
# Exclusion by Ignorance

## Lawmakers' Lack of Attention to Norwegian-Jewish Needs in Restitution Legislation 1945–1947

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Master's degree in history

60 credits

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Spring 2021

**The Benkow family home in Stabekk before the war.**[1]

[1] Photograph courtesy of the Oslo Jewish Museum.

# Foreword

I am fortunate to have been surrounded by talented historians who have given me feedback throughout the writing of this thesis, whose input and suggestions have been of the utmost help. Thank you to my supervisor, Kim Christian Priemel, for your advice and for giving me new perspectives. I am also grateful to Kjetil Braut Simonsen, Bjarte Bruland, and Mats Tangestuen. You have not only read and commented on my drafts, but for the years I have known you, you have included me in your discussions and shared your immense knowledge with me. This has been invaluable to me as a young historian. I also owe a special thanks to Bjarte Bruland, whose early encouragement of my pursuit in this field means more than I can say.

Norwegian-Jewish history is the reason why I chose to study history, and I am so grateful for having gotten the opportunity to devote these last years to studying it full-time and for having been given so many platforms to communicate it. I hope this thesis will help shed light upon this all-important subject.

May 2021
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## Summary

As earlier research has uncovered, Norwegian post-war policies on the return and compensation of property that was lost or damaged as a result of the Second World War were disproportionally unfavorable to Norwegian Jews, who had unique restitution needs because of the Holocaust. Taking these findings as its starting point, this thesis examines why the lawmakers designed the central restitution laws in a way that had such adverse consequences for the restitution of Jewish property.

By examining these laws and the preparatory works in the period 1945–1947, this thesis has uncovered that the lawmakers did not take Norwegian Jews into account in the legislative process, meaning that they did not address their situation and that they made no effort to adapt the laws to meet their needs in a more satisfactory manner. Furthermore, the legal framework and the principles the restitution was based on did not favor an outcome where Jewish restitution needs were met. Importantly, the lawmakers had an underdeveloped understanding of the genocide. How the lawmakers conceptualized the war and its victim groups – the conceptual categories they applied and their understanding of the war-time events – was unsuitable for discerning the Jews' war experiences as something in need of special attention.

The laws were exclusionary not because they created new discrimination, but because they failed to address previous discrimination and persecution. The laws' unfavourability to Norwegian Jews was the result of exclusion by lack of active inclusion. The lawmakers passed up the chance to redo some of the damage inflicted by the Nazi regime and missed the opportunity to alleviate Norwegian Jews of some of their post-war burdens. This illustrates that Norwegian Jews have not only been disadvantaged by persecution and harassment but also by inactiveness and inadequate attention and that the latter could be just as harmful as the former.

# Table of contents

# 0 Introduction

The Holocaust had devastated Norwegian Jews far beyond the traditional harms of war. The perpetrators had deported a little under 800 Norwegian Jews and the rest had fled to Sweden. Their homes and businesses had been liquidated in the process, mainly by the Liquidation Board for Confiscated Jewish Property – an institution established by the Nazi regime in 1942. Jewish survivors who returned home after the war were confronted not only with the loss of family and friends but also of their homes and belongings.

After the liberation in 1945, Norwegian authorities had enacted restitution laws, which governed the return and compensation of property that had been damaged or lost as a result of the occupation, for example from bombings. However, most Norwegian Jews had lost property to a genocidal policy, and their restitution needs therefore differed from the rest of the population. As earlier research has uncovered, these needs were often not met in the post-war restitution, which was unfavorable to them.[2] For many Jewish Norwegians, recovering their belongings was arduous, and large values were not returned to them.

However, existing research has not substantially addressed *why* lawmakers designed the laws in a way that had adverse consequences for many Jews. It has not examined the causes of this unfavorable outcome and whether lawmakers attempted to adapt the laws to Jewish needs. This thesis aims to address this subject by asking the question: Why did the lawmakers design the central Norwegian restitution laws in a way that had such adverse effects upon the restitution of Jewish property? It will focus on how restitution was influenced by its economic context, legal framework, and lawmakers' conceptualization of different claimant groups.

The thesis's main temporal frame is 1945–1947, as the six most central restitution laws were written and enacted in this time frame. Although restitution was a lengthy process that for some families spanned many years, the lawmakers drafted the most important restitution legislation in these first years after the liberation, and it is this initial legal response to the war that is of interest in this thesis. Nonetheless, both the pre-war and war-time context will be included in the examination.

This thesis takes Norway as its main spatial frame. This national framework was chosen because the main subject of analysis – the Norwegian restitution laws – were enacted and applied within Norway's borders, and because restitution in Norway is underexplored in

[2] NOU 1997: 22.

research. That being said, this thesis will also draw upon and refer to restitution in other countries, both in order to shed light upon Norwegian restitution and to situate it in a larger international context. As such, this thesis is both an original exploration of a largely unexamined subject, and a case study in restitution.

## 0.1 State of Research

Before the 1990s, pioneers such as Oscar Mendelsohn, Ragnar Ulstein, and Per Ole Johansen had written important works on the Holocaust in Norway and Norwegian-Jewish history.[3] However, it was not until the mid-1990s and early 2000s that a Norwegian academic community started forming, more considerable amounts of literature were produced, and institutions such as the Norwegian Center for Holocaust and Minority Studies and the Oslo Jewish Museum were established.[4]

This development was closely linked to the research on expropriation and restitution of Jewish property in the 1990s, in Norway and abroad. This topic had previously received little attention – historians Raul Hilberg, Helmuth Genschel, and Avraham Barkai being three exceptions.[5] This changed in the last decade of the century, as it began dominating media headlines in many countries. This development was amongst others caused by the re-privatization of Eastern European property after the end of the Cold War, a growing transnational focus on human rights and genocide, the debate on Jewish assets in Swiss banks, and US pressure on European businesses and governments to take accountability for their actions in World War II.[6] It was also part of a historiographical turn in the 1990s, where researchers on Nazism and the Second World War devoted more attention to the Holocaust, and where the focus in Holocaust research shifted "from the overreaching theories to the concrete events in the extermination process." More attention was devoted to regional studies in the occupied territories and to local collaboration in genocidal policies.[7]

[3] Mendelsohn published *Jødenes historie i Norge gjennom 300 år* in 1969 and 1986, Ulstein published *Svensketrafikken* in 1974 and 1975, and Johansen published *Oss selv nærmest* in 1984.

[4] For an overview of many important works on Norwegian-Jewish history and the Holocaust in Norway, see Simonsen, "Oversikt over forskningslitteratur" and the first footnote in Berggren, Bruland, and Tangestuen, *Rapport frå ein gjennomgang av 'Hva visste hjemmefronten?'*, p. 11.

[5] Bajohr, "Expropriation and Expulsion," pp. 52–53; Goschler and Lillteicher, "'Arisierung' und Restitution: Die Rückerstattung jüdischen Eigentums in Deutschland und Österreich. Einleitung," pp. 14–15.

[6] Bajohr, "Expropriation and Expulsion," pp. 53–54; Goschler and Ther, "Introduction," pp. 6–7.

[7] Fure, "Tilintetgjørelsen av de europeiske jødene," pp. 130–131, "fra de overgripende teorier til de konkrete hendelser i utryddelsespolitikken."; Simonsen, "Ideologi, situasjon og personlighet: Om forskningen på nazismens gjerningspersoner."

Commenting on this historiographical development, historian Frank Bajohr noted that "Unresolved questions of restitution, issues in which historians and the public had long shown no interest whatsoever, now began to drive a new global Holocaust culture of remembrance."[8] Norway took part in this development. Historian Bjarte Bruland's master thesis from 1995 on the Norwegian Holocaust detailed the economic liquidation of the property of Norwegian Jews as part of the genocide.[9] The same year, the Norwegian newspaper *Dagens Næringsliv* published an article by journalist Bjørn Westlie on the robbery of Norwegian Jews, which brought public attention to the subject.[10]

The 1990s also saw the establishment of historians' commissions in several countries, such as the US, France, Belgium, Switzerland – and Norway.[11] In 1996, the Norwegian Ministry of Justice commissioned an Official Norwegian Report,[12] written by what was later known as the Skarpnes Commission.[13] The task of the commission's eight members[14] was to "establish what happened to Jewish property during the Second World War (…) [and] to determine how and to what extent seized assets/property were restored after the war, and their value."[15] However, they disagreed on the premises of the report and its conclusions, and consequently, they openly split in May 1997.[16] In June 1997, they delivered two separate reports to the Ministry of Justice – hereafter called the Minority and Majority Skarpnes Report.[17]

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[8] Bajohr, "Expropriation and Expulsion," pp. 54.

