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HOLOCAUST AND RESTITUTION

Part I

Ethical and Property Dilemma

SEVERAL IDEAS ON HOLOCAUST AND RESTITUTION IN HISTORICAL OVERVIEW: Serbian Ethical and Property Dilemma and the Legacy of Anti-Semitism*

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The restitution process started in Eastern Europe only after the fall of the Berlin Wall and the collapse of the Soviet Union (1989–1991). While the Holocaust was the official policy of Nazi Germany from 1941, denials of the Holocaust were associated both with the radical, neo-fascist political right, and certain intellectual circles or individuals belonging to the radical left, generally associated with support or cooperation with communist Cold War regimes, or authoritarian regimes after the fall of communism. The ideological, and especially the revolutionary left was dividing the world into exploiters and exploited, questioning both the values and private property, and human suffering. Public debate on the draft law on the elimination of the consequences of seizing the assets of Holocaust victims and regulation of Jewish heirless property looted during the Holocaust began on December 18, 2015. It was anticipated that the Government of Republic of Serbia should launch a legislative initiative by the end of 2015. Already announced restitution model should be related to the Jewish national and religious communities network. The model applied in the Slovak Republic foresaw monetary compensation paid to the Union of Jewish Religious Communities as a consequence of negotiations between the government and the representatives of the Jewish community.

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“WHEN THE WORLD JEWISH CONGRESS prompted the international Jewish community to establish the World Jewish Restitution Organization (WJRO) in 1992, with the support of the Israeli government, we set out to write an overlooked chapter of the Holocaust – to attain the historic justice the Jewish people had been denied for half a century. As a result of international pressure and with the courage of a new generation, numerous countries have been forced to confront the dark periods of their history. This painful process of moral and material restitution represents a defining moment in the history of the Holocaust. The world media has played a central role in generating international pressure on governments and financial institutions. It was clear to the media that at stake were not merely financial claims, but rather a moral struggle for historic justice. The core of that struggle was to uncover the truth about the conduct of those states and nations that had collaborated with the Nazis and stood by while the Jews were being killed and plundered. The Nazis and their accomplices intended to liquidate the Jewish people by a brutal process of delegitimization and de-humanization. They stripped the Jews of their rights, their assets, and of their very status as human beings. Therefore, the struggle to regain Jewish property is first and foremost a quest to restore human dignity and basic human rights, including the right of repossession, to the Jewish people – to the heirs of the six million Jews who perished in the Holocaust” (Edgar M. Bronfman, President, World Jewish Congress, Israel Singer, Secretary General, World Jewish Congress) (Bronfman and Singer 2001, VIII).

Denial of the right to property and full property inheritance, and denial of the community rights on inheritance of the heirless property of the Holocaust victims, may also appear in a form of the Holocaust denial, an implicit contestation of the rights of Jews to human, political and legal equality, and a particular a form of discrimination of the state of Israel and other Jewish worldwide associations within international political relations and in realization of their property rights.

I spent the summer of 1997 on New York University “Religion in America” international program, when *New York Times*, on July 23, a published a list of more

8 than 1,800 dormant Swiss Banks accounts related to the victims of the Holocaust

(Schapiro 2003, 140–141).¹ On that early morning, in a LaGuardia place café, I had an opportunity to face, far from home, from the other side of Atlantic, the horrible legacy that has also been my personal living environment. The list triggered more than 20,000 inquiries from Holocaust survivors and their families. The Swiss banks case coverage, after the first class action against the Swiss banks was filed in previous year of 1996, was warning, again and again, that people disappeared together with their properties, property rights, and memories related also to the properties. Property looting, destruction, disappearance or changing of ownership was also part of the recent past of Belgrade, to which I belonged since I was born. And although I was wandering through the aisles of former Jewish neighborhoods of Dorćol, during the uncountable years of my youth, it was then, on that very morning of 1997, in the heart of Manhattan, that I became aware of the horror of the human tragedy of those who were my previous fellow citizens. The horrors of the Holocaust were not just murder and torture. Usurpation of private property was erasing essential traits of human social and personal dignity and identity. I was becoming aware of new forms and proportions of dehumanization in Serbian (Yugoslav) society that was approaching the final stage of its disintegration: structural poverty, institutional weakness, political disorientation. The Swiss banks accounts list instantly appeared as a more frightening testimony than any recorded scene of torture, execution site, or any other mass atrocity.² “As visitors and natives walk along the boulevards and streets of Belgrade, they are hard pressed to see any

1 See also: (Rubin, 1998, 66–82); Swiss Confederation's FDHA/FDEA (Federal Department of Home Affairs, Federal Department of Foreign Affairs) report on the state of work on Nazi-looted art, in particular, on the subject of provenance research, 2008, 1–33.

