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BY HANDSpecial Master Judah Gribetz
Bingham McCutchen, LLP
399 Park Avenue
New York, New York 10022BY MAILSpecial Master Judah Gribetz
Holocaust Victims Assets Litigation
P.O. Box 8300
San Francisco, CA 94128-8300Re: In re Holocaust Victims Assets Litig.,
Master Docket No. CV 96 4849

Dear Special Master Gribetz:

We respectfully submit for your consideration a motion for leave to file supplemental materials, consisting of (a) a Supplemental Memorandum, (b) a Supplemental Report by Professor Sergio DellaPergola, (c) a report from the State of Israel's Ministry of Finance and (d) a letter from Dr. Seth Ward enclosing a forthcoming article.

Respectfully yours,

Kent A. Yalowitz

cc: Honorable Edward R. Korman
Professor Burt Neuborne
Jean M. Geoppinger, Esq.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

IN RE: HOLOCAUST VICTIM
ASSETS LITIGATION

Master Docket
No. CV-96-4849 (ERK) (MDG)
Consolidated with Nos.
CV-96-5161 and CV-96-461

**MOTION OF
THE STATE OF ISRAEL
FOR LEAVE TO FILE SUPPLEMENTAL
MEMORANDUM AND ACCOMPANYING
MATERIALS WITH THE SPECIAL MASTER**

The State of Israel, with the support and approval of the World Jewish Restitution Organization (“WJRO”), respectfully requests leave to file a supplemental memorandum and accompanying materials in response to the Special Master’s Interim Report, dated October 3, 2003. The materials include (a) a supplemental report by demographer Sergio DellaPergola, (b) a report by Israel’s Ministry of Finance quantifying the degree of economic decline in Israel in the past three years (since 2000), and (c) an article by Dr. Seth Ward, a historian and Director of the University of Denver’s Institute for Islamic-Judaic Studies, entitled “The Holocaust in North Africa and the Sephardic World,” slated for publication in the inaugural issue of the *International Sephardic Journal*.

We present the materials to provide data on three topics that we hope will be of use to the Court in making future allocations of residual funds, if any are available, in light of certain data discussed in the Court’s Memorandum and Order of March 9, 2004. The three topics are (a) the present location of FSU-origin survivors today; (b) the economic situation in Israel today; and (c) the historical record on the persecution and

targeting for persecution of North African and Middle Eastern Jews by Nazis and Nazi collaborators.

In view of the important decisions the Court is required to make on these matters, we hope that the supplemental materials will be of service to the Court and will benefit the Class, and we therefore request permission to file them.

Dated: March 24, 2004

Respectfully submitted,

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

IN RE: HOLOCAUST VICTIM
ASSETS LITIGATION

Master Docket
No. CV-96-4849 (ERK) (MDG)
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CV-96-5161 and CV-96-461

**SUPPLEMENTAL MEMORANDUM
OF THE STATE OF ISRAEL IN
SUPPORT OF SUBMISSIONS TO THE SPECIAL MASTER**

The State of Israel, with the support and approval of the World Jewish Restitution Organization (“WJRO”), respectfully submits this supplemental memorandum, along with additional supporting materials, in response to the Special Master’s Interim Report, dated October 2, 2003.

PRELIMINARY STATEMENT

We preface this memorandum by repeating the caveat that Israel and WJRO continue to believe that the legally required use of the settlement funds is to pay claims to those seeking to recover unclaimed bank accounts. We understand that only after all efforts to return funds to the members of the Deposited Assets Class are reasonably exhausted might there be an allocation of additional excess funds under *cy pres* principles. Nevertheless, the Court has instructed that the Special Master make a final recommendation by April 16, 2004, as to how to distribute such unclaimed funds, if any remain.

We submit this memorandum and accompanying materials in the hope of sharpening and clarifying certain points made in our Memorandum of February 27, 2004. We offer these points in light of the Court’s Memorandum and Order of March 9, 2004,

which related to certain objections to past allocations. We have no comment on those allocations; rather we address this memorandum to *future* allocations, we recognizing that the Court has thus far expressly refrained from addressing either (a) the quantum of *future* allocations to the Looted Assets Class or (b) assessment of the needs of Shoah survivors in Israel. Nonetheless, we hope it will be helpful to the Court, in view of some of the data discussed in the March 9 Memorandum and Order, to highlight three factual matters specific to Israel that may bear on the Special Master's recommendations and the Court's deliberations. To that end, we have assisted in the preparation and compilation of the enclosed supplemental materials: (a) an additional report from Professor DellaPergola quantifying the demographic shift of survivors from the Former Soviet Union ("FSU") to Israel; (b) a report from Israel's Ministry of Finance quantifying the degree of economic decline in Israel in the past three years (since 2000); and (c) a letter from Dr. Seth Ward, a historian and Director of the University of Denver's Institute for Islamic-Judaic Studies, enclosing a draft article entitled "The Holocaust in North Africa and the Sephardic World," which is scheduled to be published in the inaugural issue of the *International Sephardic Journal*. These materials provide data on three items we hope will be of use to the Court.

First, the Court has identified a population of Shoah survivors characterized by intensive neediness—the Jews of the FSU. There is widespread agreement that a substantial number of Shoah survivors born in the FSU now live elsewhere. Quantification of that migration may be of use to the Court.

Second, the migration of that single needy population group to other lands has not diminished the core lack of resources that characterize it. The primary differential among

Shoah survivors who left the FSU and those who have remained lies in the varying availability and effectiveness of governmental and charitable programs to help them. In that regard, Israel is, sadly, unable to meet the needs of caring adequately for this very needy population. Israel has labored under an extraordinary defense budget to protect against clear and present threats to its continued existence. Exacerbating that heavy load have been a series of unique exogenous shocks to Israel's economy—which has contracted in each of the past three years. In response, the government of Israel has been required to sharply curtail spending on social services.

Third, Israel is home to a large number of survivors whose status as survivors was long ignored. This Court has been lauded—and properly so—for its recognition of the Nazi persecution of Romani people, for its recognition of the Nazi persecution of Jehovah's Witnesses, for its recognition of the Nazi persecution of homosexuals, and for its vigilant insistence that a Nazi victim was a Nazi victim, no matter the precise degree of horror suffered. The Settlement Agreement in this case defines members of the Looted Assets Class to include Jewish individuals “persecuted or targeted for persecution by” the Nazi government and its “instrumentalities, agents, and allies.” Settlement Agreement §§ 8.2(b), 1 (definitions of “Nazi Regime” and “Victim or Target of Nazi Persecution”). We urge the Court to use neutral principles in applying this definition, thereby recognizing a group of forgotten Jewish victims of the Shoah—those from certain North African and Middle Eastern countries who came under the control of the Nazis and their collaborators. Whatever the outcome of the Court's *allocation* decision based on need, it would be a great act of historical justice to acknowledge the subjection of these

Jews to Nazi persecution. In addition, many of these victims are also very needy—victims not only of the Nazis but also of the Arab-Israeli conflict.

Finally, we briefly reiterate to the Court the utility of remembrance as a means of providing for the needy.

DISCUSSION

1. Demographic Shift of FSU-Origin Survivors to Israel.

The Special Master and the Court have identified a population of double victims in the FSU. This population was victimized by the Nazi *Einsatzgruppe*. Then, cut off from virtually all indemnification and restitution programs, these victims endured another half century of deprivation under the Soviet regime. This double-victimization left the Jews of the Soviet Union with no or almost no resources at all.

Much of this group left after the collapse of the Soviet Union. In 1989, nearly 1.5 million Jews lived in the Soviet Union. By 2003, only 412,000 Jews remained. Of those who left the FSU, more than 60 percent went to Israel. Since 1990, 952,000 Jews and their family members immigrated to Israel from the FSU, joining 194,000 who had migrated between 1965 and 1989, for a total exceeding 1.1 million. Eighteen percent of Israel's Jewish population was born in the FSU.

The elderly and survivor population followed the migratory trend: today more FSU survivors live in Israel than in their native lands. Approximately 180,000 Jewish Shoah survivors of FSU origin now live in Israel, compared to 146,000 in the FSU. (These figures are Prof. DellaPergola's, but his figures correlate closely with the *Hesed* database: *Hesed* serves 225,000 elderly Jews, and Prof. DellaPergola counts a similar number of 217,000 Jews in the FSU born before 1945; *Hesed* serves 135,000 Jewish

survivors and Prof. DellaPergola counts a similar number of 146,000 Jewish survivors remaining in the FSU.)

The following table from Prof. DellaPergola summarizes the location of FSU-origin Jews and Jewish Shoah survivors today:

Country of residence, 2003	Jewish population		Jewish Shoah survivors	
	N	%	N	%
Total FSU origin	1,440,000	100.0	445,000	100.0
FSU	413,000	28.7	146,000	32.8
Israel	700,000	48.6	180,000	40.5
United States	207,000	14.4	91,000	20.4
Other countries	120,000	8.3	28,000	6.3

2. Economic Hardship in Israel

As universally recognized, the Shoah survivors from the FSU experienced many years of deprivation and hardship following their persecution at the hands of the Nazis. They were also largely excluded from restitution programs. At the collapse of the Soviet Union, they had virtually no resources.

Survivors who left the FSU did not immediately gain enhanced personal wealth or resources. Rather, they have depended in large measure on available social services in their countries of destination. In general, these social programs have been superior to those available in the FSU. Sadly, Israel's storied social programs are not meeting the needs of these survivors as well as they once did. More than 1.3 million Israelis live below the poverty line (approximately \$390 per month).¹ The Brookdale Institute reports

¹ Ministry of Finance, *The Israeli Economy: Three Years of Recession Caused by Palestinian Terrorism and Other External Shocks* at 1 (March 2004) (submitted herewith) ("*Three Years of Recession*").

one in five elderly persons in Israel is hungry; one in three elderly persons complain of cold in the winter months because they cannot afford to heat their homes; one in five cannot afford the cost of calling or visiting their children.² The Brandeis Report confirms that nearly one in five elderly Israelis lives in poverty.³

Israel cannot increase social spending to fill the gap. The tax base has fallen as the Israeli economy has contracted in each of the last three years as a result of terrorism, sharply curtailed tourism, a crash in the technology sector, and declining capital investment. Israel's unemployment rate has grown to 10.9 percent.⁴

At the same time, essential defense spending consumes an extraordinary 9.5 percent of the nation's Gross Domestic Product.⁵ (The next-highest defense budget in a Western country is that of the United States, with 3 percent.⁶) Falling currency rates, dangerously increased government deficits, and high public debt relative to GDP leave no room for more social spending.⁷ At the same time, social expenditure per capita has

² Brookdale Institute, *The Consequences of Financial Difficulties for the Lives of the Elderly* (Sept. 2003).

³ Brandeis Report at 40.

⁴ *Three Years of Recession* at 5.

⁵ *Id.* at 8.

⁶ *Id.*

⁷ *Id.* at 3, 11.

fallen in CPI adjusted terms 8.8 percent since 2002.⁸ Spending on some social programs has fallen by 30 to 50 percent.⁹

The one economic indicator that has not fallen in Israel is the high cost of living—only slightly lower than in the United States. In 2003, according to the World Bank, one US dollar could buy \$1.20 worth of goods and services in Israel. In contrast, the same dollar would buy \$3.65 worth of goods and services in Russia, \$3.90 in Belarussia, and \$6.00 worth in Ukraine.¹⁰

3. Nazi Victims from North Africa and Arab Lands

Some have questioned Prof. DellaPergola's inclusion of the Jews of North Africa and the Middle East in his count of Nazi victims. We believe it entirely appropriate that Prof. DellaPergola's analysis be scrutinized and questioned, because accurate information on the demographics of Shoah survivors is critical to the determinations that the Court will make. But in that same spirit, it is equally true that the conclusions of earlier demographic studies should be scrutinized and questioned. Indeed, one of the benefits of the current proceedings is to shine light anew into some of the dark corners of history and to attempt to redress wrongs visited upon people too long ignored. We of course recognize that one consequence of Professor DellaPergola's analysis is that it supports the conclusion that more survivors live in Israel than previously recognized. But surely

⁸ *Id.* at 6.

⁹ *Id.* at 3; *see* Amigour, Request for Funding to Provide Sheltered Housing, Nursing Departments and Social Welfare Assistance to Needy Nazi Victims Living in Israel at p. 9 (submitted to the Court Jan., 2004).

¹⁰ Supplemental Report of Sergio DellaPergola.

that is not a reason to deny the conclusions of the analysis if they are in fact fair and based on historical fact.

In this regard, it is important to recognize that Prof. DellaPergola's original work, which included the demography of North African and Middle Eastern survivors, was commissioned *not* by Israel but by Lawrence Eagleberger on behalf of the ICHIEC Commission totally without regard to this proceeding. We welcome scrutiny of that analysis and believe it entirely appropriate that we be called upon to establish on a factual basis that the analysis is fair and reasonable.

The analysis shows that a significant number of victims suffered at the hands of Nazis and their collaborators in certain North African and Middle Eastern countries during World War II. In particular, the Jews of Morocco, Algeria, Tunisia, Libya, Syria and Lebanon suffered inferior legal status, looted property, forced labor, physical violence, and (in fewer cases relative to the European Jews) deportation to the concentration camps and death.

To be sure, for these Jews the Shoah started later and liberation came sooner than in central Europe. But they lost property, liberty, even life at the hands of Nazis and their collaborators. They fit the conventional definition of Nazi victim, as a person who

(1) was in a Nazi concentration camp, labor camp, or a ghetto; (2) lived in a place during the time it was under occupation by the Nazis **or their allies**; (3) **was in an evacuation**; or (4) lived at the time the war began in an area occupied by the Nazis **or their collaborators**.¹¹

¹¹ Hahn, *et al.* (Brandeis Report) at 23 (emphasis supplied).

It is well-documented, if not well known, that Nazi occupiers, collaborators, allies, and sympathizers targeted and persecuted Jews in North Africa and the Middle East. These included the Nazis themselves in Tunisia,¹² the collaborationist Vichy regime in Algeria, Morocco, Lebanon, and Syria,¹³ and the Italian colonial regime in Libya.¹⁴

The Jews in these lands were targeted by the Nazi regime itself. At the infamous Wannsee Conference, where the Nazis methodically planned the so-called "final solution," Jews in North Africa were counted and included under the category "France/unoccupied territory 700,000."¹⁵ Not only did the Nazis *plan* to murder Jews from North Africa, but as Professor Ward notes, deportation records from Drancy, France establish that Jews from North Africa and the Middle East were in fact deported to Auschwitz.

¹² During their occupation of Tunisia, to take one example, the Nazis justified a twenty million franc fine based on "international Jewry[']s" assistance to the Allied war effort. Laskier at 74.

¹³ See Laskier, Michael, *North African Jewry in the Twentieth Century*, (1994) at 60-61 (noting that with the establishment of the Vichy regime in 1940, "anti-Semitism became official policy in France and her possessions").

¹⁴ See Letter from Dr. Seth Ward, a historian and Director of the University of Denver's Institute for Islamic-Judaic Studies, submitted herewith and enclosing draft article entitled "The Holocaust in North Africa and the Sephardic World," slated for publication in the inaugural issue of the *International Sephardic Journal*.

¹⁵ See, e.g., Ward Letter, Jan. 20, 1942 (discussing Wannsee Protocol minutes). At the time of the Wannsee conference, France's Jewish community numbered approximately 300,000, while another 400,000 Jews lived in French North Africa. Abitbol at 7.

Jews in Nazi occupied Tunisia (November 1942 and May 1943) experienced the Nazi reign of terror first hand. When only 128 Jewish men assembled in response to the German army's call for 2,000 "volunteer" workers, an S.S. Colonel:

forced all the men to kneel and announced they were to be shot that day. He proceeded to the Great Synagogue, which he had soldiers surround. The Germans entered the temple and grabbed everyone there; a similar scene took place at the Alliance Israélite school, whose entire staff was arrested. At the same time, dozens of other Jews were arrested in adjacent neighborhoods. They were all marched by the German soldiers to the Cheylus camp about forty miles from Tunis. The group included a young cripple who fell from exhaustion during the march. A German soldier cold-bloodedly killed him with a shot of his rifle.

Abitbol, Michel, *The Jews of North Africa during the Second World War*, 124 (1989).

The S.S. colonel is reported to have exclaimed "traitors! cowards! Jew dogs! Pigs! . . . I have taken care of Jews in Poland and Russia. I'm going to show you how it is done!"

Id. quoting Borgel, R., *Etoile Jaune et Croix Gammée: Récit d'une Servitude*, 49 (1944).

