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**Chapter 6 CONCLUSIONS AND RECOMMENDATIONS of the final
report of the world war II assets committee**

1 Introduction

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1 Most of the Jews in the Netherlands perished during the Second World War. The Nazi forces also looted this group of the population's financial assets and belongings. The looting had harrowing consequences for those who returned from their hiding places and the concentration camps and for the survivors of those murdered, consequences that are still felt today many years after the war. The survivors had to rebuild their lives from nothing and had great difficulty re-establishing themselves in post-war society.

2 Although the atrocities surrounding the murder of the Jews came to light soon after the end of the war, they drew only limited public attention at first. Society at large did not truly appreciate the ordeal the Jews had suffered until many decades later. Only then did the Dutch acknowledge their responsibility toward the victims of persecution in general and toward the Jews in particular. The Victims of Persecution Benefits Act (*Wet Uitkering Vervolgingsslachtoffers, WUV*), for example, was passed only in 1972, more than 25 years after the war ended. The issue of the persecution of the Jews did not figure systematically in the post-war trials of collaborators and war criminals or in the parliamentary inquiries into the actions of the government in exile. Nor were the organization and progress of the restoration of property rights thoroughly investigated.

3 Immediately after the war, the Dutch government introduced a series of measures drafted in London to ensure restoration of financial

and material rights. The process, however, was rather protracted. The organization and execution left much to be desired.

Although the restoration of rights reflected consideration for the specific situation of the Jewish victims of persecution and their survivors, the implementation was unsatisfactory.

In retrospect, special arrangements should have been made for Jewish victims of persecution.

The restoration of rights itself, moreover, was extremely time consuming and engulfed in legal and administrative red tape. The concerned individuals were often left in uncertainty for many years. They found the system painful and lacking in understanding and compassion for their sufferings.

4 Even now, these grievances alone provide cause for investigating – over 50 years after the end of the war - whether Jews and other victims of the Nazi regime in the Netherlands were treated fairly and equitably after the war. The Dutch government commissioned an in-depth study on the return and reception of war victims in the Netherlands (Soto).

5 Several years ago, questions arose in the Netherlands and abroad as to whether full financial and material restoration had taken place, and to what extent the possessions that had been confiscated and looted during the war had been returned to the victims or their survivors. In the Netherlands, too, several committees investigated this matter, some at the government's initiative. None of the investigations, however, can quantify even approximately the theft and the restitution or the difference between the two processes.

2 Theft and Restitution

6 Analyses of the theft and restitution of Jewish property have on the whole been less than exhaustive and are surrounded by uncertainty. Quantitative data about the theft are not available to the same degree for all categories of goods and assets. No usable information is available, for example, to estimate the value of the businesses and art looted. Many issues concerning the restitution remain similarly unresolved. The reliability of the information on the restitution differs widely between the respective categories of assets and consequently often defies comparison. The assorted categories of assets were returned at different points in time that are in many cases impossible to determine. Aggregates of the restitution are therefore incorrect and are at best rough indications. Information on the scale of both the theft and the restitution should be regarded as estimates rather than as accurate accounts.

7 Despite these gaps, examination of the literature and records suggests that the Nazi forces stole at least NLG 1 billion in Jewish property, and that at least NLG 900 million has been restored over the years. This information does not, however, justify the conclusion that the value of the property stolen exceeded the amounts restored by NLG 100 million. As noted, both figures are highly approximate. The value of the businesses confiscated by the Nazis and the art stolen, for example, cannot be determined. The theft may have exceeded NLG 1 billion. Many thousands of out-of-court settlements were never recorded and therefore cannot be included in the estimates. In addition, the restitution included partial compensation for goods acquired during the war - whether in good faith or otherwise - that had to be returned to the former Jewish owners or their survivors afterwards. Although the restitution registered was therefore less than the value of the goods returned, the former Jewish owners or their survivors recovered full ownership of their property. In fact, the value of the goods actually returned to Jewish war victims or their survivors probably exceeded the official figure of NLG 900 million, but the

surplus is impossible to determine. Nor do the amounts lend themselves for direct comparison, since they are stated in the nominal values of the years in question. The determination of the cash value in any given year is arbitrary and therefore not meaningful, especially since neither the dates nor the value of parts of the restitution are known.

