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Summary

Dutch Agreements about Jewish Second World War Assets (1997-2000)

Introduction

The late 1990s brought renewed public attention to the issue of Jewish assets that were stolen or lost during the Second World War. Even though the Dutch postwar restitution process had formally been finalized in the 1970s, conclusions from a number of Commissions of Inquiry provided opportunities for corrections and additional compensations. In 1999 and 2000, the Dutch Jewish community signed comprehensive agreements with representatives from four different Dutch stakeholder groups – insurance companies, the government, banks and the stock exchange. The negotiations concerned (moral forms of) restitution, compensation and providing a public apology – elements that all fall under the umbrella-term ‘reparations’ in the literature about Transitional Justice. The outcome marked a shift from individual restitution, which had characterized the restoration process in immediate post-war decades, to collective ‘rough justice’. In total, 764 million guilders were made available for the Jewish community.

This doctoral thesis analyzes which factors enabled or hindered the agreements about Dutch Holocaust assets, and identifies which factors were most influential in the negotiation process. It provides detailed insights into the evolution and outcomes of the Dutch restitution process, based on a detailed study of available literature, archives and media, as well as interviews with thirty key individual players who were directly involved in the process. The thesis also compares similar restitution processes in other European countries during the 1990s to assess why they demonstrate certain similarities or differences with the Dutch case. In addition to historical methods, perspectives from other scientific fields are utilized to explain the Dutch restitution process. The field of Transitional Justice, for example, presents a useful theoretical framework to comprehend what the restitution process yielded in terms of law, justice, morality and transforming historical narratives.

The negotiation processes between the Dutch Jewish community and the four relevant stakeholder groups were all remarkably distinct, for example with regard to their duration, the tone of the conversations, the level of international interference and the outcomes. The ‘Centraal Joods Overleg’ (CJO), the Dutch central board of Jewish organizations in the Netherlands, represented the Jewish community in the negotiations in collaboration with ‘Platform Israël’, a representative body for Dutch Jews in Israel.

The discussions between the CJO and the Dutch Association of Insurers about Jewish insurance policies proceeded well, both in terms of content and tone. The parties reached an agreement relatively quickly on November 11, 1999, in part due to increasing international pressure. However, the Dutch agreement was not automatically accepted in the United States because of resistance from the World Jewish Congress (WJC) and American State Insurance Commissioners. The latter exerted pressure by suggesting that individual insurance companies treatment of Jewish insurance policies should determine whether their American subsidiaries should be allowed to do business in the US. Insurance companies such as Aegon and ING US felt the threat of trade constraints, as well as a potential consumer boycott. This pressured the Dutch Association of Insurers to join the Eagleburger Commission of Inquiry, an international commission tasked to develop a reimbursement system for unpaid Jewish insurance policies. In early April 2000, all parties agreed to adapt the modalities of the Dutch agreement in alignment with the international approach.

In December 1997, following the Liro affair, the Dutch Minister of Finance Gerrit Zalm began having relatively informal meetings with the newfound CJO. Formal negotiations between the parties only commenced in early 2000, when all final reports from the three Dutch Commissions of Inquiry – Kordes, Scholten and Van Kemenade – were released. These commissions recommended the government make a ‘gesture’ and offer restitution payments. The first official meeting with the Dutch Prime Minister Wim Kok did not go well. Eventually, during a subsequent smaller session in March 2000, Zalm, the CJO and Platform Israel managed to reach an agreement after focusing on financial calculations. The outcome diverged significantly from the recommendations of the Commissions of Inquiry: the payment amount was higher, and the agreement included more explicit wording and argumentation. The ‘recognition of moral claims from the Jewish community for restitution’ marked a clear shift from the immediate postwar restitution process.