The Germans also created a Committee for the Recruitment of Jewish Labor, similar to the infamous European Judenrats, which had the unenviable task of serving as the intermediary between the Tunisian Jewish community and their German persecutors.

The German army's persecution of Jews in Tunisia was not limited to forced labor. The German army also looted Jewish property and assessed monetary fines on the Jewish community:

- "At the time their retreat from Sousse was announced, the Gestapo officers...were still making urgent demands, backed by the usual threats, for jewelry for themselves and their families. They refused a first delivery as unsuitable but they kept it to ensure the

second delivery; when the latter was made, they kept everything.”¹⁶

- On February 13, 1943, which fell on the Jewish Sabbath, the Jews of Djerba were ordered to collect 100 pounds of gold within two hours. Because of the two hour deadline Jewish leaders, including the Grand Rabbi, “were forced to address themselves to poor families, the only ones who had remained in these towns, the better-off families having been able to spread out in the small properties they owned in the countryside. And thus, modest objects, laden with family memories and sentimental value, were turned over to the Germans. Their weight that day came to eighty-six pounds.”¹⁷
- During the German occupation, the Jews of Tunis provided 35,748,898.85 francs for “community expenses” of which 31,022,311.50 was allocated to maintain the labor force which was mandated by the Germans.¹⁸
- On March 27, 1943, Germans looted approximately 400,000 francs from Jewish bank accounts in Gabés.¹⁹
- To pay the “fines” imposed on them, Jews of Tunisia were forced to mortgage real estate and seek bank loans, thus, “the terror organized against the Jews had a significant financial aspect.”²⁰

The Vichy regime’s persecution of Jews predated the Wannsee Conference. For example, the Vichy regime’s October 7, 1940 abrogation of the Crémieux decree (granting French citizenship to Algerian Jews) resulted in the loss of French citizenship

¹⁶ Abitbol at 134 quoting *Rapport G. Ginhas*, 388-23 (firsthand accounts maintained by the *Centre de Documentation Juive Contemporaine* (Paris)).

¹⁷ Abitbol at 135 quoting *Restitution des amendes imposées aux collectivités juives – Communauté de Djerba* (*Centre de Documentation Juive Contemporaine* (Paris) at 388-19).

¹⁸ Laskier, Michael, *North African Jewry in the Twentieth Century*, 74 (1994).

¹⁹ Abitbol at 135.

²⁰ Laskier at 74.

for Algerian Jews.²¹ On October 11, 1940, the Vichy regime “suspended the Jews of the Department of Algeria” from obtaining the usual procedures for obtaining French citizenship based on past service in the French army.²² The so-called Vichy “Jewish Statutes”²³ were “the corner-stone of anti-Jewish legislation in the Maghreb.”²⁴ In order to facilitate enforcement of the Jewish Statutes, Algeria created a “Special Department for the Control of the Jewish Problem.”²⁵ The Vichy regime also required a Jewish census of Algeria, Morocco, and Tunisia, which ultimately facilitated the “Aryanization of Jewish property.”²⁶

Vichy’s “Jewish Statutes” specifically denied Jews “political mandates and positions, administrative positions other than the lowest ones, all diplomatic and consular positions, teaching (other than in Jewish schools), all colonial and military positions and employment in businesses of public interest and in those benefiting from concessions or subventions granted by public bodies.”²⁷ In addition, they barred Jews from numerous business professions, including, advertising, insurance, real estate, journalism, radio broadcasting and the film industry.²⁸ Jewish “businesses and other property had to be

²¹ Abitbol at 60.

²² *Id.*

²³ The October 3, 1940 Alibert law and June 2, 1941 Vallat law.

²⁴ Abitbol at 62.

²⁵ Abitbol at 68.

²⁶ Abitbol at 67.

²⁷ Abitbol at 64; *see also* Laskier at 78.

²⁸ Abitbol at 66.

either voluntarily transferred or liquidated” before December 15, 1941.²⁹ In fact, pursuant to a July 22, 1941 law, the governor-general of Algeria was authorized to assign a temporary trustee to any Jewish property in order “to eliminate all Jewish influence from the national economy.”³⁰ These debilitating economic laws were administered by the Office for Economic Aryanization.³¹

The Vichy regime also established forced labor and interment camps throughout Morocco and Algeria to detain Jewish refugees.³² The treatment of internees in these camps was described during the trial of certain camp staff in February 1944:

The internees were not treated as human beings.... The camp was literally starving; some would eat anything and because of this became seriously ill. Others died from this state of affairs. Despite their physical weakness, the men were assigned particularly strenuous work.... The guards, armed with cudgels, beat up the workers without any compunction, without any reason, just to hit....³³

One camp, Bedeau, served as a concentration camp for Algerian military personnel of Jewish origin. *Id.* at 99.

The Jews of Libya, too, experienced persecution at the hands of Italy, a Nazi ally. On May 30, 1942, the Italian governor of Libya promulgated a decree forbidding Jews from selling, leasing or purchasing property from Aryan Italians or Muslims. The decree was intended to “regulate the Jews’ manufacturing activities, business and the practice of

²⁹ Abitbol at 72.

³⁰ *Id.*

³¹ *Id.*

³² *Id.* at 90-101

³³ Abitbol at 98 (quoting Vanino, M., *Le Temps de la Honte, de Rhetondes á l’Ile d’Yeu.* (1952) at 307).

certain professions.”³⁴ Nearly 5,000 Libyan Jews were subjected to internment and even deportation to European camps.³⁵

* * * *

There can be little doubt that the Jews of these lands were targeted and persecuted by Nazis, Nazi allies, and Nazi collaborators. We respectfully submit that these Jews were “Victims or Targets of Nazi Persecution” within the meaning of the Settlement Agreement. The Settlement Agreement (at p. 8) defines a “Victim or Target of Nazi Persecution” as including “any individual...persecuted or targeted for persecution by the Nazi Regime because they were or were believed to be Jewish.” In turn, the Settlement Agreement (at pp. 5-6) defines Nazi Regime as:

[T]he National Socialist government of Germany from 1933 through 1945 and its instrumentalities, agents, and allies (including, without limitation, all other Axis countries), all occupied countries, and all other individuals or entities in any way affiliated or associated with, or acting for or on behalf or under the control or influence of, the Nazi Regime....

To be sure, the Settlement Agreement (Section 8.2(b)) also requires a link between status as a Nazi victim and the Swiss Releasees:

The Looted Assets Class consists of Victims or Targets of Nazi Persecution... who have or at any time have asserted, assert, or may in the future seek to assert Claims against any Releasee for relief of any kind whatsoever relating to or arising in any way from Looted Assets....

This link, however, remains unknowable for the great majority of class members—not just for victims from North African and Arab lands. Indeed, the possibly

³⁴ De Felice, Renzo, *Jews in an Arab Land: Libya, 1835-1970*, (1985) at 180.

³⁵ Ward Letter.

insurmountable challenges to proving causation have been apparent for all members of the Looted Assets Class. As the Special Master observed in his original Proposed Plan of Allocation,

[W]ith limited exceptions, the historical record on looting, which continues to be expanded by new research and by newly-accessible archives, still remains incomplete.... [O]n the one hand, recent investigations...confirm that a considerable amount of loot, particularly gold, eventually found its way to Switzerland. On the other hand, there is relatively little information concerning the source of this loot.... [E]ven with unlimited time and funds to conduct further research, it will never be possible to recreate what was stolen or to retrace its path through Europe.... [I]t may be presumed that all were looted but very few if any can prove that their property is linked to a Releasee.³⁶

Similarly, Lead Settlement Counsel observed that “there are literally hundreds of thousands of surviving Nazi ‘Victims or Targets’ and literally millions of heirs who may justly claim membership in the Looted Assets Class, but who cannot demonstrate that their property was taken by or transacted through a specific Swiss entity, knowingly or otherwise.... [I]t is impossible to determine with certainty the percentage of looted assets that passed through Swiss banks.”³⁷ In approving the distribution plan, the Second Circuit also highlighted the relative weakness, as a legal matter, of the claims of the Looted Asset Class: “the claims of the other four classes are based on novel and untested legal theories of liability, would have been very difficult to prove at trial, and will be very

³⁶ Special Master’s Proposed Plan of Allocation and Distribution of Settlement Proceeds at 22-23 (Sept. 11, 2000).

³⁷ Declaration of Lead Settlement Counsel in Support of the Special Master’s Proposed Plan of Allocation and Distribution of Settlement Proceeds at 11-12 (Nov. 20, 2000).

difficult to accurately value.”³⁸ A substantial legal weakness for this Class was ability to prove proximate causation.

To overcome difficulties of proof and administration, the Court has presumed that “virtually every individual who lived under or fled from Nazi occupation is a class member, since virtually every such person may be presumed to have been looted by the Nazis.” It would be fair and equitable for the Special Master and the Court to hold that Jews who lived in the North African and Middle Eastern countries under Nazi occupation or control are members of the Looted Assets Class, and that such victims, if needy, could apply for assistance from settlement funds being distributed under *cy pres* principles. In fact, many of these victims in Israel *are* needy, having themselves been double victims: first of the Nazis and their collaborators, later of the hostile post-colonial rulers who further persecuted these Jews on account of the Arab-Israeli conflict.

4. Remembrance as a Class Benefit

In light of the Court’s reference, in the March 9, 2004 Memorandum and Order to remembrance, we respectfully submit that it may be appropriate to allocate funds to remembrance as a means to allow survivors to record their history and to gain assurance that their stories will be told during their lifetimes and after. Such a use would benefit the entire class of survivors, many of whom have suffered grievously from psychological as well as physical harm. While these matters are developed in our submission of February 27, 2004, the case of the North African and Middle Eastern Jews suggests further that the full history of the reach of the Nazi reign of terror is yet to be fully documented and

³⁸ *In re Holocaust Victim Assets Litig.*, 14 Fed. Appx. at 135 (July 26, 2001).

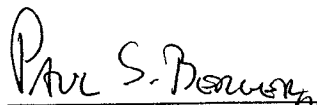
popularly appreciated. These survivors and their stories should not be forgotten.

CONCLUSION

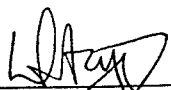
We respectfully request that the Court allocate an appropriate proportion of any remaining funds distributed to the Looted Assets Class to needy survivors in Israel. Professor DellaPergola's recommendation in this regard was 48%, and we urge the Court to adopt it. We also urge the Court to allocate funds to education and remembrance, and to approve the programs that Israel and WJRO have submitted, with WJRO serving as the conduit and providing an oversight and reporting function to the Court, for the reasons stated in our Memorandum of February 27, 2004.

Dated: March 24, 2004

Respectfully submitted,

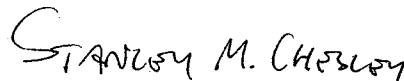


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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

IN RE HOLOCAUST VICTIM ASSETS
LITIGATION

Case No. CV 96-4849 (ERK)(MDG)

(Consolidated with CV 96-5161 and
CV 97-461)

THIS DOCUMENT RELATES TO ALL
CASES

Supplemental Supporting Materials from Experts

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SUPPLEMENTAL REPORT

FOR

UNITED STATES DISTRICT JUDGE EDWARD R. KORMAN

UNITED STATES DISTRICT COURT, EASTERN DISTRICT OF NEW YORK

CASE N. CV-96-4849 (ERK) (MDG) (CONSOLIDATED WITH CV-99-5161 AND CV-97-461)

BY

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Executive Summary

I was asked by counsel to provide relevant demographic information related to the Shoah survivor population vis à vis the Former Soviet Union (“FSU”), Israel, and the Mediterranean. I offer three main conclusions.

1. The Shoah survivor population in the FSU has been rapidly diminishing over time through death and migration. Over the past fifteen years, the primary destination of these FSU survivors, as well as FSU Jews in general, has been Israel. In 2002, people born in the FSU represented 18% of the total Jewish population and 48% of the total foreign born Jewish population, living in Israel. Because of the decades of pecuniary hardship that they have suffered, FSU survivors presently have significant socio-economic needs regardless of location.

2. During the last three years, Israel has suffered economic hardship on account of the combined causes of Palestinian terrorism, diminished tourism, the bursting of the high-tech bubble, lower foreign investments and increased defense spending. These strains on the Israeli national budget have prompted the government to cut spending on social programs significantly. These cutbacks have directly affected the already vulnerable elderly Shoah survivors who live in Israel.

3. The Jewish survivors from North Africa and Middle Eastern countries have long been left out of calculations of the worldwide Shoah survivor population. Jews in these countries suffered under a range of deprivations including, among others, loss of citizenship, loss of property, fines, forced labor, and the risk of deportation to European concentration camps. I have included these Shoah survivors in my overall calculations to correct the historic misperception that Jewish suffering during the Shoah only occurred in Europe proper.

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A. Basic Jewish Population Concepts

1. In discussing Jewish demographic trends, it is useful to have a common terminology. In general, three operative concepts should be considered in the study of Jewish demography: the core Jewish population, the enlarged Jewish population and those eligible under the Israeli Law of Return.
2. The *core Jewish population*¹ includes all those who, when asked, identify themselves as Jews; or, if the respondent is a different person in the same household, are identified by him/her as Jewish. This is an intentionally comprehensive and pragmatic approach reflecting the nature of most available sources of data on Jewish population. In countries other than Israel, such data often derive from population censuses or social surveys where the interviewees decide how to answer relevant questions on religious or ethnic preferences. Such definitions of a person as a Jew, reflect *subjective* feelings, and often exceed Halakhah (rabbinic law) or other definitions. They do *not* depend on any measure of that person's Jewish commitment or behavior—in terms of religiosity, beliefs, knowledge, communal affiliation, or otherwise. The *core* Jewish population includes all converts to Judaism by any procedure, as well other people who declare they are Jewish. Also included are persons of Jewish parentage who claim no current religious or ethnic belonging. (Persons of Jewish parentage who adopted another religion are excluded, as are other individuals who explicitly identify with a non-Jewish group.)
3. The *enlarged Jewish population*² includes the sum of (a) the *core* Jewish population; (b) all persons of Jewish parentage; and (c) all of their respective household members (spouses, children, etc.). This population includes: (a) persons who have themselves adopted another religion, even though they may claim still to be Jews by ethnicity or religion; and (b) other persons with Jewish parentage who disclaim being Jews. It is customary in sociodemographic surveys to consider the religio-ethnic identification of parents.

¹The term *core Jewish population* was initially suggested by Barry A. Kosmin, Sidney Goldstein, Joseph Waksberg, Nava Lerer, Ariela Keysar, and Jeffrey Scheckner, *Highlights of the CJF 1990 National Jewish Population Survey* (New York, 1991).

²The term *enlarged Jewish population* was initially suggested by Sergio DellaPergola, "The Italian Jewish Population Study: Demographic Characteristics and Trends," in U.O. Schmelz, P.Glikson, and S.J. Gould, eds., *Studies in Jewish Demography: Survey for 1969–1971* (Jerusalem-London, 1975), pp. 60–97.

4. The *Law of Return*, Israel's distinctive legal framework for the acceptance and absorption of new immigrants, awards Jewish new immigrants immediate citizenship and other civil rights. According to the current, amended version of the Law of Return, a Jew is any person born to a Jewish mother, or converted to Judaism (regardless of denomination—Orthodox, Conservative, or Reform), who does not have another religious identity. By ruling of Israel's Supreme Court, conversion from Judaism, as in the case of some ethnic Jews who currently identify with another religion, entails loss of eligibility for Law of Return purposes. The law per se does not affect a person's Jewish status, which, as noted, is adjudicated by Israel's Ministry of Interior and rabbinical authorities. The law extends its provisions to all current Jews, their children, and grandchildren, as well as to the respective Jewish or non-Jewish spouses. As a result of its three-generation and lateral extension, the Law of Return applies to a large population, one of significantly wider scope than *core* and *enlarged* Jewish populations defined above.³ It is actually quite difficult to estimate what the total size of the *Law of Return* population could be.

B. Jewish Population Trends in FSU

5. In recent years a significant amount of research has been devoted to Jewish population trends and Jewish population size in the Former Soviet Union ("FSU"). The scholarly community has documented a significant and ongoing decline in Jewish population size.⁴
6. In the FSU, rapid Jewish population decrease since the end of World War II has reflected an overwhelming negative balance of Jewish births and Jewish deaths, and large scale and continuing emigration. FSU Jews are a fast shrinking population. Table 1 provides the essentials of the demographic changes that occurred between 1989 and 2003.

³For a concise review of the rules of attribution of Jewish personal status in rabbinic and Israeli law, including reference to Jewish sects, isolated communities, and apostates, see Michael Corinaldi, "Jewish Identity," chap. 2 in his *Jewish Identity: The Case of Ethiopian Jewry* (Jerusalem, 1998).