Given such circumstances, the scale of the theft and the restitution and any possible difference between the two remains uncertain and cannot even be approximated. In individual cases, though, there may well have been material differences.

8 Statistical demographic studies have estimated the value of Jewish assets in the Netherlands at between NLG 0.9 and 1.2 billion on the eve of the Second World War and at just NLG 55 million immediately afterwards. These estimates of Jewish assets - both before and after the war - also contain many uncertainties that cannot be identified or quantified. Both figures may be understated or overstated, for example because of the timely transfer of assets abroad, undocumented assets of incoming refugees (especially from Germany) and changes in the value of assets during the war. The accuracy of these estimates therefore remains unclear as well. The statistical demographic studies offered an alternative to the investigations of records to improve understanding of the scale of the theft and of discrepancies between the amount of the theft and that of the restitution. The data did not indicate that the scale of the theft was of a different order of magnitude than that concluded from the investigations of records.

9 In the Volcker Commission, Ms Helen B. Junz presented a different calculation of the value of Jewish assets in the Netherlands on the eve of the war. She estimated the assets of the Dutch Jewish community at approximately NLG 1.65 billion at the beginning of the war. The difference between this amount and the NLG 0.9 – 1.2 billion

concluded from our investigation is due mainly to differences in assumptions and extrapolations. Ms Junz's calculations, for example, allow for 20% tax evasion, whereas we expressly omitted this factor from our calculations. Since Ms Junz provided no estimate of Jewish assets in the Netherlands shortly after the war, her calculations offer no basis for assessing whether the scale of the theft differed from that of the restitution. Her calculations are subject to the same uncertainties as ours, such as the transfer of capital to a safe haven abroad and changes in value during the war. Ms Junz states that the Jewish community in the Netherlands may have transferred about NLG 350 million out of the Netherlands, although evidence is lacking regarding the degree to which this occurred.

10 As noted above, none of these calculations provides conclusive information about the scale of the theft and the restitution or about any differences between the two amounts. Nor can the cause of such a difference be determined. Even if a difference existed, the individual or institution to be held accountable would not be clear.

11 In individual cases, there must have been differences between the amount stolen and the amount later returned to the rightful owner. Our investigation did not, however, yield any identifiable data. No legal entitlements remain to compensation or payment of damages. Virtually all rights have now expired or have devolved upon the organizations designated by law. Regarding assets or property belonging to unknown or untraceable owners and held by banks and other institutions, financial or otherwise, these agencies have indicated that individual claimants may still submit documented claims.

12 The Federal Republic of Germany has paid compensation for non-material damage under the *Bundesentschädigungsgesetz* (BEG). In addition, since 1972 the Dutch government has paid benefits - mainly under the WUV - to Jewish, Indonesian and other Dutch victims of

persecution. These forms of compensation and benefits should not, however, be considered in this context, since the BEG provided for emotional losses, whereas the WUV was a social benefit for those who could not adequately provide for themselves as a result of physical and/or psychological damage caused by the war.

3 Restoration of rights

13 The restoration of property rights conformed generally to legal stipulations and to the principles and procedures applicable at the time, with the exception of some aspects of the restoration of securities rights. 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 very 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 Jewish war victims and their survivors. No account was taken of the extraordinary and harrowing circumstances in which many of them 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.

14 In retrospect, certain aspects of the restoration of rights, the return of stolen property and government actions were certainly unfair or inequitable. Insofar as these situations were attributable to the actions of the government or government bodies, the government should in our view acknowledge its responsibility. While such action will no longer accomplish legal change, it would serve a moral cause.

15 In particular, these aspects relate to:

/ The amounts listed by the Kordes Commission that the Jewish community paid for the construction, management and operation of the Vught and Westerbork camps and the tax and administrative fees charged for the restoration of rights, which totaled NLG 48.4 million.

