

Gerard Aalders, *Berooid. De beroofde joden en het Nederlands restitutiebeleid sinds 1945* [The looted Jews and the Dutch restitution policy since 1945]. Pp 464. Boom, Amsterdam 2001. ISBN 90-5353-674-9. Dutch Florins Fl. 49.90. Reviewed by Tanya Mehra.*

This book is the second part of the trilogy on pillage. In part 1 the author focuses on pillage of Jewish people during the Second World War in the Netherlands.¹ The third part, which is currently being prepared, will address the pillage and restitution of monetary gold of *De Nederlandsche Bank*.

This book is concerned with the restitution, meaning the restoration of the rights of ownership of Jews looted during the Second World War in the Netherlands from a historical point of view. Although compensation for war damages does not form a part of restitution, a few aspects such as the *Wiedergutmachung*, the compensation offered by the German government, are included in the book. The preparation, organisation, and implementation of the restitution policy has been set out, and particular attention has been drawn to the practical difficulties involved with restitution during the aftermath of the war.

The Germans were partly dependent on the supply of raw materials, ammunition, and technology, which were largely supplied by neutral countries. Since the German *Reichsmark* was not accepted as currency, the Germans paid for their foreign purchases with looted gold, diamonds, or bonds. Shortly after the outbreak of the war, the Allies took measures regarding the economic warfare that were directed towards Nazi Germany and neutral countries. The international law of armed conflicts lays down the basic rules of neutrality. During the Second World War the Convention (V) of the Hague Conventions respecting the Rights and Duties of Neutral Powers and Persons in Case of War on Land was applicable.² The Allied London Declaration of January 5, 1943, and the Gold Declaration of February 22, 1944, can be seen as attempts to prevent neutrals from trading with the enemy.³ Although the book provides an interesting insight on the role of neutral countries with respect to economic warfare, it sheds insufficient light on the relevance of the then existing rules of warfare.

The Dutch government in exile also took measures against pillage. Apart from the Allied London Declaration, the Dutch government in exile enacted the Royal Decrees A1 and A6, aiming to protect the Dutch assets and interests. The legality of these Royal Dutch Decrees is discussed from a constitutional point of view, but the book fails to address the legality according to international law. In 1944 several other Royal Decrees such as the E93, E100, and E133 were enacted, specifically aimed at the rehabilitation of law and order after the liberation of war.

In 1944 the Royal Decree E100 regulated the establishment of the Council for

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Restitution, which consisted of the following departments: Judiciary Branch, Department of Stocks and Shares Registration, Department of Supervision and the Departments Provisions for Missing Persons, and Corporate Entities.⁴ Each department is entitled to render decisions with the possibility to lodge an appeal with the judiciary branch. The decisions of this branch are rendered on the basis of equity and are final. The lack of qualified staff and jurisprudence made it difficult for the Council to function properly.

To be able to understand how the actual restitution took place, attention should be paid to the many practical problems that slackened the entire process. The famous Lippmann & Roosenthal Bank and another similar institution, the *Vermögensverwaltungs- und Rentenanstalt*, had been exclusively used during the occupation by the Germans for pillage purposes. Unravelling the *Sammelkonto*, a joint account for all the assets looted from the Jewish people, was a painstaking process, and the fact that part of the administration was missing can be seen as one of the main factors that complicated the winding up of the pillage institutions and actual restitution.

Other complicating factors were the search for heirs, in particular if those who returned emigrated, and the lack of death certificates. One of the two founding principles of the restitution policy, that the government would not make any profit from the Holocaust, had been seriously compromised since the government had decided that the inheritance tax would be collected even under present circumstances.

At the end of the war the accounts of the pillage institutions were considerably reduced, and as a consequence there was very little money that could be restituted to the Jewish owners. Although the administrators faced difficulties in regard to several claims against the government, they managed to retrieve a substantial sum of money.

