

Chapter 2: The Creation of the Jewish Restitution Successor Organization (JRSO)

This chapter examines the Jewish/American/German discussion on the restitution legislation, and the process leading to the establishment of the Jewish Restitution Successor Organization in the U.S. Zone of Germany. What was the point at issue in drafting the restitution law? An analysis of the arguments presented by the advocates and the opponents of a Jewish successor organization will illustrate the political settings of the problem of the heirless Jewish property.

2.1. The U.S. Restitution Law

The enactment of restitution legislation to return the property wrongfully taken under the Nazi rule was one of the proclaimed objectives of the American occupation.¹ The basis of restitution was laid by the Military Government Law No.52 (Blocking and Control of Property, hereafter: Law No.52), which ordered the seizure of the property which had belonged to Nazi organizations and leading Nazi members. It was a measure to safeguard effective restitution by future legislation. The transfer to German hands of the control of the property which came under Law No.52 called for the swift promulgation of a restitution law. In April 1946 the military authority relegated the German *Länderrat* (Council of States) in Stuttgart to draft a law.² This was the beginning of the long process of drafting and counter-drafting a restitution law by the OMGUS Property Disposition

¹ See, JCS 1076, in *Germany Under Occupation: Illustrative Materials and Documents*, ed. James K. Pollock and James H. Meisel (Michigan: George Wahr, 1947), p.103.

² *Länderrat* was created on October 17, 1945 to coordinate governmental functions which were interstate in nature. A committee was created to draft a restitution law. Prior to the creation of the *Länderrat*, German states were bestowed legislative power through Proclamation No.2.

Board and the Property Control Committee of the Länderrat, which would eventually continue into the fall of 1947.³

A shared concern of the military authority as well as of the Länderrat, was that the economic reconstruction of Germany not be hampered by the restitution and compensation measures for the Nazi victims. Finding a source for the program had been the central question from the beginning. The confiscated Nazi property under Law No.52, as well as what was to accrue from the punitive measures of denazification, such as special tax on former Nazi party members, were proposed as such source. Some (Germans as well as Americans) thought that the masterless property of the Nazi victims could also be used.⁴ There was a precedent of the Paris Reparation Conference, which earmarked the heirless assets in the wartime neutral countries for the aid of the stateless Jews. However, making use of heirless property met with strong moral objections from many sides, the Jewish groups in particular. What would remain unclaimed and heirless after the promulgation of a restitution law was most likely Jewish in origin, since it seldom happened that the entire kin of the non-Jewish political and religious persecutees had been wiped out. Their heirs or successors usually remained, so that their property could be returned to them. Drawing from the heirless property for compensation would mean, in such a circumstance, that the non-Jewish victims would be compensated by the property of the deceased Jews, and this was unacceptable from the Jewish standpoint.⁵ Consensus thus emerged on the parts of both OMGUS and the Länderrat that escheat – a

³ On the drafting of the law, see, *Die Wiedergutmachung nationalsozialistischen Unrechts durch die Bundesrepublik Deutschland*, ed. Bundesminister der Finanzen in Zusammenarbeit mit Walter Schwarz, Bd.1, Rückerstattung nach dem Gesetzen der Alliierten Mächte (Munich, 1974), pp.28-54.

⁴ Goschler, *Wiedergutmachung*, pp.96-103.

⁵ See example, Rabbi Philip S. Bernstein (Advisor on Jewish Affairs) to General McNarney, July 1, 1946, IfZ, OMGUS, 3/88-2/40.

right of a sovereign in Germany since 1900⁶ – should not be applied in the case of the Jewish property. The appointment of a type of trustee, a Jewish successor organization to the assets, was imperative.

As already discussed, the Jewish leadership had been demanding that the heirless property of Jews be turned over to its people. The Five Organizations pressed for this goal through the political channels to the U.S. State Department as well as to the American Military Government in Germany, and directly or indirectly participated in the drafting of the law. The Jewish side believed that stronger intervention was needed on some key points, and the status of a Jewish successor organization was one of such points. To whose authority it would be subordinated – this was a crucial issue as Jewish leaders advocated a successor organization of more or less an international character. In terms of the Jewish interests, the organization should be a quasi-extraterritorial entity with greater degree of freedom from domestic German control and restriction, for the obvious aim of this organization was the liquidation and transfer of the property abroad in order to aid in the resettlement of thousands of stateless Jews. It also entailed the question of currency conversion, over which the Germans had yet no authority. In other words, they wished the organization be subjected only to an extraterritorial, therefore a superior authority – the Americans. In this regard, the German drafts of a restitution law presented by the Länderrat were unsatisfactory from the Jewish standpoint. Although the right of escheat was renounced, the German ministry or Länder were empowered to decide on the successorship of the heirless property – they reserved the German authority over the successor organization.⁷

German control was considered most undesirable in the case of Jewish communal

⁶ Section 1936 of the Civil Code.