[9] Bruland, "Det norske Holocaust."

[10] Westlie, "Det norske jøde-ranet." In 1996, the World Jewish Congress published the article "Still no peace for the Jews of Norway" (later titled "Coming to terms with the past") which was written by Westlie and based upon this newspaper article. Thank you to Bjørn Westlie for lending me this document. Westlie also published a book on the subject, "Oppgjør."

[11] Bajohr, "Expropriation and Expulsion," pp. 57 and 63, footnote 23.

[12] A report written by a commission constituted by the Government or a Ministry, often to report on subjects central to a policy proposal.

[13] For a more detailed description of the processes leading up to the commissioning of the Skarpnes Commission, see Theien and Westlie, "The Restitution Process and the Integration of the Jewish Minority into the Norwegian Collective Memory of the Second World War," pp. 119–123; Bruland and Levin, "Norway: The Courage of a Small Jewish Community."

[14] The commission consisted of historian Bjarte Bruland, Professor of Law at the University of Oslo Thor Falkanger, Professor of History at the University of Oslo Ole Kristian Grimnes, Assistant Director the National Archives Anne Hals, psychologist Berit Reisel, County Governor Oluf Skarpnes, and District Recorder Guri Sunde. Hals was later exchanged for Eli Fure from the National Archives. Executive Officer Torfinn Vollan was the commission's secretary. Translations of the titles from Reisel and Bruland, *The Reisel/Bruland Report on the Confiscation of Jewish Property in Norway during World War II*, p. iii.

[15] NOU 1997: 22, p. 164.

[16] Theien and Westlie, "The Restitution Process and the Integration of the Jewish Minority into the Norwegian Collective Memory of the Second World War," p. 122.

[17] In the footnotes and bibliography, they are referenced as "Minority NOU 1997: 22" and "Majority NOU 1997: 22" in order to differentiate between the two parts of the report.

The majority's view was that "the task of restoration and compensation after the war was well and thoroughly performed" and that the Norwegian government had no legal obligation to cover the war damages sustained by the population.[18] They emphasized that the rules for Jews and non-Jews were the same and that the restitution had to be viewed in context with "the historical conditions prevailing in 1945."[19]

The Minority Skarpnes Commission consisted of the two members nominated by the Jewish Community: historian Bjarte Bruland and psychologist Berit Reisel. They not only reached a different conclusion than the majority but, more importantly, started from a different set of premises: In their view, neither the treatment of other population groups nor the Norwegian state's legal responsibilities were relevant. Instead, they took the situation of the Jews as their starting point and analyzed it in its own right. They examined the economic liquidation as part of a total process of destruction and concluded that the "principles of compensation had particularly far-reaching consequences for the Jews, due to the collective and total nature of the liquidation, and to the unique pattern of deaths."[20] The Ministry of Justice adopted the minority's recommendations and used their report as the basis for the following White Paper No. 82,[21] which the Storting unanimously accepted. They allocated 450 million NOK to the Jewish community in Norway, to Jewish individuals, to support commemoration efforts, and to establish the Norwegian Center for Holocaust and Minority Studies.[22]

The conflict over restitution of Jewish property – in Norway as well as in Europe – took place in two phases: one after 1945 and one after 1990.[23] The Skarpnes Report is both a systematic examination of the liquidation and restitution of Jewish property in the first phase *and* a central part of the restitution itself in the second, making it both a research publication and a primary source on restitution in Norway. This thesis is on the post-1945 restitution, and the Skarpnes Report primarily functions as research literature in this context.[24] However, the report itself should be the subject of similar studies on restitution in the 1990s in later research projects.

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[18] The lawmakers, too, concluded that the state had no legal obligation to compensate war damages. See *Innstilling fra Krigsskadekomiteen. Oversikt*, p. 2. However, Professor of Law Irwin Cotler argued that based on international law, the Norwegian post-war government did have a legal obligation of restitution. See Cotler, "Nuremberg 50 Years Later."

[19] Majority NOU 1997: 22, p. 167.

[20] Minority NOU 1997: 22, p. 170.

[21] St.prp. nr. 82 (1997–98).

[22] St.prp. nr. 82 (1997–98); Bazyler et al., "Norway," p. 308; Bruland and Levin, "Norway: The Courage of a Small Jewish Community"; Theien and Westlie, "The Restitution Process and the Integration of the Jewish Minority into the Norwegian Collective Memory of the Second World War," p. 134.

[23] Goschler and Ther, "A History without Boundaries," p. 3.

[24] Therefore, it is referenced in the bibliography as research literature.

Up until the 1990s, the subject of restitution was neglected in research.[25] However, following the works of similar historical commissions all over Europe, more literature on restitution was produced, mainly in the first decade of the new millennium. Two central anthologies from 2002 and 2007 analyzed liquidation and restitution of Jewish property side by side and country by country, focusing on mapping the details of these historical events.[26] Other works have focused more on restitution's connection to narratives of the past, memory, and the meaning of material values.[27] A lesser-used perspective is analyzing restitution in light of how Jews experienced returning home after the war.[28]

While historians have devoted more attention to the liquidation of Jewish property in Norway,[29] there has been limited research on the restitution of that same property. This follows an international trend where research on restitution has often become subordinate to examinations of expropriation. When researchers detail restitution, it is often either together with or as a byproduct of research on expropriation.[30] To date, the Skarpnes Report is the only extensive publication on the restitution of Norwegian-Jewish assets. Bruland shortly touches upon the topic in two paragraphs on *Holocaust i Norge* and requests more research on it. In January 2021, during the writing of this thesis, Berit Reisel published her book *Hvor ble det av alt sammen?* where she details her experiences as a member of the Skarpnes commission. Nevertheless, the chapters on the restitution directly after the war mostly recite the findings in the Minority Skarpnes Report. Restitution of Jewish property in Norway is also examined in some international publications,[31] although briefly and often as a summary of the Report.[32]

This historiographic status leaves several topics unexplored. Bruland especially points to the lack of research on why decisions were taken that made it harder for Jews to return and on how

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[25] Goschler and Lillteicher, "'Arisierung' und Restitution: Die Rückerstattung jüdischen Eigentums in Deutschland und Österreich. Einleitung," p. 17.

[26] Goschler and Lillteicher (ed.), *"Arisierung" und Restitution*; Dean, Goschler, and Ther (ed.), *Robbery and Restitution*.

[27] This includes Fogg, *Stealing Home* and Diner and Wunberg (ed.), *Restitution and Memory*.

[28] Exceptions include Bankier (ed.), *The Jews Are Coming Back* and Fogg, *Stealing Home*.

[29] The liquidation of Jewish property in Norway is amongst others researched in Mendelsohn, *Jødenes historie i Norge gjennom 300 år*, pp. 489–680; Bruland, "Det norske Holocaust," pp. 85–104; Westlie, "Still no peace for the Jews of Norway"; Bruland, *Holocaust i Norge*, pp. 477–549; Mangset, "En kamp om verdier"; Strømsmoen, "Plyndrer og jurist"; Reisel, *Hvor ble det av alt sammen?*.

[30] According to Bajohr, the analytical focus is on expropriation. Bajohr, "Expropriation and Expulsion," p. 61.

[31] See for example: Bruland and Levin, "Norway: The Courage of a Small Jewish Community"; Dean, *Robbing the Jews*, 287–90; Dean, "The Plundering of Jewish Property in Europe," pp. 91–92; Bazyler et al., "Norway"; One exception is Cotler, "Nuremberg 50 Years Later," an article that presents a more original perspective. There, Cotler discussed the Norwegian state's legal obligation for restitution.