2 Leaders of Jewish organizations began their search in 1995, but Swiss Banking authorities recognized that only \$32 million dollars was found in 774 accounts. The US Congress launched hearings in April 1996. Institutional pressure on banks the Swiss establishment is interpreted as “ransom and blackmail”. On January 9, 1997 two carts full of documents relating to Nazi accounts waiting to be shredded were accidentally found. On February 5, 1997, the three largest Swiss Banks established a \$100 million escrow account as a Humanitarian Fund for Victims of the Holocaust. On February 26, the Swiss government established a “Special Fund for Needy Victims of the Holocaust/Shoa”. The Swiss National Bank was to contribute \$100 million francs. The class action suit on the US courts was filed on October 21, 1996. On July 23, 1997, the Swiss Bankers Association listed 1,756 dormant accounts along with the names of their owners and of people with power of attorney over them, etc.

signs of Jewish life, either the life that now is or the vibrant life that once was” (Gordiejew 1999, XIII).

Yugoslav Jews were from diverse backgrounds. They settled during several periods of mutually distant and different character. Before the Second World War Yugoslav Jewry was proportionally smallest among all European nations, numbering about 76.000. The number was temporarily increased to about 82.000 in the years immediately preceding the Holocaust after the arrivals of Jewish refugees from Central Europe. One explanation for the small number of Jews in the total Yugoslav population were most likely overall poverty, particularly long duration of feudalism with the consequences of long-term foreign domination, and the relatively small number of developed cities. About 40% lived in Belgrade, Zagreb and Sarajevo. Important communities existed in Bitola, Novi Sad, Subotica and Osijek. As the largest part of the Yugoslav population was among the peasantry (80%), Jewish urban visibility was additionally emphasized (4,2% in Belgrade, 5,8% in Zagreb, 9.2 in Sarajevo, 6.4% in Novi Sad, 5.4% in Subotica).

The history of anti-Semitism in pre-war Serbia was not extended. This phenomenon revealed certain peculiarities: predominantly rural population and alienation of the capital and major cities of the rural hinterland, demographic disturbances during World War I, rural immigration, and finally the emergence of the Russian political emigration after the October Revolution of 1917, which brought about a systemic anti-Semitic feelings with the mechanisms of propaganda. Otherwise the Serbian 20th century policies tended to connect two Russian chauvinisms, Tsarist and Soviet, providing a continuity of impacts. Russian “anti-cosmopolitan” campaigns have already been linked to anti-Semitism and anti-Zionism, and the tendency of the Jews from Russian history was transferred from Tsarist to the Soviet political culture and practice (Korey 1983, 146–147).

Within Serbian intellectual circles and in public life, during the second half of the thirties, anti-Semitism was becoming a casual phenomena of growing chauvinism and clericalism, as conspiracy theories were becoming substituent of rational political visions of the common Yugoslav future. Denying Yugoslav unity was leading to the denial of ethnic relations harmonization and see, while the seek for a “final solution” was also imposed as a paradigm in international relations, characterized by the rise of Nazi Germany. Yugoslavia was trying to avoid confrontation with Germany and Italy, in deference to the internal anti-Semitic pressures

According to the census of 1931, in Serbia lived up to 30,000 Jews, about 40% of the total Jewish population of the Kingdom of Yugoslavia. Jews played an important role in economic and cultural development. Since the end of the nineteenth century their integration with the local majority, the Serbs, was accelerated (Ristović 2008, 172). Anti-Semitism in Serbia originally echoed alien impacts, as being brought as a system of prejudice and hate by the Russian White-guard immigration in the twenties of the twentieth century, and further progressed as Yugoslavia, precisely after 1934, was approaching economic, and thus the political sphere of Nazi Germany. The strengthening of the anti-Semitism subsequently took place under the impressions of appearance of Jewish refugees, 1938–1941, from Germany, Austria and the Sudeten area, as about 40,000 settled in Yugoslavia, and about the same number passed through the Yugoslav territory (Dajč and Vasiljević 2014, 142–144). Discrimination of the Jews began with their release from German companies in 1938, and since the end of 1940 first official discriminatory regulations have been published (Aleksić 1997, 50–57).

