sup>50</sup> But the commission, even though it used formal language, was very critical of the way postwar rehabilitation had taken place. This related to the behavior of both the government and the VvdE.

This becomes clear if one puts together several texts of the Scholten report that were critical of the VvdE: “...the establishment and execution of the postwar regulation with regard to securities was, on certain points, not in agreement with the basic thoughts of the Dutch legal order.” It was “incorrect that the VvdE, which behaved in such a dishonorable way during the war, should have had such a strong influence on the legal rehabilitation and was so closely involved in policymaking.” The commission criticized “the lack of collaboration by the

members of the VvdE with the despoiled in order to help them submit a legal rehabilitation or restitution claim....”<sup>51</sup>

After detailing the VvdE’s misconduct, the Scholten Commission concluded: “Through the combination of these developments, which resulted in the VvdE playing a dominant role in the legal rehabilitation, until 1953 there was hardly effective rehabilitation through returning looted possessions. This, even in those cases where there was clear evidence of foul play regarding Jewish securities.”<sup>52</sup>

The commission wrote: “The state has agreed — either actively or passively — with these developments.” The report adds that “as far as the issue of restitution of German state debentures held by LVVS and VVRA is concerned, the attitude of the finance minister toward the claims of the despoiled was not essentially different [from that of the VvdE members].”<sup>53</sup>

This was followed by what is probably the most damning sentence of the report. It concerns the Dutch government: “On this issue the commission thinks that there is coresponsibility [of the state].”<sup>54</sup>

The report also directed additional criticism at both the VvdE and the state. The Scholten Commission considered it unjustified that the VvdE had conducted a strike in 1952, which it would terminate only if it would be decided that its members — except in extreme cases — could no longer be held responsible for trade in securities during the war.<sup>55</sup>

### **Administering Justice and the Legal Order**

The commission thus was of the opinion that, in 1953, the finance minister had given priority to having the stock exchange function over and above the orderly restitution system. In the words of the report: “A severe breach was made of the principle of independent administering of justice and of the principle that he who has acted wrongly must be held responsible for the damage caused.”<sup>56</sup>

After these strong words about the issue of restitution of securities, the Scholten Commission posits that such an attitude was not typical of the rehabilitation. The report states that the restitution of securities “is the only example of evident tensions between the factual execution of the rules with regard to the rehabilitation and the Dutch legal order.”<sup>57</sup> This conclusion is highly disputable and additional research should be done on this matter. Anyhow the issue concerned a large part of the value of the possessions stolen.

There was no, or much less, tension between rehabilitation and the Dutch legal order as far as private deposits with banks were concerned, and the same was true regarding insurance policies. But also on these issues the report was critical. No rules had been established after the war for social security. There were great failures concerning associations and foundations whose possessions had been looted during the war.<sup>58</sup>

## **Was the Legal System Suitable?**

The research on securities for the Scholten Commission had been done by Wouter J. Veraart. In 2005 he would receive his doctorate for a thesis comparing the abolishment of legal rights and rehabilitation in the Netherlands with the situation in France.<sup>59</sup>

In his thesis Veraart raises, among other things, another important aspect of rehabilitation. He wonders whether the system of justice that the Dutch government had chosen to be administered in the Netherlands after the war was suitable for a reality in which systematic looting and denial of the Jews' legal rights had taken place. Veraart writes:

The Department for Administering Justice [of the Council for the Restitution of Legal Rights] had great freedom to weigh various interests against each other. This led to a situation where the despoiled often had to fight very hard in order to realize their claims. This aspect of Dutch rehabilitation has been a source of discontent for the Jewish community, which had lost its legal rights. Prominent Jewish lawyers have often complained about this.<sup>60</sup>

Veraart then notes an example from 1948 quoting the lawyer K. J. Edersheim. In a meeting of the Jewish commission for rehabilitation, he said: "The commission has all-important objections to the whole system of how the rehabilitation should be carried out."<sup>61</sup>

## **Bank Deposits and Mortgages**

As mentioned earlier, in the first report of the Scholten Commission the chapter on the banks was particularly flawed. It was hardly improved upon in the final report. As far as bank deposits were concerned, the Scholten Commission concluded that there were few possibilities that significant amounts of "dormant accounts" had remained with the banks.

The banks had transferred almost all Jewish deposits to LIRO. Thus, after the war, these funds became part of the restitution process and the banks were no longer involved.<sup>62</sup> The commission emphasized that it did not occupy itself with the "flight of capital," that is, possible cases of Dutch Jews transferring money to foreign banks.<sup>63</sup>

As far as mortgages were concerned, the Scholten Commission concluded that almost all Jewish mortgages had been transferred to the NGV. This meant that after the war they became part of the restitution process.<sup>64</sup>

## Insurance Policies

Regarding insurance policies, the commission found that the overwhelming majority of these had been registered with LIRO. Thus, after the war, they had become part of the restitution process. However, some insurance companies had not registered policies with LIRO, and therefore these amounts did not become part of the restitution process.

In the second “LIRO Ordinance” of 21 May 1942 it was stated that life insurance policies, life annuities, and damage policies had to be registered with LIRO and transferred to it. Both the insured person and the insurance company had to do so.<sup>65</sup>

The professional association of life insurance companies sent out a circular letter informing the insurers that all policy owners had to sign a declaration. Everybody thus had to give his name, address, and nationality, and declare whether, under the prevailing legal rules, they were Jews or not.<sup>66</sup>

LIRO usually redeemed the policies. Thus, the insurance coverage was ended and the redemption values were transferred to LIRO by the insurers. Some policies ended while they were in LIRO’s possession. According to the Scholten Commission report, in this way LIRO had received 27.5 million guilders, of which it still held 26 million guilders on 31 August 1944.<sup>67</sup>

After the war the question arose what would happen if these insurance policies were reinstated. According to the calculations this would have caused damage to the insurers in the amount of 36.5 million guilders. Even if the insurance companies’ claim against the LVVS — the successor to LIRO — of twenty-three million guilders would be paid, there would still be a serious deficiency in the amount of thirteen million guilders. In a memorandum, the insurers wrote that this meant “the limit of what was bearable had been reached, if not breached.”<sup>68</sup>

Already shortly after the end of the war, a number of survivors asked the insurers to reinstate their policies. Various companies reacted in different ways. The most common answer was probably that one should wait until the government regulated the matter.<sup>69</sup> Many meetings took place on this issue between the insurers and representatives of the government.<sup>70</sup>

Another important issue was what should happen with the policies of people who had died, were missing, or with estates with no heirs. According to the law, unclaimed assets were to be transferred to the state.

Finance Minister Liefstinck even proposed that the right to inherit of cousins, as far as these insurance policies were concerned, should be abolished. His colleague Justice Minister Johannes H. van Maarseveen responded that this would affect in particular those parts of Dutch society that were most hurt, such as Jewish family members, people interned in the Dutch East Indies, and people who had been taken prisoner.<sup>71</sup> No agreement was reached. In the end, the LVVS returned more than nineteen million guilders to the insurance companies.<sup>72</sup>

The Scholten Commission report concluded that

in the accountants' reports that were written on behalf of the Finance Ministry, one clearly sees the underlying motive of the state's interest concerning Jewish insurance policies without heirs. In the framework of the accountants' reports, files of individual cases were also investigated and shortcomings were mentioned. Yet, in these reports, no serious mention was made of the insured Jews or their heirs, who had to be protected.<sup>73</sup>

Finally, in 1954, an agreement was reached by which the insurers would pay the Dutch state the redemption value of the policies that had not been reinstated. This meant an amount that was substantially below the insured value. The Scholten Commission report comments: "The difference between insured value and redemption value can be regarded as the contribution of the state to the solution of the problems concerning the reinstatement of insurance policies."<sup>74</sup> In these negotiations the state was represented by the lawyer D. J. Veegens. His name would come up frequently in the renewed restitution negotiations.

### **Jewish Businesses**

The report also mentions that, in line with the law, some other amounts may have ended up in the possession of the Dutch state.<sup>75</sup>

The Scholten Commission furthermore drew attention to another serious problem. This concerned Jewish businesses, in particular those that were legal entities. According to the commission, the looting involved possibly significant values.<sup>76</sup> Aalders estimates on the basis of a NIOD document that the real value of this was as much as 150–300 million guilders of which about a quarter to half had not been restituted.<sup>77</sup>

The commission stated that it was not part of its task to deal with this matter. Its assignment was to deal with the assets of individuals. Until today the subject of the restitution of Jewish businesses has not been properly investigated.

### **Recommendations**

Based on the findings of studies by the various researchers working on its behalf, the Scholten Commission made a number of recommendations. Some concerned the payment of money; others emphasized the moral aspect of the wrongdoings of the past. The two facets together concerned in particular the VvdE, which had since been succeeded by the AEX Exchanges. The commission recommended that these organizations acknowledge that they had acted wrongly in certain cases after the war and express their regrets.<sup>78</sup>

The commission also recommended that both the VvdE and the banks should make payments — of unspecified amounts — to the Jewish community. This

should be done after the parties concerned had consulted the Jewish community and the finance minister.

The commission furthermore recommended that the state should adopt a similar approach, which concerned a number of issues. The main item was the 11.5 million guilders that had been received by the Claim Settlement Fund (Waarborgfonds Rechtsherstel); these monies should be restituted to the Jews.<sup>79</sup>

No major deficiencies were found in the restitution by the insurance companies. Yet the commission recommended that they should make a gesture toward the Jewish community.<sup>80</sup>

As mentioned, the Scholten Commission's first report had been heavily criticized. In the final report the commission would take stronger positions and, in particular, criticize the securities traders and the stock exchange.

### **Professional and Human Aspects**

From the time of its creation there had been a certain frustration about the Scholten Commission within Jewish circles, concerning both its composition and the behavior of its chairman. These problematic aspects, in particular as far as Scholten's human relations were concerned, remained throughout.

CJO members were not alone in these feelings. There were personal tensions between Van Kemenade and Scholten. Tom de Swaan, a former board member of the ABN AMRO Bank and a member of the Van Kemenade Commission, says:

The Van Kemenade Commission gave instructions for the research of the Scholten Commission. A big problem was the status of Scholten and his commission. He was of the opinion that his commission was independent and should not have to report to the Van Kemenade Commission.

Scholten was not willing to admit that his commission had been founded by the Van Kemenade Commission and went to Prime Minister Kok on this issue. A compromise was reached by which the Scholten Commission would have to report to the Van Kemenade Commission while still retaining an independent status. This was an artificial tool to prevent Scholten from resigning already at the beginning of his activities. It was done mainly to prevent the two strong personalities at the head of the two commissions from clashing.<sup>81</sup>

Halberstadt says:

I had a longtime personal relationship with Scholten. He was a talented, friendly, reliable person, but somewhat inaccessible in his relationships. He was not somebody who allowed other people to suggest to him how to do things. Others who had contacts with him about commission matters had

difficulties dealing with him. He was also quite formal. In most social relations people call each other on the phone. With him this was not so easy.<sup>82</sup>

Joop Krant, yet another member of the Van Kemenade Commission, was more direct. He said: “Once the Scholten Commission was installed the situation became more difficult. The man was arrogant and didn’t want to cooperate with the Van Kemenade Commission.”<sup>83</sup> Markens said: “Scholten executed his job as a cold bureaucrat and treated us very arrogantly.”<sup>84</sup>

## **Klein Resigns**

Prof. Peter Klein was head of the Scholten Commission’s research team. He says:

I was supposed to be independent, but didn’t realize that until a year later. Scholten had told me that I had to do what his commission said. I thought that the time allotted for the research was far too short. In order to produce a report we would need five years. I was told, however, that a report should be ready in one year.

Scholten thought that I should not research the period of preparation by the government in exile in London or the international context. He didn’t like the chapter I finally wrote. He kept telling me what I should do and what I shouldn’t do. I always thought that he was in charge. On the other hand I, as head of research, chose the researchers who would write the individual chapters. Then I let them work on their own.

When the first report was ready Scholten called a press conference, with the television present. I sat next to him and remained silent. However, afterwards journalists came over to me and I said: “The result is not perfect, because certain things still have to be investigated.” Academically speaking this is perfectly normal, because it was only an interim report.

Fortunately something important occurred abroad and nothing was broadcasted about the report. However, Scholten told me that from now on I should no longer talk to the press. I told him that I would stop working with him. Probably the reason that Scholten and I couldn’t work together was a typical conflict between an academic, who wants matters to be as transparent as possible, and a politician.

Privately I had no problems with Scholten. He once told me that his wife had criticized the way he had treated me. In fact he had withheld from me the essential information that I was supposed to be independent. He was no more than an intermediary in charge of monitoring the research. I could have told him immediately that I didn’t care about what he said and gone on with the research as I pleased. I unfortunately only did this when it was already far too late.<sup>85</sup>

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## Chapter Seven: Developments during the Van Kemenade Commission Investigations

While the various commissions undertook their inquiries, several other events that were relevant to the restitution process took place. They were of a disparate character. Some salient ones are discussed in this chapter.

On a cold December 1997 evening, a first meeting took place between Finance Minister Gerrit Zalm and representatives of the CJO at the ministry. One purpose was to discuss the issue of the LIRO cards. Thereafter there would be contacts of various natures between the CJO and the ministry.

Ruppert relates that Markens made a joke to warm the atmosphere, and at that moment Zalm understood that he had a good partner in Markens.<sup>1</sup> Ruppert adds that Zalm was deeply touched by the Jewish restitution issue.

He found a special way of talking to the Jewish representatives, and became friends with a number of people in the CJO, one of whom was Markens. This relationship continued when, at the start of 2000, the government began its discussions with the CJO. The minister had a private conversation with Markens and asked him, “Can we find a solution?” Markens replied: “We will find a solution.” For someone like Zalm such personal relations are very important. If he has a connection with somebody he will do everything possible to reach an agreement.<sup>2</sup>

In his memoirs Zalm tells about this first conversation with the CJO:

I go with a heavy heart to this meeting because the ministry has to sit in the dock. I first shake hands with Henri Markens, the chairman of the CJO. He breaks the ice and says, “I am Henri Markens and that is easy to remember because it rhymes with *varkens* [pigs].” At that time there was an outbreak of foot-and-mouth disease. For an Orthodox Jew it is a very actual, but risky joke. When I tell him how ashamed I am on behalf of the Finance Ministry and offer my apologies, the atmosphere is immediately better. I promise that the developments of the past year will be investigated in detail.<sup>3</sup>

Numann remarked about Zalm’s attitude:

Throughout the negotiations Zalm has stuck to his initial position that resulted from his shock about the discovery of the abandoned LIRO cards and the problems of the postwar restitution. This doesn’t mean that he has always supported us. For instance, he was opposed to the acceptance by the

insurance companies of the multiplier of 22. That was not because he cared about what the insurance companies should pay, but because he saw this as a precedent to possibly be used against the government.<sup>4</sup>

## **The Gold-Pool Restitution**

In August 1997 the Van Kemenade Commission drew the finance minister's attention to several issues mentioned in the American study, "US and Allied Efforts to Recover and Restore Gold and Other Assets Stolen or Hidden by Germany during World War II," which had been published shortly before.

During World War II, Germany looted large quantities of gold from the countries it occupied as well as from private people. A large part of this gold was recovered by the Allies after the war. In December 1945 they reached an agreement about its restitution. The gold was brought into the so-called "gold pool" of the Tripartite Gold Commission (TGC), in which the United States, the United Kingdom, and France were represented.

The task of the TGC, which was dissolved in September 1998, was to judge the claims of the countries whose possessions had been looted. On the basis of the recognized claims a proportionate part of the gold pool was restituted. The TGC had already transferred gold to the Netherlands three times. It was added to the Dutch monetary gold reserves.<sup>5</sup>

According to the new report, the Netherlands would receive a final payment from the TGC. The study noted that in the pool some gold had also come from concentration camp victims, in addition to that from central banks.<sup>6</sup> In a letter of 18 September 1997 the finance minister asked the Van Kemenade Commission to investigate the gold-pool issue. It thereupon suggested donating the proceeds of the final payment to the war victims in the Netherlands. Sanders observed that the CJO had followed this matter closely.<sup>7</sup>

## **Allocation of the Funds Received: Dolman I**

As the fourth — and last — payment from the gold pool the Netherlands received the sum of 22.5 million guilders. This was the result of a decision made by the TGC in September 1997. On 3 April 1998 the Council of Ministers decided to allocate this money to projects for people who had been persecuted by the German occupiers with the intent of exterminating them. This concerned Jews as well as Roma and Sinti. The Ministry of Public Health, Welfare and Sport (ministerie van Volksgezondheid, Welzijn en Sport, VWS), which was also responsible for the care of war victims, would deal with this matter.

Zalm wrote that the monies designated for the Netherlands would be used for various purposes:

1. Care and services for surviving victims of the persecution and their descendants.
2. Cultural projects for the persecuted groups whose traditions were partly destroyed during the war.
3. The maintenance of the memory of those who had died during the war. The minister specifically mentioned care of the graves of those who had died, especially those with no surviving family members.<sup>8</sup>

An advisory council for the distribution of these monies to Dutch Jews was established by the responsible ministry on 31 August 1998. The chairman of this council was Dr. D. Dolman, a member of the Council of State. Its members were Prof. C. L. Davidson, former chairman of the Association of Liberal Religious Jews in the Netherlands; Mr. F. Ensel, former chairman of the JMW; Dr. E. van Thijn, former interior minister; and Mrs. G. H. Wertheim-Cahen, a therapist who specialized in the treatment of war victims.

The advisory council, which became known as the Dolman Committee, published its report on 1 July 1999. Of the 22.5 million guilders involved, about 20 percent were to be devoted to culture and education. Almost 20 percent would go to social services and more than 10 percent to museums. More than 10 percent would be spent for the upkeep of cemeteries and over 10 percent would go to libraries and study centers. The remaining amounts were to be designated for various purposes including synagogues, books, and films.<sup>9</sup> These funds would become known as the Dolman monies.

### **Funds for Israel: Dolman II**

On 6 April 1998 Zalm sent a letter to the chairman of the Second Chamber of the Dutch parliament. He wrote that, in addition to the decision regarding funds received from the gold pool, the Netherlands would contribute twenty million guilders to an international fund, the Nazi Persecutee Relief Fund. The aim of this fund was to provide various types of project-based assistance to needy persons and to finance projects for the benefit of the communities most severely affected by Nazi persecution. This included projects aimed at preserving the memory of those who had perished and revitalizing the intellectual and cultural traditions that had been largely destroyed during the war.<sup>10</sup>

Ten million were designated for projects in Central and Eastern Europe. The Dutch Jewish community in Israel received 9.4 million guilders. These funds were to be distributed via nonprofit organizations. The various Dutch Jewish organizations in Israel wished to present a united approach on this subject. For this purpose they created in February 1998 an umbrella body called HONI (Hulp aan Oorlogsslachtoffers uit Nederland in Israel; Assistance to War Victims from the Netherlands in Israel). Its task was to coordinate the proposals of projects to

the Dolman Committee and, as far as the approved ones were concerned, to handle the share of the monies from the gold pool earmarked for Dutch organizations in Israel.<sup>11</sup>

The founders of HONI decided that the allocation of the monies would be decided by the member organizations. Two organizations, however, left HONI and decided to function on their own. HONI's only role was that of coordination. Its various member organizations were represented by their chairpersons. Yossi Dotan was appointed independent chairperson of HONI. Over a period of ten years HONI presented follow-up reports on approved projects, until their termination, to the Ministry of VWS. In accordance with the original plan, HONI was dissolved in 2008.<sup>12</sup>

### **Stichting Platform Israel (SPI)**

In November 1998 the Dutch embassy in Israel organized an information meeting in Tel Aviv about the ongoing investigations of the postwar restitution. The invitees were representatives of the Dutch Jewish organizations in Israel. The speakers were the then Dutch ambassador Como van Hellenberg Hubar, Lipschits, Hans Vuijsje of JMW, and Jan Brak of the Ministry of VWS.<sup>13</sup>

While the commission inquiries in the Netherlands progressed, representatives of the Dutch organizations in Israel discussed their role in the renewed restitution process. A key part was played by Roet, who had established and financed a small institute to investigate the history of the postwar restitution of Holocaust assets. He tried to involve others in this foundation, which was called the Israel Institute for Research of Lost Dutch Jewish Assets during the Holocaust. The institute published a number of reports that were, to a certain extent, compilations of documents that had been published earlier. Because many of the people also in the Netherlands who dealt with the restitution issues initially had little knowledge of the subject, these reports often served as an introduction to it.

Roet is a Dutch-born businessman who had been hidden in the Netherlands during part of the war. Many of his family members, including two of his sisters, were murdered. He left the Netherlands for Israel soon after the war ended. Until the late 1990s Roet had not been involved in the activities of the Dutch Jewish community in Israel, but now he became the dominant person in Israel regarding the Dutch restitution process.

The main organization of Dutch immigrants in Israel is the Irgun Olei Holland (the Dutch Immigrants' Organization). However, an additional body was needed to include all Dutch Jewish organizations in Israel so as to address the restitution issue. This led to the creation in 1999 of Stichting Platform Israel (SPI), which acted as an umbrella organization, grouping the cultural, social, and financial interests of the community. Roet became its first chairperson. The number of

Dutch Jews in Israel is not known, but is often estimated at about ten thousand. Many of them are Holocaust survivors or their descendants.

### **SPI Becomes an Observer at the CJO**

Roet relates:

A few months after my institute's publications became known in the Netherlands, I was contacted by Naftaniel and invited to become a member of the CJO on an individual basis. I said that I would gladly cooperate with the CJO but only in the capacity of the representative of the Dutch Jewish community in Israel.

After SPI had been established at my initiative, I became its representative at the CJO and participated in many meetings and negotiations in the Netherlands. SPI took many initiatives. I insisted on the status of "observer," because otherwise I risked being outvoted on issues that were of importance to SPI's constituency. In the course of time it became clear that the interests of the CJO and SPI, as well as their *modus operandi*, were not totally identical.

It turned out that there was much disagreement in the CJO on the attitude to be taken toward the Dutch government. Some CJO board members were employees of participating organizations and wondered whether a strong position in negotiations would impact the government's behavior toward these institutions. Others, who were not dependent on the government, took stronger positions. I always insisted that SPI had to take an independent position based on its worldview and interests. At the same time we had to be careful not to cause problems for the Dutch Jews in Dutch society, as they had to live there. This led to difficult debates in the CJO meetings, but usually a consensus was reached that was fairly effective.

One has to keep in mind that most of the board members of SPI were themselves Holocaust survivors. They were all volunteers in their organizations and could take independent positions. We made an effort to establish contacts with representatives of the various Dutch commissions of inquiry. Key people on the Dutch-government side, such as the ambassador Frank Majoor, came to Israel at our invitation. We had some stormy meetings with them.<sup>14</sup>

One would have thought that the Dutch government would have greatly appreciated the inclusion of SPI in the CJO delegation. It seems obvious in retrospect that the government's interest was to avoid a situation where only the Jews in the Netherlands would agree to a financial settlement. If that would happen, there remained the risk that another substantial organized group of survivors and their descendants, that is, those in Israel, would come with new demands.

Roet says:

Initially the government didn't realize this at all. They saw this inclusion of SPI in the CJO delegation as an attempt by Dutch Jews abroad, in this case in Israel, to intervene in internal Dutch affairs. Later the government's attitude changed and, on various occasions, they wanted us specifically to be involved and to give our approval to the agreement reached. All in all we influenced a number of important decisions. Undoubtedly the greatest success was the large increase in the offer made by the stock exchange to the CJO.<sup>15</sup>

### **Historical Research: SOTO**

In his earlier-mentioned letter of 6 April 1998 to the chairman of parliament, Minister Zalm had also referred to an assignment for Hans Blom, the director of the RIOD. It concerned a proposal to create a new foundation called SOTO. SOTO would carry out research on the return of people to the Netherlands after the war and how various groups were welcomed, including the Jews.<sup>16</sup>

Ultimately SOTO would publish four books on this subject.

### **Vuijsje's Letter**

While the Van Kemenade Commission was investigating postwar restitution matters, there were various contacts between CJO representatives and Finance Ministry officials. Their views sometimes differed greatly. In June 1999 Hans Vuijsje, director of the JMW and an adviser to the CJO, sent a personal informal letter to Ruppert. This letter raised several of the key underlying issues of the restitution process. Even though the letter may not have directly influenced what happened, it remains an important document because it tells about a view much wider-held in the CJO at this point in time.

Vuijsje started his letter by saying:

In the past period we have had, at various moments, some philosophical discussions about the finalizing of the commission's activities and about the way the government can come clean with itself and, in this way, with the Jewish community. More than once you have said that one should not think immediately about money but about the original aim: recognition. With this kind of statement you push us — unintentionally — to a specific position, one that I find unjustified.<sup>17</sup>

In an enclosed text Vuijsje analyzed the meaning of "recognition." He was very critical of the Dutch government's attitude toward the Jews after World War II. In his conclusion he took a position that, to a large extent, would later be that of the CJO in its negotiations with the government:

To say that we should not speak about money but about recognition is seen

in our circles as chutzpah, effrontery. It is a reversal of the facts. It is Dutch society that talks about money all the time, not the Jews.

The question, of course, is recognition for what? This cannot be recognition as victims of persecution that has already been given by the WUV law. The recognition has to be that there has been careless dealing with the possessions of Jews. That means in essence dealing with money. Recognition is a nice word, but it is not achieved by just speaking about an allowance for suffering. Recognition is not achieved by saying that one should not speak about money. It is not achieved if commissions determine what is good for Jews. Recognition can only be achieved if one takes into account the background of those concerned and the consequences they have endured for their life and way of thinking. That means “respect,” “justice,” and “self-determination.”

This — in my opinion — must mean that:

- It is clearly acknowledged that there are possessions and monies that should have been transferred to Jews and the Jewish community.
- The government takes a generous position on the reimbursement of possessions.
- It is left to the community itself to determine what should happen with the possessions and monies; this cannot be decided by a minister or commissions without the community’s input.<sup>18</sup>

### **Kasdorp’s Document**

Another important document that, however, did not get any publicity was an analysis by the legal expert Anton Kasdorp, at the time associated with the law office of Houthoff and Buruma. He wrote this document for the Israel Institute for Research of Lost Dutch Jewish Assets during the Holocaust.

In this paper Kasdorp investigated both the legal and the practical arguments concerning a possible belated restitution at the end of the twentieth century. Regarding the practical arguments he wrote:

In view of the development of events in the last years in the United States and Switzerland and, in view of the many commissions in the Netherlands and the related publicity, it is quite possible that the development of claims will be entirely outside the legal sphere.

If it becomes clear that it is commercially more advantageous or politically wiser to pay claims than to fight against them legally, then banks, insurance companies and even governments will be willing to accept that reality. The same lack of moral backbone of the Netherlands that caused the Jews damage both during and after the war will then, for a change, work in their favor.<sup>19</sup>



## **Legal Aspects**

Regarding the legal aspects Kasdorp remarked that, after the war, many victims and their heirs did not receive any restitution because the legal aspects were complex. He wondered whether this could be corrected after so many decades. Kasdorp's answer was that this could only be possible with the collaboration of those who remained in the possession of the stolen properties.

If I leave aside the enemy at that time, this would be the Dutch government, insofar as it has nationalized possessions of the enemy or has become their owner through application of the national laws of that time. In addition, this concerns banks and insurance companies that, due to the statute of limitations, have become the owners of unclaimed deposits or benefits. Furthermore, there is a certain number of individuals who cannot be identified.<sup>20</sup>

Kasdorp explained that there are two periods regarding a statute of limitations: "The first is a short subjective one of five years. The second is an objective one of 20 to 30 years. After the longer period has elapsed the victims and their heirs can do nothing." He added that if the counterparts, such as banks and insurance companies, want to cooperate, they do not have to claim the statute of limitations. Kasdorp, however, saw as a practical problem the difficulty "to show in individual cases the right of ownership and other rights that were lost during the war and for which no claim has ever been presented."

He observed that in a number of cases — even without involving the tribunals — banks and insurance companies, out of considerations of public relations, might be interested in paying an indemnification to certain victims provided they could show "a) that they or their legal predecessor have a claim on that institution; and b) that, as a result of the actions of the Nazis, they had received no or insufficient payment." Kasdorp added that sufficient funds and promises of funds already existed for this purpose.

## **Claims against the State**

Kasdorp advanced additional important arguments that, however, would not be used by the Jewish negotiators in the renewed restitution process. He wrote that there were potentially major claims against the Dutch state. They did not only concern lost possessions and high inheritance taxes that the state had received, but also "a compassionate allowance for everybody whom the Dutch government had to protect and toward whom the authorities have fallen short in their duties. This could be a very large amount."

Kasdorp added:

It is not true that until today the government has totally neglected this

obligation. In the 1960s payments were made to war victims. The government mediated in the payment of German allowances and pensions were paid to war victims. Also both the open and nonpublic help to Israel, in particular during the wars of 1967 and 1973, can be added to the account of moral claims.<sup>21</sup>

Kasdorp's most far-reaching statement is that the Dutch government could be held responsible for what was looted from the Dutch Jews during the war.

It is not clear why the German Federal Republic should be held responsible for the debts of the Hitler regime while the Dutch government should not be responsible for the debts of the Dutch regime at the time of the occupation.

Neither of them can be identified with the preceding regime, yet both of them took over the assets and liabilities of their predecessors. The Netherlands subsequently could probably bring a claim against Germany. The Netherlands did not start the war, and without the occupation no damage or harm would have come to the Dutch Jews.

It is not true that the Netherlands created war victims but the Netherlands had the legal obligation to prevent the making of victims. It cannot be said that the government and the Dutch population did all they could have done in this matter.<sup>22</sup>

These remarks by Kasdorp were potentially explosive. The Jewish representatives could have used them in their negotiations with the government or in the media. They could also have probably inspired a major public discussion. Kasdorp had thus provided an indication of a possible legal basis for a major charge against the Dutch government in view of the failure of its predecessor in exile in London during the war.