⁴ See the global overview in S. DellaPergola, World Jewish Population 2003, *American Jewish Year Book*, 103, 2003, pp. 588-612. More in-depths analyses can be gathered from various works of Dr. Mark Tols, of last his "Demographic Trends among the Jews of the FSU", Paper presented at the *International Conference in Honor of Professor Mordechai Altshuler on Soviet and Post-Soviet Jewry*, Jerusalem, The Hebrew University, December 28-30, 2003, 30 pp. (publication forthcoming).

Table 1. Jewish Population^a in the FSU, by Country, 1989 and 2003, in Thousands

Country ^b	1989	2003	2003 as % of 1989
Total FSU	1,480^c	412	28
Russian Federation	570	252	44
Ukraine	487	95	20
Belarus	112	23	21
Latvia	23	9.2	40
Azerbaijan	41	7.5	18
Uzbekistan	95	5.5	6
Moldova	66	5.2	8
Kazakhstan	20	4.2	21
Georgia	25	3.7	15
Lithuania	12	3.5	29
Estonia	4.6	1.8	39
Kyrgyzstan	6.0	0.8	13
Turkmenistan	2.5	0.5	20
Tajikistan	15	0.1	1
Armenia	0.7	0.0	-

a At the beginning of the given year; including "Tats" in 1989.

b FSU countries are listed in the order of the number of Jews in 2003. Reflects "Core" Population. See paragraph 2 in this Report.

c Total for the FSU does not equal the sum for countries due to rounding.

Sources: 1989 Soviet census; recent Post-Soviet censuses; vital and migration statistics; and evaluation of the first partial results of the 2002 Russian census.

7. Among all FSU Republics, the Jewish populations in Russia, Latvia and Estonia were comparatively more resilient than in other republics. The total core Jewish population in Russia in 2003 equaled 44% of the number in 1989. In Tajikistan, Uzbekistan, and Moldova, less than 10% of the Jews counted in 1989 had remained in 2003.⁵
8. The Soviet Union's last official population census, carried out in January 1989, revealed a total of 550,700 Jews (plus about 20,000 Tats – a Jewish population concentrated in the Caucasus) in the Russian Republic. The figure confirmed the declining trend already apparent since the previous three censuses: 875,300 in 1959, 807,900 in 1970, and 700,650 in 1979 in Russia.
9. In 1996, at the initiative of the American Joint Distribution Committee, this author and his associates carried out a demographic projection of the Jewish population of the Russian

⁵ These differences are strongly correlated with differences in the levels of development and standards of living as well as security in the different republics. S. DellaPergola, U. Rebhun, M. Tolts, *Contemporary Jewish Diaspora in Global Context: Human Development Correlates of Population Trends*, *Israel Studies*, 2004, 32 pp. (forthcoming).

Republic.⁶ By the start of the projection period, in 1994, the Jewish population in Russia was estimated at 410,000. The yearly birth rate to Jewish mothers in Russia was fewer than 3 births per 1,000 Jews, and the death rate was such that deaths exceeded these births by 27 per 1,000 – or a natural decrease of 2.7% a year.⁷

10. Besides assuming some improvement in health standards and continuing very low Jewish fertility, we considered several assumptions concerning the expected volume of emigration. The assumption we considered as more likely in our projection included a strong decline in the rhythm of Jewish emigration from Russia. Based on such assumption we predicted a Jewish population of 242,500 in 2004.
11. The 2002 Russian census actually indicated a core Jewish population of 230-235,000, reflecting a great amount of coherence and continuity across Jewish population estimates since the 1950's.
12. At the beginning of 2004, our assessment of the total "core" Jewish population in the aggregate of the FSU was about 400,000, of which about 380,000 in Europe and about 20,000 in Asia. At least as many non-Jewish family members are integrated the respective households, thus doubling the number of people included in the "enlarged" Jewish population. The total population eligible for the Israeli Law of Return would be even higher, but it is not easy to quantify.
13. The size of Jewry in Russia was comparatively more stable and resilient than in the other Republics, partly as a consequence of Jewish migrations between the various republics, partly due to lower emigration propensities from Moscow and some of the other main urban areas.⁸ Nevertheless, a striking unbalance of Jewish births and deaths determined continuing population decline.
14. In the Ukraine, the location of the second largest concentration of Jews in the FSU, the demographic situation was similar. The population census undertaken on December 5, 2001 yielded 103,600 Jews, whereas we had projected 100,000 on January 1, 2002. It should be noted that our baseline for the latter estimate were the 486,300 Jews counted in

⁶ S. DellaPergola, M. Tolts, U. Rebhun, *World and Regional Jewish Population Projections: Russian Republic, 1994-2019 (Interim Report)*. The Hebrew University of Jerusalem, The A. Harman Institute of Contemporary Jewry, Division of Jewish Demography and Statistics, September 1996.

⁷ M. Tolts, The Interrelationship between Emigration and the Socio-Demographic Profile of Russian Jewry, in N. Lewin-Epstein, Y. Ro'i, P. Ritterband (eds.), *Russian Jews on Three Continents*, Frank Cass, London, 1996.

the previous census of January 1989 (not including a few "oriental" Jews).⁹ Taking into account the dramatic pace of emigration since 1989, the other major intervening changes among Ukraine's Jewry, and also the continuing emigration at the end of 2001, the census fully confirmed our previous assessment of ongoing demographic trends. Taking into account continuing emigration, we now assess the core Jewish population at just less than 95,000.

15. The preceding considerations aim at stressing the high degree of accuracy attained by the author and his working group in dealing with Jewish population estimates and projections in the FSU. The data presented also confirm the powerful direction of Jewish demography in the FSU.
16. A situation of high Jewish population increase has occurred in Israel, and to a secondary extent in Germany and in the U.S., fueled in part by the continuing inflow of Jewish immigrants from the FSU. The impact of international migration on Jewish population redistribution was striking.
17. Between 1990 and 2003 a total of 937,000 people emigrated from the FSU to Israel. Another 194,000 migrated between 1965 and 1989. The total between 1965 and 2003 thus was 1,131,000. These figures include non-Jewish immigrants (members of Jewish households), estimated at a total of about 250,000 in 2003.
18. In 2002 people born in the FSU represented 18% of the total Jewish population and 48% of the total foreign born Jewish population, living in Israel. People born in the FSU and their Israel-born children represented 22% of Israel's total Jewish population. These figures include the non-Jewish members of Jewish households.
19. These continuing trends mean a gradual depletion of the pool of Jewish population in the FSU and the transfer over the last 15 years of a majority of it to Israel and (to a lesser extent) to Western countries.

⁸Mark Tolts, Aliya from the Russian Federation: An Analysis of Recent Data, *Jews in Eastern Europe*, 1-2 (47-48), 2002, pp. 5-23.

⁹Ukraine Goskomstat, *Population Census 2001*, Kiev, 2002; Mark Tolts, *Main Demographic Trends of the Jews in Russia and the FSU*, Jerusalem, The Hebrew University, The A. Harman Institute of Contemporary Jewry, Division of Jewish Demography and Statistics, 2002.

C. Defining and Estimating Shoah Survivors

20. The question of defining and estimating Shoah survivors is one of the most crucial elements in legal and policy decision making. In this respect Judge Korman's Order states that "According to the most comprehensive demographic studies available there are between 832,000 and 960,000 Jewish survivors of Nazi persecution." The lower figure is taken from the low range figure of Ukeles (2000)¹⁰; the higher, from the high range figure in Spanic (1997).¹¹
21. Former US Secretary of State Lawrence S. Eagleburger, Chairman of ICHEIC, was unhappy with these – now rather dated – results. He therefore commissioned a new comprehensive study.¹² I led that study.
22. In our assessment of Shoah survivors for the ICHEIC Commission, we adopted the following criterion: "*All those Jewish persons who are alive today and who at least for a brief period of time were submitted in their locations to a regime of duress and/or limitation of their full civil rights in relation to their Jewish background – whether by a Nazi foreign occupying power or by a local authority associated with the Nazis' endeavor – or had to flee elsewhere in order to avoid falling under the aforementioned situations.*" Such a definition incorporates all Jews who actually suffered physical or other kinds of persecution, including looting, those who escaped from areas in which they were a designated target for persecution, and those who suffered any kind of other – even temporary or potential – limitation of personal freedom. This definition reflects the consensus among experts who have dealt with the question of Shoah survivors not to exclude individuals based on the degree of personal suffering that they actually experienced.
23. The Court's recent Order states that "The Brandeis Report"¹³ ...relied on prior surveys of the Nazi victim population in each region, and documented only one survey that deviated

¹⁰ E. Spanic, H. Factor, V. Strominski, *Shoah Survivors and Their Number Today*, 4 p., 1997 (Hebrew).

¹¹ J. Ukeles (consultant), *A Plan for Allocating Successor Organization Resources*, Report of the Planning Committee, Conference on Jewish Material Claims Against Germany, 88 p., 2000 (see also: <http://www.claimscon.org>).

¹² S. DellaPergola, *Review of Relevant Demographic Information on World Jewry*. Jerusalem, November 2003.

¹³ A. Hahn, S. Hecht, T. Leavitt, L. Saxe, E. Tighe with A. Sales, *Jewish Elderly Nazi Victims: A Synthesis of Comparative Information on Hardship and Need in the United States, Israel, and the Former Soviet Union – Report*

from the figures provided above – a survey that used a different definition of ‘survivor’...” Overall, the whole pool of “prior surveys” consisted of three items: the already mentioned reports by Ukeles (2000) and Spanic (1997), which Sec. Eagleburger was dissatisfied with, and another more recent one by the same Ukeles (2003).¹⁴

24. As a basis for their estimates, both Spanic and Ukeles heavily relied on previous demographic work by the present author (see quotations in their respective footnotes). We, on our side, continuously updated our own Jewish population estimates. The latter Ukeles report used our 2002 data.
25. As already noted, Jewish population data in our work for the ICHEIC and thereafter relies on a heavy amount of systematic documentation and professional considerations within the discipline of demography and population studies. Consequently, our figures have often been lower than those of other authors.
26. With respect, it is not accurate to say that the ICHEIC survey used a different definition of “survivor.” We adopted the same or a very similar concept of “survivor” as in other reports, but we extended the relevant geographical framework to extra-European countries that were subject to Nazi or Nazi-collaborationist regimes. This is the main reason for our higher overall estimates of survivors.
27. A further minor reason for different estimates of Shoah survivors is that, contrary to other reports, we relied on the most systematic possible survey of Jewish population data broken down by countries and localities of residence, years of birth, years of migration (where applicable). We thus covered population groups ignored by other authors.
28. There can be little doubt about the inclusion among the victims of Shoah of the Jews who at the time lived in countries submitted to colonial or mandatory rule of hostile pro-Nazi or Nazi directed powers such as France and Italy. Although the period of discrimination and duress was shorter than in some European countries, the documentation of the inferior legal status imposed upon Jews in selected North African and Middle Eastern countries is overwhelming (see a few examples in the Appendix). This concerns in particular the main issue of looted property, non-restitution of looted property, forced exclusion from

prepared for the Joint Distribution Committee, Waltham, Massachusetts, Brandeis University, Maurice and Marilyn Cohen Center for Modern Jewish Studies, The Heller School for Social Policy and Management, 2004, 52 pp.

¹⁴ Ukeles Associates Inc., *An Estimate of the Current Distribution of Jewish Victims of Nazi Persecution*, Prepared for the International Commission on Holocaust Era Insurance Claims, 2003.

the labor force, physical violence, and slave labor, rather than cases of death.¹⁵

29. By incorporating the Jews of Morocco, Algeria, Tunisia, Libya, Syria and Lebanon among the pool of survivors, we corrected a serious and long overdue conceptual mistake in the previous literature. The fact Jews from this region could simply have been forgotten indicates a severe oversight.
30. It should be stressed that after having suffered duress and looting during World War II, Jews in Moslem countries experienced the overwhelming shock of being the indirect victims of the Arab-Israel conflict. In the context of the latter, they again underwent victimization, spoliation of property, exclusion from economic life, and emigration under great pressure.
31. While admittedly the main factor of pauperization of these Jewish communities was related to events in the post-World War II period, many Jews in North Africa and the East Mediterranean nonetheless became the bearers of a double status: Shoah survivor *and* needy.
32. This condition of *double victim* among Mediterranean Jews is conceptually identical to that of Jews in the FSU who had to undergo both Shoah and the difficulties of Soviet regime and its demise.
33. This inclusion obviously should affect the total number and global geographical distribution of Shoah survivors. The effects are felt primarily in Israel and in France, where there exist large Jewish populations immigrated from the relevant Mediterranean countries.

D. Identifying the Survivors: the Case of the FSU

34. There exists consensus among researchers that not all FSU Jews were submitted to Nazi occupation or are otherwise eligible for consideration as Shoah survivors.¹⁶ This is indeed reflected in the Hesed data, by which 60% of the total needy elderly Jews are treated as

¹⁵ For documentation on legal, physical and economic persecutions directly suffered by Jews in North Africa, Syria and Lebanon, see M.R. Marrus, R.O. Paxton, *Vichy France and the Jews*, New York, Basic Books, 1981, 432 pp.; M. Abitbol, *The Jews of North Africa During the Second World War*, Detroit, Wayne University Press, 1989. For the persecution of Jews in Libya, see R. De Felice, *Jews in an Arab Country: Libya, 1835-1970*, Austin, University of Texas Press, 1985, 406 pp.

survivors.

35. In our own estimates of the number of survivors,¹⁷ we estimated the total pool of elderly at 217,000, of which 146,300 Shoah survivors. We therefore estimated a slightly lower number of elderly than Hesed, a slightly higher number of eligible, based on a slightly higher eligibility rate in the FSU of about 67%. We call attention to the great similarity that exists between our and the Hesed estimates of Jewish Shoah survivors in the FSU.

E. Spread of Jewish Needy Survivors in Other Countries

36. If a person has experienced deprivation for many years or decades in a less developed country, such as the FSU, the very passage to a more developed society, such as the US or Israel will not instantly wipe off that neediness. Some if not all aspects of that accumulated neediness are bound persist for a while after migration. In other words, international migration acts to some extent as a powerful mechanism for the transfer of neediness, not its instant suppression.
37. Early absorption in a new country is a further factor enhancing, not reducing neediness. Countries with a high number of recent immigrants must manage a greater share of the total neediness accumulated within the original pool of prospective migrants.
38. The data in Table 2 illustrate the amount of international emigration from the FSU, and the predominant role of Israel as a country of destination. Taking into account an “enlarged” Jewish population definition, between 1989 and 2003 over 1.5 million persons left the FSU. Of these, 952,000 (61%) went to Israel.

¹⁶ The standard piece of research is M. Altshuler, *Soviet Jewry on the Eve of the Holocaust: A Social and Demographic Profile*, Jerusalem, the Hebrew University and Yad Vashem, 1998.

¹⁷ See DellaPergola, *Review of Relevant Demographic Information on World Jewry*, cit.

Table 2. Emigration of Jews and Their Non-Jewish Relatives (Enlarged Jewish Population) from the FSU, 1989-2003, in Thousands

Year	Total	Thereof: to Israel	Percent of total to Israel
1989-2003	1,558	952^a	61
1989	72	12.9	18
1990	205	185.2	90
1991	195	147.8	76
1992	123	65.1	53
1993	127	66.1	52
1994	116	68.1	59
1995	114	64.8	57
1996	106	59.0	56
1997	99	54.6	55
1998	83	46.0	55
1999	99	66.8	67
2000	79	50.8	64
2001	60	33.6	56
2002	45	18.5	41
2003	35	12.4	35

a Minor discrepancies due to rounding. Sources: Estimates based on the statistics of the countries of destination (Israel CBS; HIAS, 2003; Tress, 1998; Dietz, 2002; Tolts, 2003a).

39. As a consequence of these overwhelming population transfers, whereas in the past the Jews born and raised in the FSU lived primarily in the FSU, today they are greatly spread all over the world. This is true not only of FSU-born Jews at large, but also of those among them who survived the Shoah period. Out of an estimated total of over 1.4 million Jews born in the FSU (according to the “core” Jewish population definition), in 2003 413,000 still lived in the FSU (28.7%). The number living in Israel was significantly larger and reached 700,000 (48.6%) of the world total of FSU-born Jews. Another 207,000 (14.4%) lived in the U.S., and an estimated 120,000 (8.3%) lived in other countries – primarily in Germany.
40. In other words, a global “diaspora” of FSU Jews has developed especially since 1989 building on the foundations of earlier waves of emigration. The single largest component of this global configuration of FSU Jews is currently located in Israel.