⁷ Third German draft of July 9, 1946, IfZ, OMGUS, 3/28-2/40; Fifth German draft of September 23, 1946, CAHJP, JRSO-NY, 880a.

property. The sixth German draft of October 18, 1946, which was transmitted to Washington for consideration, stipulated as follows: “restitution may be claimed by such corporation or association as may be deemed to be the successor to the injured party by virtue of its membership, aims and organization. The appropriate Ministry shall decide whether these conditions have been met.”⁸ This alerted the Jewish organizations which thought that there was a danger that twenty-something tiny “reconstituted” Jewish communities in the U.S. Zone be appointed as the successors, if the Germans were left with the power to decide on the successorship. There was a good reason to fear such a German move. The German authorities had palpable political interests in rehabilitating the local Jewish communities. The existence of Jewish life on German soil was a sign of new Germany cleansed of Nazi influence, which should repair the tattered image of Germany.

Another possible result of the German authority over the successor issue was that the Länder might adversely declare the communities unfitted to stake claims due to their reduced size, and the property therefore lapse to the state.⁹ It shall not be forgotten that the Länder represented the population whose segments would be negatively affected by the restitution. Analyzing the sixth German draft, the Jewish organizations commented: “It is highly inappropriate that German governmental authorities determine such conditions [to be appointed as successor organization] particularly in cases where there might be great discretionary [*sic*] power involved.”¹⁰ Complex legal arguments aside, the American Jewish leaders hardly considered the numerically weak postwar communities the rightful heirs of the far more numerous, affluent communities before Hitler. They

⁸ German draft of October 18, 1946, CZA, C7, 1186/1.

⁹ Memorandum on a draft restitution law of November 18, 1946, CAHJP, JRSO-NY, 880a.

¹⁰ Comments of Jewish organizations respecting the draft of October 18, 1946, November 20, 1946, CAHJP, JRSO-NY, 880a.

were aware of the communities' claim to be the successors and their desire to take control of the property as such.

On November 21, 1946, the delegation of the Five Organizations paid a visit to military governor of the U.S. Zone of Germany, Gen. Lucius D. Clay, while he was temporary back in the United States. Indicating that the draft of the restitution law contained serious defects and asking for changes, the Jewish leaders expressed their concern on the German authority in designating a successor organization. They claimed that there be no assurance as to how the restituted property would be used. Their position was summarized plainly: "We feel that the German authorities simply cannot be trusted with this responsibility."¹¹ Upon listening, Clay assured that it be the Military Government, not the German authorities, who would decide on the successorship to the Jewish property. Furthermore, he conveyed his wish that the trustee of the property be an organization representing the Jews throughout the world.¹² A tentative agreement was reached between the Jewish organizations and Clay on the nature of the successor organization – that it be a non-profit organization representative of world Jewry, and the proceeds from the property would be used for rehabilitation and resettlement of the Nazi victims.¹³

This meeting represented a breakthrough for the Jewish organizations. They understood the oral commitment of Clay as his consent to the collective successorship of the Jewish people. Soon after receiving this practical go-sign, the Five Organizations sent a memorandum – containing the comments on the October 18 German draft – to Secretary of State Byrnes on November 27. Mentioning the "sympathetic consideration" received from Clay, they reiterated their opposition to the German control and demanded swift

¹¹ Five Organizations to General Clay, November 21, 1946, CAHJP, JRSO, 895a.

¹² Meeting on November 21, 1946, n.d., CZA, C7, 1294.

¹³ Memorandum, I. Mason to W.C. Haraldson, January 30, 1948, IFZG, OMGUS, POLA/461/50.

recognition of a Jewish organization representative of Jewry as the appropriate trustee.¹⁴

The insistence of the Jewish organizations on removing the German influence from the successor issue was not only because they mistrusted the German will on fair restitution, but also because it was linked to the fundamental question concerning representation. The requisite for a Jewish successor organization was the establishing the Jewish victims as a separate category from the other victim groups, such as the Slavic people or the political persecutees. The distinction between Jews and non-Jews was the essence of their proposal, whereas the differentiation among the Jewish groups according to the nationalities was undesirable. Jews should be treated in a collectivity, since grouping into smaller units would fragment the entire claim. In other words, the Jewish organizations wanted the definition of the Jewish group, which was to be represented by the successor organization, to be as broad as possible. The proceeds of the restituted property should be used not only for the remaining Jews in Germany or the German Jewish immigrants, but also for the entire Jewish group, whose common denominator was the Nazi persecution. They feared that allowing the intervention of the German authorities in this matter might result in limiting the number of potential beneficiaries.

When OMGUS and the Länderrat were drafting the law, the area of its application was not yet determined. At first, the Allied authorities sought to enact a uniform restitution law for all occupation zones in Germany, including the Soviet Zone. In the course of quadripartite discussion, however, the difference of opinions regarding the heirless property came to the fore. This was indeed the major point of disagreement among the Allies.¹⁵ The Soviet Union, skeptical of private ownership, opposed the establishing of a

¹⁴ Five Organizations to Secretary of State, November 27, 1946, CZA, C7, 1294.