// The amounts that devolved upon the State in accordance with statutory regulations, as stated in the Final Report of the Scholten Commission and consisting of:

- the *Veegensgelden*. During the post-war restoration of rights, a substantial proportion of the life insurance and annuity policies that had been forcibly surrendered were restored after payment of the outstanding premiums and the benefits disbursed immediately or at a later date. Some of the policies surrendered to Lippmann Rosenthal & Co., Sarphatistraat (Liro), were not repaid after the war because they were not claimed. Around 1955 they were transferred to the State as 'unclaimed estates.' Approximately NLG 430,000 devolved upon the State.

- NLG 1.54 million in unclaimed and presumably Jewish estates that were settled by the State Property Administration Office and an amount in Jewish estates that while difficult to estimate probably amounted to approximately NLG 2 million and was deposited to the Consignment Office of the Ministry of Finance. In 1985 NLG 2.01 million was donated to Jewish causes to compensate for these NLG 2 million.

- the remaining assets of the Netherlands Property Administration Institute (*Nederlands Beheersinstituut, NBI*), amounting to NLG 2.9 million, of which an unknown but small share had presumably been Jewish property.

- the unknown but probably modest share of unregistered securities of dispossessed Jewish people.

- the NLG 11.5 million credit balance of the Claim Settlement Fund (*Waarborgfonds*) transferred to general funds under the Act of 10 March 1976 liquidating the Restoration of Rights Claim Settlement Fund.

III Government measures relating to certain aspects of the restoration of securities rights. On several occasions, the government allowed the interests of the stock exchange and the securities market to prevail over adequate and expeditious restoration of the rights of war victims to facilitate the rapid recovery of post-war international capital transactions, in part for the reconstruction. The government thereby undermined the legal process it had laid down in its own restoration legislation. The victims may not ultimately have suffered any adverse financial consequences but were nevertheless treated unfairly and in many cases did not recover their rights until far later than possible or necessary.

IV The loss of interest suffered by those concerned owing to the often protracted restoration of rights.

V The estates of missing persons that devolved during the war could not be settled until a special law was enacted to this effect in June 1949. These estates were taxed at the rate of inheritance tax that prevailed in 1940-1947 instead of at the higher rates introduced after 1947. Owing to the system implemented in 1949 for determining the date of death and the fact that in many cases entire families had been murdered, the inheritance tax accumulated. If the tax payable for inheritances in the direct line exceeded the amount that would have been payable in the case of direct inheritance, however, the tax authorities had the power to waive the tax payable or to reduce it to the lower amount. Accumulated tax payable on inheritances outside the direct line was not ordinarily waived or reduced.

16 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 described in Paragraph 15.

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 NLG 250 million would be fair and equitable.

17 As stated above, the payment would not be compensation for damage but a donation from the government to the Jewish community. It should not be an individual benefit for all Jewish residents, for which no legal grounds exist. Nor should the donation, in our opinion, be earmarked in advance for projects and activities in addition to the NLG 22.5 million already allocated by the Dolman Commission. Such a stipulation would not meet the need for individual compensation in special cases and would moreover lead to a pointless inflation of projects.

18 All things considered, we propose that the government meet with representatives of the Jewish community to explore meaningful and responsible ways to allocate a sum set by the government, both collectively and more individually, for the community as a whole or for persons within it. A fund could be established, for example, to distribute tax-free sums for such purposes. In our opinion, such a fund should be established under public law, since it would administer public funds, and the government should determine its objectives. The actual use of the funds should be decided by a board, of which at least the majority would consist of representatives of the Jewish community.

19 The Central Jewish Council in the Netherlands (*Centraal Joods Overleg, CJO*) recently reached a financial settlement with the Association of Insurers in the Netherlands (*Verbond Van Verzekeraars, VVV*) and, when this report went to press, was still negotiating with the Netherlands Bankers' Association (*Nederlandse Vereniging van*

Banken, NVB) and Amsterdam Exchanges. These discussions concern the benefits derived by specific private institutions, such as banks and insurance companies, through buying, selling and managing Jewish securities and other assets.