Table 3. Jews Born in the FSU – Estimated Core Jewish Population, Jewish Shoah Survivors, 2003

Country of residence, 2003	Jewish population		Jewish Shoah survivors ¹⁸	
	Number	%	Number	%
	(a)	(b)	(c)	(d)
Total FSU origin	1,440,000	100.0	445,000	100.0
FSU	413,000	28.7	146,000	32.8
Israel	700,000	48.6	180,000	40.5
United States	207,000	14.4	91,000	20.4
Other countries	120,000	8.3	28,000	6.3

41. The world total of FSU-born Jewish Shoah survivors is estimated at 445,000. Of these, in 2003 just below one third (32.8%) lived in the FSU, over 40% lived in Israel, over 20% lived in the U.S., and the rest lived in other countries – primarily Germany.

F. The Case of Israel

42. Since its independence, Israeli society has been able to greatly develop its economy and institutions in spite of a continuing military conflict which exacted a heavy price both in terms of human lives and economic investment.
43. In conformity with a society that was able to absorb a very large amount of heterogeneous immigration, Israel is characterized by significant and persisting amounts of internal social inequality. This translates, on the one hand, into perceived stress among the population; on the other hand, the need of very large social investments on the part of the government.
44. During the 1990s the Israeli economy experienced a streak of several favorable years, reaching the 22nd place in a rank of about 190 countries worldwide. Since September 2000, the worsened security situation entailed a significant decline in the economy. Nearly unique among developed countries, in 2001, 2002, 2003 Israel underwent three consecutive years of declining average income per capita.
45. Over the last three years, Palestinian terrorism along with the global slowdown, negatively affected the Israeli economy and in particular its important tourism activities

and its highly successful high-tech sector. All those caused an increase in defense expenditure and a decrease in tax revenues that led to high budgetary deficits. At the same time, the large public debt, the desire to maintain price stability and fear of a financial crisis are tying the hands of monetary and fiscal policy. Hence, the government has implemented painful budget cuts that have primarily affected social programs.¹⁹ This enhanced problems with food insecurity, housing, and health especially among the elderly.²⁰

46. Contrary to widespread perceptions, Israeli and German pensions do not solve the problem of neediness. There are annually 1,800 needy Shoah survivors on the waiting list for nursing home placement, and another 10,900 in need for health support.
47. In 2002, about 1.2 million people in Israel lived below the monthly poverty line of NIS1,743 (approximately US\$390) for a single elderly person.
48. In 2002 there were in Israel about 125,000 elderly Jews born in Morocco, Algeria, Tunisia, Libya, Syria and Lebanon. Jews born in Asia and Africa tended to be somewhat more concentrated in the lower income strata than Jews born in Europe and America.

G. Final Observations and Conclusions

49. First, a brief remark on methodology is in order. In spite of the many efforts invested so far, quality of the assessment of the whole problem of Shoah survivors, their needs, and compensation is still very unsatisfactory. Most of the attempts to develop a key for resource allocation suffer of a lack or even absence of crucial data needed for objective evaluation. For example, the tendency to create a rough geographical key for global funds allocation usually suffers from a narrow focusing on one or two variables. The concepts of both survivorship and neediness have usually not been developed to take into account the multiple dimensions that pertain to each status. Most current attempts fall short of the much more sophisticated models that could and should be developed. These should consider the multi-status nature of a population of survivors which is not static but rather

¹⁸ The data and estimates reported in Table 3, unless otherwise stated, rely on our research on Shoah survivors. S. DellaPergola, *Review...*, cit, 2003; S. DellaPergola, *Neediness...*, cit., 2004.

¹⁹ State of Israel, Ministry of Finance, Economics and Research Department, *The Israeli Economy: Three Years of Recession Caused by Palestinian Terrorism and Other External Shocks*, Jerusalem, March 2004.

is exposed to continuous, significant variation and changes in its age-specific life expectancy, country of residence, and socioeconomic resources and neediness. Under the impact of these factors, the target for projected allocation of funds and provision of services tends to change constantly. Allocation should ideally take into account the number of years per person per status expected among members in a given collective, and the variable needs and real costs associated to each person at each stage in each place. The plausible future directions of such variation should be incorporated in sensitive decision making.

50. Decision making should be based on a systematic set of criteria relevant to provide equitable judgment in the allocation of funds. In a sense, this approach runs against the natural pathos that tends to dominate a case of this sort. Indeed, sometimes, the informing principle of discourse seems to be emotional considerations – which are perfectly justifiable given the laden nature of the issues at stake – rather than cold and systematic evaluation. This is precisely what prompted me in my report on *Neediness* to develop a set of more neutral principles, not subject to manipulation, truly comparable across all countries worldwide. These principles take into account precisely the concerns that are central to the Court's Order: the Shoah survivors' poverty, accumulated poor health and inadequate health care received, and depleted family networks. To these crucially important variables I added further important elements such as migration stress, income inequality, gender discrimination, and other measures which seem to be central to overall evaluation.
51. The question of the highly variable purchase power of the US Dollar in different countries – usually referred to as Purchase Power Parity (PPP) – has been scarcely considered, if at all, in the ongoing process. Differences can be quite striking. In 2003, according to the World Bank, one US\$ purchased goods and services equal to \$6.0 in Ukraine, \$3.9 in Belarus, \$3.65 in Russia, \$3.4 in Moldavia, but only \$1.2 in Israel (and of course \$1.0 in the U.S.).²¹ Good, efficient and parsimonious administration of public funds requires that attention is given to optimal use of resources, and allocation decisions are weighted accordingly.

²⁰ A. Berg-Warman, J. Brodsky, *The Effect of Financial Hardship on the Living Conditions of the Elderly*. Jerusalem, JDC-Brookdale Institute of Gerontology and Human Development, 2004.

²¹ See World Bank, <http://www.worldbank.org/data/databytopic/GNIPC.pdf>

52. Finally, needless to say, the role of researchers is merely to help developing the analytical ground and documentation for legal decision making. In the present case, we believe it was our commitment and duty to present the most currently available relevant data to respectfully assist the Court in making its future determinations.

LOI du 3 juin 1941 complétant la loi du 3 octobre 1940 portant statut des Juifs

Nous, Maréchal de France, chef de l'Etat français, Le conseil des ministres entendu,

Décretions.

Art. 1^{er}. — Est regardé comme Juif :

1^o Celui ou celle, appartenant ou non à une confession quelconque, qui est issu d'un père ou d'une mère de race juive, ou de deux ascendants à son conjoint est lui-même issu de deux pseudo-pères de race juive.

Est regardé comme étant de race juive le grand-père ayant appartenu à la religion juive;

2^o Celui ou celle qui appartient à la religion juive, ou y appartenait le 31 mars 1940, et qui est issu de deux grands-pères de race juive.

La non-appartenance à la religion juive est établie par la preuve de l'adhésion à l'une des autres confessions reconnues par l'Etat avant la loi du 9 décembre 1904. Le dévouement ou l'annulation de la reconnaissance d'un enfant considéré comme juif sont sans effet au regard des dispositions qui précèdent.

Art. 2. — L'exercice des fonctions publiques et mandats énumérés ci-après sont interdits aux Juifs :

1. Chef de l'Etat, membres du Gouvernement, du conseil d'Etat, du conseil de l'ordre national de la Légion d'honneur, de la cour de cassation, de la cour des comptes, du corps des mines, du corps des ponts et chaussées, de l'inspection générale des finances, du corps des ingénieurs de l'économique, des cours d'appel, des tribunaux de première instance, des justices de paix, des tribunaux répressifs d'Algérie, de tous juries, de toutes juridictions d'ordre professionnel et de toutes assemblées locales de l'élection, arbitres.

2. Ambassadeurs de France, secrétaires généraux des départements ministériels, directeurs généraux, directeurs des administrations centrales des ministères, agents relevant du département des affaires étrangères, préfets, sous-préfets, secrétaires généraux des préfectures, inspecteurs généraux des services administratifs au ministère de l'intérieur, fonctionnaires de tous grades attachés à tous services de police.

3. Résidents généraux, gouverneurs généraux, gouverneurs et secrétaires généraux de colonies, inspecteurs des colonies.

4. Membres des corps enseignants.

5. Officiers et sous-officiers des armées de terre, de mer et de l'air, membres des corps de contrôle de la guerre, de la marine et de l'air, membres des corps et cadres actifs des départements de la guerre, de la marine et de l'air, créés par les lois des 25 août 1940, du 15 septembre 1940, du 28 août 1940, du 18 septembre 1940 et du 29 août 1940.

6. Administrateurs, directeurs, secrétaires généraux dans les entreprises publiques, chefs de concessions ou de subventions accordées par une collectivité publique, chefs de postes à la nomination du Gouvernement dans les entreprises d'intérêt général.

Art. 3. ... Les Juifs ne peuvent occuper, dans les administrations publiques et les entreprises bénéficiaires de concessions ou de subventions accordées par une collectivité publique, des fonctions ou des emplois autres que ceux énumérés à l'article 2, que s'ils remplissent l'une des conditions suivantes :

a) Etre titulaire de la carte du combattant, inscrite par l'article 161 de la loi du

b) Avoir été l'objet, au cours de la campagne 1939-1940, d'une citation d'armes ou d'un acte de la Croix de guerre institués par le décret du 28 mars 1941;

c) Etre décoré de la Légion d'honneur ou de la médaille pour faits de guerre;

d) Etre pupille de la nation ou descendant, veuve ou orphelin de militaire mort pour la France.

Art. 4. — Les Juifs ne peuvent exercer une profession libérale, une profession commerciale, industrielle ou artisanale, ou une profession libre, être titulaires d'une charge d'officier public ou ministériel, ou être investis de fonctions dévolues à des magistrats de justice, que dans les limites et les conditions qui seront fixées par décret en conseil d'Etat.

Art. 5. — Sont interdites aux Juifs les professions ci-après :

Banquier, changeur, démissionnaire;

Intermédiaire dans les bourses de valeurs ou dans les bourses de commerce;

Agent de publicité;

Agent immobilier ou de prêts de capitaux;

Négociant de fonds de commerce, marchand de biens;

Courtier, commissionnaire;

Exploitant de forêts;

Concessionnaire de jeux;

Bâtimeur, directeur, gérant, administrateur, rédacteur, même au titre de correspondant local, de journaux ou d'échos périodiques, à l'exception des publications de caractère strictement scientifique ou confessionnel;

Exploitant, directeur, administrateur, gérant d'entreprises ayant pour objet la fabrication, l'impression, la distribution ou la présentation de films cinématographiques, monteur en scène, directeur de prises de vues, compositeur de scénarios;

Exploitant, directeur, administrateur, gérant de salles de théâtre ou de cinématographique;

Entrepreneur de spectacles;

Exploitant, directeur, administrateur, gérant de toutes entreprises se rapportant à la radiodiffusion.

Des règlements d'administration publique fixeront pour chaque catégorie les conditions d'application du présent article.

Art. 6. — En aucun cas, les Juifs ne peuvent faire partie des régiments chargés de représenter les professions visées aux articles 4 et 5 de la présente loi ou d'en assurer la discipline.

Art. 7. — Les fonctionnaires Juifs visés aux articles 2 et 3 sont admis à faire valoir les droits déduits ci-après :

1^o Les fonctionnaires soumis au régime de la loi du 14 avril 1924 recevront une pension d'ancienneté avec liquidation immédiate s'ils réunissent le nombre d'années de service exigé pour l'ouverture du droit à cette pension.

Si, sans remplir ces conditions, ils ont accompli au moins quinze années de services effectifs, ils bénéficieront avec liquidation immédiate d'une pension calculée à raison, soit d'un trentième du minimum de la pension d'ancienneté pour chaque année de services de la catégorie A, soit d'un vingt-cinquième pour chaque année de services de la catégorie B ou de services antérieurs. Le montant de cette pension ne pourra excéder le minimum de la pension d'ancienneté augmenté, le cas échéant, de la rémunération des bonifications pour services lurs d'Europe et des bénéfices de campagne;

2^o Les fonctionnaires soumis au régime de la caisse nationale des retraites pour la vieillesse bénéficieront, s'ils comptent au moins quinze ans de services effectifs, la jouissance immédiate d'une allocation annuelle égale au montant de la rente versée.

tion cessera de leur être attribuée à compter de la date d'entrée en jouissance de leur rente sur la caisse nationale des retraites;

3° Les fonctionnaires des départements, communes ou établissements publics qui possèdent une cote spéciale de retraites bénéficiaires, avec jouissance immédiate, de la pension d'ancienneté ou de la pension proportionnelle fixée par leur règlement de retraites, s'ils remplissent les conditions de durée de services exigées pour l'ouverture du droit à l'une de ces pensions;

4° Les agents soumis au régime de la loi sur les assurances sociales et comptant au moins quinze années de services effectifs reconnus, de la collectivité ou établissement dans ils dépendent, une allocation annuelle égale à la fraction de la rente vicieuse concédée par le versement de la double contribution durant toute la période où ils sont restés en service. Cette allocation cessera de leur être attribuée à compter de la date d'entrée en jouissance de ladite rente;

5° Les fonctionnaires tributaires de la caisse intercommunale de retraites ou des caisses locales, et comptant au moins quinze années de services effectifs, bénéficiaires d'une pension dans les conditions qui seront déterminées par un règlement d'administration publique;

6° Les fonctionnaires et agents ne remplissant pas les conditions requises pour pouvoir bénéficier des pensions et allocations ci-dessus recevront leur traitement pendant une durée qui sera fixée par un règlement d'administration publique;

7° La situation des ouvriers des établissements militaires et industriels de l'Etat sera réglée par une loi spéciale.

Les fonctionnaires ou agents juifs visés par les articles 2 et 3 de la loi du 3 octobre 1940 sont considérés comme ayant cessé leurs fonctions à la date du 30 décembre 1940.

Les fonctionnaires ou agents qui sont atteints par les nouvelles interdictions édictées par la présente loi cesseront leurs fonctions dans le délai de deux mois après la publication de celle-ci.

L'application des dispositions de la présente loi aux prisonniers de guerre est différée jusqu'à leur retour de captivité.

Les fonctionnaires ou agents juifs visés aux articles 2 et 3 et actuellement prisonniers de guerre cesseront d'exercer leurs fonctions deux mois après leur retour de captivité.

Les dispositions de la présente loi ne seront applicables aux ascendants, conjoints ou descendants d'un prisonnier de guerre que dans un délai de deux mois après la libération de ce prisonnier.

En ce qui concerne les personnels en service outre-mer, un décret rendu sur la proposition des secrétaires d'Etat intéressés déterminera les conditions de la cessation de leurs fonctions.

Art. 8. — Peuvent être relevés des interdictions prévues par la présente loi, les juifs :

1° Qui ont rendu à l'Etat français des services exceptionnels;

2° Dont la famille est établie en France depuis au moins cinq générations et d'étudiants à l'Etat français des services exceptionnels.

Pour les interdictions prévues par l'article 2, la décision est prise par décret individuel pris en conseil d'Etat sur rapport du commissaire général aux questions juives et transmis par le secrétaire d'Etat intéressé.

Pour les autres interdictions, la décision est prise par arrêté du commissaire général aux questions juives.

Le décret ou l'arrêté doivent être dûment motivés.

Les dérogations accordées en vertu des dispositions qui précèdent n'ont qu'un caractère personnel et ne créent aucun droit en faveur des bénéficiaires, des ascendants, conjoints et collatéraux des bénéficiaires.

dans un camp spécial, même si l'intéressé est Français, est puni :

1° D'un emprisonnement de six mois à deux ans et d'une amende de 500 F à 10 000 F, ou de l'une de ces deux peines seulement, tout juif qui s'est livré ou a tenté de se livrer à une activité qui lui est interdite par application des articles 4, 5 et 6 de la présente loi;

2° D'un emprisonnement de un an à cinq ans et d'une amende de 1 000 F à 20 000 F, ou de l'une de ces deux peines seulement, tout juif qui se sera soustrait ou aura tenté de se soustraire aux interdictions édictées par la présente loi, au moyen de déclarations mensongères ou de manœuvres frauduleuses.

Le tribunal peut, en outre, ordonner la fermeture de l'établissement.

Art. 10. — Les fonctionnaires ayant cessé leurs fonctions par application de la loi du 3 octobre 1940 et qui peuvent se prévaloir des dispositions de la présente loi, sont admis à solliciter leur réintégration dans des conditions qui seront fixées par décret en conseil d'Etat.

Art. 11. — La présente loi est applicable à l'Algérie, aux colonies, pays de protectorat, en Syrie et au Liban.