If the CJO had used these arguments, the issue of the Dutch government's lack of apologies for the failure of its London predecessor would probably have been a central subject in the major publicity concerning the restitution discussions. However, going that far was not in the nature of the people who were negotiating on behalf of the Jewish community. They wanted to settle matters pragmatically, and that already seemed a heavy task to them.

## **The Stockholm Conference**

On 26 January 2000 the major conference on Holocaust education in Stockholm ended. The Stockholm International Forum on the Holocaust had been initiated by the then Swedish Social Democratic prime minister Göran Persson. He was probably motivated to organize it by the impact of Holocaust deniers in his country and the presence of neo-Nazism among young Swedes.

Political leaders from almost fifty countries participated in the conference,

among them the Dutch prime minister Wim Kok.<sup>23</sup> He was accompanied by Frank Majoor, who was then Dutch ambassador in general service and as such responsible, among other things, for the international contacts concerning the renewed restitution process. There were also many participants from Jewish communities and organizations. During the conference a difficult conversation took place between Kok and Singer of the WJC. Kok remembered that it was a tough exchange of views.<sup>24</sup> In that meeting, Singer made very strong statements about the Netherlands' misconduct toward the Jews during the war.

Singer recalls:

I met Dutch prime minister Wim Kok during the Stockholm International Forum on the Holocaust and remember the discussion as if it happened yesterday. He was polite and pleasant, yet at the same time very surprised with what I said. I told him that in my view the Netherlands had been a willing partner of the Germans during the war. Later the country got a free pass about its war past thanks to its abuse of history. The Netherlands had cashed in on the Anne Frank card. Sometimes, from the way her story was told, one could even get the impression that she had survived the war.

I added: "The Netherlands had a participatory role in the wartime murder of a large number of its Jews." Kok and I then argued about the percentage of Jews murdered, which is also influenced by how one defines who is a Jew. I told him that it was not his generation that had done these terrible things. Thus he and his generation were not guilty, but it carried a responsibility for what its predecessors had done. The sooner the Netherlands would admit to this, the better it would be for the country.

I then asked Stuart Eizenstat, who had played a crucial role in advancing the renewed restitution process at the end of the 1990s, to join the conversation and repeated in front of him what I had said earlier to Kok. Eizenstat agreed with my view on the Netherlands but his tone was much softer, which was logical because he represented the American government at the Stockholm conference.

We at the World Jewish Congress had not yet studied the antecedents of Kok sufficiently. In our conversation he came over as a labor union leader who wanted to focus on how much the Netherlands had to pay in this matter. I, however, was making a moral argument, pointing out that the money to be paid was secondary. I understood from him in our conversation that, at a suitable time, he would come clean about the horrible wartime past of the Netherlands. To the best of my knowledge he has never done so.

Ten years after the Stockholm conference I am still convinced that the Netherlands misbehaved severely toward the Jews during the war, after the war, and also during the renewed restitution negotiations. It is a country whose leaders have never told the full truth about the past.

The day I met Kok I also had a number of meetings with leaders of

several countries. The Spanish justice minister gave me a letter that started with “Mea culpa, mea maxima culpa.” There was also a great difference between Kok’s attitude and that of French prime minister Lionel Jospin, both of whom were socialist leaders. Jospin understood what it meant that this generation was responsible for the misdeeds of its predecessors, and that admitting this did not mean they themselves were guilty.<sup>25</sup>

Immediately after the Stockholm conference, on 27 January, the report of the Van Kemenade Commission was published. Was this a coincidence or had the Dutch government planned it that way? The publication of such a sensitive report during a conference where so many leading personalities were present was not desirable. Waiting until after the conference would have assured that neither the findings of the report nor public criticism of it would be discussed in Stockholm. In practice it did not work out that way.

### **Robbing the Jewish Community?**

On 23 January, before the Stockholm conference opened, Dutch national television news reported that the Van Kemenade Commission would recommend a payment to the Jewish community of 150–250 million guilders (approximately 70–115 million Euro). It soon became known as well that the draft report contained the lower figure, but that the commission had raised its recommendation to the higher one in the final text.

After the Van Kemenade Commission’s report was published, it became clear that the figure was arbitrary and not based on any calculation of what monies had been withheld from the Jews by the Dutch postwar authorities. It was thus presented as a “gesture” rather than an overdue restitution payment.

In the absence of any other significant data, the media debate focused mainly on this figure, one of the weakest parts of the report. One Dutch daily headlined an interview with this author: “The Van Kemenade Commission Robs the Jewish Community.”<sup>26</sup> Some newspaper reports suggested that the figure was chosen because the commission members estimated that this was what Dutch society considered “socially acceptable” while any higher amount might rekindle anti-Semitism.<sup>27</sup>

Calculating the values of the monies withheld that were mentioned in the commission reports, including corrections for inflation and interest, would have yielded several times the recommended amount of 250 million guilders.<sup>28</sup> Such a translation into current values was the logical thing to do in view of the many decades the Dutch government had held the monies.

The psychologist Rob Wurms, a member of the board of the CJO who in the summer of 2000 would become its chairman, says: “After the draft of the Van Kemenade Commission report had been shown to us we went with a CJO

delegation to the Province House in Haarlem to meet Van Kemenade. He said there in a rather fatherly way that a gesture of 150 million guilders was quite nice. We told him that we did not see it that way and we did not want a ‘gesture.’”<sup>29</sup>

## Hollow Words

Against the background of this debate, Kok’s speech at the Stockholm conference was submitted to more than usual scrutiny. One claim he put forward there was that “the restoration of legal rights in the impoverished postwar Netherlands was basically correct from a legal and formal point of view.”<sup>30</sup>

Kok, a consummate politician, should have known that even the report of the Van Kemenade Commission would not support this conclusion. The commission wrote: “While in the setting up of the legal restitution system the specific situation of the Jewish victims of persecution and their descendants had been taken into account, they had been insufficiently integrated into the details.”<sup>31</sup> The commission added: “In retrospect, a special arrangement for the Jewish victims of persecution would have been justified.”<sup>32</sup>

A month earlier, the Scholten Commission had written that, particularly with respect to securities traded on the Dutch stock exchange, the restitution process had failed. The commission’s detailed report on the subject used a double negative, saying that since this was a very substantial part of the overall restitution process, one could not conclude “that the restitution process with respect to securities had not failed,” referring to the legal, formal, and operational parts of the process.<sup>33</sup> The Kordes Commission had pointed out other highly problematic issues.

Kok noted that the commission reports published to date had identified and criticized a number of the shortcomings of the restitution process, namely, “the length of the process, the cumbersome and inflexible procedures and, above all, the chilly reception and lack of understanding that awaited those returning from the camps.”

Kok added that this situation “was without any doubt not unique to the Netherlands.” This remark is particularly telling in view of the fact that the Netherlands often considers itself an exemplary country that shows others how to behave. On that basis, it feels free to liberally criticize other countries. While Kok’s observation was true, since so many nations behaved poorly during and after the war, nevertheless for a Dutch prime minister to use such a phrase indicates that he felt a need to take a defensive position.

Kok then stated that “What we can do is recognize these deficiencies, learn from them, and rectify them wherever possible. This is the course of action my government and the Dutch people are committed to.” In light of the then known financial recommendation of the Van Kemenade Commission, compared to the real value of Jewish assets not restituted, this promise sounded hollow.

## **Apology**

After Kok's speech, Naftaniel, who was present in Stockholm, requested that Kok issue an apology on behalf of the Dutch government for the injustice done to Jewish Holocaust victims by the democratic postwar governments of the Netherlands. This matter became an issue of debate in the media.

According to the *Volkskrant* the morning after Kok's speech, i.e., the day on which the Van Kemenade report would become public, Kok said he did not consider a comparison of the Netherlands with, for instance, Sweden to be valid. He considered Swedish wartime shortcomings far worse than those of the Dutch, a statement that was neither diplomatic nor easy to prove. It was hard to understand what motivated a Dutch prime minister to start ranking specific countries' evil deeds in this way. Kok also said he found it difficult to apologize for something that had been done by previous governments.

When he returned to the Netherlands Kok would, however, lose control of the apologies issue, as detailed in the next chapter.

## **The World Jewish Congress**

While the CJO wanted to keep the negotiations with the Dutch counterparts in its own hands, the WJC, on various occasions, attempted to intervene.

Sanders says:

In June 1998 the World Jewish Congress came to the Netherlands to meet with representatives of the Dutch government at the Foreign Ministry. The WJC wanted to meet without the CJO, but the ministry invited us nevertheless. Ambassador Jan Marchant d'Ansembourg participated on behalf of the ministry. The WJC was represented by Singer and its deputy secretary-general Maram Stern.

The WJC wanted to appoint somebody from the Netherlands to represent them on the Van Kemenade Commission, but they didn't succeed. We were of the opinion that the Dutch Jewish community had three good people on the commission. They had been invited to join as individuals, but everyone knew that they were Jewish.

From our community's perspective, a WJC representative on the commission would not have added anything. We had our contacts. Krant was close to Markens. Later there were many contacts between Markens and Halberstadt. I don't know much about De Swaan's connections. I remember, however, that in 1998 we met once in Krant's garden and De Swaan was there as well. The Van Kemenade Commission knew of this meeting. Its purpose was that we would be told about the progress of the commission's work.

Looking back, I don't think the WJC could have done much in the Netherlands. In other countries the debate was often only about rough amounts to be paid. In the Netherlands much detailed knowledge was required on individual issues.

Sanders says that, as he was a member of the executive of the WJC's European affiliate, the European Jewish Congress (EJC), he had reported regularly in its meetings about the development of the Dutch restitution process.<sup>34</sup>

## **A Cultural Gap**

Many of these themes recurred in the observations of other persons involved in the process. Numann remarked:

The CJO was rather apprehensive from the beginning about a possible role for the WJC in the negotiations. The CJO considered it a powerful and influential body. It was an American organization with very definite views. There was, however, a great gap between their culture and ours.

We were also afraid that the WJC would use these negotiations for their own purposes and would want to earmark part of the money to them. We explained this fear to them and they assured us that this was not the case. The real problem was that we were afraid of losing control of the negotiations. The way Americans deal with similar problems in their own country can be very effective. If you deal in that way with the government of a small country such as the Netherlands, you risk creating major problems.

Numann added:

As far as I can assess, the Dutch government was even less inclined to have the WJC participate. They risked being pushed forcefully in directions they didn't want to go. The consequences would have been unforeseeable and the WJC's involvement could even have caused economic problems. It was quite normal for the WJC to threaten with a boycott of foreign banks and insurance companies that wanted to do business in the United States but had not made appropriate restitution payments. Such behavior is rather usual in the United States, but not so in the Netherlands.<sup>35</sup>

## **Losing Control**

Markens observed:

I did mention the WJC in the first conversation with Kok. I said: "You have to take into account that tens of millions of people are looking over our

shoulders. They are watching not only what the CJO is doing, but also what the Dutch government is doing.”

Yet the CJO was determined to keep the WJC out of the negotiations. We had many reasons for this. First of all, we were of the opinion that, as representatives of the Dutch Jewish community, we could solve our problems without foreign third parties being involved. Second, we had the strong impression that the Dutch government didn't want the WJC to be present. They feared strong pressures or even blackmail. This was not desirable from our side either. Furthermore, we were afraid that we would lose control of the money to be obtained. It was very unclear to us what the WJC might do if they got involved and what the outcome of the negotiations would be.<sup>36</sup>

Roet observes that SPI did not want any involvement of the WJC either. “It was only when we saw that the CJO's negotiations with the stock exchange would have no results that we initiated moves to get the WJC involved.”<sup>37</sup>

### **A “Jamming Station”**

Halberstadt says that while the Van Kemenade Commission was doing its work, the WJC called him three or four times.

I considered them a kind of “jamming station.” They called me, and perhaps others, and suggested that if the commission didn't take a generous position it might eventually lead to boycotts of Dutch corporations in the United States. However, I was strongly convinced that the parties involved in the Netherlands would without a shred of doubt solve the matter in a satisfactory way. I considered myself solely responsible toward Dutch society and my own conscience. For me the WJC was only a self-appointed partner in this process. They presented themselves as an organization that represented world Jewry whereas, in fact, they were an American organization. Their entire approach to me was not pleasant.<sup>38</sup>

In this author's meeting with executives of the WJC, they took the position that the Dutch Jews had not been persecuted as Dutchmen, but as Jews. They pointed out that, as a result of the Holocaust, Dutch Jews had been dispersed around the world. These were the two reasons why the international Jewish polity should be represented in the negotiations.

As noted, at the January 2000 conference in Stockholm, Singer and Kok had a conversation. In an interview Kok says: “At first this was very difficult, but we slowly reached a better understanding. His input played a role in our deliberations. It is important that, in this conversation, we created a climate of accepting that we did not agree on all points.”<sup>39</sup>



## The WJC and the Banks

It will be seen later in this book that, in the negotiations with the banks on the payments to be made by the stock exchange, the CJO was forced by SPI to involve the WJC, as they could not conclude these negotiations successfully on their own. The WJC's involvement led to a rapid agreement whereby the banks committed themselves to far higher payments than they had offered the CJO.

De Swaan remarks: "Not only the banks but parts of the Jewish community were also irritated by this involvement. They didn't think it fit the typical Dutch model of negotiations — the so-called Poldermodel. It was a breach of good relations between negotiating parties in the Netherlands."<sup>40</sup>

Zalm saw it differently: "I encouraged the banks to solve the matter quickly. In the end the pressure from the United States to conclude the issue cost them unnecessary money from their point of view. If, from the beginning, the banks had taken a reasonable position and received the Jewish community decently, they would have paid less. I didn't pity them."<sup>41</sup>

## Notes

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35. Personal communication, Ernst Numann.
36. Personal communication, Henri Markens.
37. Personal communication, Avraham Roet.
38. Personal communication, Victor Halberstadt.
39. See the interview with Wim Kok in this volume.
40. Personal communication, Tom de Swaan.
41. See the interview with Gerrit Zalm in this volume.

## Chapter Eight: The Van Kemenade Commission Report

The Kordes and Scholten commissions had published their final reports in December 1998<sup>1</sup> and December 1999,<sup>2</sup> respectively. The Van Kemenade Commission report was published in January 2000.<sup>3</sup> These documents left many questions open. They were uneven in quality and were written largely in euphemistic, bureaucratic language. Nevertheless, when read together with a number of books and other documents available nowadays, they offer a number of important conclusions.

As mentioned before, the Van Kemenade Commission (Contactgroep Tegoeden WO-II) was instituted on 10 March 1997 by Finance Minister Gerrit Zalm. The commission had ten prominent members: Dr. J. A. van Kemenade (chairman), Prof. Dr. J.C.H. Blom, Prof. V. Halberstadt, F. G. Kordes, F. Korthals Altes, J. Krant, J.F.M. Peters, Prof. Dr. A. Schilder, T. de Swaan, and H.H.F. Wijffels. Its secretary was Prof. L. C. van Zutphen. The commission was supported by the researcher Dr. C. van Renselaar. Christiaan Ruppert participated in its meetings on behalf of the Finance Ministry.<sup>4</sup> Kordes was initially not a member but after the commission he headed completed its work, he was invited to join the Van Kemenade Commission.

Initially the commission's task was limited to monitoring claims abroad resulting from World War II.<sup>5</sup> The commission would have to see whether Dutch citizens could advance claims abroad in certain situations. In practice that referred exclusively to the dormant accounts in Swiss banks. Investigations had started in Switzerland in May 1996 regarding the accounts of people in Swiss banks of whom nothing had been heard since the end of the war.<sup>6</sup>

### **Extension of the Mandate**

Already in its second meeting on 10 April 1997 the mandate of the Van Kemenade Commission was extended. One reason was requests by the NVB, the VVV, and the CJO to investigate the insurance sector, which led to the establishment of the Scholten Commission.<sup>7</sup>

As a result of its monitoring function, a third task would develop for the Van Kemenade Commission. In August 1997 it drew the minister's attention to several issues mentioned in the American study "US and Allied Efforts to Recover and Restore Gold and Other Assets Stolen or Hidden by Germany during World War II," which had been published shortly before. According to this report the

Netherlands would receive a final payment from the Tripartite Gold Commission (TGC).

In a letter of 18 September 1997 the finance minister asked the commission to investigate the gold-pool issue. The minister pointed out that in view of all the unforeseen developments since the commission was established, it should see itself as not limited to a very strictly defined task but, instead, as dealing with a certain complex of issues.<sup>8</sup>

As mentioned earlier, the commission suggested to the minister to donate the proceeds of this final payment to the Dutch war victims. This decision was influenced by the fact that the American study noted that some gold in the gold pool had come from concentration camp victims.<sup>9</sup>

### **History of Postwar Restitution**

On 27 January 2000 the Van Kemenade Commission's report was published. Its contents will be described here insofar as they do not overlap with the reports of the Kordes and Scholten commissions. The report gives a useful overview of what had happened in the renewed restitution process in other European countries such as Switzerland, Sweden, Norway, and Austria. This is followed by a chapter describing the development of the Dutch gold claim over the period 1945–1988.

Then the report gets into more problematic issues. Its fourth chapter gives a historical overview of the postwar restitution process. This is based on research by the economic historian Peter Klein, whose report was presented as an attachment to the final Van Kemenade Commission report.<sup>10</sup>

The fourth chapter points out that, during the war, the Dutch government in exile in London discussed whether deported Dutch Jews should be given special help at that time. This proposal was rejected by the government with six votes against five. The majority thought that extending such assistance would conflict with the more general aims of the war. This was tantamount to saying one should focus mainly on the defeat of the Germans while other issues, including the genocide of Dutch Jewish citizens, were secondary.<sup>11</sup>

This was implemented in the laws that would regulate the restitution process. The Jews were to be treated like all other Dutchmen, even though they had on the average suffered and lost far more. A group of prominent Jewish lawyers and economists had written to the government in the spring of 1946 that special measures for the Jews should be taken “so that the Jewish segment of the population would be in a position equal to that of the remainder of the Dutch population.” The Van Kemenade report adds that the goal of ensuring that all citizens are equal is nowadays a matter of public interest as opposed to what was the case in the feudal period.<sup>12</sup>

The Dutch government's attitude toward the Jews was even more discriminatory as certain categories of government officials and military personnel were

given priority in the restitution process. They received 100 percent restitution for their loss of salary during the war.<sup>13</sup>

This chapter concludes that the restitution process was the result of profound thinking. The government's attitude toward the Jews did not stem from negligence. Another conclusion is that the restitution process in the postwar Netherlands was not a matter of pure law and justice, which would have made judgment on it simple. The issue concerned a mutating multitude of forces and powers. These resulted from political, economic, socio-psychological, and social relationships; in other words, from the entire field of societal relations.<sup>14</sup>

### **Looting and Restitution**

Chapter five of the Van Kemenade report dealt with the extent of the looting of Jewish assets and their restitution. It was based on a report undertaken by KPMG Forensic Accounting.<sup>15</sup> This chapter attempted to answer a number of questions, including the monetary value of the looted Jewish assets in the Netherlands by the Germans from 1940 to 1945. A second question was how much of what had been looted had been restituted after the war. Furthermore, it was asked what the value of Dutch Jewish assets had been before the war and which part of that was saved by transferring it abroad.

The next question concerned the possible dormant accounts of Jews in Dutch and foreign financial institutions. Another question dealt with the value of assets placed in safekeeping with gentile Dutchmen that were not returned after the war. Finally, the authors were asked to critically analyze the assessment of the value of Dutch Jewish assets in 1938–1939 as calculated by Helen B. Junz in her study for the Volcker Commission.<sup>16</sup>

The KPMG study came to the conclusion that about one billion guilders at values during the war had been stolen from the Dutch Jews by the German occupiers. It also found that the largest looting involved assets transferred to LIRO for a value of 370 million guilders. This represented cash, bank accounts, securities, insurance policies, jewelry, works of art, and so on.<sup>17</sup> Aalders reaches higher figures. He claims that the value of the looted securities alone was 300–400 million guilders.<sup>18</sup>

### **Businesses**

An important item concerned businesses valued at 300 million guilders. The authors pointed out that due to the lack of archive material it was very difficult to estimate the value of Jewish businesses that had either been sold or liquidated by the German occupiers. The report also mentioned other estimates of businesses looted varying between 150–600 million guilders.<sup>19</sup>

Hoek says:

This was the most difficult part to evaluate. There were hardly any documents. For larger companies a *Verwalter* (a person who managed the business) was appointed. Smaller businesses were liquidated and it is quite possible that some of the liquidators put part of the money thus received in their pockets.

It should be emphasized that at that time, even for larger businesses, if they were family enterprises there was no obligation to produce an annual report. If a company was not listed on the stock exchange, there was no obligation to submit any financial data to the chamber of commerce as is required nowadays. No methodology exists to obtain information about these businesses.

The tax files of these companies were all destroyed after a number of years. The only thing the tax authorities kept were documents concerning a person's possessions at the time of his death. This was important for the inheritance tax. A. J. van der Leeuw, who worked at the RIOD after the war, collected much material, including some estimates concerning the number of businesses in which Jews had influence and that had to be registered with an institution called the "Wirtschaftsprüfstelle."<sup>20</sup> For our study the material of Van der Leeuw was not very helpful.<sup>21</sup>

Other important categories of looted possessions were real estate, whose value was estimated at 196 million guilders, and furniture estimated at 118 million guilders.<sup>22</sup>

The authors of the KPMG study came to the conclusion that the postwar restitution amounted to about nine hundred million guilders.<sup>23</sup> The report stresses that it would be misleading to compare the prewar possessions of the Jews with the restitution because of the devaluation of the Dutch currency as well as for other reasons.

The authors point out that while the looting took place mainly from 1941 to 1943, the restitution process took place over a period of twenty-five years after the liberation of the Netherlands in 1945. They also mentioned that while the restitution data are known rather accurately, those of the looting are to some extent of much poorer quality.<sup>24</sup>

### **Ten Melons Looted; Nine Apples Returned**

The most questionable part of the Van Kemenade report, however, involves the assessment by KPMG of the amount of looting and restitution of Jewish property.<sup>25</sup> The report states that Dutch Jewry had been robbed of over 90 percent of their possessions during the war.

One of the most problematic sentences in the report is the one that says it can be estimated "that the looting of Jewish possessions by the German occupier

was at least one billion guilders, and that in the course of the years, at least 900 million guilders have been restored. From this it cannot be concluded that 100 million guilders have not been returned. Both amounts are fraught, as said, with great uncertainty.”<sup>26</sup>

Since none of these figures are index-linked they are misleading, as they refer to mixtures of radically different values of the guilder over many decades. KPMG had said so themselves in their report and they should not have juxtaposed the two figures. What was written might be paraphrased as: “Ten melons have been looted; nine apples have been returned; those who conclude from this that one fruit is lacking are wrong.”

Comparing a currency unit from the 1940s with one of the 1970s or the year 2000 borders on the ridiculous. The average Dutchman is not familiar with inflation accounting and thus may not easily understand how misleading this reporting is.

The commissions of inquiry avoided calculating indexation and interest on the payments they recommended, giving only a nominal figure, mainly in values of the 1940s and 1950s. Hence the financial sections of the Van Kemenade report, in particular, which were meant to cover all claims against the government, were misleading. Even for a professional financial analyst there is no simple way to translate the figures mentioned into current values.

On several other questions they were asked, the authors of the KPMG report gave hardly any or no answers. The document concluded that no reasonable estimate exists of emigration of Jewish possessions before 10 May 1940, dormant accounts with Dutch financial institutions, or the size of assets deposited by Jews with Dutch gentiles.<sup>27</sup>

### **Postwar Restitution in Line with Legislation**

The Van Kemenade Commission also mentioned the conclusions of the Kordes Commission concerning the unjust actions of the authorities with regard to the restitution of looted possessions to the Jewish community. The report stated: “insofar as these are the consequences of acts of government bodies, we are of the opinion that the authorities must, even belatedly, accept their responsibilities for this, not for legal reasons but for moral ones.”<sup>28</sup>

The commission also concluded that the postwar restitution was in line with legislation, with the exception of certain parts of the restitution of securities. From there the report went on to make several judgments:

There were a number of shortcomings, however, in the restoration, which were mentioned. The implementation was overly bureaucratic and poorly organized and as a consequence time-consuming. Many of those concerned were left in uncertainty for a very long time and had to accept financial settlements in order to get by.

Nor were any special measures taken to expedite the restoration of the rights of the survivors and the family members of Jewish war victims. No account was taken of the extraordinary and harrowing circumstances in which many Jews lived after the war. After 1945, the government and society were apparently more concerned with the general national interest (such as rebuilding the country and the turmoil in Indonesia) than with expeditious restoration of the rights of those who had suffered most from the war and the persecution.<sup>29</sup>

The Van Kemenade Commission came to the conclusion that the Dutch authorities should recognize that, partly due to their actions, mistakes had been made. It therefore recommended that a payment of 250 million guilders be made to the Jewish community on moral grounds. The commission made it clear that there was no basis for the calculation of this amount because the damage resulting from the faulty government actions could not be determined.<sup>30</sup>

### **The Government Partly to Blame**

The Van Kemenade Commission report says:

The exact amount concerned cannot be determined. Tracking down the parties involved is no longer possible. The statute of limitations has lapsed in all respects. We believe, however, that the Dutch government should acknowledge that it was in part to blame for the errors and shortcomings. It has a moral responsibility in our view to make a donation to the Jewish community, given the unfair and inequitable consequences of the matters.... The award should not be individual or collective compensation (which would have to take account of inflation) but should be a financial donation for the adverse consequences of government actions that are acknowledged in hindsight but cannot be quantified. In the Committee's view, a government donation of 250 million guilders would be fair and equitable.<sup>31</sup>

The Van Kemenade Commission suggested that the Jewish community should determine how this amount would be used. One possibility it mentioned was a fund administered by a management committee in which the majority would be Jews.<sup>32</sup> The commission also said that "we are aware that our recommendations are not proportional to the unimaginable suffering of those concerned during the war and also not to the lack of understanding and the injustice with which many were confronted after the war."<sup>33</sup>

Regarding the moral issues, the commission stated:

Even though the full extent of the shocking facts on the murders of the Jews were known relatively rapidly, only very limited public attention was given to the subject. In broader circles, it was only decades after the war that one



became fully aware of the horrors caused to the Jews. Thus recognition in society of the responsibility to do something for the fate of the victims of persecution, and particularly the Jews among them, came late.

The commission pointed out that a special social law for war victims was only enacted in 1972.<sup>34</sup>

The report listed many other failures: “The persecution of the Jews was not systematically put on the agenda in the postwar trials of collaborators and war criminals, or in the parliamentary inquiry into the behavior of the government in exile. The setting-up and the process of the restitution had also not been systematically investigated.”<sup>35</sup>

As mentioned, Aalders had written in a 1989 newspaper article that there had never been a public discussion as to whether special provisions should be made for the robbed Jews, who had been harder hit than any other group.<sup>36</sup>

## Media Reactions

Articles regarding the conclusions of the Van Kemenade Commission report started to appear shortly before it was published. The *Volkskrant* wrote that the commission would recommend a payment of 250 million guilders to the Jewish community. It added:

In the discussion of the Van Kemenade Commission various figures were discussed, including 150 million guilders. The final report is the result of a political consideration: the amount should not be too low, which could be perceived as an insult. It should not be too high, because that could lead to protests and high claims of other groups of victims or to feelings of anti-Semitism.<sup>37</sup>

Karel Berkhout wrote in *NRC Handelsblad* that the commissions of inquiry had opened a Pandora’s box where all the problems of the postwar period had emerged. This included the cold reception of the returning Jews and the difficult restitution of Jewish assets by private people, financial institutions, and the state.

Berkhout noted that KPMG’s accountants estimated the total Jewish assets at the beginning of the war at one billion guilders, which is substantially less than the 1.65 billion guilders calculated by Junz in her study for the Volcker Commission. Furthermore he states that in his book *Roof*, Aalders arrives at two billion guilders in which the possessions of the 22,500 German (Jewish) immigrants were also included.

Berkhout wrote that a conflict between Aalders and the Van Kemenade Commission came to light at the commission’s press conference on 27 January 2000. He also mentioned that Aalders suspected that the Finance Ministry was

behind the cancellation of his lecture at a major conference on Nazi looting in Washington at the end of 1998. Berkhout adds that this quarrel fed the suspicion of the Dutch Jewish community about the intentions of the Dutch authorities to try and decrease the costs by blocking the person who had made the higher estimates.<sup>38</sup>

### **A Highly Subjective Recommendation**

In an interview with the *Volkscrant*, Van Kemenade said: “We knew that we made ourselves vulnerable with the recommendation to give 250 million guilders to the Jewish community. Whatever we would have done would have been controversial.” He emphasized that the amount mentioned in the report “is highly subjective.” He added that the commission had seriously considered not mentioning any amount and leaving the sum total of the financial gesture for the government to decide. Van Kemenade also said that the investigation was unavoidable as the international debate had started again a few years earlier. He remarked about the Dutch investigation: “Was it good to hold it? I do not know, the discussion does not end.”<sup>39</sup>

A few days later *Volkscrant* editor Hella Rottenberg wrote that

the considerations of the commission have remained opaque. Van Kemenade has not been able to explain how the [commission] arrived at this approach. By just naming an arbitrary amount it seems as if one is paying to settle a moral debt and that was not what it was all about. The original intention was to investigate in detail, as much as possible, which Jewish assets had wrongly ended up in the hands of the Dutch government and therefore should then have been paid back.

Rottenberg added that the researchers had identified a number of assets that had been deposited in the government’s treasury and she wondered why these amounts had not been used as a starting point for a settlement. She also mentioned that, in their negotiations with CJO, the insurers had shown that this was possible.