4 Monitoring

20 Various aspects of the Second World War have been - or continue to be - investigated in several countries. Our monitoring duty has focused on investigations into dormant assets at financial institutions and on the international relief funds established for victims of persecution. We have notified the Ministry of Finance where the interests of Dutch nationals were possibly at issue.

21 Several international funds have been established for the victims of persecution in the Second World War. With funds made available to individual claimants, Dutch victims of persecution could lodge their claims with those funds via the appropriate centers. With the funds distributed to organizations of victims of persecution, the organizations concerned could submit claims with the aid of the Dutch government or local Dutch ambassadors. As the number, scale, nature and objectives of many funds have not yet been fully defined, a definitive summary account cannot be provided here. The Dutch government would do well to remain informed and to notify the CJO, its contact center and other organizations for victims of persecution as soon as information becomes available regarding opportunities for individuals and/or their organizations to lodge claims.

22 The government granted NLG 20 million to the Nazi Persecutee Relief Fund, which was established at the London Conference on Nazi Gold in December 1997. This fund is intended primarily for destitute Jews in Eastern Europe who did not receive assistance under the post-

war compensation schemes and are known as *double victims*. Of the Dutch contribution, NLG 10 million will be donated to Eastern Europe and NLG 10 million to Dutch victims of persecution living outside the Netherlands.

5 The Dutch Gold Claim

23 The Nazis looted 146,674 kg of monetary gold from the vaults of the *Nederlandsche Bank* (DNB) during the war. In 1947 the Dutch government lodged a claim for 145,649 kg with the Tripartite Commission for the Restitution of Monetary Gold (TCG), established by international treaty in 1946. In 1958 the TCG ruled that 110,174 kg of the claim was valid. The 35,475 kg that DNB had obtained under the Foreign Currency Regulation of June 1940 did not, in its opinion, meet the definition of 'monetary gold'. Although the Dutch government objected, the Commission upheld its decision in 1965. The government never officially accepted this ruling and reserved the rights to bring further actions. In 1973 the Netherlands accepted a third partial distribution, bringing the total gold recovered via the TCG to 70,637 kg. The Dutch government, however, has taken no further actions and has thus effectively accepted the decision. Shortly before the TCG was disbanded in 1998, the Netherlands received a final distribution of 1,183 kg.

24 The Dutch claim for the remaining 73,829 kg (or 38,354 kg, based on the claim recognized by the TCG) can no longer be upheld under international law. Bilateral legal actions against states to which looted Dutch monetary gold was transferred, such as Switzerland, Sweden, Italy, Spain and Portugal, are equally untenable in our opinion and are therefore not advisable. Should international initiatives arise with respect to the 1946 Washington Agreement between Switzerland on the one hand and the United States, the United Kingdom and France

on the other, the Dutch government may as yet be able to take further action against Switzerland.

25 In 1997, the Contact Group advised the government to donate the proceeds of the final distribution from the TCG (NLG 22.5 million) to Dutch victims of persecution and their organizations. It proposed that 95% be given to the Jewish community and the remainder to the other groups that suffered systematic persecution. The government adopted this recommendation and in 1998 appointed the Dolman Committee to distribute and allocate the money.

6 Closing Remarks

We understand that these findings will disappoint some people, particularly since the scale of the theft and the restitution can no longer be determined beyond doubt, and the estimates are so uncertain. We believe, however, that to the best of our ability and with the use of all available expertise we have provided as much insight as possible into the issue here. We are aware that our recommendations will not lead to true compensation for the inconceivable ordeal suffered by the victims of the war or the lack of understanding and the injustice that many experienced after the war. We have concluded, however, that adequate compensation cannot be provided in retrospect. We therefore regard our recommendations chiefly as acknowledgement that government actions to restore rights were at times inadequate and call for some form of compensation.