¹⁵ See, for example, Telegram by Noiret, July 22, 1947, Centre des archives de l'occupation française en Allemagne et en Autriche, Colmar (CAOF), AEF (Affaires Economiques et Financiers) 4498, restitutions internes 1945-1953, (box) 183, (file) 224-11-01; Telegram by Leroy-Beaulieu, September

successor organization which would represent the interests of a particular ethnic group. There was no reason to hinder the escheat when, at least in the Soviet occupation zone, the Nazi elements should have been eradicated. The French, true to their political credo of the Revolution, insisted on one non-denominational successor organization. According to M. Leroy-Beaulieu, the financial and economic adviser of the French Military Government, “as *démocrates* the French could not make a distinction of race or religion.”¹⁶ To single out the Jews for special treatment would mean the continuation of Nazi racial theory. Instead, he proposed one organization for all persecutees, in which Jews have 95 percent representation and receive 95 percent of the proceeds, according to the formula of the Paris Reparation Conference.¹⁷ The British, who had stood behind the American motions to aid the stateless Jews at the two conferences in Paris, supported the American draft restitution law at the beginning. They became more and more troubled by the deteriorating political situation in Palestine, and the Exodus Affair in the summer of 1947 indirectly led to the stiffening of their attitudes.¹⁸ The creation of an exclusively Jewish successor organization would run counter to their occupation policy of non-recognition of Jews as a separate category. Actually they feared that the restitution proceeds be funneled into the anti-British movement in Palestine. The deputy British military governor, Gen. Brian Robertson, in the conversation with Clay, allegedly admitted that the Palestine problem was the reason for not supporting the American

11, 1947, CAO, AEF 4498, 183, 224-11-01. On the difference of opinions among the four Allies, see also, Weismann, op. cit., 726.

¹⁶ Report by M. Nussbaum, July 23, 1947, CAHJP, JRSO-NY, 887b.

¹⁷ Report by M. Nussbaum, July 24, 1947, CAHJP, JRSO-NY, 887b.

¹⁸ Memorandum, I. Mason to W.C. Haraldson, January 30, 1948, IFZ, OMGUS, POLA/461/50.

Exodus Affair: a ship loaded with the Jewish DPs left a harbor near Marseille to Palestine in July 1947. The ship was sent back to the Hamburg port by the British, after the passengers were denied entry to Palestine. The incident not only highlighted the deadlock the British had reached, but also stirred the world indignation in that the survivors of the Holocaust were sent back to the country of their former oppressors. The DPs were distributed to the DP camps in the British Zone, but they left illegally again for Palestine in short a period of time.

draft.¹⁹ They switched their support of the American proposal to that of the French, namely a non-denominational organization for all persecutees. They further insisted that the successor organization be a German entity under the German law, whose proceeds be used for the benefit of the Jewish and non-Jewish victims inside Germany.

The attitudes of the Soviet, the French and the British on this issue was representative of the non-discriminatory approaches they took to the apparently and undeniably Jewish problem. To single out the Jews as a special group would, they reasoned, endorse the Nazi racial theory. While the Americans were compelled to reverse the non-discrimination due to the massive presence of the Jewish DPs, and acknowledge the specific Jewish needs, national ideologies and political expediency determined the attitudes of the other Allies toward the creation of a Jewish successor organization. According to Clay, it was the very insistence of Americans upon an international Jewish organization which led to the break-down of the quadripartite, and later bipartite negotiations with the British.²⁰ Although a quadripartite law would have had little chance from the beginning, he believed that a tripartite agreement (American/British/French) could have been possible if the Americans opted for non-denominational successor organizations, and that at least a bipartite agreement with the British, if they agreed to establish a successor organization as a German corporation.²¹

The reversal of British support obliged the Americans to opt for the unilateral action. The Länderrat – understandably – contested the application of the law solely in the U.S. zone as unfair and unacceptable.²² They found it impossible to take political

¹⁹ Memorandum, July 29, 1947, CAHJP, JRSO-NY, 887b.

²⁰ Memorandum on a telephone conversation between Mason and Rock, February 9, 1948, CZA, A370, 262.

²¹ Clay to the War Department, February 7, 1948, IfZ, OMGUS, AG48/183/3.

²² Memorandum on the history of Länderrat restitution law, March 29, 1947, IfZ, OMGUS, PCEA, 17-1.

responsibilities of issuing such a law as German law, for it diverged from their drafts so greatly on some key issues, such as the presumption of duress and the protection of *bona fide* acquirers (purchasers in good faith).²³ The Länderrat demanded that the successor organizations maintain their seats in Germany, subject to the supervision of the German states, and that it not be an international organization above the German jurisdiction.²⁴ OMGUS and the Länderrat have been drafting and redrafting the law more than a year, but they could not hammer out the differences. Clay judged a consensus not attainable and decided to enact the law as a military government law. The restitution law was issued on November 10, 1947 as the Military Government Law No.59 (hereafter Law No.59).