Rottenberg brought a number of arguments into the debate. She noted in her article that Van Kemenade had suggested that the government investigate everything that had been taken from the Jews and also calculate what had been paid to them, including social payments for victims of persecution. She added that she could not understand what social payments to victims had to do with assets withheld from people from whom they had been looted.<sup>40</sup>

The Dutch Jewish weekly *NIW* was critical as well:

One wonders why the government put this commission to work at all... The commission came up with, at best, unclear calculations. The amount it recommends that the government should pay as “satisfaction” for the Dutch

Jews is in no proportion to the benefits the state intentionally or unintentionally received from the Shoah. Also, as far as the distribution of the money is concerned, the commission wants to sideline the Jewish community.... One can only hope that the government will deal with this advice for what it is: a dry well.<sup>41</sup>

There were public reactions as well. Jewish parliamentarian Rob Oudkerk, from the Labor Party, said a debate in parliament should be held quickly so as to avoid testing the emotions that had been awakened for too long. The anti-Semitic feelings that the commission's conclusions roused — particularly regarding the amount of money — among some people, Oudkerk asserted, were another reason that the formal procedure should be concluded as soon as possible.<sup>42</sup>

### The CJO's Reaction

The CJO rejected the conclusions of the Van Kemenade report shortly after they were presented. The CJO's outgoing chairman, Numann, stated diplomatically: "The fact that there is a report is of course important. There are valuable data in it. We want to have this story behind us as soon as possible and we are now one step further."<sup>43</sup> Incoming CJO chairman Markens said: "My personal opinion is that the figure is below the lower limit. To determine it the commission just put a finger in the air...it does not meet the expectations."<sup>44</sup>

The CJO announced that it had asked the accountancy firm Paardekooper & Hoffman to calculate as exactly as possible how much of the Jewish community's money had been withheld by the Dutch government. On behalf of the CJO, Naftaniel said the government had not returned 90–100 million guilders. The accountants had been asked which multiplier should be applied to this. Naftaniel said this would lead to a much better-founded amount than the arbitrary one that the Van Kemenade Commission had decided upon. He added that "the state should not profit from genocide."<sup>45</sup>

Sanders remarks: "The main backup we had was support of the press. When the Van Kemenade report was published, papers such as *NRC Handelsblad*, *Volkskrant*, and *Trouw* supported us. They continued to do so later on as well. That was thanks to Naftaniel who was very good at public relations and had longstanding contacts with a number of journalists."<sup>46</sup>

Looking back ten years later Numann says:

The Van Kemenade Commission just picked a random figure. Our approach had always been that one could discuss the multiplier, but that the nominal figure should be clarified. In retrospect, I can only consider the increase from 150 million to 250 million guilders as an attempt to get us to agree to the commission's proposal.

I also recall a conversation with Van Kemenade in Haarlem where he

had his office as the queen's commissioner for Northern Holland. He didn't lack empathy for the Jewish community, except for the financial issue, which was crucial for us. I have always thought — though I have no proof — that he had agreed on that figure with Kok. Van Kemenade was considered to be “someone who extinguishes political fires.” Usually, if a commission headed by him said “that's the way we're going to do it,” it was accepted.<sup>47</sup>

### **SPI's Reaction**

SPI issued a critical statement that it

considers the report of the Van Kemenade Commission and its recommendations as inadequate. The report hesitantly confirms some, but not all, of the moral claims of the Dutch Jews against the Dutch government. Its financial recommendations are highly inadequate. The language used in the report with regard to financial matters is often incomprehensible for the reader unschooled in professional financial analysis and consequently misleading.

It went on to state that the failures of the Van Kemenade report were too many to list.<sup>48</sup>

Roet called the amount proposed “unacceptable.” He suggested the Dutch government use the agreement reached in Norway as an example, by which the government, besides other payments, made a significant payment to all survivors.<sup>49</sup>

### **Jewish Individuals React**

The opinions of a number of Jews were published or quoted in the newspapers. Retired economics professor Arnold Heertje wrote in *NRC Handelsblad* that the payment of an imprecise amount of money to the Jewish community, which was based solely on moral grounds, should be seen as negative. He said: “Nowadays, when many members of the Jewish community, despite the eternal grief that they carry, contribute in a constructive way to Dutch society in all its elements, a gesture on moral grounds becomes a slap in the face to the Jewish population.”<sup>50</sup>

Heertje suggested that the apologies of Prime Minister Kok — which he had made a few days earlier — to the Jewish community should be replaced by a letter to the members of parliament. The letter should mention, among other things, what happened after the war: “The Jewish population encountered little understanding from other citizens in those days. Sometimes they were even confronted in a hostile way.”

He wrote that the letter should include that the “government and parliament

in those years did not sufficiently understand that the application of the strict rules of law to the circumstances of the Jewish survivors was unfair, unjust and sometimes inhuman.” Heertje suggested that the letter should specifically single out Minister Liefstinck, who had applied the Dutch inheritance tax laws to the legacy of members of the family who had been murdered in the gas chambers. In contemporary perspective this was inadmissible and humiliating.<sup>51</sup>

The novelist Leon de Winter wrote that he was surprised that the Jewish members of the commission allowed a number of irritating remarks in the final report to pass.

One of the most important concerned the amount of the payment: it should not be higher out of fear of encouraging anti-Semitic remarks. I want to bring to the attention of the commission that anti-Semites can already be enraged if one pays even a single guilder. And anyhow, who can determine the difference between 250 and 500 million guilders? Any amount that exceeds the price of bread is an abstraction.<sup>52</sup>

### **Lipschits: Payment, a Pittance**

In a detailed article in the weekly *De Groene Amsterdammer*, Lipschits was quoted as saying that the commission had simply not done a sufficiently professional study. He noted that the looted amounts had been valued in 1942 guilders whereas restitution was made in 1960 guilders. “There is a big difference between those two values, determined by the loss of interest and inflation and giant percentages as a result of the war.”

The author of the article wrote that, when Lipschits had pointed out that two major archives had hardly been consulted by the commission, Van Kemenade had called him a liar. Lipschits concluded “it is logical that they [the commission] did not dare to fix a clear amount of restitution. They simply did not do their best.”

Lipschits called the proposed payment a “pittance.” He remarked that he wanted to know to what extent the Dutch government had enriched itself from the Holocaust. That amount should be multiplied to arrive at the current value. He added: “However much or little it is, that is what we are entitled to.”<sup>53</sup>

### **Not a “Gesture”**

Lipschits appeared on many TV programs. He usually criticized the fact that the financial “gesture” recommended in the Van Kemenade report had been arbitrarily invented instead of being calculated. Lipschits called the lack of seriousness of

this approach an insult to the Jewish community and stated that he sought justice, not “gestures.”

The Van Kemenade Commission had thus not achieved what the Dutch government wanted: to put behind it once and for all the issue of Jewish assets looted during World War II and the slow and partial restitution process thereafter. Nor did the commission fulfill the expectations of the Dutch Jewish community in Israel.

Kok later explained:

The Van Kemenade Commission concluded that a “gesture” should be made to the Jewish community. This same expression came up often in public discussion. I considered the word gesture to be inappropriate. For me it was a matter of solidarity with those who had suffered during the Second World War only because they were Jewish. We thought it was our obligation — not a legal but a moral one — to find suitable solutions.

Therefore I did not want to use either the word gesture or compensation. When people who have a feel for the Dutch language hear the word gesture, they think it is something by which we solved a problem. The word compensation cannot be used because horrible things happened during the war that can never be compensated. Therefore, to me the word allowance seemed to be the best.<sup>54</sup>

### **Archives Not Investigated**

As mentioned, Lipschits claimed that the Van Kemenade Commission had forgotten to investigate two major archives. These were those of JOKOS, a Jewish institution dealing with restitution matters in the 1960s, and the Omnia archive, which contains information on Jewish businesses expropriated during the war. Decades ago Lipschits had begun an almost single-handed effort to raise the subject of postwar Dutch discrimination against the Jewish community.

Hoek says:

I had much contact with Lipschits who has done magnificent work in replying to people who had addressed the Kordes Commission about personal data from the JOKOS files. In our many contacts we discussed a number of times the possibility of using the JOKOS files to estimate the value of the looted furniture. In my report I have pointed out that to include all the twenty-nine thousand JOKOS files was impossible.<sup>55</sup> At an average of five minutes per file — and some of these are not easily accessible as the forms that were to be filled out are complex — that would have required more than 2,400 working hours.<sup>56</sup>

Hoek adds: “As far as the Omnia archives are concerned, these are rather

incomplete. Often the financial information required was lacking. I also pointed that out in our report.”<sup>57</sup>

## **Kok Apologizes**

The waves around the unmasking of the Dutch war, and postwar, myths were getting progressively higher, partially because the issue of the apologies was on the agenda at the same time.<sup>58</sup>

When Kok returned from the Stockholm conference, he lost control over the issue of apologies. Zalm appeared on television that same day and said the cabinet must offer its apologies to the Jews. Similar statements came from other cabinet members and parliamentarians.

The next day Kok indeed presented the apologies of his government for the attitude of postwar Dutch governments toward the Jews. The motivation for his change of mind, he said, was that he had since read the Van Kemenade Commission report. This was a poor excuse, since major postwar government failures had been pointed out in the Kordes Commission report published in 1998 and the Scholten Commission report published in 1999.

Kok’s eventual apology included a new fallacy, namely, that the postwar administrative failures were largely unintentional. This assertion is not supported by the conclusions of the Dutch commissions of inquiry.<sup>59</sup> This statement was, however, repeated in the document the government presented to parliament in March 2000.

After the government’s apologies this subject did not cause much debate anymore. Yet four basic issues were not discussed. The first was that the government should recognize Dutch legal coresponsibility for what had happened to the Dutch Jews during the war. The second was that the Dutch government should recognize Dutch moral responsibility for what had happened to the Dutch Jews during the war. The third was that the government should recognize that its postwar restitution laws were unfair toward the Jews. And the fourth was that the Dutch government should recognize that those laws were executed in a discriminatory manner.

Because the Dutch government has never recognized the full truth concerning the misconduct of its predecessors, the apologies issue reemerges from time to time. For instance, in April 2010 the eighty-seven-year-old Selma Engel-Wijnberg, the only Dutch woman who had survived the Polish extermination camp Sobibor, was made a knight in the order of Oranje Nassau. It was the first time that she again visited the Netherlands after much hesitation. Ab Klink, welfare and health minister, handed her the honor. He apologized on behalf of the Dutch government that she was not welcome in the Netherlands after World War II because she had married a Polish Jew.<sup>60</sup>

### **Van Kemenade's Letter to Zalm**

One day after the commission's report was published, on 28 January 2000, Van Kemenade wrote a letter to Zalm on the letterhead of the Province of Northern Holland. Van Kemenade suggested that he provide explanations on the report on behalf of the commission. This letter would later become public thanks to the efforts of Heertje.

The letter contained a dubious remark that does not appear anywhere in the commission's report. Van Kemenade writes:

If one takes a bookkeeper's approach of what the state has received (usually legally), one also has to take into account what the state has paid to the Jewish victims specifically, for instance in the framework of the WUV law and the Law on Material War Damage (MOS).

For various reasons we did not want to choose this bookkeeping approach. But, if one does, it is logical to specify also that the state, on the basis of the WUV law, paid about 1.5 billion guilders and, on the basis of the MOS law, about 600 million guilders, to Jewish victims. In this case the 250 million guilders recommended could be considered especially generous.<sup>61</sup>

Three days later Van Kemenade wrote a second letter. In it he made a correction and explained that his text about the MOS law should have said that an unknown part of the 1.3 billion guilders that were paid had gone to Jewish war victims.<sup>62</sup>

These letters were very problematic. They were presented as having been written on behalf of the commission. This was denied by several of its members. Van Kemenade attempted to present it as a possible option that social payments to war victims could be offset by restitution payments for what had been stolen from the Jewish community. Once one starts to speculate on such possibilities, the door is open for a whole array of options in many other areas that could have taken Dutch democracy in many undesirable directions.

### **Notes**

1. Kordes Commission, Final Report.
2. Scholten Commission, Final Report.
3. Van Kemenade Commission Report.
4. *Ibid.*, 8.
5. *Ibid.*, 6.
6. *Ibid.*
7. *Ibid.*
8. *Ibid.*, 7.
9. *Ibid.*, 23.
10. Van Kemenade Commission Report, Bijlage 2, prof. dr. P. W. Klein, het rechtsherstel gewogen: vragen met en zonder antwoord. Amsterdam, 12 January 2000. [Dutch]



11. Ibid., 51.
12. Ibid., 52.
13. Ibid. 45.
14. Ibid., 86.
15. Tweede Wereldoorlog: Roof en Rechtsherstel, Bijlage 4 van het Eindrapport van de Contactgroep Tegoeden WO II, KPMG Forensic Accounting (drs. F. Hoek RA en J. ten Wolde RA), Roof en restitutie Joods vermogen, Amsterdam, 12 January 2000. [Dutch]
16. Van Kemenade Commission Report, 88–89.
17. Ibid., 91.
18. Gerald Aalders, *Berooid: De beroofde joden en het Nederlandse restitutiebeleid sinds 1945* (Amsterdam: Boom, 2001), 372. [Dutch]
19. Ibid., 91.
20. Bijlage 4 van het Eindrapport van de Contactgroep Tegoeden WO II, KPMG Forensic Accounting, part 2, 40. [Dutch]
21. Personal communication, Frits Hoek.
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## Chapter Nine: Debates in the Van Kemenade Commission

The Van Kemenade Commission was composed of prominent Dutchmen. The three Jewish members — Halberstadt, Krant, and De Swaan — while representing only themselves, made a Jewish voice heard in the commission.

One can only obtain a fragmented picture of how the internal discussions developed, based on some interviews and allusions. Yet it is clear that the Van Kemenade Commission brought together people who at the beginning of its work carried very different memories and views of the Dutch attitudes toward the Jews and what had happened after the war.

The three Jewish members came with family histories of the persecution and suffering of their families and the injustice done to them during and after the war. They expected the commission to recognize — albeit many decades too late — the Dutch government's postwar misconduct toward the Jews. They also assumed that actions would be taken to repair the financial injustice as much as possible. Several other members of the commission expected to work in the tradition of how Dutch commissions investigate complex matters and make recommendations. These express the Dutch Poldermodel, based on compromises and leaving much unspoken or toned down.

### **Emotions**

The non-Jewish members of the commission were not a homogeneous group. There was, for instance, a great difference in personal experience between Frits Korthals Altes, who grew up in Amsterdam, and Herman Wijffels, who spent his youth in Zeeland, a province where few Jews lived, with whom he had no particular contacts. As a teenager Korthals Altes had lived for some time in the home of Jacobus Hemelrijk, the Jewish rector of the Murmelius gymnasium in Alkmaar. He had a better than average understanding of the attitudes and emotions of Dutch Jews after the war.

There were major tensions in the Van Kemenade Commission. One can only gain some impression of this, as these tensions were manifested mainly within the closed atmosphere of the commission. Van Kemenade had been the chairman of several other government commissions. What happened here was unprecedented: the commission, in a short period, changed its recommendation of the amount to be paid from 150 million guilders to 250 million guilders and the terminology from “donation” to a “gesture” to be made to the Jewish community. Such drastic

modifications happen rarely in the orderly Dutch society to which government commissions belong.

Markens, who followed the commission's work as closely as he could from the outside, said:

There were great differences in the attitudes of the Dutch people involved in the investigations of the renewed restitution. Commission president and former minister Van Kemenade dealt with it as a politician. He tried to treat the issue without emotion, as much as was possible. In Jewish circles involved in the restitution negotiations, he acquired the reputation of not understanding much about how badly the Jewish community had been treated after the war.<sup>1</sup>

The Jewish members of the Van Kemenade and Kordes commissions had gone along with recommendations in the reports that were severely criticized by the CJO. These included, for instance, the opinion of the Kordes Commission that it was correct to levy multiple inheritance taxes on Jewish estates, as well as the decision of the Van Kemenade Commission to make a "gesture" of only 250 million guilders to the Dutch Jewish community.

On several occasions, Van Kemenade stressed that the decisions in his report were reached unanimously. To outsiders this sent the message that the Jewish commission members had agreed with these.

## **The Nature of Dutch Society**

Van Kemenade says:

When we started to investigate the restitution process after the war we were shocked. As far as procedure was concerned it had largely been correct but I thought "how slow, how legalistic, and how bureaucratic." There was far too little compassion for the people who came back with so much suffering; it was a scandal. There also were a number of things that were totally wrong, mainly concerning the securities issue and how Liefinck protected the stock exchange. I came to the conclusion that it could have been done very differently.

One then asks oneself why did it play out in this way in Dutch society? We discussed it in the commission. Postwar Dutch society was happy that one was free again and focused very much on the reconstruction of the country. Furthermore, the Jewish community, most of whom lived in Amsterdam, was a separate society. We cannot imagine this now, but many people did not know about the horrors the Jews had experienced. I grew up in Amsterdam West where few Jews lived and my parents did not know anything about it. The government knew but did far too little. Much later the Jewish suffering

became known in wider circles when Presser published his book *Ondergang*; even that was read mainly by the country's elite.<sup>2</sup>

In view of the fact that the gap between Jewish possessions and postwar restitution was not that great, the discussion in the commission focused on what should be done. A "gesture" was in order in view of how the Jews had been treated in the postwar restitution process. This word, however, could not be used. We then all agreed on the word allowance.

The initial figure mentioned was 150 million guilders. I asked my colleagues "How do I defend that?" They said: "It is not something that you can defend. There is no legal basis and no calculation behind this figure that enables you to justify it." Therefore, we put this figure in the draft report. The Jewish community opposed this figure after they saw the draft. Then we decided to change the amount to 250 million guilders. We noted in the report how difficult it was to defend this figure.

Van Kemenade adds: "It was all in all mentally and emotionally very intensive work. It took substantial time and we were doing this as volunteers. Later some other people who were involved in the distribution of the money were paid for this work."<sup>3</sup>

## Rough Guesses

Halberstadt says: "When Van Kemenade fell ill I chaired the commission as his deputy. Toward the end of the commission's inquiry Van Kemenade returned." Halberstadt points out:

The situation for the commission was difficult. We wanted to conclude with a clear result. However, what we found were just rough guesstimates. These then had to be recalculated to express money values at the end of the twentieth century. Helen Junz, who had worked for the Volcker Commission, did a helpful double check.

The commission discussed a great variety of questions. An interesting one was Van Kemenade's query on whether the sum of payments of the WUV (social benefits for World War II victims and kin) should be deducted from the final amount. I thought that this was de facto and de jure unrelated to our work. As to the final amount to be paid by the state, we discussed how to arrive at a specific figure. If we had worked with a low multiplier we would have come out with a lower amount than the commission finally proposed. Van Kemenade's initial position was, I think, to arrive at a lower number. He was actually overruled by the commission's majority on this issue after very thorough discussions. The government accepted our conclusion, which in the end was certainly unanimous.

Everyone in the commission felt and expressed that these issues should

have been dealt with in a radically different way fifty years earlier. Therefore the payment had to be on the higher side of what could be calculated. Yet we were only an advisory commission. The government thereafter had to decide on the basis of our document what it would do, and it had to accept responsibility for that.<sup>4</sup>

### **A Visit to the Past**

Halberstadt adds:

The Jewish community had never demonstrated the ambition to investigate itself these specific problems of the postwar restitution. This does not mean the subject did not interest them emotionally. The Jewish members of the commission, Tommy de Swaan, Joop Krant, and I, were participating as individuals and not as representatives of the Jewish community. I never held official positions in the Jewish community.

The Netherlands is only a small country. Most of the Van Kemenade commission members are on a first-name basis with each other. Most of us had also held public positions. Only Krant came exclusively from the private sector.

I was born in 1939. After the war there was little talk at home about what had happened. For me this commission membership was also a visit to the past. It brought to the surface how powerless the Jewish community was after the war and how the government paid little to no attention to it. I was not the only one who found it a challenging experience.

In light of the available material it was also a difficult issue to study and one wanted to do one's work well. Being a member of the commission was in some ways quite demanding. I felt myself very responsible. Perhaps I was more conscious than some others that what we were doing was not only very important for the surviving Dutch Jews but also for the image of the Netherlands. In my view that image had been seriously dented by World War II and subsequently by the police actions in Indonesia and the Dutch role in Srebrenica. Most Dutchmen probably saw that very differently.

Halberstadt concludes: "Somewhat naïvely I had thought that as a member of the Van Kemenade Commission I would get mail or calls from many interested Jewish Dutchmen. However, not a single letter or call arrived. After the end of the commission work, I received two letters from people who asked about specific personal situations and whether I could help them."<sup>5</sup>

### **Swaying Non-Jewish Members**

De Swaan, then still a member of the board of the Dutch Central Bank (DNB), had played an important role in the composition of the commission.

At the request of Kok and later also Zalm I approached several future members, including Halberstadt, Krant, Korthals Altes, Peters, Blom, and Wijffels. I also asked Van Kemenade as chairman of the commission and Van Zutphen, the former DNB chief accountant, to be secretary.

Halberstadt and I said from the beginning that we were willing to be members of the Van Kemenade Commission. However, we set the condition that we would not be engaged in the distribution of monies awarded. We knew that this would lead to conflicts, and we had no desire to be involved in them.

In the commission, at a certain time the non-Jewish members were swayed by the Jewish ones. It was clear that some of them had begun their commission work with a different attitude toward what the Jewish community had experienced after the war. By the end these views had evolved greatly. Their change of attitude was based on the realization that the present generation still has certain responsibilities for what their predecessors did.

It was a crucial point in the debate when the other members of the commission started to realize that one could not just say that the matter was closed, as the Jewish community had accepted an agreement fifty years ago. In particular people like Korthals Altes, Peters, and Wijffels realized that something structurally wrong had been done at the end of the 1940s. Van Kemenade had much more difficulty with this.

I have the feeling that the overall negotiations between the government and the other parties on the one side and the CJO on the other have been concluded in a way everybody can live with. For me the payment was not a gesture or an allowance but a restitution of money kept unjustly.<sup>6</sup>

### **Commission Members with Agendas**

Krant tells how he was approached for the Van Kemenade Commission by De Swaan.

He told me that the government wanted to have several Jewish members on the commission. As both he and Halberstadt were more associated with liberal Jewish views, it was important to have also a member who was identified with the Orthodox segment of Dutch Jewry.

I hesitated. It was a great honor to be in the company of such erudite people. I consulted with some friends, but mainly with Markens who encouraged me to accept the offer. In the commission I initially remained rather silent and listened to what the others said.

It gradually became clear that, like everywhere else, several members of the commission had their own agenda. Mine consisted of two points. The first one was that the amount to be paid should be as high as possible. It

would never be enough to retribute what had been stolen and destroyed and certainly could not cover the damage to individual human beings.

My second point was that the government had behaved very poorly after the war. This concerned the entire handling of the restitution process. It was cold, heartless, and bureaucratic. There was no understanding for the victims. This became clear to me in particular when we were informed about the scandalous way the restitution of securities had been dealt with after the war. We made sure that all this was noted in the commission's report. I see it as one of the merits of the Van Kemenade Commission that this matter received so much public attention.

As to the KPMG report, which had no proposals for indexation, Krant, when asked whether those commission members who had a financial background would have been willing to pay for a report of such quality if it had been commissioned by their own business, answered "most probably not."<sup>7</sup>

### **Moving in the Wrong Direction**

Krant observes:

At a certain time during the commission meetings I had the feeling that we were moving in the wrong direction. I told Markens: "The CJO has to start making its voice heard because otherwise this commission will not give the Jewish survivors any satisfaction."

Initially everybody was speaking about making a "gesture." I thought that these people would never admit to the poor behavior of the Netherlands. That is why they want to use this word gesture. When the draft report was ready it referred to the amount of 150 million guilders. The issue was then how to have that amount increased.

Krant adds: "The Jewish commission members then quarreled with Van Kemenade and we managed to get the amount up to 250 million guilders. I had the impression that several members of the commission considered me a troublemaker. I had said before that I would not cooperate if they didn't change their attitude."<sup>8</sup>

### **Closing the Door of Guilt**

Krant concludes: "When the report was published I had the feeling that, with this, the commission was closing the book of Dutch guilt toward the Jews. I saw the attitude of some members as: 'Jews are receiving their money, the bill has been paid. There is no guarantee for the quality of the product delivered and complaints will not be accepted.'"



He observes:

During the negotiations with the government that came after the report I interpreted Kok's attitude not as "let's look at how we can solve this issue" but much more as "the Jewish community is my counterpart." My view was that this was not true, but that the government and the Jewish community had to work together toward a just agreement. It seemed to me that the government thought "well, the Jews are only the beginning. After this other communities will come with their claims, in particular the people from the former Dutch East Indies." They may have thought that, but in my view the Jewish community could not be compared with any other. This is also what I repeated continuously in the commission.

Another issue that irritated me about Van Kemenade was his attempting to deduct the social payments to the Jews under the WUV law from the final payment. He even wrote a letter to Zalm about this. It was absurd to mix restitution with social payments. In his letter Van Kemenade wrote that the commission thought this should be taken into account. This was not true, and would come to light when Prof. Heertje managed to get hold of this letter, thanks to a Dutch law that enabled access to certain government documents.

At the end the commission asked Korthals Altes, Van Zutphen, and me how the money should be distributed. In my view it should have gone entirely to community purposes and not to individuals. I still hold this opinion.<sup>9</sup>

## More Emotions

These impressions illustrate that for the Jewish members participating in the commission was very emotional. Matters that had not been stressed in the Jewish community now surfaced with great impact because of the long time they had been suppressed.

Other commission members also became emotionally involved when they were confronted with the researchers' findings. Van Zutphen says the facts that surfaced in the commission about the Dutch authorities' postwar behavior filled him with shame.

He recalls:

I talked much with both the Jewish members of the commission and some Jewish leaders. I wanted to have a clear understanding of the views, the feelings, and the sorrow of the Jewish community. I felt one would see the issues differently if one comprehended that. Also thanks to the renewed restitution issues there was more awareness about the Jewish suffering during the war. That may have ebbed away since then.

I always thought it was not so important what our opinion was, but much

more how the Jewish community would react. If the government had stuck with the financial recommendation of the Van Kemenade Commission, then the matter would have ended with the feeling that the Jewish community had again been caused pain.

There is one issue I should add. Whenever we needed money for additional studies the Finance Ministry was very forthcoming. It was very good that Zalm was minister at the time.<sup>10</sup>

When discussing this, J.F.M. (Jaap) Peters — former chairman of the board of the large insurance company Aegon — says about his membership in the Van Kemenade Commission:

Emotionally I have found this to be the most difficult public function I have ever fulfilled. Klein put it very well: “To pass judgment on the restitution of property rights after the war is to pass judgment on the Netherlands and its people.”

I was born in 1931 and lived in Amsterdam, and remember how the Jewish children whom I knew from our neighborhood disappeared. After the war there was a feeling in some parts of the community of “we all have suffered and the Jews should not complain.”

While I was a commission member I read as much as possible about the war. I have never in my life read so much. I also talked to Jewish friends about their postwar experiences as far as looted possessions were concerned. Some of these stories were quite shocking. One of them said: “It is better that the matter is not raised again.”

When, a few years later, the commission’s findings are brought to your attention and you sit comfortably in your chair and read the reports again, there is sometimes great astonishment about what happened after the war. One is ashamed for a number of things that are written there. I always have found it strange that it took so long before this matter came to the surface.<sup>11</sup>

## **Formalism**

Korthals Altes remarks:

In the commission discussions we came to the conclusion that the returning Jews, as well as other war victims, were welcomed back with an incomprehensible coldness.

The Jews were also confronted with the formalities of the notaries who said that, especially in Jewish families, one could not verify who had died first. Thus one did not know who had inherited from whom. The legislation regarding missing persons and declarations of probable deaths was exceptionally negligent. These points have been discussed in the report of the Van Kemenade Commission.

What fascinated me was that in our research we discovered that the period of postwar restitution was characterized by great formality. Nowadays we think very differently about this. Making the translation from one period to the other is very interesting for a lawyer.

## **The Mutation of Justice**

Korthals Altes explains:

In the 1960s and 1970s the Dutch administration of justice mutated from a very formal application of the law, which was common before and shortly after the war, to one that does not depend too much on rules but rather applies criteria of reasonableness and fairness. Today these two notions permeate the entire civil jurisdiction. If a formal rule leads to unfairness, the judge has to find a solution for it.

At the end of the 1990s when the Van Kemenade Commission was doing its work, the development of this jurisdiction was in an advanced stage. We said that with our present views the postwar decisions would never have been taken that way. I then said that, out of fairness toward the generation after the war, we should mention that the jurisdiction was different at the time we were judging it.

Korthals Altes also observes that social anti-Semitism had been widespread before the war and that it remained so in the first postwar years. He adds: "We have to realize that anti-Semitism has for a long time been a part of European culture and it has not even been completely eradicated by the Holocaust."<sup>12</sup>

## **Revealing the Truth**

Wijffels observes:

The commission consisted of members who enjoyed a certain confidence in the Dutch community and among Dutch politicians. These were people who did not arrive with a prejudice. I was not familiar with Jewish matters and this was a totally new experience for me.

What we found was that the Netherlands focused on the reconstruction of the country and did not give adequate attention to the injustice that had been the fate of the Jewish community. It was rather revealing that possessions looted from Jews who had been deported were in the hands of various Dutchmen and institutions. This included, for instance, museums that had acquired works of art. This had not been properly investigated after the war. The period until 1950 or so was simply not the most glorious one in Dutch

history. There was a lack of attention to the people who needed this very much.

When I would come home in the evening after participating in a commission meeting, I felt the need to share with my family my surprise and also, to a certain extent, anger about the negligent way the matter was dealt with after the war. People were so concerned at that time with their own problems that this aspect was mostly neglected. I saw my main role in the commission as ensuring that the truth would be revealed.

Looking back ten years later, I feel that this commission treated an issue that was very different from any other subject I have dealt with during my career. My main impression of the postwar period is that the Jewish population, which had had so many victims during the war, was not properly treated.<sup>13</sup>

The historian Hans Blom, who then headed NIOD, was very familiar with postwar history. He considered himself an outsider in the Van Kemenade Commission. Blom saw it as a gathering of headstrong people who had a lot of experience in politics or the business world. "I had obviously been appointed because of my expertise. The other members knew that one needs experts but did not consider this expertise as a first priority."<sup>14</sup>

## **Emotions Elsewhere as Well**

Not only among the members of the Van Kemenade Commission were there such emotional reactions. Other Dutch decision-makers who had to supervise historical research and draw conclusions were also unexpectedly subject to an outburst of emotions. One such example from outside the Van Kemenade Commission illustrates this further.