Yugoslavia was not initially a military objective of Nazi Germany. The occupation of Yugoslavia in April, 1941, was followed only after the Yugoslav rejection of previously signed non-aggression treaty which provided German troops an undisturbed connection with eastern Mediterranean. Jews were only targeted victims in occupied and divided Yugoslavia, from 1941, although the Slovenian and Roma ethnic group were also low quoted in the Nazi system of racial classification. In Serbia, the collaborating government under German occupation actively participated in implementation of the Holocaust. By late 1941 the SS hierarchy determined to embark on a policy of killing all the Jews under Nazi control. Singular examples of self-sacrifice amidst the Serbian population in attempts to protect individuals among the Jewish victims also implied all the seriousness of such risky behavior.

Anti-Semitic Regulation in parts of Yugoslavia occupied by Germany included confiscation of property, expulsion from homes, compulsory registration, expulsion from jobs and services, concluding with arrests, deportation and imprisonment in concentration camps. Already on April 16, 1941 German authorities ordered that all Jews should be registered and 9,145 out of about 12,000 signed up. Others have fled or taken refuge. The property of Jews was looted, including the building of the Jewish Community (Municipality), where the Nazi Kulterbund was set. The General Plenipotentiary Management for the economy in Serbia founded

the Jewish commissar management of home and land ownership. The Management was expected to seize the entire Jewish movable and immovable property and transfer the assets at the disposal of German military authorities. In a further step, the management of the assets was entrusted to Serbian collaborationist government. The money from the sales of assets was aimed at the German Army in the form of the Serbian government's contribution. The preemption in purchase of looted Jewish property was given to Germans and members of the local German community by the Commissar Administration (Živković 1975).

The looting of Jewish property began even before the establishment of German military rule in Belgrade (Ristović 2001, 69). Between April and August 1941, Jews were registered and marked with yellow stripes. Sephardic synagogue in Belgrade Bet Yisrael in Cara Uroša street was first converted into a military warehouse of looted Jewish property, and then set on fire in 1944 during the retreat of German troops (69). "During the summer of 1941, a large number of regulations, decrees and orders has been published in the official newspapers and the daily *Novo Vreme* where the Jews (and often Roma) have been denied all sorts of freedoms and rights." (Dajč and Vasiljević 2014, 146).

German occupation and Serbian civil authorities – "Government of National Salvation" of General Milan Đ. Nedić, showed great interest in Jewish properties. In early May 1941, the German military commander for Serbia ordered the blockade and seizure of Jewish stakes and other values in banks. "Regulation concerning the Jews and the Gypsies", dated May 31, 1941, banned the work in all public services and the professions, access to public establishments, use of public transportation means. Registering of Jewish property was completed by 14 June. Newspapers *Naša Borba* openly called for the looting of Jewish property: "The Jews are the holders of 1,200 house – palaces in Belgrade. So, what are we thinking about? These houses by a decree should become a state property" (Dajč and Vasiljević 2014, 147).

Yugoslav Jews were murdered by shooting, gassing, hanging, starvation and disease. Within Yugoslavia about 39,000 were murdered in concentration camps, as well as about 24,000 in camps abroad. Finally, almost immediately after the end of the World War II, the organized postwar emigration to Israel, between 1948 and 1952, cut the surviving population in half (Gordiejew 1999, 68).