The American restitution law was most draconian and thorough compared to those in other Western zones. Article 1 proclaimed that the purpose of the law was “to effect to the largest extent possible the speedy restitution of identifiable property” to persons who had been wrongfully deprived of their property between January 30, 1933 and May 8, 1945 for racial, religious and political reasons.²⁵ The Jews were presumed to have been under collective duress after the publication of the Nuremberg Laws in 1935.²⁶ The restitution proceeded in the following manner: first, a petition for restitution was to be submitted in writing to the Central Filing Agency (*Zentralanmeldeamt*) at Bad Nauheim before December 31, 1948. The claims would then be transferred to the local Restitution

²³ Constantin Goschler, “Die Auseinandersetzung um die Rückerstattung “arisierter” jüdischen Eigentums nach 1945,” in *Die Deutschen und die Judenverfolgung im Dritten Reich*, ed. Ursula Büttner (Hamburg: Christians, 1992), pp. 344-345. *Bona fide* acquirers were persons who purchased the duress property without the knowledge of the initial spoliation, or who acted in the interest of Jewish owner through the transaction (for instance, to enable a swift emigration).

²⁴ Requests of the Länderrat, November 8, 1947, NACP, RG260/390/49/31/02. See also, *Die Wiedergutmachung nationalsozialistischen Unrechts*, Bd.1, Rückerstattung nach dem Gesetzen der Alliierten Mächte, p.52.

²⁵ Military Government, Germany, United States Area of Control, Military Law No.59, in *Property Control: History, Policies, Practices and Procedures of the United States Area of Control, Germany* (n.p., 1948), p.53.

²⁶ Art.4. Germans insisted on the date November 9, 1938, the “*Reichskristallnacht*,” as the beginning of duress.

Agencies (*Wiedergutmachungsbehörde*) in which the properties subject to restitution were located. Upon receiving the official notice, the parties involved had to declare their interests with the Restitution Agency within two months. An amicable settlement would then be attempted between the claimants and the restitutors, “unless the futility of such efforts is evident.”²⁷ If a settlement could not be reached, the case was to be transferred to the Restitution Chamber (*Wiedergutmachungskammer*) established in the District Court, which was the court of the first instance under the German jurisdiction. If dissatisfied with the judgment of the Chamber, an appeal could be filed to the Civil Division of the Appellate Court (*Oberlandesgerichte*) within one month. The case could be further appealed to the Board of Review in Nuremberg. This was the highest court in the restitution matter, whose judges were composed of Allied judges.

Article 8, 9, 10, and 11 provided for the creation of a Jewish successor organization. Article 10 (Successor Organization as Heir to Persecuted Persons) declared the section 1936 of the Civil Code (Escheat of estate of persons dying without heirs) non-applicable. Persecutees whose whereabouts were unknown since the end of the war were presumed to have died on May 8, 1945.²⁸ The presumption of death was prerequisite for any property to be considered heirless. The successor organization was authorized to file claims if no claim has been filed within six months of the effective date of the law.

The disputed points were decided in favor of the Jewish requests. The Military Government reserved the authority to appoint a successor organization (Article 8).

2.2. The Jewish Restitution Commission

²⁷ Art. 62.

²⁸ Art. 51.

While the American-German discussion on the restitution law was still taking place, the Five Organizations took the actual steps toward the end of 1946 to establish a successor organization. It was considered imperative that an institution to retrieve the heirless Jewish property already exist before the promulgation of the law. The organization was named the Jewish Restitution Commission (JRC). Various national and international Jewish organizations, representing the broadest streams of Jewish life, were invited to participate in the JRC.

The JRC was incorporated in the state of New York on May 12, 1947.²⁹ It was initially composed of ten national and international Jewish organizations. They were: the Jewish Agency, the JDC, the American Jewish Conference, the AJC, the Board of Deputies of British Jews, the CRIF, the Council of Jews from Germany, the Central Committee of Liberated Jews in Germany, the Jewish Cultural Reconstruction Inc., and the WJC. The Central British Fund (CBF) and the Agudas Insrael World Organization were soon admitted to the membership.³⁰ The Jewish communities behind the Iron Curtain were not represented for political reasons. One must note that the Jewish community in Germany was not represented in its members at the time of incorporation, even though it was to deal with the property in Germany.

The self-definition of the JRC exemplified the nature of the successor issue. In its certificate of incorporation, the JRC proclaimed that it was “to assist, aid, help, act for and on behalf of, and as successor to, Jewish persons, organizations, cultural and charitable funds and foundations, and communities, which were victims of Nazi or Fascist persecution and discrimination...” In short, the JRC defined itself as the successor of everyone and everything which fell victim to the Nazi persecution. It further stated that

²⁹ JRSO, *Report*, p.6. Other sources mention May 15 as the date of incorporation. See, for example, Report on Mr. Brotman’s visit to New York, n.d., YV, M56, R38, 204/93-95.

³⁰ Minutes of the first membership meeting, June 4, 1947, CAHJP, JRSO-NY, 340a.

“[t]he territories in which its operations are principally to be conducted are the United States of America, Germany and formerly German occupied areas of Europe, and other areas throughout the world.”³¹ This obviously very broad scope of activity was intentional. It was indeed intentionally termed as broadly as possible, in case other countries which held the heirless Jewish property admit the JRC as the successor organization (which did not happen, as seen in the chapter 1).