Aad Nuis, since then deceased, was from 1994 to 1998 deputy minister on behalf of the D'66 Party in the Education and Culture Ministry in the first Kok government. He was confronted with restitution issues connected with claims about art that had ended up in Dutch museums, after being looted from Jewish owners by the German occupiers.

In his autobiography Nuis devoted a number of paragraphs to this matter.

The heartless postwar treatment of the survivors reemerged not only in the immaterial but also in the material sense.... To treat the issue as subject to the statute of limitations would have been defensible legally but not morally and politically. That became clearer the more I looked into the matter in depth. It turned out that many things went wrong after the war, not out of malice but out of a lack of ability to identify oneself [with the survivors] which today one cannot understand....

Survivors and their heirs themselves had to search for their belongings

and to identify them in a way that would convince the authorities that they were the legal owners. Very often this was impossible. One also had to prove that these possessions had not been sold voluntarily to the Germans...as if for Jewish owners during the occupation there had been such a thing as doing something voluntarily.... The investigations have been completed in the meantime and restitution has begun — less than if it had happened immediately after the war and far too late. Old injustice can never be undone, but one has to do what one can.<sup>15</sup>

Nuis writes about the situation in a subtle way. However, between the lines one can feel the unease of someone who has to represent the government in a matter where an extremely weak part of the population has been treated harshly by a democracy's leaders.

Also for the journalists involved, the renewed restitution process was an important event. Berkhout, who followed it for *NRC Handelsblad*, said: "For me the restitution stories belong to the most relevant things I have done in my journalistic career."<sup>16</sup>

For Boom, as mentioned before, the discovery of the LIRO cards had already been a very emotional event. He recalls thirteen years later:

At a certain moment, we suspected that the last possessions of the Jews to have remained at LIRO had never been given back to the heirs or people who could claim some right to them. Thereafter we got some tips that indicated this was the case. For a few days this caused me major emotions. A journalist can never totally exclude those.

It was a feeling of "How can one person do this to another?" I almost saw the Dutch officials who had sat typing the cards in the Westerbork transit camp. Thereafter many Dutchmen still claimed they never knew what would happen to the Jews. If one starts to check a bit, one realizes that in 1942 all kinds of things were known about concentration camps and even extermination camps. The people who typed these cards could have known this. They involved themselves with an occupier who not only in word but also in deed had clearly demonstrated having extremely evil plans for a number of groups, among them the Jews. I found it horrible.

I suffered with the thought when I saw the cards. For me it was perhaps even more tangible because it concerned Jewish Dutchmen who spoke my language when they were still alive. It also concerned Dutch non-Jewish officials who spoke my own language and in that language typed such a card and helped rob other people of the last belongings they had.

Sander Pleij and I knew that we had to exclude that emotion as much as possible from our articles. In that case what is written hits much harder. We did not show our anger even though it was very difficult. For a journalist, however, it is much better to present the facts as well as one can.

Boom adds:

Former minister Zalm presented his memoirs some time ago. He said at the time twice: "I think I should resign." If that was his opinion, he should have done it. Technically he did not have to resign because he was not a minister during 1940–1945 or during the postwar restitution of what had been found by LIRO.

For symbolical reasons, though, there was much to be said for his resigning. If you have such a view in the back of your mind and say on television that you really have to resign, but your collaborators have talked you out of it, then you are in my opinion a hypocrite. You put your personal interests before the solidarity with and interest of other human beings. A nation had to be woken up in order to realize the misdeeds of its forefathers.

Instead, Zalm had his spokesman threaten our paper with a police raid. He did everything to get the LIRO cards in his hands before they were published.<sup>17</sup>

Pleij also recalls this second major discovery Boom and he made:

Many years after the war, the remaining small possessions of murdered Jews had been sold to employees of a government organization that dealt with the liquidation of LIRO. We sat opposite Lipschits and tears welled up in our eyes. Perhaps the tears even ran down our cheeks.

This discovery was a big shock for us. Until that time I was a rather trusting person who believed what the authorities told us. I now understood that I no longer lived in the country where Anne Frank had been hidden, but in the land where Anne Frank had been betrayed. Since then I have never simply trusted the authorities.<sup>18</sup>

Also Aalders, who played a major role in the overall analysis of the restitution issue mentions his emotions: "In my research I continuously encountered things which filled me with horror, which are barbarian or worse. I sometimes struggle with it. I don't think however that I should say too much about this."<sup>19</sup>

On the Jewish side there were uneasy feelings of a different nature. Wurms says

Initially I wasn't inclined to become very involved in the restitution issue. I represented the Zionist Federation in the CJO. We were looking toward the future and not toward the past. The process also affected me emotionally. Nowadays, if I look back I think that living through the restitution process made me mentally stronger.

It forced me to think about many matters I had wanted to avoid. I had to clarify for myself what this process was about. The issue in these negotiations was not murder, suffering, and financial compensation for that. It was the stolen possessions and their restitution. I had to clarify it for myself first and then I explained it many times to various media.<sup>20</sup>

## The Poldermodel

What broader conclusions can be drawn from these statements as a whole? The prevailing Dutch approach is to look for compromise solutions according to the Poldermodel. This makes it almost impossible to confront inherently shocking issues. Doing so may not fit the Dutch national character.

For instance, the immense Dutch war crimes in Indonesia — then the Dutch East Indies — shortly after World War II have not been properly investigated. Probably more than a hundred thousand people were killed, mainly in the so-called “police” actions.

In Srebrenica at least eight thousand Muslim men were murdered by Bosnian Serbs. The investigation of the behavior of the Dutch government and of the Dutch soldiers who were stationed there has taken a long time, and the huge NIOD report on it obfuscates some of the major conclusions. An illustration of the latter can be found in the interview with former minister Borst later in this volume.

## Notes

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## Chapter Ten: Negotiations with the Insurers

The first party to negotiate with the CJO was the VVV, the Dutch Association of Insurers (Het Verbond van Verzekeraars). Regarding the period before the renewed restitution process, Sanders said: “A number of individuals had inquired with the insurance companies about their rights to wartime policies. Others sent letters to CIDI because that was the institution related to the Jewish world that was best known. It was not part of their mission but CIDI made a serious effort to help.”<sup>1</sup>

### **The Preliminaries**

Prof. Eric Fischer was then secretary-general of the VVV. The many publications in the Dutch media regarding restitution also raised the issue of the postwar settling of Jewish claims by insurance companies. Fischer thought that if the publicity continued, information could possibly be found that would damage the image of the insurers. He recalls: “I was touched by something I read in one of the papers, probably the publications about the Swiss gold issue, and thought that the related problems might expand in many unforeseen directions.”<sup>2</sup>

Fischer asked his colleague Willem Terwisscha van Scheltinga, the VVV’s secretary and historian, to investigate in their archives how the restitution of Jewish claims by insurance companies had evolved after World War II. He remarked: “Terwisscha had worked for the Nationale Nederlanden insurance company and remembered that they had faced claims after the war. The subject thus wasn’t totally alien to him.”<sup>3</sup>

Terwisscha remarks: “I once saw a small file at the Nationale Nederlanden when I worked there that was called ‘Jewish policies.’ It fascinated me and after going through it I had a vague idea about looting during the war and restitution after the war. However, as there was nobody else who seemed to know more I was named the ‘specialist of Jewish claims.’”<sup>4</sup>

At about the same time Naftaniel at CIDI had been approached by Dick Polak from Israel, who had submitted a claim concerning the Holocaust period against the major Dutch insurer Aegon. *NRC Handelsblad* wrote: “Polak knew that his murdered father had a life insurance policy with a company that had been taken over by Aegon. Polak collected an impressive quantity of archive material that from a legal point of view, however, was insufficient. Yet Aegon paid the policy, which was a breakthrough in the insurance field.”<sup>5</sup>



The author of the article, Karel Berkhout, posits that a number of factors played a role here. One was that Aegon had major interests in the United States and saw how the Swiss banks had been attacked after they refused to cooperate with owners of assets from the Holocaust period. It did not want to suffer a similar fate. Another factor was the personal involvement of a Jewish director of public relations of the company. Furthermore, Jaap Peters, the former chief executive of Aegon who was a member of the Van Kemenade Commission, sent a note to the company on the matter.<sup>6</sup>

Berkhout recalls: “In order to understand the background of the restitution process I undertook research at the National Archive in The Hague. It so happened that a person was sitting next to me who was interested in the same files I was looking at. It turned out to be a Mr. Dick Polak.”<sup>7</sup>

Naftaniel mentions: “Polak had also found a declaration by notaries who had written that a certain amount of insurance monies could not be restituted after the war and that the money had thereupon been paid to the Dutch government. These were the so-called Veegens monies.”<sup>8</sup>

## First Contacts

Fischer recalls that he approached Naftaniel and suggested that they meet. They had known each other from the time they were studying economics together at Amsterdam University. Fischer also had a certain familiarity with Holocaust matters as he was a member of the board of NIOD.<sup>9</sup> He says: “I had published a number of articles on Dutch Jewish history on behalf of the Jewish Historical Museum. Also my doctoral thesis analyzed the contribution of a Jewish family to the industrialization of the Netherlands.”<sup>10</sup>

Naftaniel and Fischer then appeared on television, discussing the claims concerning life insurance policies during the war period. At that time the Scholten Commission had not yet been established and Fischer thought the investigation regarding Jewish insurance policies during the war should be carried out by NIOD rather than the insurers themselves. He discussed this with Hans Blom, then head of this institute, and asked him if in principle this would be possible. Blom confirmed NIOD’s willingness to deal with this issue. However, when the Scholten Commission was appointed Fischer preferred to leave the matter in its hands.<sup>11</sup>

Since the Scholten Commission’s report was delayed several times, the VVV decided not to wait for it in order to settle the matter. It had stated earlier that it waived its rights under the statute of limitations. Fischer remarks: “My public relations experience told me that concerning such delicate issues one should not base oneself on such a statute. It was not difficult to convince the insurers that that should be our position.”<sup>12</sup>

Sanders observes:

With the Eagleburger Commission in the United States being active, the general pressure on insurers was also felt in the Netherlands. Fischer wanted to finish the matter correctly and quickly. Even more problematic was the pressure caused by the fact that a number of important American states, including California, introduced laws that threatened the local business of insurers who had not cleaned up their Holocaust commitments.

He adds: “On behalf of the CJO Naftaniel and I were the main negotiators. Also our adviser Hans Vuijsje was involved. Fischer and Terwisscha usually came to visit us in the offices of the Jewish community at the Van der Boechorststraat in Amsterdam. They had a very different attitude from the bankers, who expected us to come to their office.”<sup>13</sup>

## Negotiations

Both parties understood that the main issue would be the life insurance policies. Fischer said, in retrospect, “I had expected that we would end up with a much larger amount of money to pay than was ultimately the case. I thought that since more than 70 percent of Dutch Jews had been murdered and entire families had been exterminated, substantial amounts due on policies hadn’t been paid.”<sup>14</sup>

The VVV and the CJO quickly realized that the figures due could only be arrived at through estimates. Very few lists of unpaid policies existed anymore in the archives of the various insurers. In the beginning of the 1950s all money concerning the unpaid policies had been handed over to the Dutch state.<sup>15</sup>

Fischer says:

From the amount paid to the Dutch state, we could reconstruct that it involved about 2,000–2,500 policies. At that time we paid the state the surrender value, which means the actual value of the policy at the time of termination. We could also calculate from other policies what the relation was between surrender value and insured value. It has been in the order of magnitude of one to three, or one to four.

We thus had to multiply the total amount we paid as surrender value by a multiplier of three or four in order to arrive at the total insured value. Considering the number of Jews who lived in the Netherlands before the war, we concluded that about 1 to 2 percent of the value of all life insurance policies that had not been paid out involved Jews.<sup>16</sup>

In the negotiations with the CJO, the VVV conceded two issues that were important to the Jewish community. The first was that the insurers were not hiding behind the legal situation, as they had transferred a large part of their responsibility to the Dutch state through the agreement at the beginning of the 1950s. The VVV also accepted that the Jewish community was entitled to receive the difference between the insured value and the surrender value of the unpaid policies.

The second issue was that a multiplier factor of 22 would be used. This was based on the cumulative interest, had the insured value of the policies mostly been invested in state debentures at the time of death, which in most cases was 1943 or 1944. Before that, Dutch insurance companies that had paid out policies had usually applied multipliers of 11–12. Thus the VVV and the CJO arrived at a total amount of twenty-eight million guilders. Fischer remarks: “Depending on the choice of investment vehicle one can reach a great variety of multipliers both lower and higher than the 22 we used.”<sup>17</sup>

Furthermore, a rough estimate of small policies was made at ten million guilders. These were, to a large extent, burial policies. In addition, another seven million guilders were estimated to cover other types of policies. One example was that there might have been people who had bought policies in someone else’s name. They might have done so because all policies belonging to Jews had to be transferred to LIRO. In the Netherlands it is possible to take out a life insurance policy on a person, while the beneficiary is someone else than the person’s family, or even a business.

In November 1999 the VVV reached an agreement with the CJO. The insurers would pay fifty million guilders. This included an amount of five million guilders set aside for a “digital monument” for Dutch Jews (Digitaal Monument Joodse Gemeenschap in Nederland) in which the life of all Dutch Jews before their deportation was to be reconstructed.<sup>18</sup> The idea for this had been raised by Lipschits.

Fischer comments:

We had reached an agreement earlier with the CJO but it seemed incorrect to conclude officially before Scholten presented his report. It might give the impression that we did not take the report seriously. Furthermore, the report might have contained new data that would have led to a different conclusion about the amount to be paid. Because of the delay in the Scholten Commission report we finally decided to go ahead without the agreement.<sup>19</sup>

### **The VVV-CJO Agreement**

The agreement between the VVV and the CJO was signed in November 1999. This was close to the symbolic date of 9 November, the anniversary of the 1938 Kristallnacht when Jewish institutions and businesses were attacked in Germany.<sup>20</sup>

The agreement, which consists of a preamble and nineteen paragraphs, explains among other things that the insurers waived the statute of limitations. Also, when they paid insurance policies, the payment included interest. It furthermore states that the joint efforts of the parties to clarify what had happened were greatly hampered by the fact that many insurance policies had been destroyed after the legal commitment to keep them for ten years had expired.

The agreement further states that twenty million guilders will be earmarked for remaining individual claims. For this purpose the VVV and the CJO would establish a new foundation called Stichting Individuele Verzekeringaanspraken Sjoa (Foundation for Individual Insurance Claims of the Shoah). Twenty-five million guilders would be paid to the CJO for the Jewish community, and five million guilders for the abovementioned digital monument.<sup>21</sup>

Later in the document it is also stipulated that the two parties will support this agreement if additional claims — not in line with the framework of this agreement — were to be submitted elsewhere.<sup>22</sup>

### **Comments from the Jewish Side**

Sanders explains:

From the point of view of the CJO it was important to reach an agreement. The fact that the insurers accepted an indexation with a multiplier of 22 was very important to us. It would serve as a precedent and enable the CJO to put more pressure on other parties in subsequent negotiations.

Later the Scholten Commission report came out. No new facts came to light in the research done by Regina Grüter on the insurance companies. It was in line with the conclusions we had reached ourselves.<sup>23</sup>

Roet remarks:

An important consideration was that we thought the insurers would pay the funds they had agreed upon early. The CJO and SPI would then have money to negotiate better and undertake their own research. It never got that far because the money from the insurers was received only much later, albeit with interest. SPI had big problems to finance its expenses. In the beginning I paid for the research but later that became too much. The Dutch Collective Israel Appeal (Collectieve Israel Actie — CIA) later helped us greatly with interim financing.<sup>24</sup>

He adds:

The insurers made a good deal with the CJO. Later, however, they had to pay additional sums to the Eagleburger Commission. As far as I can judge, though, the insurers never paid any policies for the Dutch Jewish businesses that had been destroyed and there were certainly also institutions of the Dutch Jewish communities that were insured. These must have been substantial amounts.”<sup>25</sup>

Fischer observes that: “An indemnity insurance policy excludes war damage. There is no doubt that both Jews and non-Jews suffered war damages but these were not covered by the policies.”<sup>26</sup>

Numann says:

The negotiations with the insurers were much easier than the later ones with the banks concerning the monies to be paid on behalf of the stock exchange. This derives from a difference in mentality. An insurer regards money as a means of production that has to be collected from the insured. Afterwards one has to manage it in order to ultimately pay the insured the policy when he is entitled to it.

Banks perceive the role of money very differently. It is something to trade with. They love money. Even a penny is something tradable. Their psychology is totally different from that of insurers. However, there was a second important factor for the difference in behavior between the representatives of the insurers and those of the banks. Fischer had much authority in the VVV. He asked the insurance companies he represented to leave his hands free to negotiate and they agreed to that. The hands of the main negotiator on behalf of the banks, Blocks, were tied.<sup>27</sup>

Zalm expressed a somewhat similar view: “Insurers traditionally have more feeling than bankers for the mood of society. They concluded quite well the negotiations with the Jewish community before those of the government had even begun.”<sup>28</sup>

### **Comments of the Insurers**

Fischer observes that he had told the committee of insurers, which was in charge of following the negotiations, that it was very important to reach an agreement with the CJO that would avoid accusations that the insurers had benefited from the monies involved.<sup>29</sup>

Terwisscha noted that there was a complicating factor in the negotiations. At the turn of the century, the VVV had a number of member companies that had been founded after World War II; they thus had nothing to do with this matter. Yet there was a consensus in the association that the matter should be settled in a generous way.<sup>30</sup>

During a lecture in Tel Aviv, Fischer remarked that, when Zalm heard about the multiplier agreed upon between the VVV and the CJO, he expressed his extreme dissatisfaction. The minister realized that this multiplier would be used as a precedent in the negotiations between the Jewish community and the Dutch government.<sup>31</sup>

Fischer later explained what had happened in more detail. He had tried a number of times to get clarifications from top officials at the Finance Ministry as to what they intended to use as a multiplier. Fischer says he wanted this clarification because all life insurance policies had been transferred to the state.<sup>32</sup> He never got a clear answer. At a certain moment he decided to write an official letter asking

the ministry which multiplier they would use. He then got a reply saying that however much he asked, he would not receive a reply because they wanted to know first how much the state would have to pay in total. Fischer says:

They of course understood that what we agreed with the CJO would be a precedent that would be used in the negotiations with them. I then felt free to negotiate with the CJO. We arrived at a multiplier of 22.

Thereafter the ministry was upset about the fact that we had set this, in their eyes, high multiplier without their agreement. I then hit back saying: "I have tried for a long time to get an indication from you what multiplier to use, you always refused, thus I felt free to set it myself."<sup>33</sup>

### **The VBV Court Case against the CJO**

When the CJO agreement with the VVV was to be concluded, an organization of war victims, the VBV (Verbond van Belangenbehartiging Vervolgingslachtoffers, Association for Interests of Persecution Victims), asked that the signing be delayed for three weeks so that they could study it. When this was refused, the VBV together with an American party brought a court case against the CJO and the VVV, which the court rejected.<sup>34</sup>

Flory Neter-Polak, the chair of the VBV, says:

We are not a Jewish organization, but about 800–850 of our members are Jews. Another 150 come from the former Dutch East Indies, most of whom are not Jews. Many of our Jewish members belong to organizations that are part of the CJO, but many others do not.

The reason we brought the court case was that we wanted to be sure that all the money received would be passed on to survivors. At the time there were those who thought that all the money should go to Jewish institutions. The judge decided that the agreement could be signed but the CJO would have to hold a referendum about the destination of the monies. It is unclear why this was not ultimately implemented.<sup>35</sup>

### **Disagreements with the World Jewish Congress**

The agreement reached between the CJO and the insurers seemed a fair one.

The WJC, however, had threatened months before the agreement was signed that it would boycott Aegon unless it joined the International Commission of Inquiry into Holocaust Era Insurance Claims (ICHEIC), chaired by former U.S. secretary of state Lawrence Eagleburger.

Aegon had made a statement to the press, replying to the WJC, saying that it had no remaining unpaid Holocaust claims. It also said it was willing to join

the ICHEIC as a member in a special category. The ICHEIC should recognize that both the Dutch government and insurers had dealt fairly with the issue of Holocaust claims for over fifty years.<sup>36</sup>

On the day the settlement between the VVV and the CJO was announced, the WJC's executive director Elan Steinberg stated that the threat to boycott Aegon was still in effect. The WJC at the time was targeting eight European insurers. Aegon was singled out among the Dutch companies because in 1999 it had bought the large American insurance company Transamerica.<sup>37</sup>

Aegon negotiated toward the end of 1999 a separate agreement with Chuck Quackenbush, the California insurance commissioner, at a cost to the Dutch company of several million dollars.<sup>38</sup> Quackenbush had to resign in June 2000 in view of accusations concerning the spending of various funds.<sup>39</sup>

Sanders observes:

In the agreement with the insurers a clause was included that both parties would defend the agreement toward third parties. At a certain moment it was attacked by the WJC, which had no specific knowledge on the matter. They were not happy that the Dutch Jewish community had reached an agreement on insurance matters outside the Eagleburger Commission.

In December 1999 a congress of all state insurance commissioners in the United States convened in California. These people hold important political positions. Fischer told us that he wanted somebody from the CJO to accompany the VVV delegation there in view of the fact that the CJO had taken upon itself to defend the agreement together with the insurers. I thus accompanied the insurers' delegation, which consisted of Fischer, Terwisscha, and a lawyer from the insurance company De Nationale Nederlanden, Wouter Kalkman. I defended our agreement at the congress and the matter was also published in the press.

When I met Singer and Steinberg of the WJC, they were very critical of us. Afterwards Naftaniel made another visit to the United States, accompanying Fischer, saying the same thing to his various counterparts. There was still an attempt to attack Aegon.<sup>40</sup>

Roet would be instrumental in finding a formula that permitted the VVV to join the Eagleburger Commission after earlier efforts, including those by Dutch government officials, had not been conclusive.

Finally, on 24 March 2000, the VVV submitted a proposal to join the ICHEIC. It outlined a number of conditions, based largely on the agreement between the VVV and the CJO. On 5 April of that year the VVV published a press release stating that its proposal had been accepted by Eagleburger on behalf of the ICHEIC.<sup>41</sup>

Fischer says: "As the coordination of all Dutch insurers concerning World War II matters was handled by the VVV, we had proposed that the VVV become a member of the Eagleburger Commission. On behalf of the VVV I was the

representative of all insurers, which was a very different position from that of the other members of the commission.”<sup>42</sup>

### The Dutch Government’s Actions

Not having problems in the United States was a matter of great importance for insurance companies such as Aegon and ING, which wanted to expand in the United States. Ultimately an agreement was reached.

The Dutch government was well aware of the problems that could be caused in the United States to the insurance companies and banks. The cold reception the Dutch government and society had given the returning Jews after the war had become a major issue. The Dutch government had to take particularly into account that measures might be taken against Dutch banks and insurance companies that wanted to expand their business in the United States. Some people there considered that it might even lead to boycotts. On the Dutch government’s side the person in charge was Ambassador Majoor. He had a number of contacts with Stuart Eizenstat, who was then deputy secretary of the treasury, and others.

Roet comments: “The WJC has made life difficult for the insurers and has threatened them. I spoke to the WJC and explained to them that a multiplier of 22 was quite good and that the agreement between CJO and the insurers was final. Prime Minister Kok later told me during his visit in Israel ‘We are very grateful for what you have done for the insurers.’”<sup>43</sup>

### Notes

1. Personal communication, Joop Sanders.
2. Personal Communication, Eric Fischer.
3. Ibid.
4. Personal communication, Willem Terwisscha van Scheltinga.
5. Karel Berkhout, “Een vonk slaat over na jaren van kilte,” *NRC Handelsblad*, 5 May 2000. [Dutch]
6. Ibid.
7. Personal communication, Karel Berkhout.
8. Personal communication, Ronny Naftaniel.
9. This body was then still called RIOD (Rijksinstituut voor Oorlogsdocumentatie).
10. Personal communication, Eric Fischer.
11. Ibid.
12. Ibid.
13. Personal communication, Joop Sanders.
14. Personal communication, Eric Fischer.
15. See chapter six of this volume.
16. Personal communication, Eric Fischer.
17. Ibid.



18. *NRC Handelsblad*, 29 January 2000. [Dutch]
19. Personal communication, Eric Fischer.
20. Personal communications, Ernst Numann and Ronny Naftaniel.
21. Verbond van Verzekeraars, Centraal Joods Overleg, "Overeenkomst inzake een definitieve en finale regeling van verzekeringen van door de Tweede Wereldoorlog getroffen verzekerden die vervolgd zijn op grond van hun Jood zijn," 8 November 1999. [Dutch]
22. *Ibid.*, para. 16.
23. Personal communication Joop Sanders.
24. Personal communication, Avraham Roet.
25. *Ibid.*
26. Personal communication, Eric Fischer.
27. Personal communication, Ernst Numann.
28. See the interview with Gerrit Zalm in this volume.
29. Personal communication, Eric Fischer.
30. Personal communication, Willem Terwisscha van Scheltinga.
31. Eric J. Fischer, lecture for Platform Israel, Tel Aviv, 17 January 2000.
32. Personal communication, Eric Fischer.
33. *Ibid.*
34. Judgment, LJN AA1029, Rechtbank Amsterdam, 99/2811JRB, <http://jure.nl/aa1029>. [Dutch]
35. Personal communication, Flory Neter-Polak.
36. Press statement, "Aegon's Response to the Comments Made to Reuters by the World Jewish Congress," 5 November 1999.
37. Reuters, 9 November 1999.
38. Press release, "Insurance Commissioner Chuck Quackenbush Announces Landmark Agreement with Aegon to Resolve Insurance Claims of California Holocaust Survivors," California Department of Insurance, 30 November 1999.
39. "The Downfall of California's Insurance Commissioner," *Insurance Journal*, 10 July 2000.
40. Personal communication, Joop Sanders.
41. Press release, "Dutch Insurance Association Proposes to Join International Holocaust Commission," Persbericht Verbond van Verzekeraars, 5 April 2000.
42. Personal communication, Eric Fischer.
43. Personal communication, Avraham Roet.

## Chapter Eleven: Negotiations with the Government

With the publication of its report, the Van Kemenade Commission had finished its work. Its members did not play a public role in the following phase, though some may have been consulted occasionally by either the government or the CJO.

The Van Kemenade report became the basis for meetings between the Dutch government and the CJO. The two parties saw these very differently. The government considered them conversations or consultations, while the CJO regarded them as negotiations. Looking in from the outside at what actually happened, the CJO's definition of these meetings is more accurate than that of the government.

Shortly after the publication of the Van Kemenade report, Numann resigned as chairman of the CJO, with Markens succeeding him. Numann says: "It was in the middle of the procedure of my being appointed to the Supreme Court and I had to avoid it being a subject of political discussion. Second, there was the question as to whether a judge should take part in negotiations with the government. Yet, on that issue, there was never any criticism."<sup>1</sup>

### **Hiring a Professional Negotiator**

Before the negotiations with the government began, the CJO hired a professional negotiator, Chris van Gent. At that time he was personnel manager of the Dutch Ahold companies. In that capacity Van Gent had frequently negotiated with trade unions, insurers, and many others.

Van Gent remarks:

The CJO came to me in the beginning of 2000 before the Van Kemenade report was published. By that time the negotiations with the insurers had been completed. They felt that a more professional approach was necessary for the remainder. A former colleague of mine at the Ahold Group, Harry Hes, at the time a board member of the CJO, approached me and asked if I would be willing to become an adviser to the CJO. I made some inquiries, thought about it, and accepted the assignment. I didn't realize that I was about to enter an unfamiliar exotic world.

This exotic part consisted of endless discussions, people talking a lot without knowing where they were going. Sometimes it was almost quarreling between competitors who tried to raise their profile in the group. Furthermore, they were heavily influenced by their rank and file. The problem was that

these were intelligent people with good jobs, but with no experience in negotiations.

The CJO was facing negotiations with highly professional opponents at a level with which they were totally unfamiliar. They did not all understand that one has to try to totally support the persons who are doing the negotiating. Sometimes I found it frustrating; at other moments I thought we had succeeded.<sup>2</sup>

### **The Paardekooper & Hoffman Report**

The CJO had asked the auditing firm Paardekooper & Hoffman to make an assessment of what was due to the Jewish community from the Dutch government in money values of 2000. In their report the auditors explained that four points had to be taken into account: the nominal amount of the monies that had come into the hands of the authorities; the dates this had occurred; the final date for which the calculations should be made — the date chosen, 31 December 1999, was close to that of the negotiations with the government; and finally, the multiplier to be applied to arrive at the actual value due.<sup>3</sup>

Paardekooper & Hoffman regrouped the issues concerned into six factors. They discussed a number of items from the Kordes report (1), several points from the Scholten report (2), and the behavior of the government in the restitution of securities (3). Furthermore, the report dealt with the issue of loss of interest over the period the monies were with the government (4), inheritance taxes (5), and other matters (6), with the latter concerning mainly diamonds and social insurance.<sup>4</sup>

Paardekooper & Hoffman used two methods for arriving at the total figure to be claimed from the Dutch government. The first method was based on the rise in the consumption index of families. This led to a total value of slightly over 746 million guilders. The second method was based on the yield of long-term state debentures. In this way an amount of almost 2.2 billion guilders was reached.<sup>5</sup>

By far the main monies to be claimed concerned the Westerbork and Vught camps, which represented 20–30 percent of the amounts mentioned, and the inheritance taxes paid, which constituted about 20 percent.

Such a valuation, with a large difference between the higher and the lower figure, meant from a practical negotiating standpoint that the higher figure immediately became useless. Valuations with two different figures are only meaningful if the two are close to each other and one can take an average of them.