[32] This is one of the motivations for writing this thesis in English: to make more research on Norwegian Jews and the Norwegian Holocaust available for international researchers.

the authorities understood the war experiences of the Norwegian Jews.[33] Although the Minority Skarpnes Report was thorough, the commission's mandate was to determine the value of unreturned Jewish assets, and it left many subjects open for further research. It mainly examined the result of restitution and did not substantially engage in a historical discussion on why lawmakers designed restitution laws in a way that had adverse consequences for the Jewish minority. It was not a research paper intended to discuss the causes of the outcome they uncovered but a report commissioned by the Government to determine the monetary value of unreturned and uncompensated assets. As such, it falls into a trend in international scholarship where – in the words of Bajohr – many studies on expropriation and restitution "have been characterized by the fact that they serve primarily to clarify practical questions of restitution in the present, in the process sometimes shortchanging key guiding questions in historical inquiry."[34] Therefore, this thesis will take as its premise the Minority Skarpnes Commission's conclusion that the Norwegian restitution was unfavorable to Norwegian Jews and seek to fill the hole in the research by examining why lawmakers designed the laws this way.

However, it is necessary to re-examine some subjects already detailed in the Skarpnes Report, such as what consequences the restitution had for Norwegian Jews. This is both because it is necessary to explore the subject in light of this thesis' research question and because this thesis will analyze different aspects of this subject than the Skarpnes Commission did. It will link the consequences more closely to the laws themselves, examine the terminology of restitution, and analyze the consequences of the previously unexamined House Requisition Act.

## 0.2 Approach and Framework

### 0.2.1 Theoretical premises

This thesis starts from the same premise as the minority Skarpnes report and from an insight that scholars increasingly recognized in the 1990s:[35] that the economic liquidation has to be analyzed as an integral part of the physical extermination of the Jews, which makes the restitution of Jewish property inherently different from that of other groups in Norway. The liquidation of Jewish property was both a part of and necessitated the Jews' physical annihilation – it was based upon the assumption and implied that Jews no longer needed a place

[33] Bruland, *Holocaust i Norge*, p. 549.
[34] Bajohr, "Expropriation and Expulsion," p. 60.
[35] Fogg, *Stealing Home*, pp. 5–6; Minority NOU 1997: 22, pp. 169–172.

to live. This understanding of the Holocaust can be said to be Hilbergian in the sense that Raul Hilberg viewed the expropriation of Jews as a central part of their destruction.[36] Furthermore, and as a logical consequence of the interlinkage between the economic and physical extermination of the Jews, the restitution must be seen in context with the genocide. To cite this in practical terms, this means that the hardships facing Jews attempting to recover their belongings after the war must be viewed as a direct consequence of the genocide, also meaning that these challenges were unique to this group.

It might have been helpful to examine the liquidation and restitution of Jewish assets in the same thesis, to a more significant degree viewing the two processes in a continuum, and to examine the execution of the restitution laws together with their enactment. However, focusing solely on the process of designing the restitution laws allows this thesis to tailor its approach specifically to study this subject. Furthermore, the scope of a master thesis is limited, and exchanging a wide examination for a narrower focus allows for a deeper analysis of this subject. Additionally, while liquidation of Jewish property has received somewhat more attention, few research projects focus solely on restitution, and this thesis aims to help further the knowledge on an under-communicated and under-researched part of the Holocaust in Norway.

In *Robbery and Restitution*, professors of history Constantin Goschler and Philipp Ther point to five dominant explanatory approaches towards restitution in Europe:[37] firstly, an approach where external political powers are seen as a main driving force behind restitution. It was mainly developed with reference to the United States' role in West Germany after the war and is less convincing when applied to countries such as Norway. Secondly, Goschler and Ther point to an approach where restitution is seen as the reestablishment of trust as a fundamental part of a liberal economic order. Thirdly, there is an approach where civil society is seen as a prerequisite for restitution. Although this approach was developed to analyze civil society as a way to overcome dictatorship in the Eastern Bloc, it can also give impulses to how democratic nations such as Norway overcame a five-year occupation. As Goschler and Ther note, "The restitution of Jewish property therefore provides an important case study for examining the question of how well civil societies are able to handle the historical exclusion and discrimination of minorities." Fourthly, some researchers view restitution in the context of the development of group rights and new international moral standards.[38] Fifthly, one approach

[36] Hilberg, *The Destruction of the European Jews*. See for example pp. 79–153.
[37] Goschler and Ther, "A History without Boundaries," pp. 12–15.
[38] See for example Barkan, *The Guilt of Nations*; Diner, "Memory and Restitution."

connects memory and property, for example seeing restitution as the result of rediscovered memory.[39]

With some adaptations and additions, the last four approaches will be useful in this thesis. More than just the reestablishment of trust, restitution is a part of the reinstatement of a democratic constitutional order. It is the attempt to base property rights, transactions, and agreements on premises that are seen as acceptable under such a rule. Restitution can also be seen as a process in which a new government distances itself from the misdoings of its predecessors or as a process to heal collective wounds. Alternatively, as Professor of History Regula Ludi suggests, it can be viewed as a process in which past events are characterized as wrongs, where responsibility is distributed, and where deserving victims are identified.[40] Also – and not reflected in the five approaches presented by Goschler and Ther – restitution must be seen as a solution to practical problems, as a part of the rebuilding of Norway, and as a way to stabilize a formerly occupied country. Lastly, restitution was influenced by how the Second World War was conceptualized. More concretely, it was influenced by how the lawmakers understood different people's or groups' experiences in World War II.

As to the question of what a legal system is able to do for the victims of a genocide after it has already happened, it is problematic to view past crimes as something that can be completely annulled or reversed. In the words of historian Berber Bevernage, that would be "an almost economic logic of crime and punishment." This becomes clear when applied to the Holocaust: Most of the crimes against Norwegian Jews could not be reversed or undone, as nothing could replace murdered family members, erase past trauma, or give back lost years. Simultaneously, Bevernage argues, seeing past crimes as something that is irretrievably gone and something that can never be resolved would make for an "excessive emphasis on absence and irreversibility that can be used in defense of impunity."[41] This thesis is based on the premise that although most of the damage of the Holocaust could not be undone and the victims could never be fully reinstated to their original position, there were ways to alleviate Norwegian Jews of some of their post-war burdens. In addition, some of the economic components of the genocide were in fact reversible in that some material values could be returned, making it one of the few aspects of the genocide that could be partly annulled. However, it is important to note that this was only

[39] See for example the anthology Diner and Wunberg (eds.), "Restitution and Memory."
[40] Ludi, *Reparations for Nazi Victims in Postwar Europe*, pp. 8–9.
[41] Bevernage, "Time, Presence, and Historical Injustice," pp. 152–153 and 163–164.

true to some extent, as, for example, sentimental objects could not be replaced and one's old apartment may no longer have felt like home after the family was gone.

### 0.2.2 Central terms

This thesis defines the liquidation of Jewish property as the expropriation of Jewish assets at the hands of Nazi authorities and the subsequent redistribution of these assets. While words such as "looting" and "theft" would more successfully reflect the unlawful, abusive, and sometimes corrupt character of such policies,[42] "liquidation" better mirrors that these acts were an organized plunder committed by a state within a legal framework. Although "Aryanization" highlights that these acts sprung out of racial and antisemitic ideas,[43] "liquidation" better reflects that this process was not only about redistributing valuable assets: it also involved the total destruction of Jewish property rights, in the sense that the perpetrators even confiscated non-profitable assets (such as debts, obligations, and sentimental objects with no market value). Moreover, although the term "expropriation" fittingly describes the act of taking property from Jews, "liquidation" better reflects that this property was not just removed from Jewish hands but also sold and redistributed.