Art. 12. — La loi du 3 octobre 1940, modifiée par les lois du 3 avril et du 11 avril 1941, est abrogée; les règlements et les décrets pris pour son application sont maintenus en vigueur jusqu'à ce qu'ils soient modifiés s'il y a lieu par des règlements et des décrets nouveaux.

Art. 13. — Le présent décret sera publié au *Journal officiel* et exécuté comme loi de l'Etat.

Fait à Vichy, le 2 juin 1941.

Par le Maréchal de France, chef de l'Etat Français;

*L'amiral de la flotte, vice-président
du conseil, ministre
secrétaire d'Etat aux affaires étrangères,
d'intérieur et de la marine,*

A. DRELAN,

*Le garde des sceaux,
ministre secrétaire d'Etat de la justice,*

Joseph BARTHÉLEMY,

*Le ministre secrétaire d'Etat
de l'économie nationale et aux finances,*

YVES BOUTHELLIER,

*Le général d'armée,
ministre secrétaire d'Etat de la guerre,*

G. HUNTZIGER,

*Le ministre secrétaire d'Etat
à l'agriculture*

PIERRE CAZOT,

Translation from the original French.

**Law of June 2, 1941 Replacing Law of October 3, 1940
Concerning the Status of Jews**

We, the Marshall of France, head of the French State, with the consent of the Council of Ministers, decree:

Article 1. The following shall be considered to be Jewish:

- (1) Any person, whether or not a member of a congregation, having at least 3 grandparents of the Jewish race, or 2 if said person's spouse has 2 grandparents of Jewish race. A grandparent shall be treated as being of the Jewish race, if he or she was a member of the Jewish faith.
- (2) Any person belonging to the Jewish faith, or did so on June 25, 1940, and having 2 grandparents of the Jewish race.
- (3) Non-membership in the Jewish faith shall be established by proof of membership in another faith recognized by the State before the law of December 9, 19__.

The disavowal or annulment of recognition of a child considered to be a Jew shall have no effect on the preceding provisions.

Article 2.

Access to, and exercise of, the public functions and offices enumerated below are prohibited to Jews:

- (1) Chief of State, member of the government, of the Council of State, of the Council of the National Order of the Legion of Honor, of the Supreme Court, of the Court of Accounts, of the Mining Corps, of the Bridge and Street Corps, of the Inspector General of Finance, of the Corps of Engineers and Aeronautics, of the Appellate Courts, of the Courts of First Instance, Justice of the Peace, member of the Algerian Tribunals of Repression, all juries, all professional competences and all elected assemblies, and arbiters.
- (2) Ambassadors of France, General Secretaries of Ministerial Departments, General Directors, Directors of Central Administration of Ministries, agencies relating to foreign affairs, prefects and sub-prefects, General Secretaries of Prefectures, Inspectors General of Administrative Services at the Ministry of the Interior, functionaries of all grades attached to all police services.
- (3) General residents, general governors, general colonial governors and secretaries, inspectors of colonies.
- (4) Members of the Teaching Corps.

- (5) Officers and sub-officers of the land, sea and air armies, members of the Controlling Corps of War, Marine and Air, members of the civil branches of the Departments of War, Marine and Air, created by the laws of August 25, 1940, September 15, 1940, August 28, 1940, September 18, 1940 and August 29, 1940.
- (6) Administrators, directors, general secretaries in enterprises enjoying concessions or subsidies granted by a public collective, holders of posts nominated by the government in enterprises of general interest.

Article 3.

Jews may occupy functions other than those enumerated in Article 2 in public administrations and enterprises enjoying concessions or subsidies by a public collective only if they satisfy one of the following conditions:

- (a) Holding a combatants card, instituted by Article 101 of the Law of [illegible].
- (b) Having received in the course of the 1939-1940 campaign a citation giving right to wear the Cross of War instituted by the Decree of March 28, 1941;
- (c) Having been decorated by the Legion of Honor or the Medal for Acts of War;
- (d) Being a ward of the State or an ancestor, widow or orphan of a deceased serviceman who died for France.

Article 4.

Jews may not exercise a liberal profession, a commercial, industrial or artisanal profession, or a free profession nor hold public or ministerial office, or be invested with the functions devolved upon auxiliaries of justice, except to the extent and with the conditions that shall be fixed by decrees of the Council of State.

Article 5.

The following occupations are forbidden to Jews:

- Banker, money changer, canvasser;
- Intermediary in the stock or commercial markets;
- Publicity agent;
- Real estate agent or agent for capital loans;
- Business trader, goods merchant;
- Broker, commissioner;
- Forester;
- Games concessionnaire;

- Publisher, director, manager, administrator, editor, whether or not as local correspondent, of newspapers or periodicals, except for publications of a strictly scientific or religious character;
- Licensee, director, administrator, manager of enterprises having as their purpose the manufacture, printing, distribution or presentation of cinematographic films, producer, director, screenwriter;
- Licensee, director, administrator, manager of theaters or movie theaters;
- Impresario;
- Licensee, director, administrator, manager of all enterprises relating to radio broadcasting.

Public administration regulations shall fix for each category the conditions under which this Article shall apply.

Article 6.

In no case may the Jews belong to the organizations charged to represent the professions described in Articles 4 and 5 of the present law or to ensure discipline within those professions.

Article 7.

Jewish functionaries described in Article 2 and 3 shall have the following rights:

1. Functionaries subject to the regime set out in the law of April 14, 1924 shall receive an old age pension with immediate vesting if they have earned the number of years of service required to become eligible for that pension.

If, in default of having satisfied the foregoing condition, they have earned at least 15 years of effective service, they shall be entitled to immediate vesting of a pension calculated at either 1/30th of the minimum old age pension for each year of service in Category A or 1/25th for each year of service for Category B or for military service. The amount of this pension may not exceed the minimum old age pension increased if applicable by bonus remuneration for service outside of Europe and compensation for war campaigns;

2. Functionaries subject to the regime of the National Fund for Old Age Retirement shall obtain, if they have earned at least 15 years of effective service, the immediate vesting of an annual allocation equal to the amount of the pension [illegible];
3. Functionaries of the departments, the communes or public establishments having a special retirement fund shall be entitled with immediate vesting to the old age pension or the proportional pension fixed by their retirement regulations, if they have fulfilled the conditions of years of service required for eligibility for one of these pensions;
4. Agents subject to the regime of the law on social insurance and having earned at least 15 years of effective service shall receive, from the collective or the

establishment to which they belong, an annual allocation equal to the fraction of the old age pension obtainable by the crediting of a double contribution throughout their entire period of service. This allocation shall cease to be attributed to them from the date on which said pension becomes vested;

5. Functionaries contributing to the intercolonial retirement fund or the local funds, and having earned at least 15 years of effective service, shall be entitled to a pension subject to the conditions which shall be determined by a public administration regulation;
6. Functionaries and agents who have not satisfied the conditions required to benefit from the pensions and allocations described above will receive their pay for a period of time which shall be determined by a public administration regulation;
7. The situation of workers in military and industrial establishments of the State will be subject to a special law.

Jewish functionaries or agents described in Articles 2 and 3 of the law of October 3, 1940 shall be considered to have ceased their functions as of December 20, 1940.

Functionaries or agents who are subject to the new prohibitions set out by the present law will cease their functions within 2 months after the publication of this law.

The application of the provisions of the present law to prisoners of war is deferred until their return from captivity.

Jewish functionaries or agents described in Articles 2 and 3 and currently prisoners of war shall cease to carry out their functions 2 months after their return from captivity.

The provisions of the present law shall not apply to the ancestors, spouses or descendants of a prisoner of war until the expiration of 2 months after the liberation of that prisoner.

Concerning personnel in service overseas, a decree issued upon application of the relevant secretaries of state will determine the conditions of their cessation of functions.

Article 8.

The foregoing prohibitions may be waived for those Jews:

(1) who have rendered exceptional services to the French State; (2) whose family has been established in France for at least 5 generations and has rendered exceptional services to the French State.

Concerning the prohibitions set out in Article 2, a decision will be taken by individual decree from the Council of State upon the report of the General Commissioner of Jewish Questions and countersigned by the relevant Secretary of State.

For all other prohibitions, the decision will be taken by decision of the General Commissioner of Jewish Questions.

The decree or decision must be duly moved.

The derogations granted from the immediately preceding provisions are personal in nature and create no right in favor of ascendants, descendants, spouse and collateral relatives of beneficiaries.

[Illegible]

Punishment in a special camp, even if the party is French:

1. Imprisonment from 6 months to 2 years and a fine of 500 to 10,000 francs or one of these, for any Jew who has undertaken or sought to undertake an activity prohibited to him by the application of Articles 4, 5 and 6 of the present law;
2. Imprisonment from 1 year to 5 years and a fine of 1,000 to 20,000 francs, or one of these penalties, for any Jew who has evaded or sought to evade the prohibitions set out in the present law through false declarations or fraudulent acts.

The Tribunal may, in addition, order the closing of the establishment.

3.

The Tribunal may, in addition, order the closing of the establishment.

Article 10.

Functionaries who have ceased their functions by application of the law of October 3, 1940 and who are entitled to the benefits of the current law may solicit their reinstatement pursuant to conditions which shall be determined by a decree of the Council of State.

Article 11.

The present law applies to Algeria, the Colonies, the Protectorate Countries, Syria and Lebanon.

Article 12.

The law of October 3, 1940, modified by the laws of April 3 and April 11, 1941, is repealed; the regulations and decrees taken in furtherance thereof are maintained in effect until such time as they shall be modified by new regulations or decrees.

Article 13.

This decree shall be published in the *Official Journal* and carried out as a law of the State.

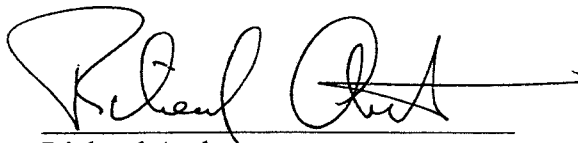
Done at Vichy, June 2, 1941.

[Signatories]

Certification of Translation


I, Richard Andersen, hereby certify that I am competent to translate French language documents into English and that to the best of my knowledge and belief, with due regard to the illegibility of certain words in the original, the foregoing is an accurate and complete English translation of the attached text, which is in French.

Dated: March 24, 2004



Richard Andersen

Subscribed and sworn before me,
a Notary Public in New York County,
this 24th day of March, 2004



Notary Public
Date of Expiration: 12/31/06

ROBERT G. HYNES
Notary Public, State of New York
No. 31-4811268
Qualified in New York County
Commission Expires 12/31/06

fine, per le resistenze degli interessati, che avevano presentato un gran numero di domande d'esenzione, gli « stollari » erano già 2.584, 2.537 libici e 47 italiani e quelli ancora da « sfollare » erano 380, oltre a 172 « discriminati ». Nel campo di Giada le condizioni di vita erano disastrosi, ma non drammatiche. Nel dicembre 1942 vi si verificavano però alcuni casi di tifo petecchiale o sospetti tali. Per ordine del governatore, generale Ettore Bastico, preoccupato dell'insorgere di una possibile epidemia, molti degli internati furono allora dimessi e lasciati liberi in Tripolitania.

Le drastiche misure prese contro gli ebrei della Cirenaica non furono però che una parte dei provvedimenti adottati: nel 1942 nei confronti degli ebrei della Libia. Dire se e in che misura questi altri provvedimenti furono anch'essi una diretta conseguenza di ciò che era avvenuto a Bengasi e in Cirenaica durante l'occupazione inglese o se, invece, è più giusto vederli come una mera conseguenza del progressivo affermarsi di tendenze già in atto (per esempio quella ad estromettere gli ebrei dal compito di relazione alla sempre maggiore presenza ed influenza tedesca nella colonia) e del bisogno sempre più pressante di mano d'opera ausiliaria dei comandi militari è, allo stato della documentazione, impossibile. Ciò che ci pare fuori dubbio è, comunque, che quegli avvenimenti dovettero avere un loro peso. Almeno nel senso che essi dovettero contribuire a rafforzare, sia a Tripoli sia a Roma, le tendenze più oltranziste in materia ebraica e a rendere più esenti coloro che sino allora avevano retto il costruttivo o avevano visto il problema essenzialmente sotto il profilo dell'opportunità economica e avevano, quindi, reso ad evitare crisi o difficoltà al tessuto economico libico: di fronte agli avvenimenti della Cirenaica, costoro, infatti, e più che probabile abbiano preferito non correre il rischio di essere accusati di filosemitismo o, addirittura, di essere ritenuti direttamente o indirettamente responsabili di eventuali disordini o altro ad opera degli ebrei della Tripolitania.

Il primo di questi provvedimenti fu costituito dal decreto governatoriale n. 105 del 20 maggio che entrò in vigore il 2 giugno 1942. Ufficialmente esso venne presentato come dettato dall'evidente scopo di salvaguardare l'assetto economico libico da fini speculativi che, particolarmente nell'attuale momento,

possano risultare quanto mai dannosi e, comunque, elusivi della disciplina generale » e volto « a regolare compiutamente l'esercizio delle attività industriali e commerciali e di determinate attività professionali da parte degli ebrei ». Con esso agli ebrei, sia libici che italiani e stranieri, veniva vietato qualsiasi atto di compravendita o di locazione per una durata superiore a tre anni di immobili e di aziende agricole con italiani o con musulmani. Il provvedimento non riguardava le « operazioni a favore di enti o istituti di beneficenza, purché esse fossero autorizzate dalle autorità governatoriali. Uguale autorizzazione era necessaria per poter cedere a qualsiasi titolo attività commerciali ed industriali, per costituire società « miste » e per esercitare le professioni di mediatore, piazzista, procuratore d'affari e rappresentante. Oltre a ciò il provvedimento stabiliva che

l'esercizio di attività industriali e commerciali da parte di Società ed altri enti in cui siano rappresentati interessi di cittadini italiani metropolitani o libici di razza ebraica, o da parte di persone appartenenti alla razza ebraica, oltre che alle limitazioni previste e alle condizioni poste da leggi e disposizioni vigenti in Libia, è sottoposto al controllo del Governatore Generale, che vi provvede, fino a nuove disposizioni, a mezzo del Commissariato generale degli approvvigionamenti e del condizionamento economico di guerra.

Adi enti e cittadini indicati nel primo comma sono inutili l'autorità di impunzione ed espulsione di uscir da e per l'Italia e l'Estero, il controllo all'ingresso e quello che interessa la difesa militare della Libia. Inutili il Governatore Generale, per motivi di pubblica sicurezza, può in sua traslazione, concedere singole autorizzazioni per la continuazione delle suddette attività commerciali, sempre che non si oppongano ragioni politiche e procedimenti penali, e purché gli interessati si siano adeguati, nello svolgimento delle loro attività, alla disciplina ed ai doveri imposti dalle attuali esigenze, specie in relazione alla politica antiebraica e degli approvvigionamenti della Libia.

A questo provvedimento ne seguiva uno di un mese dopo, il 28 giugno, un altro, entrato in vigore l'11 luglio, che — a somiglianza di quanto già era stato fatto in Italia — stabiliva che anche in Libia tutti gli ebrei italiani e libici di sesso maschile tra i diciotto e i quarantacinque anni fossero soggetti a mobilitazione civile e potessero essere prelevati per lavoro, secondo le loro capacità fisiche e tecniche professionali. A questo fine tutti gli ebrei dovevano denunciare all'Acquartier le lo-

no generalità, residenza e professione, pena l'avvio immediato al lavoro²⁵. In seguito a ciò, in agosto, fu istituito a Sidi-Azaz, a circa 150 km. ad est di Tripoli, un campo in cui fu raccolto un migliaio di ebrei tripolinesi destinati ad essere impiegati come lavoratori dietro il fronte e lungo le linee di comunicazione con l'Egitto (a quest'epoca le truppe italo-tedesche erano attestate ad El Alamein²⁶). In realtà, gli ebrei effettivamente avviati al lavoro furono relativamente pochi: il gruppo più consistente, circa trecentocinquanta individui, fu impiegato presso Tobruk, dove al momento dell'ultima offensiva inglese venne a trovarsi in gravi difficoltà; poiché, quando le truppe dell'Asse si ritirarono, fu abbandonato da esse nel deserto e per rientrare a Tripoli dovette affrontare un'estenuante marcia attraverso la Cirenaica, la Sirte e la Tripolitania²⁷.