### **A Second Opinion**

The CJO then asked for a second opinion from M. P. Gans, a financial expert. He wrote that the monies demanded should be much lower than both of the figures

mentioned in the Paardekooper & Hoffman report. Gans considered that the factor 22 applied on the basis of the long-term state debentures was too high. In his opinion, a factor of 10 to 12 was more reasonable. Gans added that individuals or companies would have had to pay taxes on the amounts concerned and this would have lowered their income over the period they received interest.

Gans had been asked for an opinion in the financial area. Another financial expert could have maintained with the same credibility that a multiplier of 22 or even higher was reasonable. However, Gans also made several remarks that had no relationship to financial expertise, but enabled a deep insight into the author's psyche. One of these was that persons who have been harmed at a certain time usually no longer suffer from the consequences. One can only wonder what professional expertise, if any, he brought to this statement.

Gans stated that unless there was financial damage he did not see why Jews who had suffered in the war should receive an allowance with any given multiplier and certainly not untaxed. He then wrote: "I consider this a type of abuse of the guilt feelings of third parties toward Jews while also the fear of being accused of anti-Semitism plays a role, besides that of being boycotted on this basis. In the short term one may benefit from this. In the long term it does not seem to me in the interest of the Jews if one starts to see us as a type of modern Shylocks."<sup>6</sup> De Winter had shown a far better understanding of the reality of anti-Semitism when he said that "anti-Semites can already be enraged if one pays even a single guilder."<sup>7</sup>

Wurms said: "A few Jewish people told me that the CJO by insisting on more money stimulated anti-Semitism. I replied: 'If we are frightened Jews and say 'these are our belongings, but let's forget about them' we are encouraging the image of the Jew who is always afraid. I don't see myself as such.'"<sup>8</sup>

## **The Government's Starting Point**

The CJO and the government started from different positions. As mentioned, the CJO wanted to arrive at an amount based on the Paardekooper & Hoffman evaluations.

The government's position seems to have been based on several considerations. The first concerned the Dutch tradition of how government-appointed commissions in similar situations work. Their members are prominent Dutchmen who make recommendations. Thereafter these are usually accepted by all those concerned. A second consideration was that, in this case, the situation was not so simple. In the background there was the threat that if no agreement was reached, the restitution process would become an issue of international media discussions.

In that case the Dutch government risked losing control over the outcome of what it called "consultations" with the Jewish community. A protracted

international tainting of the image of the Netherlands could develop if the media started to elaborate on the many negative elements in its attitude toward the Dutch Jews after the war. This had happened to the Swiss banks and government, and also to that country at large.

What was even more threatening was that the debate would not remain limited to the postwar period. Whatever remained of the myth of the Dutch people having in general been helpful to the Jews during the war could have been easily destroyed and turned into a very negative picture. Disclosures about the Dutch government in London's disinterest in the mass murder of Jewish citizens could have made headlines in international media for a long time. The same could have happened regarding the massive collaboration with the German anti-Jewish actions by the Dutch authorities and part of the population in the occupied Netherlands.

### **The CJO Meets with the Prime Minister**

Prime Minister Kok agreed to the CJO's request for a meeting. It took place on 16 February 2000 in the Trêves room in the "Binnenhof" government quarters in The Hague. The three ministers who were dealing with the restitution issue — Kok, Zalm, and Minister of Public Health, Welfare and Sport Els Borst — were present, accompanied by several advisers.

The CJO delegation was led by its then chairman Markens, and consisted of Naftaniel, Wurms, and Hes. Roet participated on behalf of SPI. The delegation was accompanied by two advisers, Van Gent and Vuijsje.

Markens remembers:

We were received very correctly and led in at half past one. Then coffee and tea were served. Kok began the meeting by saying more or less that the Van Kemenade Commission was composed of very prominent Dutchmen. They had advised that 250 million guilders should be paid to the Dutch Jewish community. What the commission had recommended should be accepted.

Markens adds: "There were two points in Kok's statement that we could not accept. First of all the amount offered was too low. Second, it was presented as a 'gesture' of the government. This was an incorrect expression in this context. We wanted to make a calculation that was based on the amount that the government had withheld from the Jewish community."

### **The Discussion**

"Thereafter Kok asked me to respond. I said: 'If the Dutch government does not accept the justified demands of the Jewish community in the Netherlands this

shows that nothing has changed in the mentality of the Dutch government in the past fifty-five years.”<sup>9</sup>

An interesting insight into the meeting can be gained from the internal document of the CJO describing it.

Prime Minister Kok then said that there is a clear difference in views. This was followed by a difficult discussion on the difference in initial positions. The CJO posited that the discussion was not about “a gesture,” which is tantamount to a donation. The issue is: what is the Jewish community entitled to from a point of view of justice.

The government then posited that there was no legal basis for restitution. However, individual claims would be honored. Kok then said again that the report of the Van Kemenade Commission had been prepared carefully and should be accepted.<sup>10</sup>

Naftaniel said that for the CJO the report of Paardekooper & Hoffman is the starting point. This report is based on 17 points that have been listed by the Kordes and Scholten commissions. The Jewish community had been shortchanged on all these issues.

Kok then said that two issues intermingle. There is a semantic issue and a financial one. Is what the Dutch government proposes a gesture, an allowance or restitution? Finally all agreed that the Jewish community has a moral right to a payment. As far as the financial matter is concerned, Kok said that, without committing himself to anything, he would be willing to study the report carefully concerning the amount to be paid. In fact the matter was referred back to Zalm.<sup>11</sup>

The CJO report of the meeting ends with: “The meeting was concluded, after which the prime minister leaves without shaking hands. (With the exception of Ronny Naftaniel who is near him.) Ministers Borst and Zalm shake hands with the CJO delegation.”<sup>12</sup>

### **Not Shaking Hands: An Incident**

The incident of the handshakes lends itself to many interpretations by those present. Kok remarked:

I do not occupy myself all day or all week with a single issue. There are many more things to think about. People we talk to sometimes can plead fanatically about an issue of importance to them, but which doesn't have the same importance to me as other issues on the government agenda at the same time.

The government at that time was involved in devising a general solution, not only in the financial but also in the political sense. In such a situation it

wasn't pleasant to be addressed in a way that implied we were not aware of all the injustice the Jewish community had suffered after the Second World War. I was also slightly irritated that people sometimes spoke as if our resources were unlimited. This was obviously not the case. Furthermore, if resources have to be divided, there are multiple target and interest groups.<sup>13</sup>

Zalm remarks about the same incident: "I tried to explain Kok's conduct by saying that he wouldn't have behaved this way at another location. We always sit in the Trêves Room for full governmental and subcommittee meetings. We never shake hands at the end of these. If the conversation had taken place somewhere else, he wouldn't have made that mistake."<sup>14</sup>

Markens says:

Kok was angry with me. He finally left without shaking hands. That is his style. It was clear that he was angry. The next day I phoned a high official at his ministry. I told him that his boss had left without shaking hands. The official answered: "That is usual." I said: "It is a strange habit. In the Netherlands relations are such that even if you do not agree with each other, such as in this case, we still normally shake hands." The next conversation, however, was very good. Kok shook a number of hands when he arrived, and once again when he left.

Markens added: "I have seen Kok a few times in the past ten years. He never greets me anymore."<sup>15</sup>

Van Gent observes:

My first contact with the members of the other side was that meeting in the Trêves Room. Kok's leaving without shaking hands seemed to fit with his general haughty attitude. As a professional negotiator I would later say to our group, "What do you care? This meeting was not about shaking hands, but about how much the Dutch government will pay."

In my view that was the main purpose of our presence in that beautiful room, not whether we were insulted or not. In my experience the ultimate result is what counts. In business negotiations it is often important that you maintain a good relationship with the other side because you'll have to negotiate with them again in the future. In this case, however, it was essentially a one-time affair. Nevertheless, I was a bit ashamed by how Kok behaved toward the CJO delegation.<sup>16</sup>

Markens adds:

We came to the conclusion that Zalm and Borst were looking for a solution but that Kok had little empathy for the matter. I had the feeling that he wasn't a bad man, but that he couldn't cope emotionally with the issue. He once told us that his parents had also had a difficult time during the war, and he thus knew what the issue was about.

Then one of us said: “Mr. Kok, you know that of 140,000 Jews in the Netherlands at the beginning of the war, more than 100,000 were murdered. That didn’t happen to your parents. However difficult it was, they survived the war. Otherwise you wouldn’t be here. Can you compare that to what happened to our community?”<sup>17</sup>

### **Promise of a Follow-up Meeting**

Van Gent observes:

Professionally speaking it was an interesting conversation. At the same time it was very frustrating. Kok was haughty and said things that in essence were: “Gentlemen, we do not negotiate with you, we inform you. You can give your opinion, and then we will think about what you say, and then we will let you know.”

At this meeting, as proposed by Kok, we agreed that a technical conversation would take place with the Finance Ministry about the Paardekooper & Hoffman report. That meant we would start to negotiate from the figures in that report. That was the promise resulting from this conversation. I saw that as a very positive development because it could only mean that the final result would be higher than 250 million guilders. Everything was open now.

The members of the CJO delegation were very depressed and thought “this will lead nowhere.” I disagreed totally. We had asked for a room in the building to discuss the issue between us. I explained to the CJO delegation that, on the one hand, Kok had said: “We will not negotiate and will follow the advice of the Van Kemenade Commission. You can collect 250 million guilders from us.” However, this statement was only semantics. On the other hand, having a meeting with the officials of the Finance Ministry was an indication that there would be negotiations with the government.

Van Gent adds: “Borst said nothing in the conversation. Looking back, it was Zalm and his officials who saved the situation for the government.”<sup>18</sup>

### **Giving In to the Government**

After this, some difficult negotiations with the government took place for several weeks. At the same time the CJO was subject to pressures from parts of the Jewish community. Markens says:

Toward the end of the negotiations we were often told — for instance, by the JMW: “Try to conclude now. Many people are already old. It may take a year



till you reach an agreement. Each year so many elderly Jews die. They will not be able to do anything with the money to be received.”

We were also subject to other pressures. Judith Belinfante, a Dutch Jewish parliamentarian from the Labor Party, called me a number of times to try and convince me that we should accept the recommendations of the Van Kemenade Commission.

Internally the CJO reached the conclusion that they would not accept an offer of less than 420 million guilders, plus a special payment for the Westerbork camp.

Markens says:

Finally we were all called to Zalm for a concluding discussion. He asked me to come in before the others. In the preliminary conversation I accepted Zalm’s offer of four hundred million guilders in order to put an end to the matter. Of this amount, fifty million guilders would be designated for a newly created foundation for Jewish and non-Jewish humanitarian projects abroad, mainly in Central and Eastern Europe. With that, the restitution negotiations with the government were over.

Zalm’s calling in Markens for a private meeting before the general one raises serious questions. In negotiations between the government and a corporation or major institution, a separate meeting between the heads of the two delegations to reach an agreement would have been a normal procedure between equals. In this event, however, it was not the case. On one side was the finance minister; on the other, the head of a small community who had no experience in negotiating at such levels and was not accompanied by Van Gent, the adviser hired for the negotiations by the CJO.

In explaining the result, the CJO stated that it had decided — in consultation with the Dutch government — to distribute these fifty million guilders to humanitarian projects abroad, because the Dutch Jewish community wanted to show “its solidarity with Jews and non-Jews abroad who suffer the consequences of war and controversy.”<sup>19</sup> By inviting the WJC to advise them on the allocation of this money, the CJO was trying to avoid WJC opposition. Zalm said he considered the fifty million guilders for distribution abroad as very important. “I wasn’t happy about the money going only to individuals. I wanted us to do something for the future of the Jewish community outside the Netherlands.”<sup>20</sup>

### **SPI Distances Itself**

SPI felt that it had been excluded from the final, essential part of the negotiations with the Dutch government. On 14 March a number of meetings, partly stormy, took place in Israel with Ambassador Majoor who had come there. Also present was Mrs. J. van Vliet, who was temporarily heading the Dutch embassy in Israel. In one of the meetings Beker participated on behalf of the WJC.

On 16 March SPI sent a letter to Minister Zalm stating that it was an independent foundation and that it had not given power of attorney to the CJO to negotiate in its name. It added that it had not been properly informed about the recent negotiations with the CJO. The letter stressed that the CJO could not speak on behalf of Holocaust survivors outside the Netherlands, world Jewry, and the Dutch Jews in Israel.<sup>21</sup>

On 19 March SPI sent a letter to Prime Minister Kok in which it said it would not participate in the meeting with him on 21 March 2000. The reason was that it had not received a direct invitation and had not been informed about the subject of the meeting.

The text went on: “We have heard that in the [government’s] advice to the parliament — of which we have not been directly informed — the Dutch Jewish victims of the Shoah are being discussed together with other groups of war victims. We protest against this.”<sup>22</sup>

SPI expressed to the CJO its unhappiness with the way these negotiations had been conducted by it. Staal wrote that the SPI had decided “not to send a representative to the meeting with Prime Minister Kok and/or the press conference of 21 March 2000. The reason for this decision is that we have been insufficiently informed about the agreement and have no idea what will be discussed during that meeting.” He remarked that Roet would be in the Netherlands to get more information about the agreement and after his return SPI would study all the information and take a decision.<sup>23</sup> Ultimately SPI did not express public objections to the agreement.

### **The Government’s Concluding Document**

When the CJO agreed to the government’s proposal, the government had achieved most of its strategic aims. It could now move to the one issue still unresolved: describing the renewed restitution process in a way that was not too damaging to the country’s image. This was done in the concluding document the government sent to parliament.

This document contains a number of distortions and euphemisms that deserve analysis. While partly admitting to what had happened, an effort was also being made to sanitize history. The document said, for example: “The hardships of the war caused much distress, which continues to this day. The people of the Netherlands as a whole were affected, some groups disproportionately so.”<sup>24</sup>

This sentence is not untrue, yet it obfuscates more than it reveals. There was no group in the Netherlands other than the Jews of which about 75 percent had been murdered and whose possessions had been systematically and almost totally looted. That did not diminish the suffering of many other individuals. Yet the genocide of the Jews was of a different order than what happened to Dutch

society at large. In allowing this suffering Dutch authorities had collaborated, while the government in exile in London had knowingly closed its eyes.

The letter to parliament also said:

Looking back from today's perspective, with the knowledge now available, the government fully acknowledges that the procedures adopted were excessively formal, bureaucratic and, above all, insensitive. For this, the government wishes to express sincere regret and to apologize to those who suffered, without attributing malicious intent to those who bore responsibility at the time. Nevertheless, the only possible conclusion to be drawn from the committee's reports is that the responsibility for implementing policy and applying legislation was not always properly discharged.<sup>25</sup>

The government said it did not attribute "malicious intent to those who bore responsibility at the time." Whether there was no "malicious intent," however, depends on how one interprets this term. The securities issue alone represented a large part of the postwar restitution. Malicious intent was dominant there. It is mainly a matter of semantics of how many additional issues of "malicious intent" can be identified in other areas of the restitution process.

### **The CJO's Announcement**

The CJO announced that it had reached an agreement with the government on the issue of restitution of Jewish Holocaust assets.<sup>26</sup> This announcement was not in line with the government document, which had not used the word agreement but had only spoken of talks with the CJO. In a later interview with an Israeli radio station, Kok said: "Without negotiating we reached full agreement with the central Jewish organization in the Netherlands."<sup>27</sup>

The CJO did not comment on the historical distortions in the government document presented to parliament. Its board members seemed relieved. With a small infrastructure and limited professional qualifications, the CJO had brought difficult negotiations to a conclusion.

### **Markens Comments**

When asked ten years later what his feelings were about the agreement, Markens said:

I had the impression that, during these negotiations, we might obtain more money, but that doing so could be a very difficult and protracted process. If we negotiated in a very tough way, it could have taken us another year to get an additional one hundred million guilders.

From the government's side we were praised by many people who said they were very happy with the way the Jewish community had handled the situation. I even once said jokingly to Zalm: "We had calculated that we should receive 2.2 billion guilders and got four hundred million. You gained 1.8 billion guilders from these negotiations, so you should be very nice to me."<sup>28</sup>

### **Numann's Comments**

Numann, who had preceded Markens as CJO chairman, said:

It could be that the CJO misjudged the standing power of the government, which might have caved in rapidly. There was this typical Dutch feeling of "polder" agreements, "we'll sort it out together." Perhaps it was also the spirit of the period that played a major role in this attitude.

I wasn't unhappy with the figure of four hundred million guilders. One could probably have defended an outcome of two hundred million guilders, or also eight hundred million guilders. There was a rumor that someone from the Finance Ministry had said we could have claimed more. But I have never found proof of this.

One might also say that we were looking for a figure we could "sell" to the Jewish community and similarly, the Dutch government was looking for a figure it could "sell" to Dutch society. It is true that in the final moments of the negotiations, the demand for a special payment for the Westerbork camp was abandoned, though we should have insisted on it.

One can also observe that, if we had let the WJC participate in the negotiations, we might have been able to get much more money. Then the WJC people would have returned to the United States, and we would have been left with long-term problems with the Dutch government. But even that is only a matter of opinion.

It had become clear to me that we were dealing with the restitution process in a world that was determined by images. The Jewish community had to navigate and avoid the image of being thirsty for money. On the other hand, we couldn't come home almost empty-handed. I still think that we dealt with this quite well psychologically.

One interesting observation was that there was little criticism from the non-Jewish side. In Jewish circles I saw that people were afraid they would be hearing such things as "the Jews again want money." For instance, I have a retired nonreligious colleague who identifies as Jewish. He said, "Stop this whole process. It will only lead to anti-Semitism." I have heard even worse things. A Jewish person I knew said to me: "There we have the representative of the Jewish Council." This was the name of the Jewish body that executed

the commands of the Germans during the war. This was someone my age who knew exactly what he was saying. I looked at him with a damning expression and said nothing.<sup>29</sup>

### **A Businessman's Perspective**

Van Gent's view of the outcome of the negotiations is different from that of the CJO leaders. He reasons from a businessman's perspective and says:

We concluded the negotiations too quickly. I had the feeling that if the CJO had held out another month we would have reached a substantially higher payment from the government. It was clear to me that the ministers involved wanted to conclude the issue as soon as possible. They didn't want to see articles in the media titled "Jewish Community Leaders Think They Have Been Robbed Once Again." From that point of view we had a strong position in the negotiations.

The CJO delegation understood this yet unfortunately they were not unified. I have never worked with people who sent so many emails to each other with copies to everybody. In the business world you have a hierarchical setup and that is what one needs for this type of negotiation as well.

According to the original opinion of the CJO's accountants, the amounts due to the Jewish community were between 750 million–2.2 billion guilders. The technical conversations between the CJO and the Finance Ministry officials were initially meant only to explain the report of Paardekooper & Hoffman so as to obtain from them more understanding for the back-up of the figures mentioned in it. The ministry officials were smart enough to understand that five hundred million guilders would be acceptable to the CJO. The CJO representatives thus apparently had not done what was agreed: to abstain from negotiating in these technical conversations. Thus, already before the real negotiations started, we had lost a huge amount. Then the government thought, "We can negotiate them down even a bit further."<sup>30</sup>

### **Jews and Dutch Society**

Van Gent adds:

During the negotiations I started to understand how some Jews think they are seen by Dutch society. Several of the CJO members were influenced by their perception that the small Jewish community needs the government to protect them against discrimination in the Netherlands. By thinking this one weakens one's position. Naftaniel was one of those who didn't feel this way, and that allowed him to play an important role in several of the negotiations.

He took initiatives, tried to bridge different views, negotiated smartly, and used the media very effectively to influence the negotiations.

With such feelings you think you have to make a good impression on your counterparts in the negotiations and not give them any reason to criticize you. Before I got involved in this project I had never realized that several Dutch Jewish leaders are so insecure and afraid of anti-Semitism. They also perceive remarks differently than one intends them to be understood. I once said to one of them: “Why don’t you live in Israel?” He replied, “I understand from your question that you think I have no place in the Netherlands.” I was totally baffled because I had only asked the question out of interest.

During the negotiations I often asked myself why these people were so insecure. Dutch Jews are frequently respected because of their religious beliefs and also because of their position in society. That is very different from how some of them see themselves.<sup>31</sup>

## Notes

1. Personal communication, Ernst Numann.
2. Personal communication, Chris van Gent.
3. Report of Paardekooper & Hoffman for CJO, “Actuele Waarde Joodse Tegoeden bij de Overheid,” 14 February 2000. [Dutch]
4. *Ibid.*, 2–3.
5. *Ibid.*, 6.
6. Letter of Prof. dr. M. P. Gans to CJO, 27 February 2000. [Dutch]
7. Leon de Winter, “Tweehonderdvijftig miljoen,” *Algemeen Dagblad*, 29 January 2000. [Dutch]
8. Personal communication, Rob Wurms.
9. Personal communication, Henri Markens.
10. Een verslag op hoofdlijnen van het Overleg Overheid-CJO, 16 February 2000. [Dutch]
11. *Ibid.*
12. *Ibid.*
13. See the interview with Wim Kok in this volume.
14. See the interview with Gerrit Zalm in this volume.
15. Personal communication, Henri Markens.
16. Personal communication, Chris van Gent.
17. Personal communication, Henri Markens.
18. Personal communication, Chris van Gent.
19. CJO press release, “CJO en regering zijn akkoord over tegoeden Tweede Wereldoorlog,” CIDI Persberichten, 21 March 2000. [Dutch]
20. See the interview with Gerrit Zalm in this volume.
21. Letter from SPI to Finance Minister G. Zalm, 16 March 2000. [Dutch]
22. Letter from SPI to Prime Minister drs. W. Kok, 19 March 2000. [Dutch]
23. Email from Philip Staal to Rob Wurms, 20 March 2000. [Dutch]
24. Government response to the reports on World War II assets, 21 March 2000.
25. *Ibid.*

26. CJO press release, “CJO en regering zijn akkoord over tegoeden Tweede Wereldoorlog.”  
[Dutch]
27. Interview of Gidon Remez with Kok, Israel Radio Network B, 3 April 2000.
28. Personal communication, Henri Markens.
29. Personal communication, Ernst Numann.
30. Personal communication, Chris van Gent.
31. Ibid.

## Chapter Twelve: The Debate during and after the Negotiations with the Government

After the Van Kemenade report was published, many discussions on what should be achieved took place within the Jewish community. These continued during the negotiations between the CJO and the government and got some new impetus when the results of these became known. In addition there were discussions in various newspapers. Some non-Jews also participated in these debates.

The CJO's negotiation position was difficult for several reasons. It was a small body, with almost no infrastructure and with far too little experience in negotiations of this kind. It had to confront the Dutch government, a powerful counterpart with much leverage.

Furthermore, the organized Jewish community often could not be united on the issue. In addition, individuals outside the organized community often expressed their opinions. The CJO tried to avoid, as much as possible, leaking of information from its meetings with the government. It assumed, probably rightly so, that the more information would become known during the negotiations, the more its position would be weakened by pressure from people with different opinions.

Much of the debate in the two environments focused on the same key issues: who represents the Jewish community, what is the responsibility of the Dutch government for what happened to the Jews during and after World War II, why is money being paid, how much money is concerned, and how will this money be distributed?

### **Different Life Experiences**

A few disparate voices heard during the first months of 2000 give a sense of how varied opinions were. Within the CJO, Sanders, then its secretary, wrote a long letter to the members of its board saying they should not make unrealistic demands. The letter was titled "Don't ask billions from the government." At that time only the draft report of the Van Kemenade Commission was known. In it the figure suggested for the allowance was 150 million guilders. Sanders wrote that this was the lowest possible. "As far as the remainder is concerned we have to reflect and calculate very well."<sup>1</sup>



On 23 February 2000 Belinfante, Hugo Heymans, Herman Menco, and Ted Musaph-Andriess wrote a letter to the CJO in which they referred to an earlier letter they had written on 13 January of the same year. They stated that they were worried about additional demands for money beyond the amount proposed by the Van Kemenade Commission. They doubted whether there was sufficient support for this in the Jewish community and Dutch society at large. They noted that the media revealed that the CJO's demands had insufficient support in the Dutch government.

In their new letter they claimed that the CJO had chosen an approach that would threaten the memory of the murdered Jews rather than it being a blessing for the Jewish community. They added that the current generation of twenty-five years old would also be burdened in the future with the moral consequences of such an ill-considered moral demand.<sup>2</sup>

This led to a sharp reaction from Roet on behalf of SPI. He first of all mentioned that the authors should also have written to SPI, which cooperated on this matter with the CJO. Roet asked them what right they had to talk about the threatening of the memory of the murdered Jews. He wondered how one could use the word blessing in the context of the gassing and murder of more than one hundred thousand Jews. He added that unjustified possessions should not remain with those who had obtained them in a dishonest way.<sup>3</sup>

Vuijsje wrote in *NIW* that the Jews in the Netherlands had had different life experiences than the non-Jews. He asserted that because one is Jewish, one's freedom, money, possessions, family, and life could be taken away for no rational reason. This means that, since it occurred once, it could happen a second time.

Vuijsje averred that Jews could never again permit themselves to be so powerless as they were during the Shoah. The issue was not only the failure of the Dutch authorities, who had let themselves be used by the Germans during the war, but also the shortcomings of the government after the war. This led to a third life experience — that Jews in the Netherlands would have to fight continuously and had to prove themselves constantly.

Vuijsje criticized both the Van Kemenade Commission and Kok and said it could not be "that the prime minister is more concerned about the memory of his predecessors than with the feelings of many Jews."<sup>4</sup>

### **What Should Be Done with the Money?**

Menco, who had held various lay leadership positions in Dutch Jewish organizations, wrote that the amount proposed by the Van Kemenade Commission should be used to create a lasting memory in the community of the more than one hundred thousand Jews who perished during the war.

In their memory a fund should be established of 250 million guilders from

which, in the future, contributions should be made toward the infrastructure of the Jewish community in the Netherlands and elsewhere. Such a fund should be administered by a group of wise people in our community who have shown recently that they could handle such a task. In this way the deceased will be acknowledged, they will return to the chain of generations and their memory will become a lasting blessing.<sup>5</sup>

Belinfante remarked:

I considered the restitution debate first of all a moral issue. I had a great objection to the money side of it, which became dominant in the restitution process. None of those murdered would become alive through the process. The suffering of the murdered and the survivors could not be undone. It shocked me that those who had by chance survived would get money that had belonged to others.

Most of the money that was looted came from a small group of Jews and not from the large masses of proletarians who were killed. I was all the time opposed to the distribution of money to private people. In my opinion whatever the government offered us initially we should have accepted and put in a fund for the future of the Jewish community.<sup>6</sup>

Menno Paktor, at that time chairman of the Collective Israel Appeal (CIA), suggested that those who helped Jews during the war should also benefit from the payments. "In this perspective it is self-understood that this small group [of courageous people] should share in our restitution for looted possessions. These are the people who helped make it possible for us now to be in a situation to claim our rights."<sup>7</sup>

One of those who wrote negatively about the restitution process was the non-Jewish columnist Nico van Rossum. He stated that he had listened to Naftaniel with great anger. When the Van Kemenade Commission proposed paying 250 million guilders in light of the government's cold attitude during the postwar restitution, he thought

justified or not justified, just pay that quarter of a billion, then the endless discussion about guilt, penance, shame and apologies will finally be over after 55 years.... The CJO has brought upon itself a debate about the justification of this payment by its detailed capitalizing of it. To put it politically incorrectly: this is the shameless exploitation of suffering for which there is no reimbursement, a statement that the CJO should never have provoked.<sup>8</sup>

A Jewish former parliamentarian of the D'66 Party, Edo Spier, was quoted as saying that the CJO "uses the fear of anti-Semitism in a scandalous way as a weapon in financial discussions." He asserted that all the money received should go to individuals, under government supervision. He added that "the CJO is a

club that unjustifiably presents itself as the representative of a community. That community does not exist.”<sup>9</sup>

### After the Approval

In the months after the financial proposal was approved by the Dutch government and parliament, the debate and analysis continued. The CJO’s role as the representative of Dutch Jewry was further contested by some.

Hanneke Gelderblom, also a former Jewish parliamentarian of D’66 — which was part of the government coalition — who had been in hiding during the war, said in an interview: “The fact that the CJO has obtained the money does not give it the right to decide on its destiny or, even worse, to appropriate it.... The money belongs to the survivors and they have to decide themselves what they will do with it. This is a club of men who have appointed themselves and think they can decide about my inheritance.” She added that the part of the money designated for a trust fund should be managed by Dutch Jews who did not fulfill functions in the Jewish community, and should be controlled by parliament.<sup>10</sup>

Corrie Hermann, a parliamentarian of the leftist Green Party, said: “My father was murdered in Auschwitz and I do not feel that the CJO represents me. Jews have lived in the Netherlands for centuries as full citizens. It is the duty of the authorities to look for and find the citizens it has treated unjustly after the war and to do them justice.”<sup>11</sup>

Lipschits said:

The CJO claims to represent the Jewish community. I have not had much objection to that, but it means that the CJO has an obligation to report to us in a responsible manner.... How does the CJO know that the Dutch Jewish community wants to express solidarity with Jews and non-Jews abroad? Perhaps we ourselves can decide how much of the money — which belongs to us by right — we want to devote to *tzedaka*, to solidarity with other people.

Where does this idea of 50 million for humanitarian purposes abroad come from? Is it a spontaneous idea raised by the CJO delegation: the CJO as generous donor, but at our expense?... Or, was it perhaps a condition of the Dutch government: you Dutch Jews will get 400 million guilders if you give 50 million guilders to Jews and non-Jews abroad.<sup>12</sup>

Neter-Polak says:

I often had the feeling that some Jewish representatives involved in the restitution process thought that almost all Dutch Jews were well-to-do. They wanted all money received to go to Jewish institutions. These people did not realize that, for instance, many widows have a very small pension or live

on a social security payment. Only because of the debate on the distribution did it become unavoidable that most of the restitution money went to individuals.<sup>13</sup>

### **The Belinfante-Naftaniel Discussion**

In May 2000 Naftaniel and Belinfante carried on a debate in the *Parool* daily. It covered many points. Belinfante said it seemed “as if there is a moral problem between the government and the Jewish community. However, underneath that lies another problem: the persecution of the Jews by the Nazis. That is the essence. I have many problems with reassigning this guilt in the direction of the Dutch government.”