The first membership meeting of the JRC was held on June 4, 1947. Edward M. M. Warburg of the JDC was elected President. The board of directors, consisting of the delegates from the member organizations, was the decision making body of the JRC. The board met only annually or when it called for special meetings, and therefore an executive committee functioned between the meetings of the board. The executive committee consisted of eight organizations, which included the Five Organizations and the Council of Jews from Germany.³² It was agreed that the presidency of the corporation and the chairman of the executive committee rotate between the JDC and the Jewish Agency, when the former held the presidency, the latter was the chairman of the executive committee.³³ The JRC had its seat in New York, but the actual operations – locating, identifying, claiming and administering the property – were to be conducted in Germany, and therefore the Jewish Agency and the JDC were appointed as the “operating agents” in the field.³⁴ They were authorized to create administrative machinery, hire personnel, set up offices, and they actually loaned their staffs to the JRC. In short, they kept the administrative control.

³¹ “Certificate of Incorporation of the Jewish Restitution Commission,” April 25, 1947, JDC-NY, 4264.

³² The executive committee consisted of the following organizations: the Jewish Agency, the JDC, the WJC, the AJC, the American Jewish Conference, the Agudas Israel World Organization, the Council of Jews from Germany, and the JCR Inc.

³³ Report on Mr. Brotman’s visit to New York, n.d., YV, M56, R38, 204/93-95.

³⁴ JRC to the Jewish Agency and to the JDC, April 1947, CZA, C7, 1327.

With the operational framework of the JRC being established, it waited the recognition of the American authority. Yet, the approval from Washington was not given easily. Objections were raised by the State and War Departments on the ground that it be politically undesirable for a non-German organization holding a large amount of property in Germany, since it would give the appearance of an operation outside the framework of German law.³⁵ It was maintained that it might become a possible source of Anti-Semitism. The War Department held that a German successor organization incorporated in Germany would be preferable, since an international Jewish organization would collide with German law, which generally restricted the acquisition of property through foreign legal persons. In the actual context, the War Department was against the transfer of property outside Germany.³⁶ An organization completely shielded by the Military Government also went against the policy of turning over in, as much as possible, the responsibility and governmental authority to the Germans.³⁷

The State Department on the other hand disliked the absence of the German Jewish communities in the JRC.³⁸ Clay shared this concern. When the leaders of the world Jewish organizations visited him in Washington in October 1947 asking for the official recognition of the JRC, he reiterated this point and stated more should be done for this group.³⁹ The Jewish delegation promised that the German Jewish communities would be included, and when the news of their participation in the JRC was received, objections of

³⁵ Informational memorandum for the conference regarding JRC to be held on March 3 at the State Department, 1948, CAHJP, JRSO-NY, 880a.

³⁶ Memorandum, Five Organizations meeting, January 5, 1948, CAHJP, JRSO-NY, 887c; Informational memorandum for the conference regarding JRC to be held on March 3 at the State Department, 1948, CAHJP, JRSO-NY, 880a.

³⁷ Informational memorandum for conference regarding JRC to be held on March 3 at State Department, 1948, CAHJP, JRSO-NY, 880a.

³⁸ Jewish Organizations to General Clay, January 21, 1948, CAHHJP, JRSO-NY, 887c.

³⁹ Dr. Schwarzbart to Dr. Weise, October 17, 1947, AJA, WJC, C276, 3.

the State Department were dropped.⁴⁰ This was done by adding the *Interessenvertretung der jüdischen Gemeinden und Kultusvereinigungen* (Committee Representing the Interests of Jewish Communities and Religious Organizations, hereafter *Interessenvertretung*) in the U.S. Zone to the member of the corporation at its special meeting held in July 1948.⁴¹ Clay and the State Department eventually convinced the War Department.

It can be said that the support of Clay was instrumental in the birth of a Jewish successor organization.⁴² He felt strongly bound by his oral commitment given to the Jewish delegation in November 1946. Yet, his greatest contribution in this matter shall be his acceptance of a successor organization representing, by his word, “international Jewry.”⁴³ By accepting such broad representation based on ethnic identity, he knowingly or unknowingly broke the legal tradition of not distinguishing certain groups on the grounds of race or religion. He disregarded the implication of legally separating the Jews from non-Jews.

2.3. Designation of the JRSO

The president of the JRC Warburg sent an application for its official recognition to

⁴⁰ Informational memorandum for the conference regarding JRC to be held on March 3 at the State Department, 1948, AJA, WJC, C276, 3.

⁴¹ Minutes of the special meeting of the members of the JRSO, July 29, 1948, CZA, C7, 1328.

⁴² People who were actually involved in the successor organization testify as to the cooperative attitude of Clay on the restitution matter. In an interview of Benjamin B. Ferencz, the first director general of the JRSO in Germany, by the author, Florida, March 9, 2003. Also, in the interviews of Saul Kagan, executive secretary of the JRSO, by the author, New York, August 10, 1999, and Jerusalem, March 17, 2000. See also, Interview of Saul Kagan, by Mitchell Krauss, 1971, pp.3-4, New York Public Library (NYPL), American Jewish Committee Oral History Collection.

⁴³ Notes on meeting of December 13, AJA, WJC, C276.3.