Scholars disagree on the terminology of restoring liquidated property. The meaning of the two most cited terms – restitution and reparations – is under dispute. To what degree do the terms encompass the *compensation* or the *return* of property? Does it imply a return to the pre-war situation? To complicate the matter further, the terms are not directly translatable between languages: 'Réperations' (French), 'Wiedergutmachung' (German), and 'tilbakeføring' (Norwegian) does not denote the same concept.[44] Some define restitution as the return of the belongings that were stolen from the Jews and reparations as compensation for what cannot be returned.[45] Others define restitution as "the material restoration of property with no moral connotations" and reparations as an abstract concept denoting Germany's payments to the Allies after the First World War.[46] Either way, it is vital to consider possible semantic shifts in

[42] Mangset, "En kamp om verdier," pp. 96–97 and 102.
[43] Goschler and Lillteicher, "'Arisierung' und Restitution: Die Rückerstattung jüdischen Eigentums in Deutschland und Österreich. Einleitung," p. 10.
[44] Ludi, *Reparations for Nazi Victims in Postwar Europe*, p. 7.
[45] Barkan, *The Guilt of Nations*, p. xix.
[46] Andrieu, "Two Approaches to Compensation in France," p. 134.

the terms. For example, in the post-war context, "reparations" specifically denoted payments from the defeated state in a war to the victorious party.[47]

In this thesis, the Norwegian state's attempt to compensate or return to Norwegians what was taken from them, destroyed, or lost as a result of the war, will be referred to as "restitution." It includes both the *return* of property – meaning that the physical object or its realized value was returned to the owner – and *compensations* – meaning that the claimant was reimbursed with a sum of money. The use of the term "restitution" does not imply that what was lost was fully returned or compensated. This is both because restitution usually did not entail reimbursement of a hundred percent of the value of what was lost or damaged, and because the Holocaust had taken from the Norwegian Jews something that could never be recovered.[48] This includes a range of immaterial values, such as family members, friends, a sense of home and security, the network of a community, central religious and cultural figures, lost years, and damages to a person's health. As such, "restitution" does not denote a state of affairs or a possible end goal, but rather a process of legally sorting the economic effects of occupation, war, and genocide.

As to what to call the Nazi attempt at annihilating European Jewry during the war, this thesis will apply several terms. The term used today – "the Holocaust" – would be an anachronism if applied to the years directly following the war, as it did not begin to be popularized in Norway until the Eichmann trial in 1961 and the airing of the TV series "Holocaust" in 1979.[49] "The persecution of the Jews" and "the Jews' war experience" were more in line with the lawmakers' frame of reference in the first post-war years. When discussing the contemporaries' understanding of the genocide, these and similar phrases will often be used, but "the Holocaust" will still be applied as an analytical term.

In the context of this thesis, "a Jew" is a person who was affected by the occupation regime's anti-Jewish policies. This person did not necessarily define him- or herself as Jewish. Terms such as "Norwegian Jews" are used inclusively and territorially: They refer to all Jews that lived in Norway at some point between 1940 and 1945. The term is thus applied regardless of citizenship, place of birth, length of residency in Norway, and whether the person perceived him- or herself or was perceived by others as Norwegian. Similarly, the term "Norwegian" encompasses all inhabitants of Norway.

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[47] Ludi, *Reparations for Nazi Victims in Postwar Europe*, p. 1.
[48] As pointed out in Cotler, "Nuremberg 50 years later," pp. 281–82.
[49] Brakstad, "Jødeforfølgelsene i Norge. Omtale i årene 1942–1948," p. 14.

"The occupation regime" denotes the de facto authorities that ruled Norway during the occupation. It includes both German- and Norwegian-bred institutions and actors, meaning for example both the *Reichskommissariat*, German police units, the NS-regime, and the nazified Norwegian state bureaucracy.[50] "The Norwegian Government in Exile" denotes the Nygaardsvold Cabinet seated in London from June 1940 to May 1945.

Regarding terms denoting property, "moveable property" is defined as personal belongings, such as furniture, clothes, and jewelry. "Real estate" is defined as owned buildings such as houses or apartments. "Stock-in-trade" are all property connected to a business, such as inventory, goods, products, and tools. "Securities" are all documents of economic value, such as stocks or documents attesting credit or ownership. "Realized values" are the money received after the sale of an object. In this thesis, "property" or "assets" includes all these categories: It comprises all material values a person owns, from jewelry to apartments to stocks.

### 0.2.3 Primary sources

The six laws most central to the restitution of Jewish property were the Confiscated Property Act, the House Requisition Act, the Building Damages Act, the Moveable Property Damages Act, the Stock-in-Trade Damages Act, and the Ex Gratia Act. The primary sources in this thesis are these laws and their preparatory works, meaning the documents produced in the legislative process either by the Storting or sent to the Storting by the Government. In addition, although it was not a restitution law, the Missing Persons Act will also be treated in this thesis, both for comparative purposes and because it became central to the restitution of Jewish property.

A law proposal went through several stages before being passed. First, the responsible Ministry drafted a proposition. Before writing the proposition, the Government could also appoint a commission to study the matter and submit a thorough report and make a draft of the bill. A standing committee then treated the proposition and delivered a recommendation to the Odelsting (the Storting's lower house). The proposal was subsequently debated and voted on in the Odelsting and the Lagting (the Storting's upper house). If they accepted the proposal, the law was passed and signed by the King-in-Council. The legislation would also be discussed on a bureaucratic level before writing these official legislative documents, but although examining this process would be of interest to another research project, it falls outside the scope of this thesis. This legislative process produced five documents: a proposition from the Ministry

[50] Simonsen, "Nazifisering, kollaborasjon, motstand," pp. 49–59.

(Ot.prp), a recommendation from the standing committee (Innst. O.), a debate/vote in the Odelsting (O.tid.), a decision in the Odelsting (Besl. O.), and a debate/vote in the Lagting (L.tid.). The legislative processes for each of the six laws all produced these five documents. Additionally, four of the laws – the Ex Gratia Act,[51] the Building Damages Act, the Moveable Property Damages Act, and the Stock-in-Trade Damages Act – were based upon a report written by the Commission for War Damages.[52] There was no commission report for the Confiscated Property Act or the House Requisition Act.

In everyday language, "lawmakers" and "legislators" usually denote the elected members of a parliament and do not include the people involved in designing a law before it reaches the legislative state power. In this thesis, however, they will also denote everyone involved in producing the preparatory works – from the commission to the Ministry to the standing committee to the Storting – as there exists no established term for this group. Furthermore, the commission and Ministry influenced the restitution laws to a much greater extent than the members of parliament, seeing as there were few changes in the laws after they reached the Storting. It is therefore fitting to apply an expanded definition of "lawmakers" to include also non-elected bureaucrats.

### 0.2.4 Methodological framework and challenges

The subject of past people's intentions and thoughts is notoriously challenging to study historically. It is difficult to interpret how and what people were thinking – it is often easier to ascertain what actions people undertook in the past than to decipher their intentions and thought processes. Nevertheless, the preparatory works are in many ways suitable to help answer the research question in this thesis. Their original function as preparatory works was precisely to provide information on the lawmaker's rationale behind their laws. The lawmakers' motives and reasoning for the provisions were often explicitly expressed. They acted as

[51] According to the main register of parliamentary documents – *Hovedregister til stortingsforhandlinger (1945/46–1954)* – the Ex Gratia Act is based upon three commission reports: One from April 30th, one from May 23rd, and one from May 28th. However, of the three commission reports that are attached to the proposition, one is from April 30th, and two are from May 28th. After unsuccessfully searching for a possible fourth commission report from the 23rd of May, the conclusion is that there is a mistake in the main register. *Innstilling fra Krigsskadekomiteen. Tingsskader. Tyske beslagleggelser (rekvisisjoner) av fast eiendom m.v. og skade på jord, skog og annen grunn; Innstilling fra Krigsskadekomiteen. Inntekts- og formuestap; Innstilling fra Krigsskadekomiteen. Krigsskader på og tap av motorvogner m.v.*

[52] These reports are published together in *Innstillinger og betenkninger fra kongelige og parlamentariske kommisjoner, departementale komiteer, m.m*. (1946). The report from the Commission for War Damages was divided into subreports, and the subreports most relevant for the law at hand were attached to the proposition.

recommendations to how the legislation should be designed and later as guidelines for how laws should be interpreted. This means that the sources can often be read with the grain, meaning that the historian can use the sources per their original use.