12 | The Independent State of Croatia (NDH) founded in April 1941 as a quisling state immediately after its foundation passed a number of laws that that success-

fully facilitated the Holocaust. In late June 1941, the NDH passed the law that addressed all Jews as “dangerous elements” that should be taken to concentration camps (Hamović 1997, 198). The result of the Holocaust in the NDH that also included Bosnia and Herzegovina with its large Sephardic and Ashkenazi population was that only 9,000 of 40,000 Jews survived (Goldstein 1999, 136). In The Semlin Judenlager (that was later transformed in *Anhaltelager Semlin*) about 7,500 Belgrade Jews were executed that made it the symbol of Holocaust in Belgrade and Serbia. The location at the Sava’s left bank placed the camp on the territory of the NDH but it moved under the NDH authority and control in its late stage after the April bombing of Belgrade in 1944. Even though NDH police was running the camp until it was closed in summer 1944, it was still used for facilitating Nazi interests (Browning 1992, 427).

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The Holocaust was not only a profound disorder in the history of Serbian and Yugoslav Jews. Their identities have also followed the trauma of state and national transformation, wandering and conflict in the twentieth century.

The post-war Yugoslav communist government among the first formal acts included the nationalization of private property in order to ensure economic foundations of political power. The February 6, 1945 decree transferred to state ownership, under the management of the state Administration of National Property, all German and *Volksdeutsche* properties, all property of war criminals and their accomplices, all property of persons condemned by civil or military courts to loss

of property to the benefit of the state, and also the property of absent persons who were carried off by the invader states during the occupation, as their property had been transferred to third persons by the Nazi occupation authorities or collaborating governments. In 1948, in a letter addressed to the National Assembly of Yugoslavia by the President of the Economic Council, submitting reasons for the supplementation of the basic law on nationalization, after stating that the proposed nationalization extension would nationalize some 3,100 additional enterprises the President of the Council stated: "Henceforth there will no longer be in Yugoslavia industrial concerns which are not included within the social sector of our economy" (Herman 1951, 515–517).

"Even prior to the promulgation of the new Yugoslav Constitution and the enactment of nationalization laws, between 70 and 80 per cent of Yugoslav industry had passed under state control by this method" (Herman 1951, 516).

The looting of Jewish property was becoming a deep trauma in the general history. Jewish property in Europe was estimated at \$10–15 billion in 1938 prices (and only 18–20 percent was restituted) (Zabludoff 2007, 1–2). The Holocaust was eventually even continued in Eastern Europe by other means, as the Jewish assets remained the property of the repressive state apparatus. Especially the Immovable property was grabbed, sometimes moreover becoming subject of reparations, and its traces were additionally concealed.

Since the very founding of the modern Jewish state in Palestine, communist Yugoslavia has developed a hostile attitude toward Israel. The Yugoslav Jewish community was held hostage, and as such treated by Yugoslav foreign policy. During the seventies and eighties, even after the death of President Josip Broz Tito (1980), there were indications that secret Yugoslav services trained Palestinian warriors and terrorists.

Robbery or destruction of movable and immovable Jewish property was one of the methods and goals of the Holocaust. Holocaust, however, has developed its latter forms even after the total defeat of the Nazi state and its allies in 1945, as totalitarianism was not defeated in World War II, nor eradicated in post-war Europe. Jews in communist Yugoslavia and in other eastern European states under Soviet influence or domination have been deprived of important layers in human rights, including the right and an obligation to a general confronting with the human, ethical and material consequences of the Holocaust. The largest part of the Jewish property was looted, abducted, lost or taken over by the states, or transferred

to other aficionados of ownership. Left-wing intellectual and media propaganda was supporting, during the following decades, the communism or Eastern European communist regimes, thus implicitly legitimizing looting and nationalization of Jewish property as an extension of the Holocaust.³

The restitution process started in Eastern Europe only after the fall of the Berlin Wall and the collapse of the Soviet Union (1989–1991). The fall of communism opened a space to “an increasing qualitative extension of memory arising from the growing incorporation of the events of World War II, while the various European national memories are becoming more and more affected by the Holocaust and its multiple taints. One may ultimately foresee, that in such a process, where the different collective memories in Europe may undergo a kind of settling of accounts among themselves, a common European canon of remembrance will be established” (Diner 2003, 42). The process was also the impetus to a general dealing with the material and ethical consequences of the Holocaust, in humanities, social sciences and legal proceedings, both in Western Europe and the United States. Restitution was obstructed or slowed by the state administrations, while intellectual circles warned that restitution may recoat new injustices, or further legitimize the capitalist order. The future of Jewish property looted during the Holocaust becoming a collateral, or even deliberate victim of the government corruption and postmodern scholasticism.⁴