The CJO and the banks had their first official meeting about Jewish bank deposits in July 1999. The negotiations progressed reasonably, and in late

March 2000 the banks believed that they had gotten a deal. The cjo and Platform Israel, however, were not willing to sign until one other negotiation process was finalized: the one concerning Jewish-owned securities, for which discussions with the AEX and the Association for Securities Trade began in February 2000. The Jewish negotiators considered the initial offer from the Stock Exchange representatives – a public apology and a gesture of eight million guilders – insufficient. The banks, as one of the major parties on the Stock Exchange market, decided to join this deteriorating negotiation process in May 2000. The initial discussions focused on calculating the exact share of financial damages that had not yet been restored shortly after the war. Consequently, the parties discussed how to take indexation and interests into account. The Platform Israel increased pressure on the negotiations by including the World Jewish Congress in the process. The wjc threatened with a potential boycott for Dutch financial institutions in the US. Not much later, the wjc announced in the media that an agreement had been reached. The Dutch banks were presented with a *fait accompli*, as the Stock Exchange representatives had signed an official agreement with the cjo and Platform Israel on June 15, 2000.

Analysis of the Dutch Restitution Process

The Dutch agreements clearly resemble elements of Transitional Justice, as they involved (moral forms of) restitution, compensation for past acts of injustice and offering sincere apologies. These central notions dominated the agreements partly because they provided a necessarily ambiguous mix of moral, legal and political aspects. This pragmatic middle way enabled the negotiating parties to reach agreements that each party could then present and defend to its constituency in a different way.

The Dutch restitution process was a decision-making process with rational elements. The Commissions of Inquiry provided a comprehensive factual overview that formed the framework for the content-focused negotiation process. Nevertheless, as the relevant parties entered the negotiations independently, they also deviated from the recommendations of the commissions to a certain degree. But above all, the restitution process was a political and complex negotiation process that can be best understood through a network perspective. A relatively large number of parties were involved, each with its own interests and goals. Several parties also had a critical constituency to manage, and a contested mandate. The parties often exerted extreme pressure on the other participants. At the same time, they were all dependent on each other's cooperation, as no party was able to achieve its goals unilaterally.

The negotiations took place without an arbiter to mediate in any conflicts. Also Zalm did not wish to take that role towards the insurers, the banks and

the stock exchange. As a result, the parties had to solve their issues amongst themselves, which proved to be a difficult task for all. In the end, the chosen negotiation style turned out to be a major determining factor, as it influenced whether others believed in the party's good intentions and perceived its attitude to be cooperative, or whether they thought that the party was only after its own interests. This difference in style was biggest between the negotiations with the Dutch Association of Insurers, which was cooperative and focused on content, and those with the Stock Exchange representatives, who were mainly concerned with paying as little as possible and with how to divide the eventual costs amongst themselves.

The Dutch restitution process consisted of several rounds of negotiations, which were largely dependent on the attitudes of and interaction between key individuals. In principle, all of the Dutch negotiating parties were motivated to reach agreements within the Netherlands, without international interference. The circle of key individual players that determined the progress and outcome of the negotiations was relatively small. One striking element is that throughout the restitution process, individual representatives managed to establish relatively good personal relations with other key players. This proved to be a major enabling factor for parties to reach agreements without significant difficulties. An exception was the negotiation process with the Stock Exchange, in which none of the key individuals managed to build mutual trust. This remained a capricious and chaotic process that has left none of the negotiating parties satisfied in the end.

The Dutch Case in International Perspective

This comprehensive restitution process in the Netherlands counts as one of the major examples worldwide in terms of the acknowledging and correcting injustices in postwar reparations. In comparison to other European countries, the Dutch negotiations progressed in a relatively structured and unhindered manner. Other European restitution processes were more intense and chaotic because of a number of factors, such as more internal disagreements within specific Commissions of Inquiry and extreme pressure from the WJC, the American government and American judicial bodies. In certain cases, the process was also more disordered because parties reached an agreement already before the outcomes of the historical research were released. Overall, the Dutch negotiations were distinct because relevant parties sought pragmatic compromises and were willing to cooperate despite differences in order to reach consensus-based policy decisions – a classic example of the Dutch Polder Model.