Still, this is only partly the case. The preparatory works do not necessarily focus on topics of interest to this thesis. There is not always an overlap between what motives the historian is interested in and what reasoning was relevant to the legislative process. Moreover, it is unlikely that the preparatory works are a perfect presentation of the lawmaker's motives. They might have deliberately left something out because they considered such ideas as inappropriate to express in public, or they might not have been fully aware of or have reflected on their motives. Alternatively, the formal language and genre requirements of a legal document might have restrained them. For example, a lack of antisemitic statements in such sources cannot prove that laws were not influenced by such ideas.

Because of these methodological limitations, it is necessary to also read the sources against the grain, which involves searching for what is unstated and for alternative explanations and taking into account how the format and purpose of the text and the context in which it was written influenced the sources' contents. Using additional information from research literature will help to both analyze the sources and fill in the gaps. Furthermore, when reading the sources *with* the grain, this will naturally not be done uncritically: What the lawmakers stated as their reasoning and motives for the design of the laws is not a gold standard but rather an assistive tool. By combining these techniques and taking these methodological problems into account, the preparatory works are suitable to provide empirically well-founded answers to the questions examined in this thesis.

Although these sources give ample information on the official legislative processes, they provide little to no information on the lawmakers themselves and on how the individual legislators affected the legislation. Although this thesis will conduct a prosopographical examination of the lawmakers, it will mainly focus on the lawmakers as representations of their office, rather than on their personal dispositions. This focus, together with the limitations in the scope of a master thesis and inconsistent access to the archives during the pandemic, motivated the choice to limit the source material to the preparatory works (which are published sources).

Although these laws were written by individuals and institutions with different intentions and views, they will mainly be analyzed as one. The sources suggest that the lawmakers were to a large degree in agreement on these six laws. The preparatory works do not reveal that they

markedly disagreed on issues central to the deliberations in this thesis, and there were few marked differences between the law proposed in the Commission report and its final version. Furthermore, the legislation and preparatory works that make up the source material for this thesis referred to, complemented, and built on each other and formed a complicated net of legislation. They were not designed to work alone but to govern interrelated parts of the restitution. A single Jewish restitution case would typically be the subject of several (if not all) of these laws simultaneously. Differences between the sources – for example, between a law and its proposition – can mainly be ascribed to the variation in length, scope, and purpose of the document. While a law is supposed to be concise, a proposition is supposed to make clear the intentions of a law and lawmakers' reasoning. Therefore, the source material will be viewed as elaborations of each other rather than as entirely separate legislation.

## 0.3 Structure of the Thesis

Chapter 1 gives an overview of the contents of the restitution laws. This is provided in a separate section and not throughout the analysis in the other chapters because these laws are so detailed and complicated that it is necessary to provide the reader with an understanding of them before discussing what influenced the lawmakers' decision making. Furthermore, viewing these laws as parts of a single comprehensive restitution legislation necessitates describing them together.

The question of whether lawmakers took Jewish needs into account when designing the six restitution laws will be analyzed in chapter 2. It examines the consequences of the legislation for Jews, how often lawmakers mentioned Jews in the preparatory works, and whether their situation was thoroughly discussed and their needs were taken into consideration. This chapter will also compare this to how the lawmakers treated other groups with special restitution needs and how they treated Jews in another law on missing persons. Also, this chapter will examine this thesis's premise: whether the restitution laws were disproportionately unfavorable to Jewish claimants.

Chapter 3 contains an analysis of how the context, economic principles, and legal framework of restitution contributed to the laws' adverse effects. It examines how economic considerations affected the laws' design, what principles guided the restitution, and how the existing legal framework influenced the new legislation.

Chapter 4 contains an analysis of how the laws' adverse effects on Jewish restitution can be explained by a lack of active efforts to adapt the legislation to Jewish needs because of how

lawmakers conceptualized the war and its victims. It will examine whether antisemitic notions, the prevalence of certain historical narratives, or an underdeveloped understanding of Jewish war experiences can explain why the laws were unfavorable to Jews.

This thesis is structured thematically and around the research question, rather than chronologically, because of the temporal frame and nature of the source material. The legislative processes happened over a very short time – the laws were passed within a year of each other. Furthermore, as the sources are laws and preparatory works, they do not primarily show drastic changes over time but rather elaborate and nuance each other – the lawmakers usually only made minor changes in detail from the law proposed in the commission report. There were changes over time, and this thesis will comment upon these changes. However, it is most natural to structure the thesis thematically and to focus on the overall tendencies in the preparatory works.

Throughout the thesis, the treatment of Jewish restitution needs will be compared to the treatment of other groups in Norway, restitution in other countries, and the treatment of Norwegian Jews in other legal documents. Notably, the restitution legislation will be compared to a seventh law from August 1947 on missing persons that was particularly significant for Norwegian Jews. The thesis is focused on the lawmakers' attention to Jewish claimants in Norway in the six restitution laws and is not mainly a comparative analysis. However, a comparative element is introduced to help analyze this subject and to place this topic in a larger national and international context.

# 1 Sorting the Chaos of War: The Six Restitution Laws

Between July 1946 and July 1947, the Storting passed six temporary laws, called provisional acts: the Confiscated Property Act, the House Requisition Act, the Building Damages Act, the Moveable Property Damages Act, the Stock-in-Trade Damages Act, and the Ex Gratia Act. They were passed within a year of each other, were all made by the Ministry of Social Affairs and the Ministry of Justice and Police, and were treated in the same parliamentary term. From now on, these laws will be referred to as "the restitution laws" and "the restitution legislation." Although they were individual laws, they were designed to complement each other and must be seen as parts of a comprehensive legislation.

This chapter summarizes the contents of these laws and the process leading up to their enactment. The overview given in this chapter forms the necessary background for the discussions in the rest of the thesis. Before venturing into this, however, it is necessary to detail the background of restitution: the attempt at physically and economically annihilating Norwegian Jews during the war.

## 1.1 Background of Restitution: Jewish Community in Ruins

Up until the late 1800s, there lived very few Jews in Norway. They had been barred from entering Norway until 1851, when the provision in the Constitution denying Jews access to the country was abolished. A sparse Jewish immigration began in the 1880s, mostly consisting of Jews from Eastern Europe who fled pogroms and antisemitic sentiments in their home countries. The Norwegian-Jewish minority only counted a little over 2 000 in 1940 and was one of the smallest in Europe, both in relative and absolute numbers. Most Norwegian Jews had either emigrated from Eastern Europe around the turn of the century, were the children of these immigrants, or had fled to Norway in the 1930s due to Nazi anti-Jewish policies. The three synagogues in Norway were situated in Oslo and Trondheim, where many Jews lived. Many Jews owned businesses, and these enterprises were the economic backbone of the community.[53] Many were members of the Jewish religious organization called the Jewish Community (*Det Mosaiske Trossamfunn*, DMT). It consisted of two branches – one in Trondheim (DMTT) and one in Oslo (DMTO) – which covered Norwegian Jews living in the north and south of Norway

[53] Bruland, *Holocaust i Norge*, pp. 28–31; Gjernes, "Jødar i Kristiania," 32; Minority NOU 1997: 22, pp. 89, 124, and 160.

respectively. These communities were a central part of Jewish life in Norway, and even Jewish non-members often partook in communal activities or chose to get married in the synagogues and buried in the Jewish cemeteries.

Upon the Nazi occupation of Norway in 1940, Norwegian Jews were immediately subject to anti-Jewish policies. Antisemitic measures before the autumn of 1942 included the confiscation of Jewish radios in May 1940, cases of violence against Jews, the registration of Jewish businesses and people, the arrest of individual Jews as hostages in areas with resistance activity, terror against Jews during the state of emergency in Trondheim, and the deportation of a handful of Jews.[54] In the autumn of 1942, antisemitic measures radically escalated as Norwegian police forces acting on German orders began arresting Jewish Norwegians en masse: On October 26th, they went to arrest and intern all male Jews over 15 years of age.[55] The arrest of the rest of the Jewish population followed a month later, on November 25th and 26th. Five transports deported Norwegian Jews to Auschwitz in November 1942 and February 1943. Most of them were deported with the ships Donau on November 26th, 1942 and Gotenland on February 25th, 1943.