Naftaniel said: “The conclusion of Van Kemenade is that the restitution has failed on a number of points.” He added, “Nobody should profit from the murder of the Jewish community. That is the bottom line. It concerns a calculation of amounts of money that have remained with the government and the financial institutions.”

The underlying feeling of the extraordinary position of the Jewish community in the Netherlands played an important role in the discussion. Both participants were aware of this. Belinfante said: “There is a delicate balance between the Jewish community and the rest of society and this discussion has rubbed a number of people the wrong way.”

Naftaniel answered: “I believe that after this episode the relationship can be much more normal. None of us wants a split between the Jewish community and Dutch society. We are far too Jewish and far too Dutch to allow that to happen.”<sup>14</sup>

### **Helping Rekindle Anti-Semitism?**

When Lipschits looked back at the restitution process a few years later, he said:

Judith Belinfante, a Jewish member of parliament, was another politician who played a negative role in the second restitution process. She asked publicly whether the renewed payments to the Jews were really necessary. When, in such situations, Jews lead the way, it becomes easy for non-Jews to line up behind them.

It was painful for the Jews to negotiate so long about the additional restitution money. This gave the non-Jewish Dutch population the feeling: How much more tax do we have to pay for the Jews? In my opinion, though I cannot prove it, this helped rekindle anti-Semitism.

There is another unpleasant aspect of this belated restitution process. The Dutch government agreed to pay 400 million guilders to the Jews, but

stipulated that 50 million guilders of it should be put in a fund for various non-Dutch purposes. The Dutch government should not have decided how the Jewish community should distribute its money.<sup>15</sup>

### **A Process of Relativism**

The Dutch government had combined the issue of restitution of Jewish assets in postwar Netherlands with those of Dutch colonists in the former Dutch East Indies (now Indonesia). Fishman, who has published articles on postwar Dutch history, noted

that it is possible to identify the clear but unstated agenda of the Dutch government by a deceptively simple choice of terminology and definition of the problem. Through a process of “relativism,” Jewish claims were grouped with those of the colonists who did indeed suffer, but on a totally different level. By doing so, the government minimized and denied the fact that Dutch Jewry was targeted in a completely different way.<sup>16</sup>

Fishman added that this type of formulation closely parallels the slogan of the Dutch government in exile and of the immediate postwar years, that “‘Jews are Dutchmen just like all other Dutchmen,’ a form of denial of responsibility whose inhumane results have been thoroughly analyzed by Presser in the epilogue to his wartime history of Dutch Jewry.”<sup>17</sup>

Fishman also observed:

By examining the choice of terminology and definition of the issue, it is possible to see how, at an official level, governmental civil servants planned to limit discussion and prejudice the outcome of the public debate. A similar policy may be identified in the government’s treatment of the Jewish war orphans in the immediate postwar years. It created the term, the “War Foster Children” — Oorlogspleegkinderen — obfuscating the identity of the overwhelming majority of these children, who were simply Jewish orphans.<sup>18</sup>

Fishman further stated: “Once, it was the policy of countries of the East Bloc formerly ruled by Communist regimes to dedicate memorial inscriptions to ‘The Victims of Fascism’ on mass graves of Jews, thus denying the identity of those who had perished and their martyrdom.<sup>19</sup> The cases described above have much in common.”

### **Kok’s Visit to Israel**

In April 2000 Kok visited Israel. The renewed restitution process had raised some interest there in the behavior of the Dutch during the war outside the local Dutch

community as well. A few days before the visit Israeli journalist Itamar Levin, who had studied the international issue of the restitution of Holocaust assets, told the *Volkskrant*:

The Netherlands has a dark, ambiguous relationship to the destruction of the Jews. Contrary to generally accepted views...the truth is that many Dutch citizens profited from the looting of their Jewish neighbors.... The few Jews who returned to the Netherlands had to fight to get their possessions back, which were held by profiteers, collaborators, and the government itself.<sup>20</sup>

During Kok's visit he held a meeting with the board of SPI.<sup>21</sup> He was told that the financial restitution recommended by the Dutch government was insufficient, even if SPI felt it should not undertake any further action in the matter. Its representatives also stressed that, in the final document presented to parliament, the Dutch government should have shown more understanding for the Jews' situation and should not have included other restitution issues in it.<sup>22</sup>

SPI vice-chairman Philip Staal wrote about the meeting that "the only important thing regarding the conversation with Prime Minister Kok was that it took place. All points that were important for the SPI and were raised received a negative response from Kok. Kok said during the conversation: we are not here to negotiate."<sup>23</sup>

Roet remarks: "In the discussion Kok again raised the issue that his parents had also suffered. This led to negative reactions, in particular from Staal, whose parents had been murdered during the war. He pointed out to Kok that the suffering of the Dutch was incomparable to what the Jews had undergone."<sup>24</sup>

In an interview with an Israeli government radio station, Kok said: "The Dutch have never been responsible for the misconduct of the Germans in the Netherlands during the war."<sup>25</sup> He made no reference at all to the responsibility for the wartime misconduct toward the Dutch Jews by the Dutch authorities, institutions, and many individuals. It was an example of creating a strawman that then can be brought down. Nobody had accused the Dutch for what the Germans had done. The issue was that the Dutch government did not accept its responsibility for the misconduct of the authorities and institutions during the war, including that of the Dutch government in exile.

In a meeting organized by the Dutch embassy a few days after Kok's visit, former Israeli diplomat Yaakov Yannai, a Dutch Jewish survivor, said:

It is regrettable that Prime Minister Kok is not willing to speak a clear language in the same dignified way that President Chirac, Prime Minister Jospin, and the prime ministers of Sweden and Norway spoke. Mr. Kok, your government was not a party to the injustice we suffered but, as the successor of previous governments and authorities, you have indirect coresponsibility for it. That is all we want to hear from you.<sup>26</sup>

The Dutch Jews in Israel were less dependent on the Dutch government than the

CJO, enabling them to take a more independent position. While other SPI leaders restrained themselves from publicly criticizing the CJO, Staal told the *Volkskrant* that the CJO regrettably was composed of volunteers who were no match for the experts of the banks, the insurers, and the government.<sup>27</sup>

One independent initiative undertaken by SPI concerned the major Dutch bank ABN AMRO. When it was reported in the Israeli press that the bank was considering opening a branch in Israel, the organization asked the Bank of Israel not to grant its permission until Holocaust restitution matters had been settled in a satisfactory way.<sup>28</sup>

### **The VPRO TV Program**

In a meeting of the CJO in which the final terms of its “negotiations” with the government were determined, two television journalists from the VPRO broadcasting company — Gideon Levy and Michael Schaap — were allowed to be present. This was another example of lack of professionalism. Normally, in negotiations regarding significant amounts of money, one tries to conduct the meetings out of the eye of the media.

The VPRO had promised the CJO that the program would be broadcast a few months after the end of the restitution process. However, the company decided to broadcast it already within a few weeks. Rob Wurms, vice-chairman of the CJO, wrote the journalists a letter in which he expressed his disappointment about this breach of the agreement.<sup>29</sup>

Wurms pointed out that there was also a second breach of the agreement. The journalists had promised to show members of the CJO a preliminary version of the documentary so they could make comments. However, while Wurms had seen it at a very late date, no showing was held for the CJO board. Wurms added that the CJO’s confidence had been abused.

In the documentary as broadcast on 10 April 2000, Van Gent said that in his opinion the negotiations with the government could have resulted in a much higher figure. Later, Schaap told this author that they could not find anybody in the Netherlands who was willing to state the sum the government should have paid. Therefore they addressed themselves to me and, from a studio in Jerusalem, I gave an estimate of one billion guilders.

### **Giving a Face to the Dutch Nazi Collaborators**

In June 2000 TROS television in the Netherlands broadcast a two-part documentary titled *They Did Their Duty*, by Jewish film-maker and Emmy award-winner Willy Lindwer. In the first part of the documentary, Lindwer gives a face, as it were, to the ordinary Dutchmen who, in their daily work, helped the

Germans in their persecution of the Jews. Because the Germans did not have enough manpower, they relied on the help of ordinary Dutch citizens including clerks, railway personnel, policemen, bank employees, and the like. The Dutch government cofinanced the production of this part as it intended to show the film in schools.

The second part of the documentary focused on the looting. It showed, among other things, Dutchmen who had enriched themselves with Jewish property, as well as Jewish survivors telling the story of how ordinary Dutchmen had stolen their belongings.

This documentary received major attention in the press. The daily *Algemeen Dagblad* wrote about the first part of Lindwer's film:

The notion that the Netherlands did not play the heroic role during the war that it attributed to itself over decades is gradually gaining ground. Even in Israel, where our reputation was indestructible, it is now becoming clear that the Jewish part of our population in that black period could count on little solidarity and support to escape the deportations.... The frightening aspect of all these stories is that one is not confronted with criminals but with ordinary people. One's neighbor, the acquaintance from the bridge club, the leader of a youth team: "decent" people who, in common with 95 percent of the Dutch population, are no heroes.... How do you justify your deeds, to yourself also, which have later been shown to have disastrous consequences and are thus unjustifiable?<sup>30</sup>

## Notes

1. Letter from Joop Sanders to the board members of the CJO, "geen miljarden van de overheid vragen," 6 January 2000. [Dutch]
2. Letter to the CJO from Judith Belinfante, Hugo Heymans, Herman Menco, and Ted Musaph-Andriessse, 23 February 2000. [Dutch]
3. Letter by Avraham Roet on behalf of SPI to Herman Menco, 5 March 2000. [Dutch]
4. Hans Vuijsje, "Overheid moet ruimhartig zijn jegens joden," *NIW*, 18 February 2000. [Dutch]
5. Herman Menco, "Van Kemenade 6," *NIW*, 10 March 2000. [Dutch]
6. Personal communication, Judith Belinfante.
7. Menno Paktor, "Wat zou ik hebben gedaan?" *NIW*, 28 January 2000. [Dutch]
8. Nico van Rossum, "Inhaligheid," *Elsevier*, 4 March 2000. [Dutch]
9. Mark van Driel, "Joods Overleg wekt ook weerstand op," *Volkskrant*, 8 April 2000. [Dutch]
10. Kustaw Bessems, "De schade, de compensatie en de verdeling," *Trouw*, 28 March 2000. [Dutch].
11. Ibid.
12. Isaac Lipschits, lecture for Verbond Belangenbehartiging Vervolgingslachtoffers, 25 March 2000.
13. Personal communication, Flory Neter-Polak.



14. Addie Schulte en Bas Soetenhorst, "Naftaniel-Belinfante, over rechtsherstel en joods slachtofferschap," *Het Parool*, 10 May 2000. [Dutch]
15. Manfred Gerstenfeld, interview with Isaac Lipschits, "The Dutch Government: Discriminating against the Survivors through a So-Called Egalitarian Approach," *Europe's Crumbling Myths: The Post-Holocaust Origins of Today's Anti-Semitism* (Jerusalem: Jerusalem Center for Public Affairs, Yad Vashem, World Jewish Congress, 2003), 187.
16. Manfred Gerstenfeld, "Jewish War Claims in the Netherlands: A Case Study," *Jewish Political Studies Review* 12:1–2 (Spring 2000).
17. J. Presser, *Ondergang. De vervolging en verdelging van het Nederlandse Jodendom 1940–1945*, vol. 2 (The Hague: Staatsuitgeverij/ Martinus Nijhoff, 1965). [Dutch] (Published in English as: *Ashes in the Wind: The Destruction of Dutch Jewry*.)
18. This phenomenon was first identified by Joel Fishman, "The War Orphan Controversy in the Netherlands; Majority-Minority Relations," in J. Michman and T. Levie, eds., *Dutch Jewish History* (Jerusalem: Institute for Research on Dutch Jewry, 1984), 425.
19. Judith Miller, *One by One by One: Facing the Holocaust* (New York: Simon & Schuster, 1990).
20. Theo Koelé, "Kok wacht kil onthaal onder Nederlandse joden in Israël," *Volkskrant*, 31 March 2000. [Dutch]
21. For a summary of the meeting, see Philip Staal, *Roestvrijstaal* (Delft: Eburon, 2008), 250–254. [Dutch]
22. Personal communication, Avraham Roet.
23. Staal, *Roestvrijstaal*, 254.
24. Personal communication, Avraham Roet.
25. Interview of Gidon Remez with Kok, Israel Radio Network B, 3 April 2000.
26. Meeting in Kfar Maccabiah, 6 April 2000.
27. Koelé, "Kok."
28. Personal communication, Avraham Roet.
29. Rob Wurms, letter to Gideon Levy and Michael Schaap, 9 April 2000. [Dutch]
30. *Algemeen Dagblad*, 2 June 2000. [Dutch]

## Chapter Thirteen: A Major Defeat for the Banks and the Stock Exchange

The banks and the stock exchange organizations were the last counterparts in the renewed restitution negotiations. Sanders mentions that, owing to the international media's attention to the dormant Swiss bank accounts issue from the mid-1990s, several people also contacted Dutch banks about possible dormant accounts there. They were answered, especially by the large ABN AMRO bank, with a rather standard letter, saying there were no accounts left from the war period nor any archives from that time.

Sanders adds:

Even though the Van Kemenade Commission had been founded to follow the dormant Swiss bank accounts, the Jewish community, already in 1996 when the gold-pool issue came up, had inquired about the situation concerning Dutch banks and insurers, and whether that could be investigated. Well before the LIRO cards were found we had raised the issue several times. Gradually the press also started to be interested in the matter.<sup>1</sup>

In the framework of the renewed restitution process, the role of the banks and brokers during World War II was also studied. The Scholten Commission investigated this issue and discussed it in its final report of December 1999.

### **The Initial Contacts**

Hein Blocks, at the time director of the Netherlands Bankers' Association (NVB), says:

Ronny Naftaniel and I knew each other from the time we were high school pupils because we lived close to each other in the Southern part of Amsterdam. We met each other again around the beginning of 1998 in a radio program on the restitution issue.

Later we had a conversation on what methodology should be used to find out which amount of dormant Jewish accounts had remained with the banks. The ones that were never claimed had been canceled after thirty years — as was the law at that time — and added to the banks' income. I suggested that one could investigate how much money the banks had received from canceling dormant accounts in the years 1971–1976, thirty years after the war.

Later PriceWaterhouseCoopers would also develop a more macro-economic method to analyze this. On this and other issues of contention where we could only estimate a bandwidth of figures the banks were willing to accept the higher amount, as they wanted to have the matter settled totally.

It should be stressed that the Scholten Commission did not cooperate directly with the NVB. Its researchers approached the banks directly and came up with a rather low estimate of money withheld. That has led to a lot of criticism of the commission's work.<sup>2</sup>

## The Negotiations

The contacts between the CJO and the NVB were initiated in early 1998. The negotiations between the two parties began only in July 1999. Besides dealing with balances left with the banks themselves, they also dealt with the possibility of returning assets transferred to American financial institutions by Dutch banks at the beginning of the war. However, it would turn out in the course of time that there was no information on the latter issue.

Blocks described in an article how the investigation and negotiation process progressed.<sup>3</sup> In July 1999 a common research project of the NVB and the CJO was initiated. The international firm PriceWaterhouseCoopers (PwC) was charged with investigating a number of issues. The matters to be examined concerned two categories: those about which there was too little information, and those on which the two parties disagreed. A commission from the two sides accompanied the investigations. In it the CJO was represented by Naftaniel and Sanders.<sup>4</sup> PwC published its report in March 2000.

Blocks explained the points that were investigated. One issue concerned accounts whose holders or their heirs could not be found after the war. Three thousand such accounts were found, mainly savings accounts. The conclusion was that these accounts — in total — could have amounted to a maximum of 639,000 guilders that had not been claimed. This amount was higher than what the Scholten Commission had found.

During the war the broker Rebholz, who traded LIRO securities, gave a special commission of 1 percent to other brokers for part of these securities. This amounted to 145,000 guilders. The normal commission that the banks received for securities they bought for clients was 400,000 guilders. LIRO also paid a special "delivery commission" in the amount of 30,000 guilders in 1941–1942.

Another issue concerned diamonds, which, fiducially transferred to the banks by Jewish owners, were sold to the Germans during the war against a too-low taxation value. It was unclear whether the loss incurred by the diamond traders had been reimbursed since. It was agreed that the difference between the wartime value and the real value would be paid by the NVB.

Banks had charged Jews who had safes for opening them forcefully and also

for unpaid rental fees. The two parties concluded that the amount concerned was 150,000 guilders.

Blocks says:

Sometimes issues that were financially not very major became very important emotionally. One example concerned the safes. The German occupiers had ordered the banks to forcefully open safes that belonged to Jews. In a number of cases the costs of this were charged to the client's account. Also incidentally the rent for safes of people who had been deported continued to be charged to them. Legally this was correct, because if one rents a safe and doesn't cancel it one has to pay rent. But in retrospect one wonders how it was possible to take such an attitude.<sup>5</sup>

A special case concerned the "Puttkammer-*sperrren*."<sup>6</sup> Puttkammer, an employee of the Rotterdamsche Bank, arranged *sperrren* against payment. It is unclear what his exact role was. After the war he was acquitted of all charges brought against him. It also was not clear to what extent the bank that employed him was involved in this matter. The parties agreed that the banks would pay 50 percent of the commissions Puttkammer had received.

### Reaching an Agreement

On this basis the two parties agreed that the total amount to be paid by the banks according to the value in guilders from the war period was somewhere between 1.4–1.95 million guilders. The question then became how to translate this into current values of the year 2000. For each of the amounts concerned a multiplier was determined varying between 17 and 28, depending on the subject concerned. Thus a total amount of between 28–38 million guilders was reached. The banks declared their willingness to pay the higher figure.

Blocks wrote:

In April 2000 the CJO and the NVB agreed to an additional payment by the banks of 12 million guilders over and above the 38 million. This was meant to cover additional insufficiencies in the restitution, other issues possibly undiscovered and as an allowance for the suffering caused by the banks. With that the total agreed payment to be paid by the NVB reached 50 million guilders.<sup>7</sup>

Numann says about these negotiations:

Blocks was the chairman of the banks' delegation. However, he had no leeway. There were three or four representatives of the large banks present. They were not willing to make concessions and also hardly allowed Blocks to negotiate. This made the negotiations very difficult. It was hard to reach

a deal with four people on the other side, each of whom had a different opinion.<sup>8</sup>

### **Delaying Signature**

Numann adds:

We knew from the beginning that the biggest problems would be with the stock exchange, which was controlled by the major banks who at the turn of the twentieth century were the dominant traders there. We thus decided to progress step-by-step. When we had concluded the more straightforward negotiations with the banks, we were supposed to sign the agreement with them. Roet then suggested that we should link this contract to that with the stock exchange.

In a meeting with the banks I said that we agreed to the fifty million guilders they had proposed. But we were not willing to sign the contract unless there was also an agreement with the exchange. The bank representatives were furious. I could well understand them. It is normal that once people agree they sign a contract. Yet we had a good reason not to do so. We told them: "Just keep the money for a few months, but we want to be paid interest." The banks said this was unacceptable.

As far as the banks were concerned one could say that it was perhaps not their fault that the money had not been reimbursed to the Jewish account holders after the war. The stock exchange situation was different. They were major collaborators with the German occupiers and continued to misbehave after the war.<sup>9</sup>

### **The Stock Exchange**

The Scholten Commission had concluded in its final report that "it would be entirely correct if either the VvdE (Amsterdam Stock Exchange Association) or the AEX (Amsterdam Exchanges) would make available an amount to the Jewish community...of several million guilders in order to conclude their part of the effective restitution for securities."<sup>10</sup> The CJO had started negotiations in February 2000 with the AEX, the successor of the VvdE, which was in liquidation. The VvdE had consistently acted in bad faith toward Jews during the war and, in the immediate postwar years, systematically sabotaged restitution efforts.

The initial offer by the AEX of eight million guilders was only a tiny fraction of what the representatives of the Dutch Jews were claiming. Numann says: "We thought about a large multiple of that figure. Then the representative of the stock exchange said cynically: 'In that case, you might as well take over the exchange.' I responded that we had no interest in doing so."<sup>11</sup>

Blocks tells an anecdote about what happened on the bankers' side.

Nowadays the trade of securities is electronic and anonymous. During the war, however, traders knew well which clients their colleagues represented and the origin of the securities they offered. It became known during the research carried out for the new restitution process that traders had received 1 percent additional commission for securities from LIRO. Confronted with this in a TV program I committed the banks by saying they would reimburse the amount of this additional commission with interest.

The next day Rijkman Groenink, then chairman of the ABN AMRO Bank, called me and asked whether I had power of attorney for his bank account. I said: "Of course not, but if this story is true I am sure the banks will pay." He said: "Well, you are right." Rijkman Groenink knew that it would have been much worse if I had said in the program, "I don't know whether the banks are willing to pay for that."<sup>12</sup>

However, in the final negotiations this whole subject played no role.

## **Apologies**

As noted earlier, the VvdE had consistently acted in bad faith toward the Jews during the war and, in the immediate postwar years, systematically sabotaged restitution efforts.

The collaboration of the VvdE with the German occupier during the war was of a very different nature than that of the insurance companies or the banks themselves. The latter had collaborated if they received an inquiry from the authorities. The VvdE, however, was the initiator of collaboration with the occupiers. This has been analyzed in detail in the final Scholten Commission report.

The Scholten Commission had also concluded that the exchange should bring to public attention that it had taken a "far from positive" attitude toward the claims of those who had been dispossessed. The exchange should furthermore, according to the commission, express its regret about the pressure it exercised on the authorities after the war, through the exchange's strike.<sup>13</sup> The expression "far from positive," used by the commission, was a misplaced euphemism.

In line with this, on 10 February 2000 H. Heemskerk, the liquidator of the VvdE, and G. A. Moeller, president of AEX, offered the apologies of their organizations to the Jewish community, which was represented by the CJO and SPI.<sup>14</sup>

## **Assessment of What Was Due**

The CJO and SPI considered the amount offered by the stock exchange as totally insufficient. The disagreement on this issue between the Jewish parties and their

counterparts would lead to the main conflict in the renewed restitution process. The CJO then requested Paardekooper & Hoffman to prepare a report on how the money of which the Jewish community had been shortchanged after the war as far as securities were concerned could be expressed in contemporary values.

The CJO gave the accountants a number of inputs. A key one was that the initial owners of the securities had not been reimbursed for fifteen million guilders in 1953. The CJO also told the accountants that they should make a number of assumptions, including that 80 percent of this damage was supposed to have been incurred by Jews. A second assumption would be that the composition of the securities for which there had been reimbursement of 90 percent at the time consisted of 50 percent shares and 50 percent debentures.

A further assumption was that the shares should be assessed in current values according to the increase in the share index, while payment for the debentures should be based on the compound interest of long-term state debentures. On this basis Paardekooper & Hoffman reached a multiplier of slightly over 64 for the shares and about 20 for the debentures. They concluded that, accordingly, the Jewish community should receive 505 million guilders.<sup>15</sup> The CJO, however, would not insist on this figure in the negotiations with the stock exchange and later with its shareholders.

### **Involving the Banks**

Van Gent says, “These were complicated negotiations. We had quickly realized that it was useless to talk with the AEX and that the only meaningful counterpart was the NVB. Blocks did his best to avoid that for some time.”<sup>16</sup> The CJO, however, insisted that the NVB participate in the negotiations with the stock exchange organizations, in view of the dominant role of the banks on the exchange. The NVB finally accepted this.

The major point of discussion was what the basis should be for the amount to be paid. Blocks wrote:

The banks wanted to use the same principle as had been accepted in the agreement concerning the banks themselves: reimbursement of all financial benefits that the banks — according to contemporary definitions of injustice — had enjoyed. The reimbursement of the shortfall in restitution was seen by the stock exchange and the banks as a repetition of the securities restitution in 1953. They were only willing to do this if all parties involved in that restitution — thus including the Dutch state — would participate in these discussions. For the Jewish organizations this was unacceptable because the agreement they had concluded with the government shortly before was a final one.<sup>17</sup>

The banks would later agree with what the Jewish community had claimed. That

meant the entire shortfall of twelve million guilders should be paid in money values of the year 2000. However, their position was that, in 1953, the members of the stock exchange had not caused the entire shortfall. Furthermore, they did not want to pay for those members of the stock exchange that were not banks and also not for members that no longer existed. On the basis of the multipliers proposed by the banks, they then offered slightly over fifty million guilders.

On 31 April 2000 Minister Zalm appeared on the television program *Buitenhof*. He said he was willing to mediate in the unsuccessful negotiations between the CJO and the stock exchange. On behalf of the CJO, Naftaniel responded that mediation was not so “useful” at this moment. He added that the stock exchange should first do its homework and that it made sense to wait for that.<sup>18</sup>

The CJO and its advisers took a very negative view of the banks’ approach to the negotiations on the stock exchange restitution matter. Van Gent says:

When the banks came to the negotiating table, they did so rather poorly. They sent people who were not of the highest level and could not make decisions. These negotiators had to return to their board of directors each time to ask what they should do. They probably got instructions to give in as little as possible. Then they had to reach agreements with colleagues from other banks, and ask themselves how to reach a settlement. It was only due to the pressure later from the United States that we could reach an agreement.<sup>19</sup>

### **Involving the World Jewish Congress**

Markens says:

The exchange said that they had no money and thus couldn’t pay. That was a fiction, because the banks controlled the exchange and they had money. Roet saw early on that we needed to involve the World Jewish Congress. We at the CJO were initially opposed to bringing the WJC into the negotiations.

Numann and I contacted De Swaan in his capacity as director of ABN AMRO and told him: “If you don’t come up with a solution, it will only cause trouble. The banks are manipulating us and in turn the WJC will start to manipulate the banks. The net result will be that the Dutch banks will soon be seriously hampered in their business in the United States. All this because they don’t want to pay a few hundred million guilders, which is not so much for them.”<sup>20</sup>

These contacts, however, yielded no results. Naftaniel observes that they were a private initiative that had not been authorized by the CJO.<sup>21</sup> In a report on a preparatory meeting of the CJO-SPI negotiators on 14 June 2000, Kasdorp wrote that Naftaniel had said there that Markens and Numann had negotiated for three



weeks with Blocks without anybody else knowing about it, and told him that they personally would be willing to settle for 290 million guilders.<sup>22</sup>

De Swaan recalls the meeting with Markens and Numann:

They took the initiative and the conversation had an informal character. I did not want to get involved in the negotiations, which were conducted on behalf of the banks by the NVB. I had no mandate to discuss figures nor did I want to have one. I told my colleagues about this meeting. It was clear to me that ABN AMRO, which had major U.S. interests, took the threat of the WJC, as indicated by Markens, very seriously.<sup>23</sup>

Roet had in the meantime established contact with Singer at the WJC. Through the pressure and mediation of SPI, the CJO changed its mind and agreed to an approach to the WJC.<sup>24</sup> This was concluded at a meeting of Naftaniel and Wurms with the SPI representatives in Jerusalem. On 21 May 2000 the three organizations agreed to coordinate their efforts.<sup>25</sup> Naftaniel remarks that this approach of involving the WJC was not shared by part of the CJO board.<sup>26</sup>

### **Approaching Hevesi**

On 25 May Steinberg, of the WJC, brought the matter before Alan Hevesi, then the comptroller of New York City. Hevesi had earlier arranged to discuss a boycott of the Swiss banks on behalf of eight hundred state comptrollers and financial officers.<sup>27</sup> It was decided to give the Dutch bodies thirty days to make an acceptable offer, with the implication that sanctions might be instituted after that date. Steinberg told the media that “the postwar Dutch government and Stock Exchange [were] accomplices in an effort to prevent the rightful owners from acquiring their assets.”<sup>28</sup> The WJC also threatened to approach U.S. regulators to block the multibillion-dollar takeover of the American insurer ReliaStar Financial Corporation by the major Dutch banking and insurance group ING.

Sanders remarks: “Steinberg immediately brought the issue to the attention of the media, which was against our agreement. Hevesi’s pressure, which may have been no more than a publicized draft letter, helped greatly in reaching a good conclusion. The CJO, on its own, would have obtained far more than the initial amount offered, but much less than what was finally agreed.”<sup>29</sup> Staal, who participated in the negotiations on behalf of SPI, has described his views on the negotiations in detail in a book he wrote.<sup>30</sup>

Steinberg recounts the developments from his vantage point. He mentions that Naftaniel had initially asked on behalf of the CJO that the WJC would stay out of all Dutch negotiations. Steinberg adds that the CJO soon found out that their efforts to go it alone with the stock exchange resulted in an impasse in the negotiations. Then, in order to break it, Naftaniel

played “the WJC card” telling the press that the WJC would call for a boycott of Dutch companies if the Dutch remained intransigent. Obviously, when the press called I could not confirm this. Naftaniel then called me in desperation and withdrew his previous request that we stay out.

At the end of the day we made an agreement with both the CJO and SPI that we would work together on this issue. I then approached the Hevesi Committee of American comptrollers. Hevesi thereupon wrote a letter to the Dutch banks telling them to settle the matter quickly.

Afterwards a delegation of Dutch bankers came to see Hevesi’s assistant in New York. While they were waiting in the anteroom, what they didn’t know is that I was on the phone with Naftaniel in Amsterdam asking him what payment from the banks would be satisfactory to the CJO. He gave me the figure of 264 million guilders. I called Hevesi’s assistant. When the bankers came in he informed them of this figure and they agreed to it.<sup>31</sup>

On 15 June 2000 the NVB, VvdE, and AEX signed an agreement with the CJO, SPI, and the CJO’s advisory body that concluded the negotiations.