Secretary of State Marshall on November 3, 1947,⁴⁴ but the Jewish organizations did not wait passively for the recognition. The European headquarters of the JDC in Paris commissioned a German lawyer by the name of Werner Peiser, in September 1947, to set up a preparatory office of the JRC in Frankfurt.⁴⁵ Peiser, himself a persecutee, started to gather information on the Jewish public property which came under the control of the Military Government. He sent letters out to the German property offices in each district asking for a list of public Jewish properties.⁴⁶ Some German offices complied with his request, believing that he possessed proper authority as the chief of the successor organization, as he presented himself. Peiser's activities soon came to the attention of the Military Government. The restitution law had yet to be published, and the official recognition of the JRC was not even in sight. Any activity to serve "private," i.e. Jewish, interests was illegal. Peiser and his associates were ordered to immediately cease their activity.⁴⁷ They were further ordered to turn over their files and documents they collected to the Property Control Division. Peiser left Germany to Paris in April 1948, seemingly to evade an impending expulsion by the Military Government.⁴⁸

The delay in official recognition of the JRC was clearly the reason for this unauthorized move by the JDC. Nothing was heard from the State Department since Warburg had asked for the official recognition of the JRC. It was not until mid April 1948 that Warburg finally received word from the assistant secretary of state Frank G. Wisner, indicating the

⁴⁴ Jewish organizations to General Clay, January 21, 1948, CAHJP, JRSO-NY, 887c.

⁴⁵ JDC, Report on Activities, July 8 1947 to September 30, 1947, October 1, 1947, CAHJP, JRSO-NY, 437a.

⁴⁶ W. Peiser to the Civilian Property Control Agency, September 23, 1947, NACP, RG260/390/49/31/02.

⁴⁷ OMG Wiesbaden to W. Peiser, March 16, 1948, NACP, RG260/390/49/31/02.

⁴⁸ Memorandum on Peiser, April 12, 1948, NACP, RG 260/390/49/31/02. The card indexes of Jewish properties made by Peiser were confiscated. The JRSO strove later to get the indexes back for the source of information, and it did succeed in obtaining them.

acceptance of the JRC.⁴⁹ This time OMGUS expressed difficulty in approving the name of the JRC, because the word “commission” gave an impression of its being an official governmental body.⁵⁰ The Jewish successor organization was to act in private capacity only. Upon receiving the request of the Military Government, its name was changed to the Jewish Restitution Successor Organization (JRSO).

Pursuant to Article 13 (Designation of Successor Organization) of Law No. 59, Regulation No. 3 was issued on June 23, 1948 and came into effect on the same day.⁵¹ Hereby the JRSO was appointed as the sole successor to the heirless individual and communal Jewish property in the U.S. Zone. Regulation No.3 defined the nature of the successor organization as a non-profit or charitable organization. It had to be “representative of the entire group or class which it is to be authorized to represent.” This was remarkable in that it lacked any reference to the nationality of the group the successor organization would represent. This was, indeed, what the Jewish organization had been most eager to achieve. Given that the restitution law was valid only in the U.S. Zone of Germany and that the most of the heirless property there had been owned by German Jewish individuals or their organizations, the successor organization could represent German Jewish emigrants residing outside of Germany and the small number of German Jews still remaining in the country. As the correspondence with the American authorities showed, “the entire group or class” stood for the persecuted Jews in general, the Jewish people as a whole. Regulation No.3 was carefully worded to enable world Jewry to inherit the heirless assets in Germany. Georg Landauer,⁵² head of the Bureau for the Settlement

⁴⁹ Wisner to Warburg, April 14, 1948, CZA, A370, 262.

⁵⁰ Cable, OMGUS to War Department, January 31, 1948, IfZ, OMGUS, AG 48/ 183/3.

⁵¹ Regulation No.3, June 23, 1948, CAHJP, JRSO-NY, 340a.

⁵² Georg Landauer (1895-1954): born in Cologne, lawyer, journalist, and Zionist leader. He promoted the emigration of Jews to Palestine, and in this relation he was involved in the Haavarah Agreement. He immigrated to Palestine in 1934. From the inception of the Bureau for the Settlement of German

of German Jews of the Jewish Agency, later commented:

The creation of the JRSO by the many participating Jewish organizations...was possible not because the Americans did not know whom they should appoint as the legal successor, but...because there was a conscious intention to make, so to say, world Jewry the successor and the inheritor of a quasi-annihilated and plundered [Jewish] group. This is repeatedly emphasized in the documents of the State Department ...⁵³

Another important aspect of Regulation No.3 was in its definition of the “Jewish property” which the JRSO could be authorized to claim, and what “Jewish” meant in this context. “Jewish property” was defined as property, rights and interest of Jewish individuals and of Jewish organization. A person was considered “Jewish,” if he, between January 30, 1933 and May 8, 1945, had been: 1) subjected to persecutory measures on the ground that he was a Jew, 2) of the Jewish race or religion, 3) a member of a class of persons which was to be eliminated from the cultural and economic life of Germany by measures taken by the state or the National Socialist Party on the grounds of the Jewish race or religion of the member of that class.⁵⁴ This definition encompassed all individuals who had resided in the Reich and who had been considered Jewish according to the definition in the Nuremberg Laws. They did not have to be German nationals. Therefore the JRSO was also entitled to claim the property of foreign Jews located inside the former Reich, for example, that of Polish Jews. This was a very favorable interpretation for the interests of the JRSO. Regardless whether he considered himself a Jew or not, the category imposed by the Nazi regime made him a member of the community. If a person

Jews in 1934, he has been its Director. Following the war he played an important role in the negotiations for reparations and restitution. He emigrated from Israel to United States in 1953 and died in New York City in 1954. On his biography, see the obituary in *MB*, February 12, 1954.