In total, the occupation regime deported 773 Jews from Norway, comprising around half of the 1 582 Jews registered by the Nazi government, making it one of the highest Jewish death rates in Western Europe.[56] 230 Jewish families were completely annihilated, and all families suffered substantial losses.[57] The interwoven structure of Jewish families amplified this effect: It was common at the time for Norwegian Jews to marry other Jews, and many relatives were therefore lost in the Holocaust.

Even though Norwegian Jews accounted for less than a permille of the population, their little under 800 deaths made up around 8% of all Norwegian deaths during the war. The over 1 200 Jewish refugees to Sweden made up about 2% of all Norwegian refugees in the country, and over half of all Norwegians who had perished in German concentration camps were Jews.[58] The Reparations Office treated around 4 000 households, and 1 053 of these belonged to Jews.[59] In other words: The human and financial losses of the Jewish community were significant both in absolute and relative numbers – both compared to the minority's own size and the Norwegian population as a whole.

[54] Bruland, *Holocaust i Norge*, pp. 82–98 and 179–205.
[55] Bruland, *Holocaust i Norge*, pp. 241–261.
[56] Bruland, *Holocaust i Norge*, pp. 366–367, 647, and 674–701.
[57] Minority NOU 1997: 22, pp. 90, 117, and 127.
[58] Minority NOU 1997: 22, p. 117.
[59] Minority NOU 1997: 22, p. 121.

There were regional differences in when the Nazi regime began liquidating Jewish property. In Trondheim, for example, larger Jewish businesses had already been confiscated by March 1942.[60] However, in the autumn of 1942, nationwide policies were put into action. On October 26th, 1942 – the same day as Jewish men were arrested – the Quisling regime introduced the Confiscation of Jewish Property Act. It allowed the perpetrators to confiscate all property belonging to Jews registered by the Nazi regime, including their homes, businesses, and religious and cultural centers. The NS-regime established the Liquidation Board for Confiscated Jewish Property under the Ministry of Finance, whose task was to administer the seized assets.[61] Trustees were appointed for the properties, and they were assigned the job of liquidating it per the laws of bankruptcy.[62] They sold or redistributed their inventory, fulfilled remaining obligations (such as bills and loans), and re-rented or sold the accommodations. This amounted to around 962 households and 419 businesses.[63]

Inventories from Jewish businesses and homes were collected in warehouses, where they were sold in auctions. The real estate was either sold, given away, or put up for rent to new tenants. Gold and silver objects such as jewelry were given to the German security police by order of the Quisling regime.[64] The trustees did not always redistribute Jewish property in an orderly manner, and as a consequence, it could be hard or impossible to retrace the property later.[65] In the redistribution of the property, certain groups such as the NS-movement and the Waffen SS-volunteers (so-called "front fighters") were prioritized.[66] In addition, private individuals, businesses, government officials, and government institutions profited from the deportations of the Jews. The main beneficiary, however, was the Norwegian state.[67]

Liquidating this property was a complicated process, which can be illustrated by the liquidation of the Jewish Community in Oslo (DMTO). Lawyer Helge Schjærve received the trusteeship over DMTO's finances, its office in Grønland, the two Oslo synagogues, the Jewish apartments in Calmeyergaten, Jødisk Hjelpeforening, and the assets of a handful of individual Jews.[68] From November 1942 to February 1943, he corresponded with banks, government

[60] Bruland, *Holocaust i Norge*, pp. 126 and 547.
[61] Bruland, *Holocaust i Norge*, p. 485; Mangset, "En kamp om verdier," pp. 16–18.
[62] Bruland, *Holocaust i Norge*, 487; Minority NOU 1997: 22, p. 89, 100, and 102; Bazyler et al., "Norway," p. 305.
[63] Minority NOU 1997: 22, pp. 90–91.
[64] Bruland, "Det norske Holocaust," p. 99.
[65] Mangset, "En kamp om verdier," pp. 78–79.
[66] Bruland, *Holocaust i Norge*, p. 525.
[67] Dean, *Robbing the Jews*, p. 290.
[68] JMO, D-0019 DMT, Korrespondanse II, letter from Likvidasjonsstyret to Helge Schjærve, 11.12.1942.

institutions, and ministries in an attempt to map the Community's assets.[69] In December of 1942, he started clearing out the property inside the apartments in Calmeyergaten and Grønland.[70] He began renting the apartments to new tenants at the beginning of 1943, and new rental agreements were signed in April and May that year.[71] The synagogues were robbed of their inventory and were used as storage rooms, and the Community's funds were liquidated. On May 21st, 1943 – seven months after the regime enacted the Confiscation of Jewish Property Act – the Jewish Community in Oslo was formally dissolved and ceased to exist.

The way the occupation regime persecuted Norwegian Jews was markedly different from its policies towards other Norwegians: Following an antisemitic worldview, the perpetrators had intended for the complete annihilation of the Jews: Both their belongings, their connection to society, and their physical bodies were supposed to *vanish*. The liquidation of Jewish property represented a different kind of loss than that resulting from other war damages. The property had not disappeared in fires or bombings – it had been liquidated in a targeted racial policy at the hands of a regime enriching itself on this act.

## 1.2 Years in the Making: Before the Laws

Although the legislative processes leading to the enactment of the restitution laws only lasted one and a half years – from the submittal of the first commission report in January 1946 to the passing of the last law in July 1947 (see "Figure 1") – the processes preceding these laws had gone on for several years. The restitution laws all sprung out of earlier legislation, and several of the institutions they governed had been founded long before the liberation.

[69] JMO, D-0019 DMT, Korrespondanse I; JMO, D-0019 DMT, Korrespondanse II.
[70] JMO, D-0019 DMT, Korrespondanse I, letters between Helge Schjærve and Likvidasjonsstyret, 09.12.1942, 11.12.1942, 17.12.1942, 23.12.1942, 24.12.1942, and 28.12.1942.
[71] JMO, D-0019 DMT, Korrespondanse II, contracts between Helge Schjærve and the new tenants, December 1942 to May 1943.

| Law | Commission report | Proposition (Ot.prp.) | Standing Committee (Innst. O.) | Parliament (O.tid. and L.tid) | Passed |
|---|---|---|---|---|---|
| **The Building Damages Act** | 12.01.1946 and 26.01.1946 | 16.05.1946 | 04.07.1946 | 08.07.1946 and 11.07.1946 | 19.07.1946 |
| **The House Requisition Act** | no report | 05.04.1946 | 01.07.1946 | 06.07.1946 and 11.07.1946 | 19.07.1946 |
| **The Confiscated Property Act** | no report | 18.10.1946 | 03.12.1947 | 09.12.1946 and 12.12.1946 | 12.12.1946 |
| **The Moveable Property Damages Act** | 16.02.1946 | 21.06.1946 | 18.03.1947 | 24.03.1947 and 17.04.1947 | 25.04.1947 |
| **The Ex Gratia Act** | 30.04.1946 and 28.05.1946 | 21.06.1946 | 13.03.1947 | 24.03.1947 and 17.04.1947 | 25.04.1947 |
| **The Stock-in-Trade Damages Act** | 26.03.1946 | 17.01.1947 | 19.06.1947 | 24.06.1947 and 28.06.1947 | 04.07.1947 |
| **The Missing Persons Act** | no report | 07.03.1947 | 17.09.1947 | 30.09.1947 and 03.10.1947 | 10.10.1947 |

*Figure 1*

Already in December 1918, a commission recommended establishing a war risk insurance, but it was never implemented. Two decades later, a rising fear of a new war led to the appointment of two commissions in June 1939 and February 1940, tasked with making reports on how potential war damages to buildings and moveable property would be covered.[72] They

[72] *Innstilling til lov om Norges Krigsskadetrygd*, p. 5; Ot.prp. nr. 93 (1945–46), p. 3; Ot.prp. nr. 121 (1945–46), p. 1; Thon, *Krigsforsikringen for varelagre*, pp. 10–12.

recommended public war risk insurances, but these schemes were originally constructed for a situation where Norway would remain neutral and unoccupied throughout the war. The Storting did not treat the proposed laws before Nazi Germany invaded Norway, and it was the Administrative Council[73] who completed the process in April and May 1940, establishing the Office for War Damage to Buildings and the Office for War Damage to Moveable Property.