## Media Support

The pooling of Jewish forces against the banks and the stock exchange found support in leading Dutch dailies. The financial daily *Het Financieel Dagblad* wrote about the looted securities: “Shortly after the war, 90 percent of the financial damage was restored. That there is again a conflict about this 50 years later is justified because the compromise at the time was only reached after the securities traders went on strike in order to prevent being dealt with severely [by the government].”<sup>32</sup>

*NRC Handelsblad* wrote:

The role of the stock exchange during and after the war is documented in ink-black pages, whereas for the insurers grey is the dominant color.... It may be incidental, but at almost the same moment a report was published in New York that was prepared by the American government in 1946. In it, LIRO and other looting organizations in the Netherlands are indicated to have been “the most fantastic thieves in modern history.” The loot is estimated at about 3 billion guilders, which is substantially more than the 1.65 billion guilders that the British expert Helen Junz calculated for the Volcker Commission and the sum of 1 billion that the Van Kemenade Commission arrived at.<sup>33</sup>

With their major U.S. business interests threatened, the Dutch banks rapidly caved in. On 15 June 2000 they reached an agreement with their Jewish counterparts. The banks, the AEX, and its legal predecessor agreed to pay 314 million guilders,

including the 50 million guilders earlier agreed for the banks. The money paid for the stock exchange was thus more than thirty times the initial offer.<sup>34</sup>

Blocks summarized this process very briefly and embellished it:

After mutual consultation the banks and the stock exchange finally proposed to jointly reimburse the entire shortfall of 12 million guilders with the multiplier of 20. This also included the share of those members of the exchange that did not exist anymore. The multiplier was based on the compound interest of long-term state debentures for the period 1953–2000. This resulted in 240 million guilders. In order to reach a rapid conclusion, which was important for all those involved, an additional payment was agreed upon. Thus the parties reached an agreement of 264 million guilders.<sup>35</sup>

Roet observes that the agreement with the NVB was not reached so easily:

A meeting took place in New York between an American representative of the Dutch banks, a lobbyist for them, and an assistant of Hevesi. During that meeting the agreement was reached to pay 264 million guilders. However, when we later met with the representatives of the NVB in Amsterdam, they tried to negate this agreement. One of them mistakenly showed me the protocol of the New York meeting, which mentioned the agreement on 264 million guilders. I returned the document to him and when I asked to see it again, he said he had torn it up. But, as I had already seen it, the banks could no longer go back on it.<sup>36</sup>

Naftaniel says: “The figure of 264 million guilders wasn’t known only by the CJO board but had already spread to the outside. It was also known to some journalists who were waiting outside to hear the results of our meeting with the NVB representatives. One of them was Jos Hagers of the *Telegraaf*, the largest Dutch daily.”<sup>37</sup>

### **Advertisements and Memorial Stone**

There was also a nonmaterial point in the agreement with the stock exchange bodies. They committed themselves to place advertisements in a number of national and international media, expressing their apologies. This advertisement was titled “Amsterdam Stock Exchange Association and Amsterdam Exchanges express regret for the conduct of the exchange during and after World War II.”

The advertisement said, among other things:

The Amsterdam Stock Exchange Association agrees with the conclusion reached by the Scholten Committee and the Van Kemenade Committee that it acted in a way that is contrary to society’s understanding of what is considered to be just and fair. The Amsterdam Stock Exchange Association

is thoroughly aware that the attitude condemned by the Scholten and Van Kemenade Committees needlessly caused additional suffering to many members of the Jewish community in the Netherlands. It now wishes to express its sincere regrets about its past conduct and to apologize to the Jewish community, while stating that it is aware that an apology can never compensate for what happened to the Jewish community.

Amsterdam Exchanges N.V., the Dutch exchange organization since January 1, 1997, and therefore the successor to the Amsterdam Stock Exchange Association, has stated that it condemns and regrets the actions of its predecessor during and after World War II and wholeheartedly supports the statement made by the Amsterdam Stock Exchange Association....

On June 15, 2000, the Netherlands Bankers' Association (Nederlandse Vereniging van Banken), the Amsterdam Stock Exchange Association and Amsterdam Exchanges signed an agreement with the Central Jewish Council, Platform Israel, and the Central Jewish Council's advisory body on restitution and distribution concerning the refund of amounts that were not distributed in 1953 in the context of the restitution of securities rights to the Jewish community partly as a result of the conduct of the Amsterdam Stock Exchange Association. The World Jewish Congress has expressed its approval for the agreement signed by the organizations representing the Jewish community in the Netherlands. This agreement stipulates that the Netherlands Bankers' Association, the Amsterdam Stock Exchange Association and Amsterdam Exchanges will provide an amount of NLG 314m to the Jewish community as a final settlement for the restitution of securities rights. This settlement includes an amount of NLG 50m based on agreements reached previously by the Netherlands Bankers' Association and the Jewish community.<sup>38</sup>

Furthermore, it was agreed that a memorial stone would be ensconced in the building in Sarphati Street where the LIRO offices had been. As with so many elements of the negotiations with the banks, this matter did not pass without difficulties. In that building there is nowadays a branch of the ABN AMRO Bank. This institution initially opposed the placing of a stone, as it thought it would imply that it was somehow associated with LIRO.

The text of the memorial stone, on which the two parties agreed, says: "In this building, during the German occupation from 1941 the looting institution 'Liro' was housed. Liro had as its aim to systematically rob the Jews of all their worldly possessions."<sup>39</sup> Below that is the text of Isaiah 42: 22–24 in both Hebrew and Dutch.

In 2003 a ceremony for the unveiling of the stone took place. On that occasion Blocks said: "It is incomprehensible that we pay attention to the looting only 58 years after the war...with this stone we want to make our contribution to the emotional restitution."<sup>40</sup>

In June 2000 — outside the NVB negotiations — there was also an agreement with the DNB (Dutch Central Bank). The bank agreed to pay 120,000 guilders to the CJO. This was the current value of 7,000 guilders of dormant accounts that could have belonged to murdered Jews.<sup>41</sup>

## Notes

1. Personal communication, Joop Sanders.
2. Personal communication, Hein G. M. Blocks.
3. Hein G. M. Blocks, “De overeenkomst tussen de joodse organisaties, de banken en de beurs,” *Bank- en Effectenbedrijf*, July/August 2000. [Dutch]
4. Personal communication, Joop Sanders.
5. Personal communication, Hein G. M. Blocks.
6. A *sperre* was a document by the authorities declaring that one would not be arrested (in this case despite being a Jew).
7. Blocks, “De overeenkomst.”
8. Personal communication, Ernst Numann.
9. Ibid.
10. Scholten Commission, Final Report, 16.
11. Personal communication, Ernst Numann.
12. Personal communication, Hein G. M. Blocks.
13. Scholten Commission, Final Report, 15.
14. Advertisement, “Amsterdam Stock Exchange Association and Amsterdam Exchanges express regret for the conduct of the exchange during and after World War II,” *Jerusalem Post*, 9 August 2000.
15. Paardekooper & Hoffman, letter to the board of the CJO, 26 April 2000. [Dutch]
16. Personal communication, Chris van Gent.
17. Blocks, “De overeenkomst.”
18. “Zalm bereid te bemiddelen in joods-geldzaak,” *Volkscrant*, 1 May 2000. [Dutch]
19. Personal communication, Chris van Gent.
20. Personal communication, Henri Markens.
21. Personal communication, Ronny Naftaniel.
22. A. Kasdorp, “Verslag van vergadering,” 19 June 2000. [Dutch]
23. Personal communication, Tom de Swaan.
24. Personal communication, Chris van Gent.
25. *NRC Handelsblad*, 26 May 2000. [Dutch]
26. Personal communication, Ronny Naftaniel.
27. Manfred Gerstenfeld, interview with Israel Singer, “Restitution: The Second Round,” *Post-Holocaust and Anti-Semitism*, 14, 2 November 2003.
28. Reuters, 31 May 2000.
29. Personal communication, Joop Sanders.
30. Philip Staal, *Roestvrijstaal* (Delft: Eburon, 2008), 261–289. [Dutch]
31. Personal communication, Elan Steinberg.
32. *Het Financiële Dagblad*, 30 May 2000. [Dutch]
33. *NRC Handelsblad*, 16 June 2000. [Dutch]
34. Ibid.
35. Blocks, “De overeenkomst.”
36. Personal communication, Avraham Roet.
37. Personal communication, Ronny Naftaniel.

38. Advertisement, "Amsterdam Stock Exchange Association and Amsterdam Exchanges express regret for the conduct of the exchange during and after World War II," *Jerusalem Post*, 9 August 2000.
39. The original Dutch text is: "In dit gebouw was tijdens de Duitse bezetting vanaf 1941 de roofinstelling 'Liro' gevestigd. Liro richtte zich op de stelselmatige beroving van de Joodse bevolking van al haar aardse bezittingen."
40. ANP, "Monumentje bij roofbank LIRO," *Het Parool*, 27 May 2003. [Dutch]
41. "Onderhandelingen joodse tegoeden voltooid," *Trouw*, 21 June 2000. [Dutch]

## Chapter Fourteen: Conclusion

When assessing more than ten years later the key aspects of the renewed restitution process, issues that should be analyzed include: what did the process accomplish? How did the various parties involved perform? What did the commissions of inquiry achieve?

The process attracted major public attention to the discriminatory treatment of Jewish Holocaust survivors by the Dutch government and authorities after World War II. The information revealed gained much publicity in Dutch society. Otherwise this disclosure process might have taken many decades, if it had occurred at all.

The renewed restitution process shed a rather unfavorable light on Dutch society at large in the postwar period. Klein's earlier-mentioned statement: "To judge the postwar restitution process is to judge the Netherlands and the nation," embodied much of the essence of the various committees' investigations.

### **The Dutch Government**

A major aspect of analyzing the process is evaluating how the parties involved performed and came out of it. This analysis will also shed further light on other important facets of the process.

The Dutch government has much reason to be satisfied with the outcome of the renewed restitution process and its negotiations with the CJO. There had been major misconduct toward the Jews by its postwar predecessors. Had this information been disseminated widely and frequently in the international media it would have caused serious damage to the image of the Netherlands.

There was little the Dutch government could have done to avoid such publicity. Whether it developed depended partly on the attitude of the Dutch Jewish community leaders toward issues such as the nature of the investigations, the negotiations, and whether they wished to stimulate international publicity. The restrained attitudes of both the CJO and SPI made it possible to prevent significant international exposure of the maltreatment of many surviving Dutch Jews by the postwar authorities.

### **International Publicity Avoided**

Had the CJO or other parties from the Jewish side involved the WJC from the beginning in the renewed restitution process, or even insisted on claiming

much higher amounts of payment, the negotiations would have been stretched out. Then international publicity could hardly have been avoided. The Dutch Jewish community in Israel or a group of Jews there could also have mobilized the international press if it wanted. Even a few individuals could have drawn much international media attention to the shortcomings of the postwar restitution process, had they wished to do so.

While the inquiries and negotiations in the Netherlands proceeded, the restitution issue and the misconduct of postwar governments and institutions toward the Jews in several other countries generated wide international media interest. This showed how easily publicity could also have been attracted to the Netherlands. One potential topic was that the Dutch government did not intend to repay all the money that was withheld illegally and immorally from the Jews after the war at a reasonable current value.

As noted, the government only paid an allowance, albeit higher than it originally intended, after it received the Van Kemenade report. One can only wonder how much more the Dutch government would have paid to the Jewish community had the WJC been a party to the negotiations.

Yet, as far as international publicity — or better, the lack of it — is concerned, the Dutch government did not depend only on the attitude of the Jewish community in the negotiations with it. Had the banks that controlled the Amsterdam Stock Exchange not caved in rapidly after the WJC started to apply pressure, the renewed Dutch postwar restitution process would unavoidably have made international media headlines. If the scandals involving the stock exchange had become public knowledge, the Dutch wartime and postwar treatment of the Jews would have become a subject of international debate as well.

There were many journalists abroad who had shown a great interest in the Swiss banking and other restitution issues. The Dutch case potentially represented for them a new stream of perhaps even more scandalous stories. To mention just a few: the Dutch postwar government, by paying for the Westerbork and Vught camps such a small part of what they had cost, let the murdered and surviving Jews pay for the deportations. From a journalist's viewpoint this story was even more interesting as it could be backed up by conclusions from the Kordes Commission.

Another issue with media potential was the charging of administrative costs to the Jews who had been despoiled for returning their stolen possessions. Once again the Kordes Commission report provided the argumentation for how discriminatory this was. There was thus an official opinion stating that the Dutch government had continued to discriminate against the Jews after the war. Once that theme would have been broached it could have been explored in many other directions. One of these was that fired government officials had been treated better as far as restitution was concerned than despoiled Jewish survivors.

However interesting these stories might have been for the media, they would pale compared to a potential article about the misconduct of Finance Minister



Lieftinck. He wanted to retroactively change Dutch inheritance laws so as to favor the insurance companies and despoil some heirs of the murdered Jews. He was instrumental in changing the law to the detriment of the Jewish security holders so as to favor the members of the Amsterdam Exchange who had collaborated with the Nazis. After the stockbrokers' strike he had favored these collaborators again over the despoiled Jewish owners of securities. All this could be well documented from the Scholten report. To this one can add the efforts of Justice Minister Van Maarseveen to protect as many collaborating notaries from punishment as possible. This will be discussed in the Epilogue.

The way media work is that once they have published on such matters they look for more. That would probably also have meant that the extremely negligent behavior of the Dutch government in exile in London toward the Jews would have come up as a media item. This government's disinterest in the murder of the Jewish citizens in the Netherlands was well documented and could have been backed up by many people telling about their personal experiences.

All this could have been mentioned in the framework of the Dutch authorities' general neglect of Jewish interests in the postwar period. This included, for instance, the negative attitude toward Jewish ritual slaughter, the problems Jewish shopkeepers who closed their shops on Saturday encountered to get the right to open on Sunday, and also an issue such as restitution for damaged religious buildings.

According to Fishman, the turning point only came when Amsterdam chief rabbi Aron Schuster spoke on the occasion of the tenth memorial day of the liberation on 5 May 1955. He said there that "an anti-Semitic ideology [i.e., Nazism] had left traces even in circles where this had been unthinkable before."<sup>1</sup>

All this should be taken into account in order to understand how grateful the Dutch government should have been that none of this was raised internationally by the WJC or by members of the Jewish communities in the Netherlands or abroad.

## **Financial Outcome**

The Dutch government came out quite well financially from the renewed restitution process. The government had to pay more than the 250 million guilders it had expected to disburse after the recommendations of the Van Kemenade report. The four hundred million guilders paid to the Jewish community were, however, no more than what the Dutch government called it: an allowance. It was not restitution and from the government's viewpoint it should be considered a bargain. The sum paid hardly represented a realistic value for the amount the Jewish community had been shortchanged after the war on a single item: what it had spent for the camps in Westerbork and Vught.

Prime Minister Kok, in an interview in the Appendix, claims that the

government's financial resources were limited and its representatives had to take this into account in the discussions with the CJO. This is a valid viewpoint. However, at the time there was a strong negative attitude internationally toward Western governments that had maltreated and shortchanged Jews after the war. Had the Netherlands been under severe international media attack on the matter, preventing damage to its image might have become a priority for the Dutch government, rather than how to allocate its financial resources.

The fact that the Van Kemenade Commission had recommended paying 250 million guilders and that Kok had wanted to stick to that figure is secondary at best. The figure had no substantiation, as the commission wrote. An additional benefit to the government was that the CJO claimed that full restitution had been obtained. This does not stand up to serious criticism.

Finance Minister Zalm prevented the renewed negotiations process from blowing up. He managed to gain the confidence of the government's Jewish counterparts. He also negotiated smartly, defending as best he could the financial interest of the Dutch government to pay as little as possible, calling in CJO chairman Markens alone before the final negotiation meeting and convincing him to accept a lower figure than the CJO delegation had agreed to earlier among themselves as the minimum acceptable.

### **Scant Apologies**

A further "achievement" of the Dutch government was that it came out of the negotiations without having to apologize fully for the misconduct of the postwar government toward the Jews. As mentioned, the apologies issued under pressure did not reflect the full truth. The issue of apologies for the severe misconduct of the government in exile in London was not even raised. Protecting the reputation of one's predecessors as much as possible on acts that should be disavowed may be good politics, but it has little to do with morality.

The government's statement, in its letter to the parliament, that the discrimination against the Jews in various aspects of the restitution process was largely unintentional does not stand up to critical examination. The situation was even worse, as this discrimination continued for a substantial time after the war.

Both Kok and Zalm, in interviews many years later, said they looked back with satisfaction at how the process was concluded. In light of the above, there were far more substantial reasons for the Dutch government's satisfaction than those mentioned in the later interviews with these ministers.<sup>2</sup>

### **The Jewish Community**

Analyzing the Jewish community's achievements is more complex. The CJO's specific goals only developed as the commission investigations proceeded. Its

starting position was difficult. The CJO was a new, unconsolidated body, with no funds for independent research and no professional negotiators among its members. Their historical understanding was also rather limited. It was thus dependent on the inquiries initiated by the government as to what amounts of restitution it could aim for. From conversations at the time with CJO members, it was clear that in the first year of inquiries they had no idea of what order of magnitude of money had remained with the government.

The CJO was also up against far stronger and more sophisticated counterparts. Furthermore, the CJO negotiators were subject to the unavoidable and often unfounded criticism from individual Jews. Part of this criticism, concerning what attitude should be taken toward the government, weakened the CJO's negotiating position. A further weakening resulted from internal pressures, however honorable their motives, to conclude the negotiations quickly.

In the background there were also other considerations. Several community leaders did not want their relationship with the government to become too controversial, as they would need its help in the future for other issues concerning their institutions. Furthermore, there were fears in the Jewish community that tough negotiating would lead to increased anti-Semitism. An analysis of these fears is best left to psychologists.

### **Unsatisfactory Negotiations**

As far as the CJO's negotiations with the government were concerned, the results were hardly satisfactory. There is little doubt that more money could have been obtained. The first mistake was the way in which the original assignment to Paardekooper & Hoffman was formulated. The accountant's report contained two widely different estimates of what must be paid in current values. Anyone familiar with business negotiations knows that, in such a situation, the counterpart considers the lower figure as the starting position. The higher figure loses all importance. What to pay is negotiated downward from the lower figure by the counterpart. This is also what the Dutch government did.

What would have happened had the CJO not accepted the four hundred million guilders offered by the government? From a professional negotiator's viewpoint the assumption among some CJO members that the negotiations would have been drawn out for a long time seems unlikely. The Dutch government had far more to lose than the Jewish community from a stalemate in the process.

Here the CJO representatives' lack of experience in negotiations of such a nature, scale, and complexity came to the fore. They attached far too little importance to the advice of the consultant they had hired. He was a professional and had the experience sorely lacked by the CJO board members. Van Gent says this was particularly the case for the negotiations with the government: "The technical discussion of the accountant's report created a reality that to a certain

extent was one of negotiations.”<sup>3</sup> From the vantage point of a business negotiator the negotiations between the CJO and the government were rather uncomplicated ones. Yet they could have been conducted much better.

### **Moral and Image Aspects**

Also, as far as the moral aspect is concerned, the CJO achieved far less than what would have been possible with better planning. Until today the Dutch governments’ declarations about the behavior of their predecessors during and after the war are much further from the truth than those of many other European leaders, including a number in Eastern Europe.

Image-wise, the Jewish community in the Netherlands came out well. This was manifested later, for instance, in royal honors given to several of the Jewish key negotiators in the Netherlands and in Israel. The CJO was praised by the media and the government for its responsible attitude during the negotiations. This was helped by the fact that, compared to those representing the repatriated from the former Dutch East Indies, the Jewish community made a much better impression.

One can only speculate what would have happened if the WJC had been involved in the negotiations. There are indications that the amount paid by the Dutch government would have been larger, probably even substantially. At the same time, however, there was a risk of serious collateral damage to the image of the Jewish community in the Netherlands, in particular concerning future governmental attitudes toward it.

Van Gent is of the opinion that “the involvement of the WJC in this stadium would have been highly undesirable. The pressure could have given the government the motive to break relations with the CJO. They might have said ‘we do not negotiate under threat.’”<sup>4</sup> He adds: “The amount the government made available could indeed have been higher. That this was not the case had other reasons than the fact that the WJC was not involved.”<sup>5</sup>

On this issue of the government breaking the negotiations with the CJO, I disagree with Van Gent. The damage of doing this for the image of the Netherlands could have been huge in the international atmosphere at that time. The WJC had excellent contacts with a large number of media. These would have been very interested to expose another country for the multiple failures of its wartime and postwar behavior, as they had done with Switzerland.

In light of all this, what was achieved by the CJO can be considered reasonable under the circumstances even if far from optimal. Insofar as the insurers, banks, and stock exchange were concerned, the payments received should be considered fair. The insurers were intent from the outset on finding a solution that would be difficult to criticize.

The payments obtained for the Jewish community from the stock exchange

bodies can hardly be credited to the CJO. That the stock exchange was forced to pay what it did was due largely to the WJC. The pressure for its becoming involved came from SPI and, in particular, its chairman Roet.

### **The Dutch Jewish Community in Israel**

Considering its small numbers, the Dutch Jewish community in Israel is very active compared to other similar-sized communities. It has many social activities and operates a number of successful institutions. It also maintains a historical-research institute.

In the past decades general developments in the Netherlands were not followed much by the leaders of the Dutch Jewish organizations in Israel. It would have been extremely difficult for them to participate effectively in the Dutch restitution process were it not for the initiatives of Roet. He provided an infrastructure, however superficial, of knowledge through the research institute he founded. Roet later brought the community's leaders together in a new body, SPI. With rare exceptions all of them cooperated efficiently in the restitution process.

It is largely to Roet's credit that the Dutch Jewish community in Israel became an active partner in the process. It made a particularly important contribution in negotiations with the stock exchange, but played significant roles elsewhere as well.

Thanks to the funds obtained in the restitution process, the activities of the Dutch Jewish community in Israel have increased significantly. Though no statistical data exist, it seems that in light of the lower standard of living in Israel compared to the Netherlands, the funds distributed to individuals in Israel have also often made a considerable contribution to their wellbeing.

### **The Other Participants**

The organization of insurers, VVV, came to the negotiating table with a positive attitude and can look back with satisfaction on its role in the restitution process. Its contribution to the digital monument will be a lasting one in maintaining the memory of the murdered Dutch Jews.

The banks approached the restitution issue differently. The negotiations concerning their own payments did not cause major problems. The way they handled the stock exchange negotiations, however, exposed them to serious risks of boycott in the United States. The ultimate payment made on behalf of the stock exchange was a fair one. Yet had the banks negotiated intelligently and with more of an inclination to resolve this matter, they would probably have ended up with a somewhat lower payment than they did, as well as a less negative judgment in the pages of history.

## **The Work of the Commissions**

As to the work of the commissions of inquiry, much research was done and the final reports have provided important information on what happened in matters concerning the Jews in the Netherlands after World War II. The reports' mentioning of so many objectionable acts of the Dutch postwar governments helped create a picture of the major shortcomings of the restitution process. When evaluating the commission reports one also has to take into account that the research had to be done under time constraints.

As was already widely pointed out after the commission reports were published, there was also a substantial number of major flaws in their work. These concern both the research and the conclusions of the commissions. There were additional areas where more of an effort should have been made. Real estate is one of them, businesses another. As a collateral issue the misconduct of notaries in the looting process should have been discussed.

The Van Kemenade Commission's recommendation to pay 250 million guilders to the Jewish community, an amount not based on any, however rough, evaluation, was a severe misjudgment. This also came to the fore in the CJO's negotiations with the Dutch government. As far as the Kordes Commission is concerned, the current value of the amounts to be reimbursed was an important item that should have been developed in some detail. Instead it was not addressed at all.

The composition of the Scholten Commission drew justified criticism from the CJO. The commission's mandate should have included the stipulation that its members have the confidence of the Jewish community. The commission's first report was flawed, as both the CJO and SPI have pointed out in detail.

The final Scholten report was much improved. One great merit of the Scholten Commission was that it brought to light the misconduct of the Amsterdam Stock Exchange during the war and afterwards. This enabled the CJO to add the stock exchange as a counterpart in the restitution negotiations. As far as the insurance companies were concerned, the Scholten Commission's findings did not influence the outcome of the negotiations, yet they provided a further substantiation of what had been agreed upon between the insurers and the Jewish community.

## **A Chapter Never Closed**

The report of the Van Kemenade Commission also had a number of flaws, the most important being, as mentioned, its recommendation to make a payment to the Jewish community of an amount not based on any calculation, however imprecise. The commission members were well aware of this. This led to a situation in which copies of a draft report that recommended 150 million guilders were distributed, whereas the final payment suggested a few weeks later was 250 million guilders.

The CJO, through the report of Paardekooper & Hoffman, would show that calculations of current value, however crude, were possible. The fact that the Van Kemenade Commission's main recommendation was not accepted in the end by the Dutch government further undermines its credibility.

In its letter to parliament, the government wrote that "this chapter of our history can never be closed, government and society alike must always remember this part of the past, and the conclusions drawn must be applied now and in the future."<sup>6</sup> This is the case after this book as well.

## Notes

1. Joel Fishman, "Een keerpunt in de naoorlogse geschiedenis van de Nederlandse joden, De toespraak van opperrabbijn Schuster in de Nieuwe Kerk (1955)," in Hetty Berg and Bart Wallet, *Joods Nederland na 1945: Een veelkleurig portret* (Zwolle/Amsterdam: Waanders/JHM, 2010). [Dutch]
2. See the interviews with Wim Kok and Gerrit Zalm in this volume.
3. Personal communication, Chris van Gent.
4. Ibid.
5. Ibid.
6. Government response to the reports on World War II assets, 21 March 2000.

## Epilogue

Ten years have elapsed since the agreements were reached on renewed restitution in the Netherlands. A number of events related to the process have occurred since then. After the CJO's negotiations with the counterparts had been concluded, there still remained the issue of the claims in the United States against the insurers. This has been discussed in chapter ten.

One major follow-up subject concerns the distribution of the funds obtained by the Jewish communities in the Netherlands and in Israel. Eighty percent of the payments were made to individuals, while 20 percent went to collective purposes. The first step was thus to search for and identify survivors and their children and to determine whether they were entitled to payments. Special structures also had to be set up for the distribution of the collective funds. Furthermore, a mechanism was established to deal with individual claims against insurers. There were several much-publicized claims for the restitution of objects of art. The way the collective monies were allocated has many aspects, both in Israel and the Netherlands. For the distribution of these monies, commissions were set up that developed criteria for priorities and what projects qualified. This interesting, multifaceted process merits a separate book.

### **Publications**

A number of books and other important publications appeared after the end of the renewed restitution process. In 2001 Gerard Aalders published a book whose title, *Berooid; De beroofde Joden en het Nederlandse restitutiebeleid sinds 1945*, translates as *Penniless: The Plundered Jews and Dutch Restitution Policies since 1945*.<sup>1</sup> Aalders had written earlier about the looting of Dutch Jewish properties during World War II.<sup>2</sup>

In his new book Aalders focused on issues such as the wartime preparation of restitution legislation by the Dutch government in exile in London, and how restitution efforts were eventually organized and carried out. He interpreted the studies of the various government commissions of inquiry at the end of the last century. Aalders also dealt with the restitution of securities to their owners. This was a central issue in the debate on the importance of the discrimination against the Jews by various postwar Dutch governments. The rediscovery and very partial restitution of looted works of art — to this day a highly controversial topic — was another subject he analyzed.

The book contains much important information. Aalders, however, largely avoids the major question of to what extent the Jews had been discriminated



against after the war in the Netherlands. He cares little about whether the restitution process has done justice to the Jews but instead focuses on whether the government had executed its laws properly. He concludes that “in view of its aims, the restitution process has not failed, even though its execution has been a road of suffering.”<sup>3</sup>

At the same time, Aalders stresses that he has never spoken about the “success” of the process, and skirts most of the issues regarding how the process could have been handled differently. He indicates that it could have been but does not specify how. Aalders also published an essay on the wartime looting of Dutch Jews’ assets in a book edited by Avi Beker, *The Plunder of Jewish Property during the Holocaust*.<sup>4</sup>

In the same year Lipschits published a book with the title *De kleine sjoa; Joden in naoorlogs Nederland* (The Little Shoah: The Jews in the Postwar Netherlands).<sup>5</sup> Though well researched, it is largely a personal account. Its title sums up his main thesis concerning the Dutch treatment of the Jews during the postwar period. “In the liberated Netherlands,” he writes in his introduction, “the Jews were not physically threatened. However, verbal anti-Semitism became sharper; the despoilment of the Jews continued...the...isolation of Jews went on... The reception was so cold, bureaucratic, hostile, humiliating, so disappointing, that I call the postwar period ‘the time of the little Shoah.’”<sup>6</sup>

Lipschits’s book provides much information on hardships experienced by Jews in postwar Dutch society. His work follows that of earlier authors such as Jacques Presser, Diennek Hondius, Elma Verhey, Chaya Brasz, Ido de Haan, and Michal Citroen.

## SOTO

Martin Bossenbroek’s *De Meelstreep* (The Flourline) was also published in 2001.<sup>7</sup> This book was part of the official SOTO inquiry — well funded by the Dutch government — on how war victims in general were reintegrated into Dutch postwar society. It deals with such disparate subjects as the return of imprisoned Dutch resistance fighters, war prisoners, voluntary and involuntary workers in Germany, and Jewish survivors, and also with those who came to the Netherlands from the Dutch East Indies. Though Bossenbroek devotes extensive attention to the Jews, his approach dilutes the analysis of their problems and results in a fuzzy view.

The book contains much information on Dutch Jewry, including numerous vignettes of postwar discrimination. The facts, however, are presented in a way that does not facilitate reaching clear conclusions. Bossenbroek’s work leads him to the meaningless deduction that the reception and integration of the persecuted in the liberated Netherlands was reasonably good “in view of the circumstances.”

The way the book is written also makes it difficult to grasp which issues it

covers and which it omits. Among the latter is the anti-Semitic atmosphere in the services of the Dutch government in exile in London, which partly determined the postwar attitude of the Dutch authorities toward the Jews as well as the collaboration of numerous Dutch notaries in the looting process.

Most Dutch historians dealing with Shoah history have tried to provide a clear picture, even if it was unfavorable to the Dutch people. Bossenbroek's book, however, gives the impression that as far as the postwar period is concerned, the official history of the Netherlands does not really assign high priority to presenting and documenting the full story.