As soon as the war had ended, the first claims for restitution were filed. During the occupation entire inventories and stock were looted from companies and noncommercial foundations. The Jews were not only looted of their financial assets but also from insurance policies, furniture, paintings, gold, and any other valuables. The entire restitution policy was based on the founding principle that no distinction should be made between Jewish people and other people. A detailed account is given of all the goods that have been the subject of restitution. Unfortunately, the importance of the legal distinction between unlawful and lawful appropriation of property is not addressed adequately in the book. In article 46(2) and 47 of the Hague Regulations of 1907 the basic rules are laid down: the confiscation and pillage of private property is prohibited. However there are exceptions to the rule: the occupying State can legally obtain property through requisitions and seizure.⁵

The recuperation and restitution of cultural property faces specific problems

and is therefore dealt with in a separate chapter. On the basis of the Allied London Declaration of 1943, the Dutch government had the right to declare any transfers of property illegal that occurred in the territories under occupation of the enemy.⁶ The procedure of cultural property was two-fold: the recuperation from Germany through the collection points and the restitution to the original owners. The Dutch Art Foundation (*Stichting Nederlands Kunstbezit*) was in charge of the recuperation and restitution of looted art. If the recuperated cultural property was sold during occupation out of free will, the original owner's claim for restitution would be denied. The property would fall to the Dutch government and form part of the NK (*Nederlands Kunstbezit*) collection, which also consisted of property of which no legitimate owner or heir could be found. Mismanagement, arbitrariness, and the arrest of the director on the suspicion of fraud have seriously affected the credibility and the functioning of the foundation. These organisational problems have obstructed the restitution to the original owners, whereas the recuperation was carried out rather successfully.

Conflicting interests have complicated the restitution of shares. The Dutch government was mainly concerned with the recovery of the economy and clearing the stock exchange of looted shares, whereas the dispossessed owners were looking for restitution. Initially the government in exile had enacted a Royal Decree to this end. Under the pressure of the financial world, the act was changed to secure their interests. Rebuilding the Dutch society and economic life was given greater priority than the interests of the small group of Jewish survivors. However, through the intervention of the judiciary branch the act had to be revised, which led to a strike at the stock exchange in 1952. The prosecution of those guilty of economic collaboration was left to the trade and industry branch.

The restitution that took place after the war was perceived as bureaucratic, formal, and lengthy. After the World Jewish Organisation had successfully launched a media campaign, the interest in restitution issues had been renewed. The Dutch government established several committees to investigate the postwar restitution. On moral grounds, several financial settlements were made by the government, the banks, and insurance companies. These being perceived as the prevailing objectives of those days, the author reaches the conclusion that despite the many shortcomings the restitution had not failed. It may have been a painstaking process, but the restoration of rights of ownership has more or less been accomplished.

This book by Gerard Aalders provides an interesting insight into the restitution policy in the Netherlands. As a historian, the author describes meticulously the facts of the restitution without getting into the issue of how the restitution should have been. Despite the many repetitions, the detailed account of the political considerations and major key figures involved in the restitution policy is enlightening. Although many aspects are covered, the legal issues that are so inextricably linked with restitution have not been properly represented. All together, the

book provides a clear perception of how the postwar restitution policy took place in the Netherlands.

NOTES

1. See Gerard Aalders, *Roof. De ontvreemding van joods bezit tijdens de Tweede Wereldoorlog*, Den Haag 1999.
2. The United Kingdom and Italy were not party to the convention. However, at the time this convention was concluded during the Second Peace Conference in the Hague in 1907, most of the rules on neutrality were already deemed to be declaratory of international law. See L. C. Green, *The Contemporary Law of Armed Conflict* 260 (Manchester University Press, Manchester 1993).
3. See 1951 *Tractatenblad* 39 and 41.
4. See 1944 *Staatsblad* E100 concerning judicial matters and 1945 *Staatsblad* F272 concerning the amendment of E100 and E131 (concerning enemy assets). The actual establishment of the council took place on August 9, 1945. The Department of Immoveable Property was created later on by Decree F272 in 1945. Eventually the Departments of Provisions were merged together with the Department of Supervision.
5. See articles 52 and 53 of the Hague Regulations. D. Schindler and J. Toman, *The Laws of Armed Conflict* 84–85 (Sijhoff, Leiden 1973).
6. See 1949 *Staatsblad* J189. The importance of this declaration was confirmed at the Bretton Woods Conference in 1944. In this respect attention should also have been drawn to the Paris Conference on Reparations during 1945 dealing with the reparation from Germany, the establishment of the Inter-Allied Reparation Agency, and the restitution of monetary gold. In the annex it is stated that the Inter-Allied Declaration of 1943 forms the guideline with respect to the restitution of goods.