Also in April 1940, the Office for War Damage to Stock-in-Trade was established. It was a voluntary, private, and mutual insurance scheme for stock-in-trade, whose statutes were inspired by the statutes of the building damages insurance. It later became obligatory, like the two other insurance offices.[74] These three institutions continued their work after the war, first under a provisional ordinance from May 1945,[75] and then under the Building Damages Act (June 1946), the Moveable Property Damages Act (April 1947), and the Stock-in-Trade Damages Act (July 1947). These laws were based on a report on compensations for war damages given by the Commission for War Damages, which was appointed in July 1945. The Ex Gratia Act, too, was based on a report written by the same commission. The act was passed in April 1947 and governed the Settlements Division, which had been established under the occupation regime in 1940 to provide compensation for German requisitions.[76]

The House Requisition Act's predecessors also dated back to the wake of the First World War: Housing shortages were a recurring problem in Norway, and laws allowing municipalities to requisition accommodations as a solution to such shortages date back to 1920. Requisition laws were passed in June 1940 and November 1942 under the occupation regime. A provisional ordinance from May 1945 extended the 1942-provisions, with the exception of clauses "with a Nazi character."[77] In July 1946, the House Requisition Act replaced the provisional ordinance.

The only restitution law that did not spring out of legislation or institutions made under the occupation regime was the Confiscated Property Act. It was based on a provisional ordinance from September 1945 – whose provisions it largely continued – which was again preceded by

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[73] The Administrative Council governed the occupied parts of Norway between the April 15th and September 25th, 1940.

[74] Ot.prp. nr. 2 (1947), p. 1.

[75] A provisional ordinance is a temporary law made by the Government per §17 of the Constitution and is valid until the next assembly of the Storting.

[76] *Krigsskadekomiteen. Tingsskader. Tyske beslagleggelser (rekvisisjoner) av fast eiendom m.v. og skade på jord, skog og annen grunn*, pp. 5–6; Minority NOU 1997: 22, p. 116; "Requisitioned" is not the same as "confiscated" or "liquidated." While the first is legal under international law during an occupation and involves compensation, the latter stands in violation of international law and involves no compensations.

[77] Ot.prp. nr. 69 (1945–46), pp. 1–9, quote on p. 4, "som hadde nazistisk karakter"; Ot.prp. nr. 69 (1950), pp. 1–2.

the Invalidity of Occupation Legislation Ordinance.[78] This ordinance was issued by the Government in Exile in December 1942 and contained a provision stating that the owner of the confiscated property had the right to have it returned.[79]

This was not the only war-time announcement of intentions to restitute property. Six months prior, in June 1942, the Government in Exile announced that it was working on how losses and damages resulting from the war would be compensated.[80] Furthermore, in January 1943, the Allies issued a declaration, amongst others signed by the Norwegian Government in Exile, stating that they "reserve all their rights to declare invalid any transfers of, or dealings with, property, rights and interests of any description (…)."[81] This declaration illustrates that restitution was an international process, both in the sense that it took place in several countries simultaneously and that one of the first initiatives for restitution was an international one.

Under a provisional ordinance passed by the Government in Exile in London in January 1945, certain war-time laws would be terminated directly upon the liberation. This included laws that violated the Constitution, that were made to serve the occupier's interests, and that determined punishments or confiscations. All other laws had continued application but would be terminated one year after the liberation at the latest. Their continued application beyond this point in time would have to be sanctioned by the Storting.[82] War-time provisions were examined and discussed before being continued,[83] and after the war the authorities promptly began developing and changing laws relating to restitution.

Two of the six post-war laws were proposed by the Ministry of Justice and Police, and the other four were proposed by the Ministry of Social Affairs.[84] In the Storting, the proposals were treated by three standing committees: the Standing Committee on Municipalities, the Standing Committee on Social Affairs, and the Standing Committee on Justice.[85] The preparatory works

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[78] *Provisorisk anordning om konfiskert eiendom*. The Ministry of Justice's and the Reparations Office's recommendation to this provisional ordinance is included in Ot.prp. nr. 137 (1945–46) and has been taken into account in this thesis when interpreting the Confiscated Property Act; Ot.prp. nr. 137 (1945–46), pp. 1–2.

[79] *Provisorisk anordning om ugyldigheten av rettshandler m.v. som har sammenheng med okkupasjonen*, §2.

[80] Ot.prp. nr. 93 (1945–46), p. 4.

[81] *Inter-Allied Declaration Against Acts of Dispossession Committed in Territories Under Enemy Occupation or Control*.

[82] *Provisorisk anordning om okkupasjonslovgivningen*, §1(1) and (2).

[83] See for example Ot.prp. nr. 69 (1945–46), p. 4.

[84] The Ministry of Justice and police treated the Confiscated Property Act and the Ex Gratia Act. The Ministry of Social Affairs treated the House Requisition Act, the Building Damages Act, the Moveable Property Damages Act, and the Stock-in-Trade Damages Act.

[85] The Standing Committee on Municipalities treated the Building Damages Act, the Confiscated Property Act, the Moveable Property Damages Act, the Ex Gratia Act. The Standing Committee on Social Affairs treated the House Requisition Act. The Standing Committee on Justice treated the Stock-in-Trade Damages Act.

for the post-war restitution laws were officially authored by 20 men.[86] Half of them were lawyers, but other professions such as teachers, doctors, farmers, editors, mathematicians, and merchants were also represented. Many were associated with political parties, and both the Labor Party (*Arbeiderpartiet*), Conservative Party (*Høyre*), Liberal Party (*Venstre*), Christian Democratic Party (*Kristelig Folkeparti, KrF*), and Communist Party of Norway (*Norges Kommunistiske Parti, NKP*) were represented. At least seven of the 20 had been held in German camps during the war, and at least two had worked for the Norwegian government in Stockholm or London. None of them were Jewish. However, it is not possible to trace differences between the preparatory works that correlate with these war experiences, political backgrounds, or occupations based on this prosopographical data.[87]

## 1.3 Returning Property: The Confiscated Property Act

The purpose of the Confiscated Property Act was to return confiscated property to its original owners.[88] It governed the Reparations Office for Confiscated Assets, which assisted the owner of seized property in retrieving his or her belongings if they could be found. It was given responsibility for the assets seized by the Liquidation Board.[89] The law's central paragraph – §3 – concerned the return of found confiscated property:

> The owner may, without compensation and regard to the possessor's good faith, demand reinstatement of the possession of real estate or rights thereof that have been confiscated by the occupation regime or by authorities or institutions approved by him after April 9th, 1940. Likewise, he can reclaim moveable property and claims of any kind (...) regardless of whether

[86] Ivar Bae, Theodor Broch, Anton Djupvik, Tidemann Flaata Evensen, Theodor Grundt, O. C. Gundersen, Kirsten Hansteen, Fr. Lange-Nielsen, Trygve Leivestad, Ottar Lund, John Lyng, Sven Oftedal, Ulrik Olsen, Lars Ramndal, Fredrik Sejersted, Ketil Skogen, Einar Stavang, Hartvig Svendsen, Jørgen Vogt, and Erling Wikborg.

[87] This prosopographical data on the lawmakers – their war experiences, their age, their political parties, and their occupation/education – has been collected from Stortinget, "Representanter og komiteer"; *Nordmenn i fangenskap 1940–1945*; *Norsk fangeleksikon*.

[88] The preparatory works for this act also treated another law: The Property Disclosure Act, which replaced an earlier provisional ordinance from September 1945. This law made it compulsory to provide the Reparations Office with information on property that had been taken from the owner by the occupation regime. *Midlertidig lov om plikt til å gi opplysninger om løsøre som er kommet bort som følge av forføyninger av okkupasjonsmyndighetene eller deres hjelpere*.