In the same year *Mensenheugenis* (Human Memory), a book edited by Hinke Piersma, appeared in the SOTO series. This book deals with stories of the returnees after the war. One chapter by Boris de Munnick is devoted to testimonies by Dutch Jews. It notes that, while the Germans did not succeed in murdering all the Jews, after 1942 they achieved a complete separation of the history of Dutch Jewry from that of Dutch society.<sup>8</sup> In 2002 the book *Binnenskamers* (Inside), edited by Conny Kristel, was published. It dealt with the policymaking on return and reception after World War II and has several chapters on Jewish issues.<sup>9</sup>

## Other Books

In 2005 Wouter Veraart, who had written the part of the Scholten report dealing with securities, published his doctoral thesis *Ontrechting en Rechtsherstel* (Deprivation and Restitution). It is devoted to a comparison of the removal of the Jews' civil rights with the restitution between the Netherlands and France. The book focuses on legal aspects.<sup>10</sup>

Elma Verhey, who had published a book about the Jewish war orphans in 1991,<sup>11</sup> was approached in the summer of 2000 by some Dutch orphans in Israel with questions about how their claims and inheritance had been settled after the war. It turned out that many of the archives of the Dutch Jewish organization Le-Ezrath Ha-Jeled, which dealt with the custody of orphans, had been destroyed. This would develop into one of the most problematic issues of restitution after the end of the official Dutch restitution process. Verhey's book *Kind van de Rekening* (Picking Up the Tab) came out in 2005.<sup>12</sup>

Philip Staal came to Israel from the Netherlands many years ago. His parents did not survive the war. In 2008 he published a book titled *Roestvrijstaal* (Stainless Steel). Staal had been involved, on behalf of the board of SPI, in some of the restitution negotiations. In this book he offers his memories and impressions thereof. He also writes about his own life as a Jewish war orphan. The book is very critical of the management of the inheritance of Jewish war orphans by Jewish custodian organizations in the Netherlands. Staal claims that these orphans' assets were not properly managed.<sup>13</sup>

A number of Jewish organizations that had been custodians of more than two hundred Jewish orphans after the war had ultimately been merged into the JMW. The current criticism of several Jewish war orphans focuses on the JMW. This debate continues from 2005 until today. In 2010 the JMW created a special fund with a starting budget of 125,000 Euro to benefit surviving orphans. The aims of the fund were criticized by a number of the survivors.<sup>14</sup>

In his book Staal tells an anecdote about a Dutch war profiteer. In 2005 he had been contacted by a former art trader whom he identifies by his initials De H. The latter said Staal's mother had brought him in 1943 a painting by the German painter Hans Fay, asking him to hang it in his shop for sale. De H. told him he had never sold the painting and hence it still belonged to the Staal family. When Staal asked him whether he could pick up the painting, De H. said: "A few years ago it was valued at 50,000 Euro; as it has emotional value for you, I want 100,000 Euro from you for it."<sup>15</sup>

In 2009 Zalm published his memoirs under the title *De Romantische Boekhouder* (The Romantic Bookkeeper). The book concludes with a six-page section titled "Minister of Jewish Affairs." The main issue Zalm describes here is the renewed restitution negotiations. He notes the goodwill his role in this issue has earned him not only in Dutch Jewish circles but also in Israel. Zalm received awards from the Hebrew University and Ben-Gurion University.<sup>16</sup>

Some attention to the restitution issue was given in this author's book, *Het Verval — Joden in een Stuurloos Nederland* (The Decay: Jews in a Rudderless Netherlands).<sup>17</sup> It also contained interviews referring to the renewed restitution process with Els Borst, Wim Kok, Frits Korthals Altes, Henri Markens, and Gerrit Zalm. The book was published in 2010. Around the same time, a book came out titled *Wie niet weg is, is gezien; Joods Nederland na 1945* (Who Is There, Has Been Seen: Jewish Netherlands after 1945).<sup>18</sup> In it, some issues of relevance to the postwar restitution and related issues are mentioned.

## Real Estate and Notaries

On 19 December 2008 Kornelius Meijer presented his doctoral thesis at the Erasmus University in Rotterdam. It dealt with the postwar restitution and the administration of justice concerning real estate.<sup>19</sup> A month earlier Eric Slot, a freelance journalist, published an article in November 2008 that dealt with the wartime looting and postwar restitution of real estate. This major issue had not been handled adequately by the commissions of inquiry. The article was partly based on Veraart's book. Slot concluded that twenty thousand Jewish-owned buildings had been looted. At that time their total value was about 150 million guilders; in today's money this is about 750 million Euro (equivalent to 1,650 million guilders).

Slot claimed that brokers acting in bad faith had become extremely wealthy,

both by selling looted Jewish real estate and by whitewashing black money. Among their clients were companies working for the Germans, collaborators, banks, and municipalities.

Should the Jewish organizations demand in the future that an inquiry be made into this matter, the postwar-restitution issue may again come forcefully into the Dutch public domain.<sup>20</sup>

From time to time specific cases also come to light. Two historians, Valentine Wikaart and Bert van Straten, mentioned in a letter to the municipality of Werkendam that in spring 1943 three members of the local Jewish family De Vries were sent to the Sobibor extermination camp. They stated that shortly thereafter this municipality bought their real estate from a looting organization. Officially the municipality was only informed of the death of the family members in 1949.<sup>21</sup>

A detailed analysis of the collaboration and accommodation of Dutch notaries during the war was published in 2010 by Raymund Schütz, a Dutch historian.<sup>22</sup> Schütz concluded that “to collaborate in formalizing injustice is the most severe offense a notary can commit. That occurred during the occupation on a large scale.” He adds that there was a secret agreement between Justice Minister Van Maarseveen and the Brotherhood of Notaries to exculpate most of the collaborating notaries. The minister even intervened, contravening the law, to stop the criminal prosecution of notaries in Rotterdam who had greatly benefited from their collaboration. After the war there had already been a conflict between the minister and the public prosecutor J. Zaaijer, who insisted on prosecuting notaries who had collaborated. The minister prevailed.<sup>23</sup>

## **Is History Repeating Itself?**

For the first time in the almost two hundred years of history of the Dutch parliament, in June 2010, a plenary session was devoted to contemporary anti-Semitism. Major themes included the harassment of recognizable Jews in the public domain and the security needs of Jewish institutions. Once again, in a very different way, it seemed that Dutch authorities were unable to protect Jews.

In February 2011 a second parliamentary debate took place, this time in the committee for domestic affairs. The same themes returned. In its reply, the government stuck to the position of its predecessors and said that security is the responsibility of the Jewish community itself and if necessary, of the local authorities. The latter, however, are rarely willing to pay for these expenses. In a following plenary parliamentary debate on March 9, Interior Minister Jan Hein Donner said that the authorities cannot become responsible for every measure that the Jewish institutions deem necessary to increase their security.<sup>24</sup>

One of the conclusions of the Kordes Commission comes to mind. It said that the provision of administrative services to the Jews in returning looted

possessions was a public duty and should have been done for free. One wonders whether in the future, investigators will conclude that the Dutch government had misconducted itself toward the Jews once again by failing to pay for their protection and that of their institutions, which is also clearly a public duty.

Also in other matters some parts of Dutch history seem to repeat themselves, be it in different contexts. In February 2011 a private law came before the parliament that proposed to prohibit ritual slaughter without stunning. The proposal prompted negative reactions from several international Jewish organizations, such as the Simon Wiesenthal Center,<sup>25</sup> the European Jewish Congress,<sup>26</sup> and the Anti-Defamation League.<sup>27</sup> The chief rabbi of the United Kingdom, Lord Jonathan Sacks, wrote a letter to the Dutch parliament.<sup>28</sup>

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# Appendix:

## Interviews with Former Ministers

### **The Restitution Question**

#### **Interview with Wim Kok**

“In the renewed restitution discussions that started in the Netherlands at the end of the last century, the Van Kemenade Commission report played a major role. After a lengthy political debate on the issue, the feeling emerged that ‘we have to do something about it.’”

Wim Kok was prime minister of the Netherlands from 1994 to 2002. On behalf of the government, he, Finance Minister Gerrit Zalm, and Public Health Minister and Deputy Prime Minister Els Borst dealt with the restitution problems that, after decades of neglect, again came to public attention late in the last century.

Kok explains: “The Van Kemenade Commission concluded that a ‘gesture’ should be made to the Jewish community. This same expression came up often in public discussion. I considered the word gesture to be inappropriate. For me it was a matter of solidarity with those who had suffered during the Second World War only because they were Jewish. We thought it was our obligation — not a legal but a moral one — to find suitable solutions.

“Therefore I did not want to use either the word gesture or compensation. When people who have a feel for the Dutch language hear the word gesture, they think it is something by which we solved a problem. The word compensation cannot be used because horrible things happened during the war that can never be compensated. Therefore, to me the word allowance seemed to be the best.”

### **Support in Society**

“Now, many years later, thinking again about what happened at the turn of the century, I want to state that our main goal was to come to a suitable solution, considering what had happened in the past and taking into account the sentiments in Dutch society at large.

“For me, this last issue was very important. A government has to take into account the feelings of its general population. It is important that one generates support, not only in parliament, but also in society at large for any solution being proposed. The restitution issue was a burning one that attracted much attention.

“There are always people who, with a certain lack of understanding, look critically at those who in their eyes benefit from an allowance. To some extent this is unavoidable. It is therefore so important that one explains to society, already during the process, the motivations for the proposed solution. This approach was obviously successful because there were no major reactions in the Netherlands of lack of understanding or opposition to payment of the allowances. This proves that the government had built a good foundation within the society, where this process was brought to a conclusion without any serious problems.

“After extensive deliberations and in consultation with the parliament, the government decided to make financial means available in a rather generous fashion. We then consulted the representatives of those concerned. There were contacts with delegates of the various groups to help clarify how we could best give content to this allowance. Everything was done in harmony between the government and parliament, where there was no strong opposition.

“Minister Zalm carried out the decisions that we had taken jointly. We weighed these very carefully after we had informed ourselves about the sentiments on this matter in Dutch society and the Jewish community. Looking back, I have a good feeling. Nevertheless I have also felt, from time to time, less at ease on this matter. This occurred in conversations with some representatives of the Jewish community as well. They were on occasion very insistent.”

### **Irritation and Good Feelings**

Kok refers to a meeting in the government buildings, after which Jewish representatives said he did not even shake hands with them when he left. He remarks: “I do not occupy myself all day or all week with a single issue. There are many more things to think about. People we talk to sometimes can plead fanatically about an issue of importance to them, but which doesn’t have the same importance to me as other issues on the government agenda at the same time.

“The government at that time was involved in devising a general solution, not only in the financial but also in the political sense. In such a situation it wasn’t pleasant to be addressed in a way that implied we were not aware of all the injustice the Jewish community had suffered after the Second World War. I was also slightly irritated that people sometimes spoke as if our resources were unlimited. This was obviously not the case. Furthermore, if resources have to be divided, there are multiple target and interest groups.

“Despite all this I still have a good feeling about the renewed restitution process, because almost everyone involved could live with the results. They cooperated to bring this matter to an end, without too many angry words. I also think that, in leaving to the CJO the detailed decisions regarding distribution of the funds available, we chose the right approach. In this way they could, in their



own circles, deal with how the money should be used. It seems to me that this saved the government many headaches.”

### **Switzerland Not a Model**

Kok adds: “The policy of Switzerland in the renewed restitution issue as far as dormant bank accounts were concerned was not a model for us. Our own considerations about how to deal with this matter were determinant.

“It was the CJO that wanted to negotiate by itself without involving international Jewish organizations, in particular the World Jewish Congress (WJC).” Kok adds: “The CJO’s opinions on how the restitution discussions should be handled played an important role for us, and that is logical. We wanted primarily to find a suitable solution within Dutch society. Exposing the issue to the rest of the world could have opened a Pandora’s box. We wished to keep the conversation orderly and manageable.

“During the international conference on Holocaust education in Stockholm in January 2000, I had a conversation with Israel Singer, then secretary-general of the WJC. At first this was very difficult, but we slowly reached a better understanding. His input played a role in our deliberations. It is important that, in this conversation, we created a climate of accepting that we did not agree on all points.

“I was intensely involved in the restitution issue until the moment the decisions were made by the Council of Ministers. The delegation of competences only began after we, in this council, had established the framework for the agreement.

“The cabinet took its final decision, which had been well prepared by Ministers Zalm, Borst, and myself. It is quite common — this is the case with hundreds of other files as well — that after the cabinet takes a decision on the main matters, the appropriate ministers deal with the details. They can, either bilaterally or through officials, come back to the prime minister if there is something specific that requires additional agreement.”

### **Apologies for Postwar Behavior**

After Kok’s speech at the Stockholm conference, he was criticized for not offering his government’s apologies for the postwar government’s behavior toward the Jews.

Kok says: “I do not like to express apologies for something I did not do myself. This is a general attitude. I was confronted with this issue in a far more profound way in the Srebrenica affair (where our government resigned). As prime minister I found it far too simple to say about my predecessors, who were people

of integrity: ‘I offer you apologies on behalf of my predecessors as well, because they dealt with this matter inappropriately.’

“I am not one of those who use the word sorry too easily. If I have dealt with someone improperly or have done something ungracious, I have no problem — if it is justified — in saying so. This is a different matter if it concerns governments of many decades ago.

“I want to add that not expressing apologies doesn’t say anything about my judgment concerning developments before, during, or after the Second World War. As chairman of the Anne Frank Foundation, I am intensely involved in this history. I have also made an effort to keep alive the memory of the Second World War, as well as the process of thinking and drawing conclusions about it. The historical images cannot be removed. There are books that are never closed.”

## **The Postwar Dutch Government Acted Wrongly**

### **Interview with Gerrit Zalm**

Gerrit Zalm was finance minister in the Kok cabinet at the time when suddenly — in the latter half of the 1990s — the discussion on the shortcomings of postwar restitution to the Dutch Jewish community came to public attention.

He says: “This started with the London Gold Conference in 1997. It turned out that the Dutch state was still entitled to 20 million guilders. It couldn’t be clarified if this gold was state property or if it had been looted from Jews. I said then, ‘We don’t want that gold; we will make it available to the Jewish community.’

“This marked the beginning of a process that would take several years. The next development was that, on a television program during that year, it was revealed that part of the Lippman Rosenthal (LIRO) archive had been found. That was the looting bank where, during the war, the Jews had to deposit their possessions. The archive had been abandoned in an Amsterdam building that was inhabited by students. This was very negligent, to put it mildly.

“It later became known that what ultimately remained of the LIRO assets had been raffled off at a low taxation value of many years earlier to the personnel of the agency that, after the war, handled the remaining possessions. I found that shocking. It was a discovery that deeply shamed me.”

### **Not a Real Politician**

“During the renewed restitution process, I was asked: ‘Are you of the opinion that the Dutch postwar government acted wrongly on this issue?’ I answered, ‘Yes.’”

Zalm remarks: “This attitude probably results from the fact that I was not a real politician. I became finance minister by chance; I had worked in this ministry

the first eight years of my career. I once said: ‘I didn’t go into politics; I became finance minister.’

“We then investigated what remained of Jewish possessions after the war. Then too the legal question emerged. The inheritance of someone who has no heirs goes to the state. Our legal position was thus very strong, but there was also the moral aspect. I recommended that we accept our moral responsibility toward the Jewish community without recognizing the legal responsibility. This was accepted by the cabinet.”

In his memoirs Zalm tells that initially Kok upheld the legal aspect. At the Stockholm conference on Holocaust education, he rejected a collective claim of the Jewish community on the estates of individual Jews. However, Zalm’s position — “It cannot be that the Dutch state enriches itself due to the murder of entire families” — prevailed.<sup>1</sup>

“I then invited the representatives of the Jewish community to the Finance Ministry. Their umbrella organization, the CJO had just been established. I found it a difficult conversation. It was so obvious that after the war our ministry had acted wrongly in the restitution process.”

## **The Value of the Assets**

“Later a discussion developed on how — many decades after the war — these nonrestituted assets should be evaluated. We had established the Van Kemenade Commission in March 1997, which originally had the limited task of critically following the investigations of Holocaust assets abroad. Its undertaking was later extended substantially to include Dutch restitution issues as well.

“In its report of January 2000, the commission recommended making a financial ‘gesture’ toward the Jewish community. The CJO responded that they had no need of a ‘gesture.’ One of their representatives said: ‘The Jewish community doesn’t want a “gesture.” We want what we are entitled to — no more, no less.’

“That was an important moment in the discussion. I found it an agreeable approach; it meant one could solve the problem by making calculations. This makes the issue more objective than if one speaks, for instance, about immaterial damage. It was a very emotional issue and the Jewish representatives chose to approach it in a businesslike way. I realized then that we would reach a solution.

“The amount to be paid by the state was finally fixed at 400 million guilders. Of this 350 million guilders were for Dutch Jews, to be divided between those in the Netherlands and those in Israel, while 50 million guilders were earmarked for East European Jewish projects.

“This latter amount was also important. I wasn’t happy about the money going only to individuals. I wanted us to do something for the future of the Jewish community outside the Netherlands. Furthermore, the CJO decided that 20

percent of the amount we had agreed on would be used for community purposes for Dutch Jews in the Netherlands and Israel.

“The agreement we reached with the CJO was approved by the cabinet. I finally obtained support for this. Now we could inform the parliament. I was glad that the negotiations I had undertaken on behalf of the government had led to an agreement. I look back now with satisfaction that this problematic issue was resolved successfully.”

### **Dutchmen from the Dutch East Indies and Jews**

When asked about the difference in the negotiations with the Jews and those with the Dutchmen from the former Dutch East Indies, Zalm answered: “I consider that a very different case. The emotions were equally great, but the two issues were incomparable. The Dutch state did not possess assets that had belonged to these Dutchmen. These people had also suffered damage, but the government had not enriched itself from this.

“The Dutchmen who had lived in the former Dutch East Indies wanted to be treated like the Jews. In conversations with their representatives I told them that I was familiar with both sides, through my wife who came from the Dutch East Indies, and her Jewish parents-in-law from her first husband. In the end these Dutchmen received a financial ‘gesture,’ and not something to which their community was legally entitled.

“The two histories had two things in common. They both concerned issues of the Second World War, and in both cases the Dutch government had treated the people coldly after the war. There was no other common denominator regarding the two communities. All in all I was happy that I had to deal with the Jewish community and not with those from the former Dutch East Indies.”

### **Support for the Negotiations**

“From the beginning the Dutch government had a rather neutral position about who should be our Jewish partners in the discussions. The CJO was by far the largest organized representation of the Jewish community in the Netherlands. There were some people who criticized the negotiations, but they didn’t belong to any organization. I later found out that the agreement with the CJO had very broad support within the Jewish community.

“Since the restitution negotiations I have had very good contacts with people I met at that time. I even acquired friends from that period, and that doesn’t happen easily in politics. This for me is proof that both parties concluded the matter in a decent way. When later there were issues in the government concerning the Jewish community, I was always called upon by the Jewish

representatives. I had the feeling, as it were, that I had become the minister for Jewish affairs.

“In one example, I was approached regarding a proposal to always allow the emptying of individual graves after a certain period, in light of the scarcity of cemetery grounds. This raised religious problems in Jewish circles. I then initiated contacts with the ministers of justice and interior and, as a result, the proposal did not pass in its original form.

“Furthermore, as Dutch finance minister, I was also Israel’s representative on the board of the World Bank. I have a special relationship with Israel via my wife, whose first father-in-law lived there and whom we had visited.”

For his role in the Dutch restitution negotiations, Zalm received the Hebrew University’s Scopus Award in March 2001. At the ceremony he said: “I would have liked to share this prize with the leaders of the Jewish community. They worked together with me over the last several years on the restitution of Jewish assets. They devoted as much time and effort in defending their actions to the people they represented as I did.” Zalm later said: “I found it very special that so many people had come from the Netherlands especially to participate in this ceremony.”

He continued: “When we started with the new restitution process, I had no idea where it might lead, nor what obligations we would have to assume. I hope that when this is investigated, people will tell us that we can be proud of the solutions we found.”

## **The Labor Party Aspect**

An incident between the CJO representatives and Kok received substantial publicity in Jewish circles. After a meeting in the so-called Trêves Room in the government buildings, the prime minister left without shaking hands with the CJO representatives. Zalm comments: “In my opinion, the prime minister regarded the restitution process as an accusation against his parents’ generation, and perhaps also his own.

“For me it was different. I was born in 1952, well after the war. Furthermore, Pieter Lieftinck, the postwar finance minister, who was involved in the restitution process, was a Labor Party politician like Kok. I always had the feeling that when there was a public statement that ‘the matter wasn’t handled well after the war,’ Kok saw this as an accusation against the government of the time, the generation with which he felt connected, and his party. He also had other problems with the restitution events. They were an exception to the common rule that the state always inherits the assets of people with no heirs.

“The second point is that Kok’s character is somewhat different from mine. He makes, in particular during negotiations, a somewhat grumpy impression. This doesn’t necessarily indicate a difference in politics. The feeling on the Jewish side was that leaving without shaking hands was simply not polite.

“I tried to explain Kok’s conduct by saying he wouldn’t have behaved this way at another location. We always sit in the Trêves Room for full governmental and subcommittee meetings. We never shake hands at the end of these. If the conversation had taken place somewhere else, he wouldn’t have made that mistake.”

Zalm adds, “As far as I am concerned that conversation should not have taken place at all. The CJO had asked for it and afterwards they told me, ‘We’re glad that we are again dealing with you.’”

When asked, Zalm says: “I assume that there is a similar explanation for Kok’s speech at the Stockholm conference. In that speech he found it difficult to extend apologies for the behavior of the postwar Dutch government. Such apologies would imply an accusation of that government with which, as I’ve said, he felt a connection. When he later finally extended apologies, he said that what had happened after the war regarding restitution was not intentional. That is what we assumed at the time.”

## **Insurers and Banks**

“Besides the government, the insurers and banks also had to negotiate with the Jewish community. Insurers traditionally have more regard for the mood of society than do bankers. They concluded the negotiations with the Jewish community quite well before those of the government had even begun.

“The banks also negotiated on behalf of the stock exchange. For a long time they took a rather detached approach. Hence they came under heavy pressure regarding the stock exchange. The representatives of the Jewish community were never received by the higher management of the banks. This technique of negotiations was never applied at the ministry. From the beginning I was present at all meetings with the CJO.

“I encouraged the banks to solve the matter quickly. In the end the pressure from the United States to conclude the issue cost them unnecessary money from their point of view. If, from the beginning, the banks had taken a reasonable position and received the Jewish community decently, they would have paid less. I didn’t pity them.”

On the final question of why the Dutch government, contrary to so many other governments, didn’t offer apologies to the Jews for the poor behavior of its predecessors in exile in London, Zalm answers: “I wouldn’t have had difficulty in offering apologies. If the CJO would raise this issue today, I would support it publicly.”

## **Note**

1. Gerrit Zalm, *De Romantische Boekhouder* (Amsterdam: Balans, 2009), 393. [Dutch]

## **The Netherlands Should Apologize to the Jewish Community**

### **Interview with Els Borst**

“If I had been prime minister I would have offered apologies to the Dutch Jewish community without hesitation. This would refer both to our government’s attitude during the Second World War and to the very late postwar discovery that the restitution process had been poorly conceived. Also, the WUV law (Victims of Persecution [1940–1945] Benefits Act) had been established far too late.”

Dr. Els Borst-Eilers was minister of public health, wellbeing, and sport from 1994 to 2002. Before that she was vice-chair of the Council for Health, a scientific advisory body to the Dutch government. She also was a part-time professor at Amsterdam University.

Borst says: “One task of my ministry was to deal with the consequences for individuals of the Second World War. The laws of previous governments regarding war victims and the special pensions and social benefits due to them were under our management. I had to execute or supervise these laws. This brought me into contact with the problems of the postwar restitution.

“The renewed restitution discussions at the turn of the century gave me a sense of great shame. Previous governments had done nothing or very little to investigate the issue. My main feeling was: ‘Now it must finally happen. How unfortunate that we are getting to this so late.’”

### **Differences in the Ministers’ Attitudes**

For the CJO representatives it was clear that Borst’s attitude at the negotiation table with them was different from Kok’s. She observes: “Kok considered that after the war everyone was busy with his own problems and the reconstruction of the Netherlands. For him what happened to the Jewish Dutchmen was more a matter of simply ignoring their problems than bad intentions.”

Borst remarks: “I joined the government from outside the political world. I learned there that people from the same party do not readily disagree.” She adds that the prime minister, being a member of the Labor Party and out of party loyalty, did not want to distance himself from the postwar prime minister Willem Schermerhorn and finance minister Pieter Lieftinck, both Labor politicians and key figures in the postwar restitution process.

“My colleague Zalm, born after the war, devoted himself fully to the issue of the renewed restitution to the Dutch Jewish community. It was a matter of honor for him to conclude these negotiations positively. Zalm considered that the postwar restitution had not proceeded correctly.”

## **Living the War Consciously**

Borst says about her background: “I was eight years old when the Germans invaded our country in 1940, and thirteen when they were ejected. At that age you are already aware of many things. I have always lived in Amsterdam. During the war we inhabited the Rivieren neighborhood where many Jews lived at the time. Our downstairs neighbors were Jews, and there were also Jews a few houses from us. We saw how they were rounded up and taken away. That made a very great impression on me.

“After the war I was occupied with other matters, such as school and studying. To the extent that I understood what was happening, the Jews who returned were not received with an attitude of ‘we will do everything possible to reimburse the financial losses as well as what remains of the possessions of your late parents and other family members.’ The tremendous human losses, of course, could not be restituted.”

In the restitution negotiations at the end of the twentieth century, Borst was responsible for the Dutch community from the former Dutch East Indies. “Nobody there had even a scrap of paper to show that he had had any possessions that had been looted by the Japanese.

“The number of Dutchmen who died in the East Indies is far smaller than the one hundred thousand murdered Dutch Jews. Nevertheless, in the restitution negotiations there was jealousy toward the Jews within that community. When I talked with them, there were often annoying conversations in the style of ‘Why do they get more per person than we do?’ It was a relief to deal with the Jewish representatives, not only because they brought proof but because they also had — besides the emotions involved — a rather businesslike and realistic attitude.”

## **A Bad Government**

Borst comes back to the war: “We now know that the persecution of the Jews hardly bothered Queen Wilhelmina. She spoke all the time about the heroes of the resistance and thought that the entire Netherlands was resisting. The Queen spoke in a manner of ‘all of you who fight so courageously,’ which was far from the truth.

“The weak Dutch government in exile in London should not have left everything to the Queen. Prime Minister Pieter Gerbrandy should have addressed the population on the radio to the effect that ‘we expect you to protect your fellow Jewish citizens from deportation. Try to take them into your homes, help them to flee, do whatever you can. You must do something for our fellow citizens.’

“My feeling is that if all Catholics or Reformed Christians had been deported to Germany, the Dutch government in London would have instructed the population



in the occupied Netherlands to help them. The government's attitude testified that its members, like many others, saw the Jewish Dutchmen as a special group who were not 'real Dutchmen.'

"Before the war many Dutchmen thought the 140,000 Jews among them were a group that should be watched. They might be a threat — for instance, they might get the good jobs, or aspire to dominance in the financial world. These people were parroting each other with no knowledge of the facts."

### **Anti-Semitism**

"This lack of interest in the fate of the Jews was a consequence of prewar anti-Semitism in the Netherlands. It also existed in my nice family. I had a fully Jewish uncle who had married a non-Jew. At the beginning of the war he divorced his wife in order to save her from danger. He thereby endangered himself as he was then no longer in a mixed marriage. He was hidden all throughout the war in Haarlem and fortunately enough survived. Our entire family was happy about this.

"Yet before the war, for instance at family gatherings for a birthday, it was quite common to hear comments such as 'a typical Jewish trick' or 'the Jews take good care of themselves.' That was when someone had done something smart with money. I noticed this already as a small child.

"None of us would have wanted to do any evil to a Jew. Yet there was a feeling of 'they have done very well financially' despite the fact that there were many very poor Jews in Amsterdam. The Rivieren neighborhood was a middle class area."

### **Parallels with the Present**

Borst sees parallels between the war years, her time in the government, and current Dutch politics. She was a minister at the time of the mass murder in the Bosnian town of Srebrenica, and also when the results of the subsequent inquiry by the Dutch Institute for War Documentation (NIOD) were published in 2002. The NIOD claimed in its report that when the Dutch government decided to recall the Dutch United Nations soldiers from Srebrenica, it did not know of the dangers to the Bosnian citizens. Borst remarks: "The NIOD embellished what had happened."

After Minister Jan Pronk of the Labor Party said the government had actually known what was happening in Srebrenica and about the dangers to the citizens there, Borst confirmed that this was true. She remarks: "Pronk did not by chance hinder Kok. Within the same party there is often a battle about who is the hero with the clear conscience.

“Kok understood only after the report appeared seven years later that in 1995, when he was already prime minister, he had acted wrongly. This included his participating in the ‘victory’ festivities with the Dutch soldiers in Zagreb. In 2002, he was deeply ashamed. The government resigned, which was rather strange as it was so close to the elections. Kok said: ‘I cannot sleep anymore if I don’t take responsibility for what happened. I should have done this much earlier. We, as a government, should have behaved differently at the time.’”

As far as the present is concerned, Borst says: “There are many nice, peaceful Muslims, but the Netherlands is far too tolerant regarding the statements of the radical wing of Islam. This also concerns Moroccan youngsters who make anti-Semitic remarks or commit anti-Semitic acts. They were not born as Jew-haters, but they live in a culture where this is tolerated or even encouraged.

“There is much cover-up in the Netherlands in the name of a multicultural society. Ayaan Hirsi Ali made this very clear many times. She was very right about this.”<sup>1</sup>

## Note

1. Ayaan Hirsi Ali, a secular Muslim, is a former member of the Dutch parliament for the Liberal Party. She has since left for the United States.

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