⁵³ Georg Landauer to Hans Reichamn, July 12, 1951, LBI-NY, AR5890 (Council of Jews from Germany), 9.

⁵⁴ Regulation No.3, June 23, 1948, CAHJP, 340a.

explicitly changed his religious affiliation prior to his death, the restitution authority could examine the evidence and determine whether he would still not be considered Jewish. Given that many Jews converted to Christianity with the hope of escaping persecution, this brought the converts back into the “national Jewish” body.

Benjamin B. Ferencz, who had been the chief prosecutor of the *Einsatzgruppen* case at the Nuremberg Military Tribunals, headed the JRSO operation in Germany as its first director general.⁵⁵ Ferencz took up his position formally on 20 August, 1948. Subordinate to him was the Plans and Operation Board, which was led by three Allied personnel. Saul Kagan, formerly of the Finance Division of the Military Government in Berlin, concerned with finance and the relations with the Military Government and the regional offices.⁵⁶ Georg Weiss, Czech-born lawyer, supervised the field operations.⁵⁷

⁵⁵ Benjamin B. Ferencz (1920-) was born in 1920 in Transylvania, Rumania, and soon immigrated to the United States. He studied at Harvard Law School. Attorney at law. He was a member of the Office of United States Chief of Counsel for the Prosecution of Axis Criminality at the Nuremberg successor trials, and Chief Prosecutor for the *Einsatzgruppen* trial 1947. He was to write fifteen-volume history of Nuremberg War Crimes Trial, but was persuaded by the JDC to engage in the JRSO, and obtained the release from the Military Government. He was the director general of the JRSO in Germany from 1948 to 1956. He was also the representative of the Claims Conference in Germany, and involved in the 1952 German-Jewish negotiations on reparations as its legal advisor. Director of the United Restitution Organization in Germany, 1954-56. He negotiated with the German firms, which used the Jewish slave laborers, to obtain compensation. On this, see, Ferencz, *Less Than Slaves: Jewish Forced Labor and the Quest for Compensation*, 2d ed. (Bloomington and Indianapolis: Indiana University Press in cooperation with the United States Holocaust Memorial Museum, 2002). Recently, he contributed to the establishment of the International Criminal Court in The Hague. He is the author of many books and articles on international law. The USHMM holds a collection of his papers, records of his TV and radio appearances, lectures and oral history interviews. The author conducted an interview with Mr. Ferencz in Florida, on February 9, 2003.

⁵⁶ Saul Kagan (1922-) was born in 1922, Vilna, in today's Lithuania. He came to the United States in 1930. Chief of Financial Investigations Division, OMGUS. Director of the Plans and Operation Board of the JRSO, 1948-1951. After coming back to the U.S., he replaced Eli Rock as the secretary of the JRSO. He held since the double positions as the secretary of the JRSO and at the Claims Conference. Presently, he is the executive secretary of the JRSO and the executive vice president emeritus of the Claims Conference. The author interviewed Mr. Kagan on August 10, 1999 and on March 17, 2000. Wholehearted thanks to Mr. Kagan, who enabled me to research the material of the JRSO and accepted my repeated requests for interviews.

⁵⁷ George Weiss: Legal advisor of the Jewish Relief Unit, a relief organization set up by the CBF for the rescue of Jews in the British Zone of Germany. Weis was later involved in the restitution of heirless Jewish property in Austria, which was registered at the Collecting Point A (Sammelstelle A).

Meinhold Nussbaum, attached to the Jewish Agency, was in charge of the relations with the local Jewish communities.⁵⁸ The headquarters of the JRSO operation was in Nuremberg (later moved to Frankfurt), the seat of OMGUS, and five other regional offices were set up in Frankfurt, Munich, Stuttgart, Mannheim and Kassel. Additional regional offices were opened later. Dr. Ruth Klein, a German lawyer, formerly a legal advisor to the Property Division of OMGUS, headed the Frankfurt office. Maurice Grynblatt, formerly of the Jewish Agency, headed the Munich office.⁵⁹ Local staffs were recruited from the anti-Nazi milieu. OMGUS provided office spaces, furniture, vehicles with drivers, use of the military post, etc., in addition to the advance in local currency (RM 50,000) from the American portion of the occupation funds, provided that the JRSO would reimburse the sum when the operation start to yield proceeds.⁶⁰ The JRSO commenced its operation in August 1948.