Con la legge 9 ottobre 1942, n. 1420, pubblicata dalla « Gazzetta Ufficiale » il 17 dicembre successivo, infine, veniva estesa alla Libia la legislazione razziale in vigore in Italia dal 1938. Come si legge nella relazione con la quale era stata presentata al Consiglio dei ministri²⁸, la legge intendeva sanare la diversità di condizione e di trattamento che si era determinata tra gli ebrei italiani e quelli libici e stranieri (che essa assimilava ai libici) a vantaggio di questi e regolare al tempo stesso tutta la materia in relazione alle circostanze ambivalenti, « che richiedono una maggiore severità nelle limitazioni imposte », sia ai rapporti non solo con la « razza araba », ma anche con la popolazione musulmana. La nuova legge, infatti, per un verso integrava nel quadro di tutti i provvedimenti sino allora emanati per gli ebrei italiani quelli adottati dalle autorità governatoriali, per un altro li aggravava, susseguendo chiaramente l'intenzione morale e giuridica degli ebrei « anche rispetto ai musulmani » e imponendo loro ulteriori limitazioni. Tra queste le principali — oltre quelle già stabilite dal decreto governatoriale del 30 maggio — riguardavano il divieto di beneficiare di concessioni demaniali, agricole, forestali o minerarie, di possedere o gestire aziende di credito, di assicurazione, di navigazione, di trasporti, di spedizioni di far parte di cooperative e di pubblicare qualsiasi scritto di carattere non strettamente confessionale. Quanto all'assetto comunitario, la legge lo modificava prevedendo la costituzione a Tripoli di una Comunità speciale per gli ebrei italiani, svincolando dall'Unione delle Comunità

Israelitiche Italiane le Comunità libiche e togliendo a queste alcune funzioni istituzionali che sino ad allora ad esse delegate. Venivano inoltre esclusi anche agli ebrei libici il diritto alla discriminazione contemplata dalla legislazione italiana, aggiungendo alle benemerite ivi previste anche quelle eventualmente acquisite durante l'attuale stato di guerra²⁹.

Questa legge entrò formalmente in vigore — lo si è detto — il 17 dicembre 1942. In realtà essa non ebbe praticamente applicazione. Le sorti del conflitto in Libia erano a questa data già decise. L'8 novembre, quando le truppe italo-tedesche in ritirata dall'Egitto stavano per raggiungere Sidi Barrani, gli anglo-americani erano sbarcati in Marsa Matruh e in Algeria. Di fronte a questo fatto nuovo il maresciallo Rommel si era mostrato subito convinto, asserrone della necessità di abbandonare la Libia e concentrare tutta la difesa in Tunisia. Mussolini ed Hitler non erano stati dello stesso avviso: per essi la Libia doveva essere difesa palmo a palmo. La breve era stato però evidente che ciò era impossibile e che aveva ragione Rommel quando affermava che l'alternativa ormai era tra perdere Tripoli qualche giorno dopo e con essa l'armata italo-tedesca e perdere Tripoli qualche giorno prima e portare in salvo l'armata in Tunisia. In questa situazione l'abbandono della Libia e della stessa Tripoli divenne inevitabile e urgente: il 23 gennaio 1943, mentre il grosso delle forze dell'Asse si stava accendendo in Tunisia, le autorità civili di Tripoli consegnavano la città al generale Montgomery che l'aveva raggiunta da est, precedendo di soli tre giorni una colonna francese proveniente da sud.

Anche se gli ultimi provvedimenti razziali non entrarono praticamente in vigore e se non fu turbata da vicende così drammatiche come quelle che dovettero subire gli ebrei della Cirenaica, la vita degli ebrei della Tripolitania fu nell'ultimo anno della guerra in Libia via via sempre più difficile. Dopo quella dell'aprile 1941, insoddisfatti e violente antisemite di qualche grado non si verificarono più. Una certa animosità però continuò a scagliarsi nell'elemento italiano, sia per il perdurare degli echi degli avvenimenti cronaciati sia per il perdurare di alcune delle accuse di favoritismo giudaico, di accorpamenti e di infedeltà, se non addirittura ostilità, per la causa italiana. Né, in definitiva, molto diverso era l'atteggiamento degli arabi. Molti di essi avevano visto con preoccupazione i provvedimenti con-

In 1942 Jews in Libya were excluded from economic activities and recruited to enforced work. The Italian racial laws of 1938 were enforced in Libya.

Source: De Felice (1978).

Translation from the original Italian of highlight text.

The first of these provisions was constructed by the gubernatorial decree number 105 on May 30, that came in to practice June 2, 1942. Officially this was presented as a dictation of the “evident goal to safeguard the economic assets of Libyans, to the end that, particularly in the actual moment, they could turn out to give them, and, bypassing the general discipline, and “to regulate completely the application of professional activity on the part of the Jews.” Therefore, all Jews living in Italy, be they Libyan, Italian, or any other foreign nationality, were banned from any and all acts of marketing or leasing property for a duration of three years, as well as of agricultural business with Aryan Italians or with Muslims. The provision did not pertain to donations to charitable institutions, because these were under gubernatorial authority. Equal authorization was necessary to be able to relinquish to any title a commercial or industrial business, in order to constitute a “mixed” society and to be a professional mediator, travelling salesmen, business headhunter or representative. Other than this, the provision established that

-the exercise of industrial activity and commerce as a part of Society and other entities in which there is an interest by Jewish Italian residents or Jewish Libyans, or, apart from persons belonging to the aforementioned race, others that by the expected limitations on the conditions by the law and current situation in Libya, and subordinate to the control of the general government, that which provides them, until further instructions, to the medium of the General Commissary of the supplying and economic coordination of war.

-the inhibition of the activity of the importation and exportation of goods between Italy and foreign countries, commerce and that which bears the interest of the military defense of Libya. Above all the general governing body, for motives of the public interest, can, by transitional means, concede authority for the continuation of the aforementioned commercial activity, always so they don't oppose political reasons and penal precedent, and in so far as the interests align with the divulgement of their activity, to the discipline of the enforcement of the actual claim, in relation to the provisions of Libya.

Another provision followed, less than a month later on June 28, and it came into effect July 11, stating that--similar to those provisions instated in Italy--also in Libya all male Italian Jews and Libyan Jews between the ages of 18 and 45 were subject to civil mobilization and could be put to work, according to their physical capabilities and professional training. To this end all Jews must denounce the "*Acorguerra*" (or war agreement), their residence and profession, immediately upon the start of work. In accordance with this decree, in August a labor camp was established in Sidi-Azaz, about 150 km to the East of Tripoli, in which 1,000 Jews from Tripoli were placed: Jews that were destined to be employed as workers behind the front and along the lines of communication with Egypt (at this point, Italian and German troops were aligned with Germany). In reality, the number of Jews that started going forward to work were relatively few. The group that was the greatest in number, around 350 individuals, was put to work in a camp near Tobruk, where at the final English offensive attack they came to face grave difficulty, such that, when the Axis troops retreated, they were abandoned in the desert and in order to reenter Tripoli they had to face an extensive march across Cyrenaica (part of Libya), La Sirte, and Tripolitania.

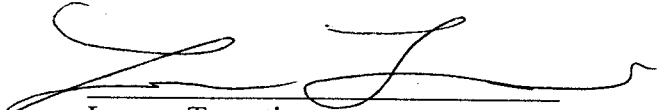
With the law of October 9, 1942, number 1420, published in the official gazette, the following December 17, the same legislation that had been passed in Italy in 1938 was instituted in Libya in 1942. As one can read in the law as it was presented to the advisor to the Ministry, the law intended to rectify the diversity of conditions and treatment between Italian and Libyan Jews, as well as Jews originally from other foreign countries (that had assimilated as Libyans), and to regulate at the same time all of the materials in relation to environmental circumstances. The law implemented a great severity in the imposed limitations, in relation not only to the "Aryan race" but also to the Muslim population. The new law, in fact, contained an integral clause, similar to the clause pertaining to Italian Jews in the former law, that specifically identified the moral and legal inferiority of Jews, "also in respect to Muslims," and legally put limitations into place concerning them. Among these limitations, other than those decreed by the government on May 30, regarding the prohibition of benefiting from federal property, and endeavors of agriculture, forestation, and minerals, were limitations on the right to possess or manage institutions/stores of credit, security, navigation, transport, shipping, and on the right to take part in the publication of any written material that was not completely of a confessional nature. In terms of the arrangement of the community, the law modified the layout of Tripoli

marking a special community for Italian Jews, releasing the Libyan community from the Union of the Israeli-Italian Community and cutting some of its public functions. The discrimination of Jews in Libya was finally officially instituted as it had been against Jews in Italy, giving a preview to the eventual take-over “during the actual state of war.”

Certification of Translation


I, Lauren Tarantino, hereby certify that I am competent to translate Italian language documents into English and that the foregoing is an accurate and complete English translation of the attached text, which is in Italian.

Dated: March 23, 2004



Lauren Tarantino

Subscribed and sworn before me,
a Notary Public in New York County,
this 23 day of March, 2004



Notary Public
Date of Expiration: _____

ELIZABETH R. D'ATTILIO
NOTARY PUBLIC State of New York
No. 010-4811481
Qualified in Orange County
Certificate filed in New York County
Commission Expires Nov. 30, ~~2006~~



STATE OF ISRAEL
MINISTRY OF FINANCE
ECONOMICS AND RESEARCH DEPARTMENT

The Israeli Economy:
Three Years of Recession Caused by
Palestinian Terrorism and Other
External Shocks

March 2004

Executive Summary

In recent years, Israel has undergone a severe economic slowdown, caused mainly by a combination of temporary factors including Palestinian terrorism, the global economic slowdown, and the high-tech crisis. These factors caused an increase in defense expenditure and a decrease in tax revenues that in concert led to a high budgetary deficit in 2001-2003 (5.6 percent of GDP in 2003). At the same time, the large public debt, the desire to maintain price stability and the fear of a financial crisis are tying the hands of monetary and fiscal policy. On the fiscal side, in order to finance the necessary hike in defense expenditure and to keep the budget deficits under control, the Government has already implemented painful budget cuts that have primarily affected social programs. Unemployment benefits were reduced by about one third and income support benefits were slashed by 30 percent for most recipients. According to the last Report on Poverty (2002) by the National Insurance Institute, there are as many as 339,000 families (74,000 of them elderly families), 1,321,000 individuals and 618,000 children, living below the monthly Poverty Line (NIS 1,743 per individual, approximately US\$390). The Institute forecasts that the 2003 Poverty figures will be even worse.

1. Cost of terror and security threats is very high

In addition to the painful human cost, the Palestinian terror war against Israel over the past 3+ years has caused massive economic hardships. Furthermore, the past threat of a war in Iraq and its possible spillover to Israeli territory imposed significant challenges to the Israeli economy.

Combined with the coincidental global economic slowdown and the crisis in the high-tech sector, which have hit Israel disproportionately hard, the Palestinian terror campaign, the increased threats from other countries in the region, and the expensive efforts to combat these combined threats, have seriously damaged the Israeli economy. Among the results are a collapse of tourism, two consecutive years of negative GDP growth, double digit unemployment and huge budget cuts to deal with the decline in tax revenues and the increase in defense expenditure.

Some of the costs imposed by the Iraqi threat affected the Israeli economy, even if the threat did not materialize (e.g., a sharp decline in tourism in early 2003).

2. The Government has taken major economic steps to address current problems

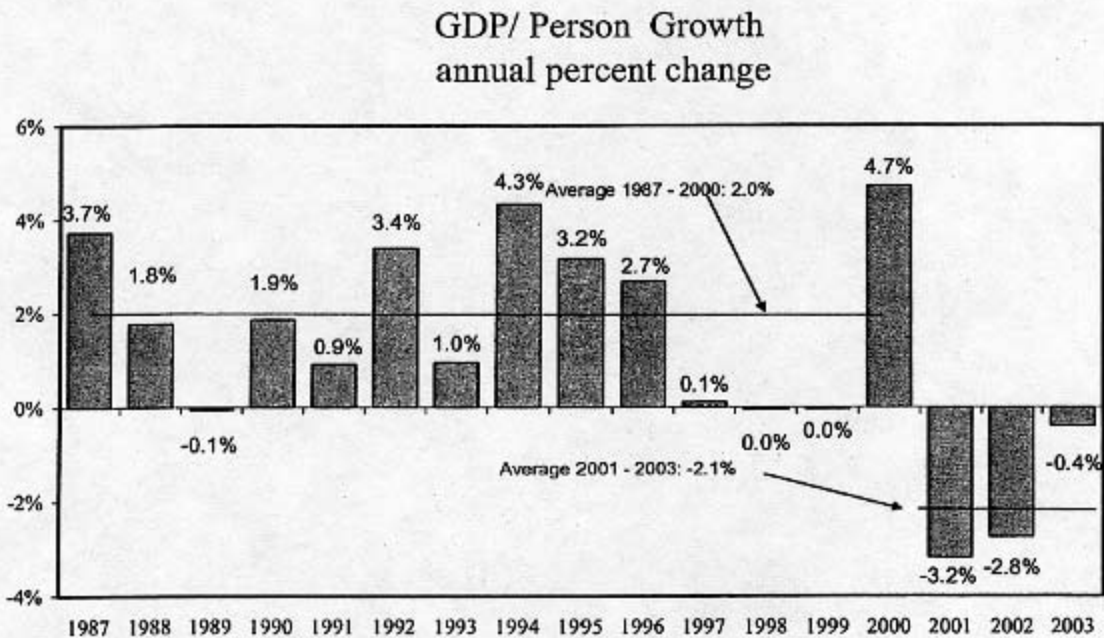
Since the start of Palestinian terrorist attacks in September 2000, the Government of Israel has taken major steps to stabilize the economy. At the same time, the government has needed to provide the necessary resources to combat terrorism and keep its military on high alert because of threats from elsewhere in the region, particularly from Iraq and Israel's northern border.

On the fiscal side, in order to finance the necessary hike in defense expenditure and to keep the budget deficits under control, the Government has already implemented painful budget cuts that have primarily affected social programs.

On the monetary side, the Bank of Israel's flexibility to lower interest rates is severely restricted by the threat to financial stability, the risk of a rapid depreciation of Israel's currency and a hike in domestic prices, and the possibility of lower credit ratings.

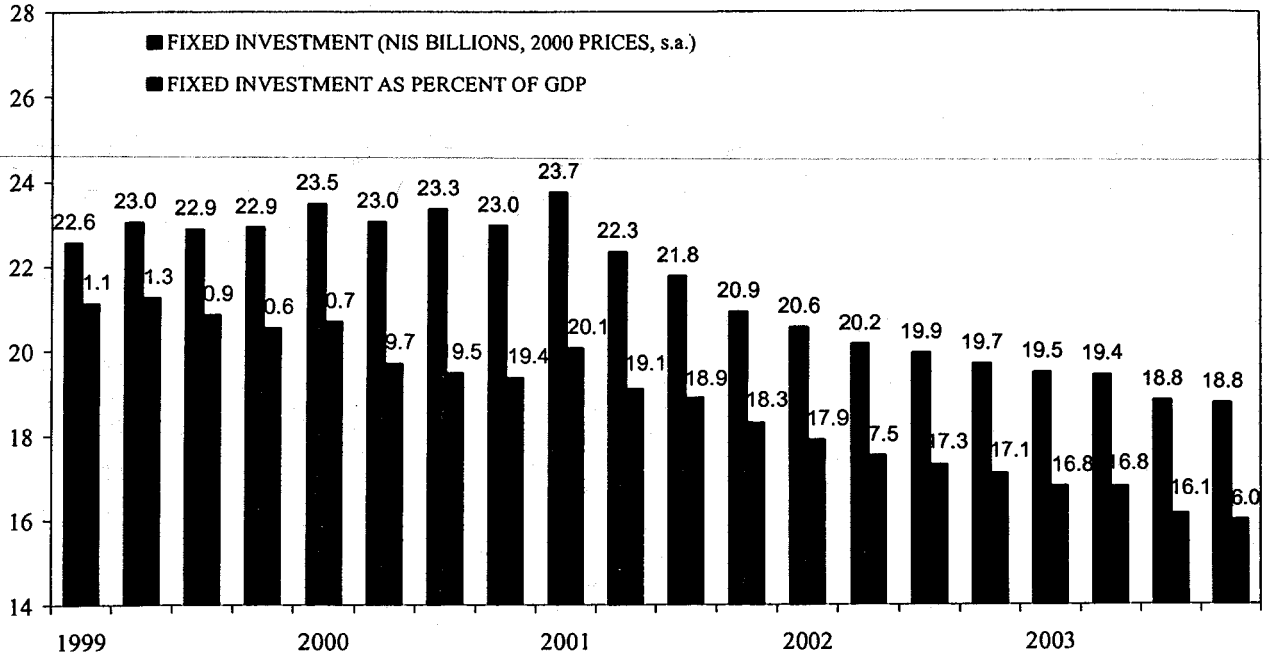
3. The Israeli economy was in a profound recession as a result of a combination of temporary factors: Palestinian terrorism, the global slowdown, and the high-tech crisis

The years of 2001-2003 are a period of a slowdown in economic activity; demand has dropped, employment is frozen, and the unemployment rate has risen. The main forces behind the recession are the continued effects of shocks in Israel and abroad: the prolonged security situation in Israel, which is affected by Palestinian terrorist attacks, and the decrease in foreign demand for Israeli goods and services, which was influenced by the worldwide economic slowdown and by the crisis in high-tech markets.