3 More in: (Yakira, 2010, 1–62). Analysing the impacts of left-wing Holocaust denial and anti-Israeli propaganda ran by Noam Chomsky, author concludes: “If not from the outset, at least after the fact, a community of deniers is formed, in effect a subculture, a bio- or ecosystem of denial. It assumes different forms and manifests different measures of intensity. It is, to be sure, an amorphous community, but it has real character and even a sociopolitical structure. Participation in this community is based on loose agreement concerning the denial of the Holocaust and particularly the theoretical and ideological implications of such denial. Despite their ideological identity, its members find it easy to ally themselves with deniers on the extreme right. The boundaries of the community are vague and meandering. There is a hard core, and there is a wide periphery of supporters, devotees, fellow travelers, and those who simply indulge them. One way or another – and whatever excuse they give for this support – the fellow travelers are always strongly anti-Israeli (and usually anti-American too). It is an international community, based on shared codes and a shared language or, at times, jargon, consensus about a basic credo, a feeling of victimhood, and shared secrets.”

4 “The growing awareness concerning the Holocaust we do observe in Europe since 1989 seems to be a phenomenon largely moored in a basic anthropological assumption – the obvious, indeed organic interconnection between restituted private property rights and the evocation of past memories, or vice versa: restitution of property as the result

While the Holocaust was the official policy of Nazi Germany, denials of the Holocaust were associated both with the radical, neo-fascist political right, and certain intellectual circles or individuals belonging to the radical left, generally associated with support or cooperation with communist Cold War regimes, or authoritarian regimes after the fall of communism. The ideological, and especially the revolutionary left was dividing the world “into exploiters and exploited in a way that sometimes leaves no room for other victims”. In case of 20th century France, “the proletariat has only one enemy, and that is the class to which Dreyfus belongs, the exploiting class. There is only one just struggle, the struggle against exploitation”. “Both in Rassinier and in his faithful followers on the radical French left one can find this syndrome: one must not allow the crime that was committed at Auschwitz, as it were, to blind us to the main thing, which is the suffering of those who are truly exploited – the workers, people of the Third World, the Palestinians. What happened at Auschwitz was, in the last analysis, just another instance, among many, of the true source of all crimes: colonialism, imperialism, capitalism, and Zionism.” (Yakira 2010, 21).

“Anthropologically property and memory are in a manner of relation that is indeed epistemic.” (Yakira 2010, 40). The issue of Jewish property looted during the Holocaust, or nationalized in communism was not within the scientific or ethical priorities of post-war Yugoslavia. Two large waves of Jewish immigration to Israel took place in 1948–1952, and in 1990s. The violent disintegration of Yugoslavia (1991–1999) postponed important reform processes for the future. Moreover, during the random privatization in the nineties the question of Jewish property was appearing further complex to solve. A part of Jewish property, looted or nationalized, has changed its bearers. Time was relentless factor of neglect in institutions, and the public and public policy oblivion.

Liability to return or compensate the heirless property to Serbian Jewish communities should not have direct connection with the participation of Serbian collaborating government in the Holocaust during the Nazi occupation, however institutional and moral order must face the consequences resulting in that “zero” year of our recent past, the 1941. The role of the quisling Serbian government belongs into general ethical issues in dealing with the overall totalitarian past. The

of recovered memory. This intriguing anthropological conjunction between property and memory can help explain why World War II and the Holocaust may well enjoy a long future in an emergent common European memory” (Diner, 2003, 39–40).