Due to the delay of the official designation, the JRSO had barely six months to file claims before the filing limit of December 31, 1948. The organization was authorized to examine extensive German records, for instance, the register of Jewish properties drawn up by the Nazi agencies, tax forms regarding the discriminatory levies on Jews, deportation lists, information concerning public auctions, etc. Most importantly, it had access to land registries (*Grundbücher*) which enabled it to investigate the change of

⁵⁸ Meinhold Nussbaum (-1953): lawyer and Zionist. He was born in Fulda but emigrated to Palestine and settled in Tel Aviv. He was the leading member of the Irgun Olej Merkaz Europa (IOME). Commissioned by the Jewish Agency and the IOME, he went back to Germany in 1946 to prepare the restitution and compensation legislation. He contributed to setting up the organizational apparatus of the JRSO as well as the United Restitution Office. Nussbaum went back to Israel in 1949, however, he was appointed as the legal advisor of the Israel Mission in Cologne, a body to purchase the German goods for Israel with the reparations payments based on the Luxembourg Agreements. Died in a traffic accident while in Cologne.

⁵⁹ JDC, Memorandum on the establishment of the JRSO, August 22, 1948, CZA, S35, 196.

⁶⁰ The JRSO received several grants from the Military Government out of the American share of the occupation funds. Although the JRSO was a private organization, it enjoyed the logistic support from the Military Government. The grants which the JRSO had received were later all waived.

owner after 1933.⁶¹ In addition, the JRSO received the lists of properties from the Military Government, which had been reported as being acquired under duress. Yet, it seemed impossible to claim all the heirless properties with details prescribed by the law. Instead, they submitted simplified claims called “short forms” with only minimum information to preserve their rights on the property. When the claims proved to be valid, they would be complemented with further information. If the owners or their heirs were found alive, or the properties in question turned out to be not Jewish-owned, the claims could be withdrawn at any time. On the other hand, if the filing dead line was missed, such claims were forever lost. Therefore, the JRSO chose to claim practically everything which was suspected to have been taken from Jews. Properties which changed hands after 1933 and whose previous owners had the Jewish-sounding names were such.⁶² A total of 163,075 claims were filed before December 31, 1948, although approximately 25,000 were withdrawn later due to their duplication.⁶³

2.4. Heirless Cultural Assets: the Jewish Cultural Reconstruction Inc.

What the Nazis and their accomplices plundered from Jews was not only money and belongings, but also the items of religious and cultural value, such as the Torah scrolls, books, archives, ritual objects, silverware, etc. The Nazis collected these objects from all over Europe to be exhibited one day at the “museum of extinct race” they had planned to create. After the war the cultural loot was brought by the U.S. forces to the archival depot in Offenbach, which became the collecting points for Jewish religious and cultural objects.

⁶¹ JRSO Authorization No.1, August 18, 1948, NACP, RG466/250/84/23/7.

⁶² So it happened once that the JRSO claimed an estate belonged to a certain Alfred Rosenberg, whom due to his name the JRSO staffs believed to be a Jew. It turned out to be the notorious Nazi ideologue Rosenberg himself. In the interview with Saul Kagan, by the author, in New York, August 10, 1999.

⁶³ Report No.2 of the JRSO, October 21, 1949, JDC-NY.

For the most part, such objects were not restitutable. The owners or heirs could barely be identified. Whereas the heirless property of economic value could be disposed and liquidated, the cultural treasures were to be salvaged and preserved for the Jewish public. In order to collect, recover, identify and distribute the cultural objects, the Jewish Cultural Reconstruction, Inc. (JCR) was set up in 1947 by the WJC, the AJC, the American Jewish Conference, the Council of Jews from Germany, Hebrew University, the Synagogue Council of America, and the Commission on European Jewish Cultural Reconstruction.⁶⁴ The JDC and the Jewish Agency also joined the JCR. Renowned professor of Jewish history at Columbia University, Salo W. Baron headed the JCR, and some distinguished personalities such as Rabbi Leo Baeck, Gershon Scholem and Hannah Arendt also served in it. Arendt temporarily stayed in Germany to conduct the field operations.

Both the JRSO and the JCR shared the same guiding principle, that the Jewish people as a whole be considered the heir to the property. While the JRSO was established to act as the trustee of the property of economic value, the JCR's domain was the property of cultural value. Yet, the line of demarcation between two kinds of property was difficult to draw, and the work of the JRSO and the JCR did indeed overlap, especially in the fields of communal property. For example, if the JRSO was in charge of a synagogue building and its plot of land, the Torah scroll which belonged to this synagogue should have gone to the JCR. Since the admission of two Jewish successor organizations in the U.S. Zone was not feasible, it was agreed in late August 1947 that the JCR act as the agent of the JRSO (at that time still the Jewish Restitution Commission) with regard to the cultural

⁶⁴ See the Chapter VI of the *Plunder and Restitution: The United States and the Holocaust Victims' Assets*, submitted by the Presidential Advisory Commission on Holocaust Assets in the United States in 2000. The JCR grew out of the Commission on European Jewish Cultural Reconstruction created in 1945. On the recovery of Jewish cultural assets, see also, Michael J. Kurtz, *Nazi Contraband: American Policy on the Return of European Cultural Treasures 1945-1955* (New York: Gerland, 1985).

property late August 1947.⁶⁵

⁶⁵ JRC to the JCR, August 21, 1947, CAHJP, JRSO-NY, 320.