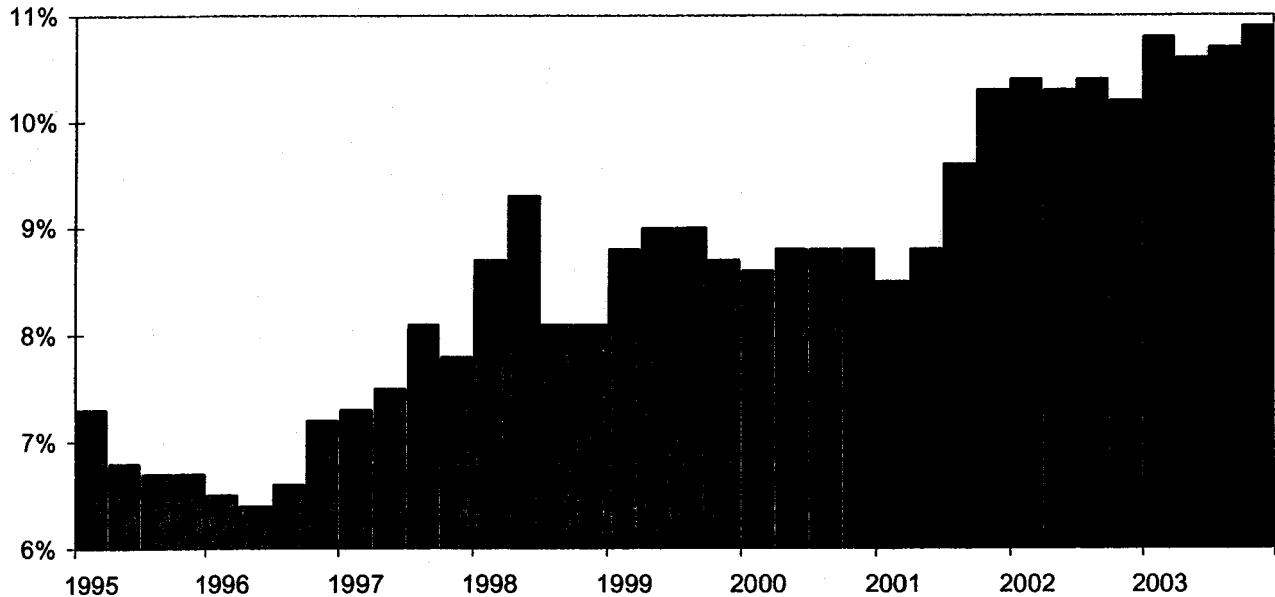
GDP per-capita decreased on average by about 2.1 percent during 2001-2003. The continuing uncertainty regarding security and the economy, as well as the worldwide slowdown and the high-tech crisis, led to a decrease in investments. The decline in activity encompassed most of the business sector and especially harmed high-tech industries.

Fixed Investment



Since 1996 the unemployment rate is on the rise, from less than 7 percent of the civilian labor force, to 10.9 percent in the last quarter of 2003.

The Unemployment Rate



The Consumer Price Index dropped in 2003 (Dec. to Dec.) by 1.9 percent, reflecting the slowdown in the economy.

4. *The severe impact on the social safety net*

The decline in economic activity during 2001-2003 led to sharp declines in tax revenue, putting a tremendous amount of stress on the State's budget.

In 2003, unemployment benefits were reduced by about one third and income support benefits were slashed by 30 percent for most recipients.

According to the Report on Poverty of the National Insurance Institute, in 2002 , 339,000 families (of them 74,000 elderly families), 1,321,000 individuals and 618,000 children were living below the monthly Poverty Line (NIS 1,743 for an individual, approximately US\$390), after applying the social safety net (i.e., the poverty measure based on household income that includes all social benefits received from the Government and from the National Insurance Institute). This represents an increase from 300,000 families in 2000.

5. *The global slowdown and the high-tech crisis*

In addition to the severe impact of Palestinian terrorism on the Israeli economy (see next section), Israel also suffered from the global economic slowdown and the high-tech crisis.

Israeli industry and Israeli exports tend to be high-tech. The Israeli economy's high-tech bias and the composition of growth in the US economy are hindering the recovery of Israeli exports. Moreover, in the wake of the worldwide collapse of the high-tech sector, there has been a decline in nonresident investments in Israel and the influx of dollars from Israeli NASDAQ issues has ceased.

The global recession has diminished demand for Israeli exports. The High-tech sector has been particularly hard-hit. Aside from the impact of the worldwide crisis, high-tech has suffered from profound uncertainty in the capital markets.

The value of the activity of startup companies was equal to 2.4 percent of Israeli GDP in 2000. These small firms, engaged mainly in research and development and not in manufacturing, raised money on NASDAQ for their current activity (on the assumption of high incomes in the future). Thus a correlation developed between the NASDAQ index and these companies' activity. The sharp declines on NASDAQ since mid-2000 dried up the sources of financing for these firms, which constitute only 0.8 percent of GDP in 2003.

6. Palestinian terrorism imposes a heavy cost on the Israeli economy and threatened macroeconomic stability

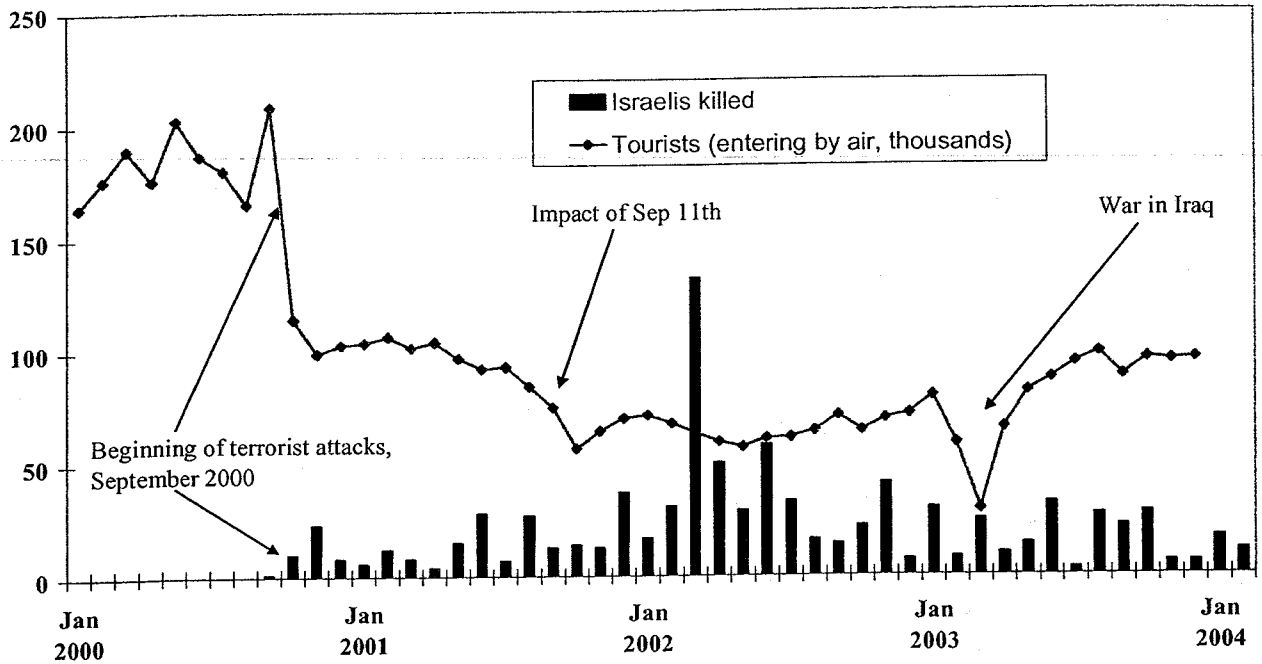
Terrorism, in all places and at all times, attempts to destroy not only life and property, but also daily routines and economic stability. The spate of Palestinian terrorism which began in September 2000 aims to devastate ordinary daily life in Israel by ruthless murders of innocent people, as well as by impairing macroeconomic and financial stability.

The impact of Palestinian terrorism on GDP and national revenues

The areas hit most directly by Palestinian terrorism at first were tourism, exports to the territories, transportation, construction, and agriculture.

The security incidents directly worsened the current account of the balance of payments by almost \$3 billion (about 3 percent of annual GDP) based on the direct damage to foreign-exchange receipts from tourism, trade with the Palestinian Authority, and transportation. A large fraction of this decline is due to the sharp fall in tourism receipts. There is a direct and close link between the number and severity of terrorist incidents and the number of incoming tourists. This is due to the extensive coverage of the events on foreign television and warnings by foreign ministries around the world of the danger of coming to Israel. For instance, the US State Department issued such a warning on October 25, 2000.

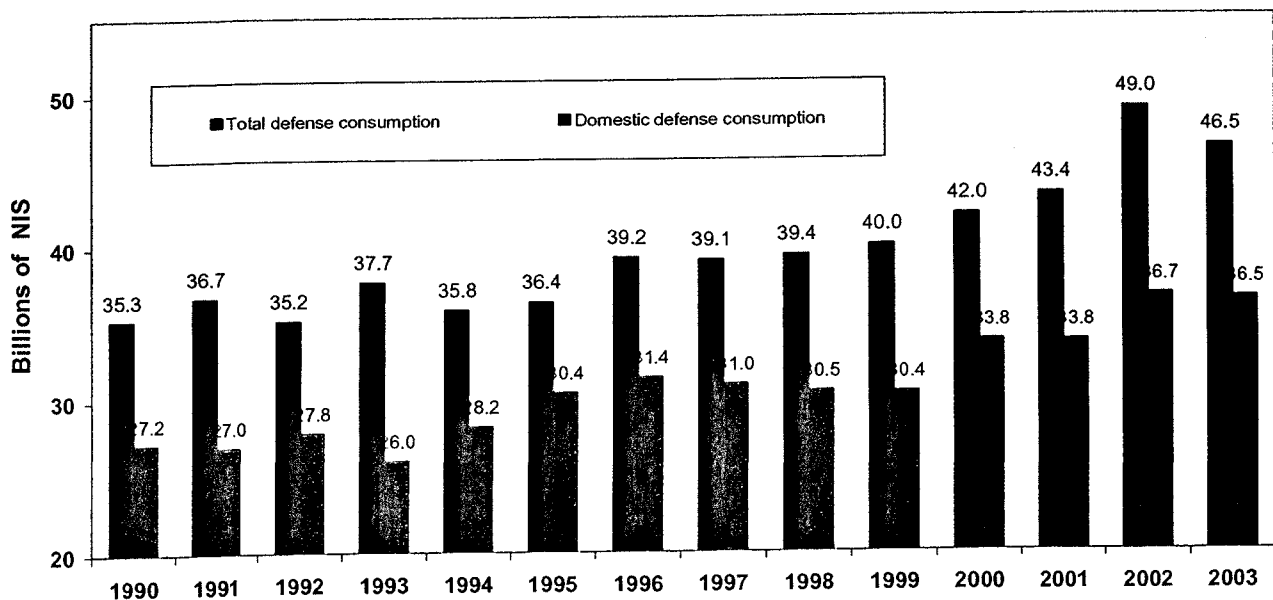
The impact of Palestinian terrorism on tourism



The impact of Palestinian terrorism on defense spending

As a result of Palestinian terrorism, expenditure on public defense rose sharply, from 8.5 percent of GDP in 2000 to an estimated 9.5 percent of GDP in 2003.

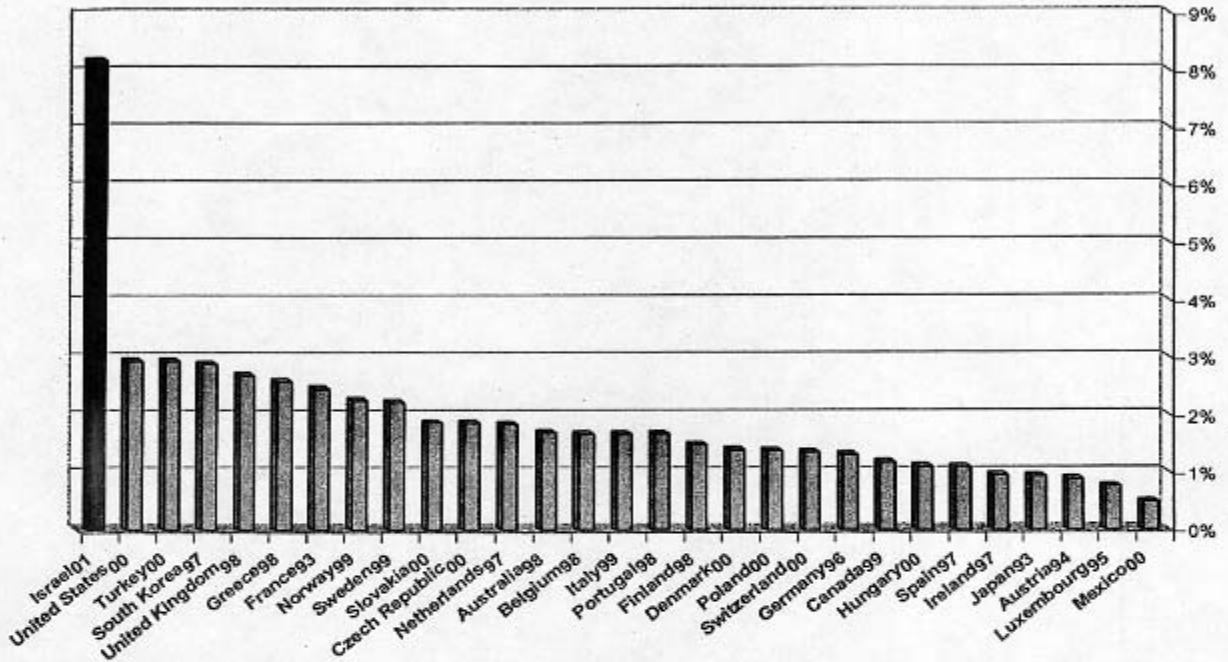
Defense Consumption (constant 2002 prices, deflated by business-sector GDP deflator)



The above increase in defense expenditure does not include the sharp increase in activities related indirectly to the combat of Palestinian terrorism, such as homeland security.

In spite of the ongoing reduction of Israeli defense expenses as a percent of GDP in the past 25 years, this ratio is still by far the highest among the OECD and other nations.

Defense Expenses as a Percent of GDP - Comparison Between Countries



The primary downside of the increase in defense expenditure is that it necessitates cuts in other budgets (impairing the level of services and citizens' standard of living) and/or an increase in the tax burden (which harms the business sector and is liable to affect the potential for future growth).

Effects of Palestinian terrorism on GDP and the quality of life in Israel

Palestinian terrorism had a major impact on Israeli economic activity. According to some estimates, its impact on GDP during 2001-2003 totaled at least US\$14 billion.

Other effects of Palestinian terrorism not included in this calculation are:

- Direct harm to persons and property as a result of continued Palestinian terrorism;
- Harm to individual welfare as a result of the increase in personal risk;
- Harm to the quality of life and individual utility, resulting from forced changes in habits (e.g., longer travel time due to fear of Palestinian terrorists and the proliferation of security checks);
- High costs (e.g., guards), which contribute nothing to individual benefit; and

- Loss of assets due to lower property values, especially in confrontation regions (e.g., prices of dwellings in Gilo and Ma'ale Adummim).

7. The Iraqi threat imposed further significant costs on the economy and required additional defense spending

The threat of a war in Iraq and its possible spillover to Israeli territory imposed significant costs on the economy. This threat was aggravated by the already perilous situation of the economy caused by the previous exogenous shocks (Palestinian terrorism, global slowdown, and the high-tech crisis). A number of the costs imposed by the Iraqi threat were felt in early-2003.

Some of the major effects of the Iraqi threat included:

- The required increase in military activity (e.g., training and logistic preparation) and equipment procurement (e.g., anti-missile systems, gas masks, and vaccinations).
- The rise in uncertainty associated with the risk of war and its impact on the real economy (e.g., business decisions and investments and precautionary drop in private consumption) and on financial markets (e.g., the exchange rate and the interest rates).