distinctive attitude, in this regard, in dealing with the consequences of the Holocaust, referring primarily to the Jewish property confiscated during the Holocaust, including heirless property, is the legal requirement announced by the Article 5, Paragraph 3 of the Serbian Law on Property Restitution and Compensation from 2011. This Article announces legal obligation to adopt a special law that will regulate dealing with the consequences of the seizure of property to victims of the Holocaust on the territory of the Republic of Serbia in cases where victims have no legal heirs. The Republic of Serbia has signed the Terezin Declaration adopted in 2009 in a former concentration camp for Jews in the Czech Republic. Declaration was proclaimed by representatives of 49 countries and the EU, and it invites and obliges all signatory States to return property which was confiscated from victims of the Holocaust during World War II.⁵

Public debate on the draft law on the elimination of the consequences of seizing the assets of Holocaust victims and regulation of Jewish heirless property looted during the Holocaust began on December 18, 2015. It was anticipated that

5 “During the Holocaust, the Nazis used state apparatus to confiscate Jewish property, including both private property, such as homes, art and jewellery; and communal infrastructure, like synagogue buildings and graveyards. To this day, much of it has not been returned and the property remains in the hands of modern states. Sadly, many Holocaust survivors now live in dire poverty, and the return of their property could give them a better quality of life in their final years, and a legacy to pass on to their descendants.

In 2009, 47 countries (including all 28 EU-member states) came together to make the so-called Terezin Declaration, where they pledged to speed up the restitution of private and communal property to Holocaust survivors and their heirs. The following year, 43 countries endorsed a set of guidelines and best practices for the return of, or compensation for, confiscated property. At a follow-up conference in Prague in 2012, it was clear that many countries were not on track, and in a number of cases the situation has even decelerated.

In Croatia and Latvia, the relevant legislation has been delayed. In Romania, the processing of claims and payments has been extremely slow. Recent legislation risks further delays and reductions in compensation payments. In Hungary, discussions continue about restitution for heirless and hitherto unclaimed property formerly owned by Jews. Poland has one of the worst records on restitution of private property. It back-tracked on some of the commitments it made at the 2009 Terezin Conference, and was the only one of the 47 countries not to send a delegate to the 2012 Prague Conference.

The great injustice about the delays in restitution payments mean that some of the Holocaust’s victims will pass away without ever seeing their property returned”. The 2014 European Elections. A Jewish Manifesto. The Board of Deputies of British Jews, 9–10.

the Government of Republic of Serbia should launch a legislative initiative by the end of 2015. Already announced restitution model should be related to the Jewish national and religious communities network. The model applied in the Slovak Republic foresaw monetary compensation paid to the Union of Jewish Religious Communities as a consequence of negotiations between the government and the representatives of the Jewish community (Kuti 2009, 327–328).

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Rezime:***Nekoliko ideja o Holokaustu i restituciji kroz istorijsku perspektivu: etička i imovinska dilema Srbije i nasleđe antisemitizma***

Proces restitucije počeo je u Istočnoj Evropi tek nakon pada Berlinskog zida i raspada Sovjetskog Saveza (1989–1991). Iako je Holokaust bio zvanična politika nacističke Nemačke od 1941. godine, poricanja Holokausta povezana su i sa radikalnom, neo-fašističkom političkom desnicom i sa određenim intelektualnim krugovima ili pojedincima koji pripadaju radikalnoj lewici, uglavnom u vezi sa podrškom ili saradnjom sa komunističkim hladnoratovskim režimima ili autoritarnim režimima nakon pada komunizma. Ideološka, a posebno revolucionarna lewica delila je svet na eksploatatore i iskorišćene, dovodeći u pitanje vrednosti i privatnu svojinu, kao i ljudsku patnju. Javna rasprava o Nacrtu zakona o otklanjanju posledica oduzimanja imovine žrtava i regulacije jevrejske imovine bez naslednika opljačkane tokom Holokausta počela je 18. decembra 2015. godine. Zaključeno je da Vlada Republike Srbije treba da da zakonodavnu inicijativu do kraja 2015. Već najavljeni model restitucije trebalo bi da bude povezan sa mrežom jevrejskih nacionalnih i verskih zajednica. U okviru nacrtu zakona predviđena je i primena modela restitucije koji je primenila Slovačka i koji omogućava novčanu kompenzaciju koju bi država plaćala jevrejskim zajednicama.

Ključne reči: restitucija, Srbija, jevrejska nepokretna imovina bez naslednika, Holokaust, Terezinska deklaracija

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