8. The large public debt, the desire to maintain price stability, and fear of a financial crisis are tying the hands of the monetary and fiscal policy

The recession was aggravated by a contractionary monetary policy, which was made necessary by fear of sharp changes in the exchange rate and impairment of price and financial stability. This policy is leading to high real interest that harms private consumption and investment. On the other hand, the restrained fiscal policy remains in effect. The restrained fiscal policy is required by the recession and the concomitant decline in income that have dangerously increased government deficits and the public debt relative to GDP. The restrained fiscal policy is also motivated by concern that a further increase in the public debt will harm Israel's credit rating and financial stability.

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March 23, 2004

Judah Gribetz
Special Master
Holocaust Victim Assets Litigation
Bingham McCutchen, LLP
399 Park Avenue
New York, New York 10022

Dear Special Master Gribetz:

I am writing in support of Dr. Sergio DellaPergola's determination that Jews from outside Central and Eastern Europe who were victims of the Nazis and their collaborators, agents, subordinates, instrumentalities and allies must be counted as Holocaust survivors.

I am attaching a copy of a paper I wrote on the subject. A version of this paper is slated for publication in the opening issue of *International Sephardic Journal*. (The version I am sending you is the current version in my computer, and includes a small number of comments and unfinished reference notes; I also added the introduction to the slightly earlier version that I wrote for the *ISJ*).

All too often, accounts of the Holocaust obscure and ignore the effects of the Holocaust in Southeast Europe, North Africa, and the Middle East. The focus on Eastern European Jews reflects in part the great success of the Nazis in exterminating Polish Jewry—half of the 6 Million were from Poland—but it also reflects the overwhelmingly Ashkenazi heritage of North American Jewry, and the leading role played by Ashkenazi Jews in Israel and elsewhere, especially in the first decades after the Holocaust. It falsifies demography and renders various communities invisible and unremembered despite victimization, destruction and decimation no less significant than in some Central and Eastern European countries, in places like Selanik (Salonica) and Rhodes, Tunisia and Libya, even Baghdad.

Put very simply: Nazi Germany, and its subordinates, collaborators, instrumentalities and allies were active throughout North Africa and the Middle East. The Vichy French controlled much of North Africa, Syria and Lebanon; Germany and Italy occupied Tunisia and Libya respectively; the Grand Mufti of Jerusalem and Rashid Ali in Iraq must be considered collaborators.

The *Endlösung* "Final Solution" proposed at the Wannsee conference is often considered to have been a plan for the destruction of European Jewry. But the plan proposed by Heydrich there included a projection of the destruction of 11 million Jews with specific Jewish population figures for each country. Note that the number of French Jews slated for destruction included over half-million individuals in excess of the Jewish population of European France. In other words, the Jews of French North Africa and Syria were included in the Final Solution proposed at Wannsee.

The records of deportation from Drancy, France, substantiate the deportation of Jews to Auschwitz from outside Europe, including many from North African and the Middle East. In North Africa and Syria, the Vichy French were compliant with the plans of their Nazi overlords, and often seemed to go beyond their specific demands. There were deportations directly from Tunisia, and slave labor camps in Morocco, Tunisia, Libya and elsewhere in the region. While Moroccan Jews who were subjects of the King of Morocco may have been spared some of the horrors of the forced labor camps, there were several camps for those who were not subjects of the King. The Nazi sympathies and alliances of Hajj Amin al-Husseini, the Grand Mufti of Jerusalem, and of Rashid Ali's Iraqi regime may have related to Middle Eastern politics and anti-colonialism, but Nazism and Nazi propaganda also played an important role, including inciting the Arab riots in Palestine in the late 1930s.

The *Farhud* in Iraq in 1941 killed 200 Jews, maimed and injured thousands, and destroyed much property. Baghdad's Jewish community had formed the majority of Baghdad's residents in the 19th and much of the early 20th century, but the Farhud meant irretrievable loss of lives, property, community standing and security. Rashid Ali was no longer in power at the time. Nevertheless, as noted in recent scholarship, the Iraqi government investigation at the time itself found that the causes included, *inter alia*, dissemination of Nazi propaganda by the German delegation to Iraq, by the Mufti, and by German Arabic-Language broadcasts, as well as the actions of pro-Nazi teachers hired by and youth groups organized by Rashid Ali's regime. (Carole Basri, *The Jews of Iraq: A forgotten case of Ethnic Cleansing*, Institute of the World Jewish Congress, Policy Study no. 26, 2003).

To render invisible the acts of the Nazis themselves and of their allies, subordinates, agents and other instrumentalities in North Africa and the Middle East is to undercut and falsify the true scope of their reach and goals. The "Final Solution" proposed in Wannsee was hardly limited to the European theater. The acts of the Germans and Italians in North Africa, and their Vichy French and Arab collaborators throughout North Africa and the Middle East are also a part of this story. A focus on Eastern Europe may reflect the location of the most active killing camps, but misses the universal breadth and scope of the plans of the Nazis and their collaborators for the *Endlösung*.

Sincerely,



Seth Ward

The Holocaust in North Africa

Seth Ward, University of Denver

May 10, 1999

A shorter form of this essay was published in the Intermountain Jewish News, 20 May, 1999.

In the late 1990's the Holocaust is a powerful symbol. The sheer size of the Eastern European Jewish community in 1939, and the overwhelming Ashkenazi ancestry of American Jewry make it obvious to me that there will be an Ashkenazi emphasis in our retelling of the Holocaust story. Yet many Jews whose ancestry or professional interests lie in South-East Europe, or the lands of Africa and Asia, including Mandatory Palestine, can note with some justification that the Holocaust, as it is memorialized and studied, does not include even a proportional reference to these areas. While there was nothing like Maidanek in Morocco, in some Sephardic areas, such as Salonica in Greece, the final solution was more final than it was in Warsaw or Vilna. For better or worse, the Holocaust looms very large in the contemporary Jewish narrative; if so, the Sephardim and Jews of Islamic Lands have every right to clamor to bring their part of the story to the fore.

It is hardly surprising that the Holocaust in the Sephardic and Arabic world seems to be an increasingly controversial subject. The Sephardic caucus within the Association for Jewish Studies has noted the need to discuss the Holocaust's effect among Sephardim and the "Eastern Jews" (*Edot ha-mizrah*). The joint conference of the Midwest and Western regional Jewish Studies Associations will have a presentation on studying the Shoah Project's inclusion of this Sephardic testimonies, and the U.S. Holocaust Memorial and Museum will have a seminar bringing together eight scholars for two weeks, with a public presentation in mid-August. Interspersed with coverage of the Kosovo bombing, the news media carry reports about the Croatians, Albanians and Serbs as Nazi collaborators or resistance fighters, and about Serbian and Albanian "Righteous Gentiles"—those who protected Jews.

Most of the research publications on this subject have been by Israeli scholars, although much of this research is available in English. The destruction of Sephardic culture in former Ottoman lands may have been even more total than that of Ashkenazi Europe, yet it is hardly noted. North African Jewry was hardly affected in the same way, yet is almost always ignored. Tunisia and Libya were occupied by Axis powers, and Morocco, Algeria and Tunisia were controlled by Vichy France, yet almost all the maps and listings of victims limit themselves to Europe.

Typical of the marginalization and exclusion of non-Ashkenazim from the Holocaust is a letter from David Harris which appeared in the *Intermountain Jewish News*, of April 30, 1999. Harris took exception to reports about internment of Jews in Morocco during World War II. He noted his own warm reception in Morocco with the Peace Corps and implied that references to deportations cite a single scholar, Michel Abitbol, presumed by Harris to be the only source to say Jews were interned in Morocco.

Abitbol is a recognized authority on the Jews of Morocco. He is the author of a standard monograph on the subject, *The Jews of North Africa during the Second World War*, (Wayne State, Detroit 1989, translated from the French [which appeared in 1983]). Michael Laskier has written a more recent monograph on the subject of North Africa under Vichy domination, *The Jews of the Maghreb in the shadow of Vichy and the Swastika* (in Hebrew, Univ. of Tel Aviv, 1992), and discusses this material in *North African Jewry in Twentieth Century* (New York University Press, 1994). Laskier's findings on this subject are similar to those of Abitbol. Irit Abramsky Bligh is another Israeli scholar who has worked on

the Holocaust in North Africa, largely regarding Tunisia and Libya.

Laskier notes that the Vichy law of 4 October 1940 provided that "foreign nationals of the Jewish race" would be detained in "special concentration camps" (*North Africa*, p. 65-6.) This law, however, had been preceded by an order of the King of Morocco on 2 January of the same year providing for detentions of various persons who could be used as forced labor. Apparently, however, these camps were intended for European Jews, not Moroccan Jews. Laskier says there were 12 camps, and that the Jews there were reportedly suffering from harsh conditions, although their fate was better than that of the Tunisian Jews in concentration camps. Nevertheless, he characterized the Moroccan Jews' situation at this time as "precarious." Although the King protected Moroccan Jews, Vichy restrictions imposed in Morocco included severe limitations on Jews' professions and schooling, forced relocation to the *mellahs* (the Moroccan "ghettos") and financial extortions, land expropriation, prohibitions from public office, and other regulations. The situation improved only after 3 June 1943, when Charles de Gaulle was able to end the period of Vichy influence. Much the same is found (in briefer form) in the *Encyclopedia Judaica* article on Morocco by Robert Attal.

The 1940 regulations were also extended to Tunisia and Algeria. In Tunisia, additional legislation in 1941 increased the harshness of the situation, which worsened further when the Germans occupied Tunisia in 1942. Some 4,000 Tunisian Jews were deported, most forced into hard labor camps where some died; moreover, some Tunisians were deported to the European concentration camps. There are reports that the Germans may have begun building extermination camps in Tunisia. But they were distracted by continued Allied attacks in North Africa, their occupation of Tunisia lasted only for a short time, and their Italian partners in the Tunisian occupation exerted a moderating influence. If they had begun such camps, the Germans did not succeed in moving very far along this plan before their occupation ended in 1943. Algeria had a similar pattern of Vichy persecution of Jews and removal of rights. In Algeria, committees for Aryanization were set up and Jews lost the French citizenship they had enjoyed for seventy years. Libya was also occupied. Mussolini's anti-Jewish regulations of 1938 in theory applied equally to Libyan Jews; at first they were more effective in Italian governmental agencies and businesses in North Africa, west of Libya. Nevertheless, eventually close to 5,000 Jews in Libya itself were subject to internment and even deportation to European camps.

Abitbol himself, in his chapter in the three-volume *History of the Jews of Arab Lands* (In Hebrew, Merkaz Shazar) refers to the Tunisian forced labor camps and the worse conditions in Libya—and little about the camps in Morocco. In *Jews of North Africa* he refers to the Moroccan internment centers with some further details, although notes that the surviving documentation does not allow for a full picture. Nevertheless, he is able to give detail of the working conditions at some thirty camps, naming fourteen in Morocco and the rest in Algeria, and cited a New York Jewish weekly which published a census adding up to 2,100 internees in Morocco and 2,000 in Algeria. (Abitbol noted differences in the purposes of some of the camps; perhaps this is the reason for the disparity between the figure he gave and Laskier's reference to twelve camps).

Moroccan Jews venerate the memory of King Mohammad V, but under the Protectorate of Vichy France, Moroccan Jews nevertheless suffered various limitations. Laskier (*Maghreb*, pp. 44-45) delineates the differing approaches of Abitbol, H.Z. Hirschberg, David Cohen and M. Dutheil regarding the role of the King and the Moroccan government under the Vichy French protectorate. Hirschberg thinks the King was in effect totally powerless, others say he actively cooperated with the Vichy Anti-semitic program, refrained from doing things within his power to thwart it, or did his best to oppose—or at least delay—implementing the Vichy directives. Laskier believes that future access to more government archival materials may clarify the record.

In recent years, memorializing the Holocaust seems to have played an ever increasing role both among

Jews and in our society in general. Uncommon energies are dedicated to recording the personal testimonies of survivors, celebrating acts of defiance of the Nazis, and building museums and electronic archives. It would seem to be of crucial importance that this endeavor not exclude documentation, analysis, exhibition and videotape records of the effects of the Holocaust in countries occupied or administered by the Nazis or those under their domination outside of Western, Central or Eastern Europe. Especially in the Balkans, in Salonica and Rhodes, and in former Habsburg lands, there were Sephardic victims whose story is no different from those of the other European victims. The North African story may be somewhat distinct, but those whose lives were destroyed in internment or work camps—and there were some too who were sent to the European crematoria—are no less victims.

The lower visibility of the Holocaust in North Africa and in Southeast Europe goes beyond issues of documentation, disparities in the size of the communities effected, or in the end result. Ultimately, it reflects the centrality of Central and Eastern Europe in the Holocaust narrative, especially as it is retold in North America.

In his letter, Harris disputed the claim that there were camps in Morocco, which he supposed to have been supported by the research of only a single scholar. In fact, the comments of Abitbol and others make it clear beyond doubt that Jews in Morocco were forced into ghettos and into internment camps. In the latter case, however, they were mostly "foreign" rather than "Moroccan" Jews, the camps were for labor, not execution, and the numbers affected were relatively small; these camps were not on the scope of Auschwitz or Maidanek. It is true that Abitbol tends to attach more importance to them than some others, and to emphasize Moroccan complicity in anti-Jewish actions. Nevertheless, even those who credit the King of Morocco with protecting his Jews presume that Vichy French collaboration with the Nazis extended to Morocco. Questioning the very existence of Nazi-inspired legislation, expropriations, quotas, forced evictions to ghettos, and even internment, reflects a lack of awareness in the Jewish community of the Holocaust narrative outside the main region of the focus of the American Holocaust narrative: Eastern and Central Europe.

There are several important points here:

1. Sephardim and Jews of Arab Lands have history as well as folkways. Music, recipes, and ethnography of these communities have had some visibility in North America, but their history has been nearly invisible. The same is somewhat true about Eastern European Jewry: Americans are far more likely to be aware of Yiddish phrases or songs, and recipes for gefilte fish or matza balls, than the populations and occupations of the pre-War Jewish populations of Warsaw and Vilna. Nevertheless, the history of the Nazi actions in Europe are well known; the ramifications of the Holocaust on the life of the Jews of Arab lands and of the Sephardim—particularly in the Balkans and Aegean—deserve no less scrutiny than that of Jews anywhere else.
2. We must avoid too narrow a focus on events we perceive as central—even if correctly—when such focus leads to the marginalization and eventually exclusion of all others. This is especially true when our focus is on ourselves. The procession to marginalization and exclusion is easy: "we are interested primarily in our role" leads to "...only in our role" to "only our role is of interest." This kind of procession often leads to a myth of self-centrality, in which the undisputed fact that a group played a role in an event leads to a perception that the role was of central significance, indeed of such central significance that nothing else is important.
3. Holocaust memory plays a central role in the narrative history of the Jewish People in our times. The destruction of European Jewry seems to be growing in its importance to Jewish identity. Almost every community has monuments, memorial services; thousands of youth go on the "March of the Living" from Auschwitz to Birkenau. Indeed, given the presence of the U.S.

Holocaust Memorial and Museum, of Holocaust units in the schools, of public memorials in cities and states—it is a part of the American narrative as well, and it is often argued that it speaks to all humanity. Why or whether this should be is beyond our scope here. But clearly the telling of the Holocaust is and ought to be a crucial part of the Jewish heritage. In North Africa, the Holocaust did not wreak the final destruction of the Jewish communities that it did in most countries of Central Europe; the end of Jewish communities in Arab lands generally had more to do with Arab and Islamic nationalism and rise of the State of Israel. Yet if the Holocaust is important and it is important to record and analyze as much of the Holocaust as possible, its ramifications in these areas need not to be marginalized.

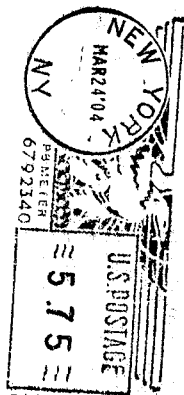
A final thought: The Holocaust endeavor cannot merely be to memorialize, nor even to teach "tolerance" of the other or "intolerance" for racism. The traditional Jewish memorial prayer invokes the memory of the departed with a blessing that they be "bound up in the bonds of life," justified because those who remember them use the occasion for *tsedaka*. Righteousness and charity—social, communal or educational activities—provide a far more eloquent testimony to the humanity of the loved one than a mere memorial. It falls to our generation to find the correct balance of acts of memory and acts of righteousness in the shadow of the Holocaust.

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