[89] *Provisorisk anordning om konfiskert eiendom*, §1; *Innstilling til provisorisk anordning om konfiskert eiendom*, p. 5.

> the possessor at the time of acquisition knew or should have understood that the things had been subject to confiscation.[90]

In simpler terms: The owner of the confiscated property could reclaim it from its current possessor, regardless of whether the possessor knew that the property had previously been confiscated when he or she obtained it. Not taking good faith into account was a breach of ordinary legal rules but was pronounced necessary because of the extraordinary situation.[91]

This paragraph only applied if one was able to retrace the property. If (parts of) the property's realized value was found, but not the property itself, §15 came into play: If the owner could prove that it was probably impossible to find the property, he or she was entitled to its realized value.

## 1.4 A Special Provision: The House Requisition Act

The primary purpose of the House Requisition Act was detailed in its §1: In cases where the owner or the tenant did not need (parts of) the accommodations they occupied, the space that was not needed could be put up for rent for new tenants by an institution called the House Distribution Board. For example, if there was an apartment rented by a family but with a spare bedroom, the House Distribution Board could assign a new tenant to this bedroom, and the family and the new tenant had to share the common areas. The Board could requisition rooms against the wishes of the owner or existing tenants.

However, the law's §16 – which is the provision of importance to the restitution – differed markedly from the other paragraphs:

> In municipalities that have permission to demand the right of use of accommodations in accordance with the rules under section I of this act, the House Distribution Board may, when it finds it reasonable, decide that persons who during the occupation have been imprisoned or have had to leave their place of residence as the result of national work and for that reason have lost or been deprived of housing which they otherwise would have retained, shall regain the

[90] *Midlertidig lov om konfiskert eiendom*, §3, "Eieren kan uten vederlag og uten hensyn til besitterens gode tro kreve seg gjeninnsatt i besittelsen av fast gods eller rettigheter herover som etter 9. april 1940 har vært konfiskert av okkupasjonsmakten eller av myndigheter eller institusjoner som er godkjent av ham. På samme måte kan han kreve tilbake løsøre og fordringer av enhver art (...) uten hensyn til om besitteren på ervervstiden visste eller burde forstå at tingene hadde vært gjenstand for konfiskasjon."

[91] Innst. O. nr. 272 (1946), p. 362.

> right of use to the accommodation or part thereof through requisition, regardless of whether the conditions for claiming the accommodation ceded in accordance with the rules in section I is present. The rules in section I of this Act shall otherwise apply in a similar manner.[92]

In other words, the lawmakers gave special rights to individuals who had lost their rented accommodations as a result of their "national work" during the war: The law gave them the right to reacquire their former housing, even though the preconditions for this (as stated in §1(a)) were not fulfilled. That is, the House Distribution Board could expel the current occupants so that its former tenants could move back, even if the current renter needed the accommodations and had acquired the housing in good faith. "National work" denoted the actions and attitudes of people who had in some way worked against the Nazi regime in a "voluntarily active effort and sacrifice."[93] The use and definition of this term will be further discussed in the next chapter.

This made §16 inherently different from the other paragraphs: The rest of the law treated the placing of people in lodgings to which they had no previous relationship and was intended to alleviate the housing crisis. §16 gave a certain group the right to *reclaim* their former accommodations, not based on whether they needed the housing but based upon their merits during the war.

## 1.5 Truncations: The Building and Moveable Property Damages Acts

The Building Damages Act and the Moveable Property Damages Act governed the Office for War Damage to Buildings and the Office for War Damage to Moveable Property. Their mandate was to compensate individuals for property that was damaged or lost due to acts of war and that was insured under these offices. The contents of these two laws and their preparatory works were similar, and they will therefore be treated together.

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[92] *Midlertidig lov om avståing av bruksrett til husrom*, §16, "I kommuner som har tillatelse til å kreve avstått bruksrett til husrom etter reglene under avsnitt I [§1–15] i denne lov, kan husfordelingsnemda når den finner det rimelig, bestemme at personer som under okkupasjonen på grunn av nasjonalt arbeid er blitt fengslet eller har måttet forlate sitt *bosted* og av den grunn har mistet eller blitt fratatt husrom som de ellers ville ha beholdt, gjennom rekvisisjon skal få tilbake bruksretten til husrommet eller del av dette, uansett om vilkåra for å kreve husrommet avstått etter reglene under avsnitt I er til stede. Reglene i avsnitt I i denne lov gjelder ellers på tilsvarende måte," original italics.

[93] *Innstilling fra Krigsskadekomiteen. Inntekts- og formuestap*, p. 8, "frivillig aktiv innsats og oppofrelse."

If the property had been realized, lost, or damaged, claimants could apply for compensation. As a rule, the real estate or moveable property had to have fire insurance for the claimant to be eligible for compensation under these laws.[94] However, claimants could also be awarded compensation for non-insured or underinsured property if the damage had happened before September 1st, 1940, or if the reconstruction was of benefit to society.[95] To receive the compensation, the claimant had to pay a deductible of 2‰ or at least 50kr. When calculating the compensations, changes in prices could be taken into account by adding an inflation supplement.[96]

In the case of moveable property, the damage or loss was not compensated in full but truncated based on a sliding scale: If the claim exceeded a certain amount, only a percentage of the damage or loss would be compensated, as demonstrated in "Figure 2":[97]

| **Loss*** | **Percentage compensated** |
|---|---|
| 0kr – 3 000kr | 100% |
| 3 000kr – 5 000kr | 90% |
| 5 000kr – 10 000kr | 75% |
| 10 000kr – 20 000kr | 60% |
| 20 000kr – | 50% |

*Figure 2*

*These numbers applied to a household consisting of one person. For every additional member of the household, the sums were increased by 1.000kr.

[94] *Midlertidig lov om krigsskadetrygd for bygninger,* §6; *Midlertidig lov om krigsskadetrygd for løsøre*, §6.
[95] *Midlertidig lov om krigsskadetrygd for bygninger,* §9; *Midlertidig lov om krigsskadetrygd for løsøre*, §9.
[96] *Midlertidig lov om krigsskadetrygd for bygninger,* §21; *Midlertidig lov om krigsskadetrygd for løsøre*, §16(4).
[97] *Midlertidig lov om krigsskadetrygd for løsøre*, §16(1)(a); Minority NOU 1997: 22, pp. 10, 115, and 152.

For example, a household consisting of two people whose moveable property had been damaged for 20.000kr would be compensated thusly:

| **Percentage covered** | | **Compensation** |
|---|---|---|
| 100% of 4 000kr | = | 4 000kr |
| 90% of 2 000kr | = | 1 800kr |
| 75% of 5 000kr | = | 3 750kr |
| 60% of 9 000kr | = | 5 400kr |
| - deductible | = | - 50kr |
| SUM | = | 14 900kr |

*Figure 3*

In this case, the claimants would only be compensated for less than three-quarters of their losses and would lose over 5 000 NOK. That amounted to around the same as an average full-time year's salary in 1946/1947.[98] Also, the compensations could be further reduced or even omitted "when it is deemed as reasonable given the injured party's financial position and needs."[99]

## 1.6 Exclusionary Definition: The Stock-in-Trade Damages Act

The purpose of the Stock-in-Trade Damages Act was to compensate individuals for inventory, goods, products, vehicles, and tools connected to businesses that were insured under the Office for War Damage to Stock-in-Trade and that was damaged or lost as a result of the war.[100]

As a rule, the stock-in-trade had to have fire insurance for the claimant to be eligible for compensation. However, the Office for War Damage could also award compensation for non-insured or underinsured property if the damage had happened before July 1st, 1940, with a deduction of 20%.[101] Notably, a requirement for the compensation was that it had to be "used

[98] Statistisk sentralbyrå, "Lønn per normalårsverk, 1930–2002 nominelt og reelt."
[99] *Midlertidig lov om krigsskadetrygd for løsøre*, §16(5), "når det finnes rimelig av hensyn til skadelidtes økonomiske stilling og behov."
[100] *Midlertidig lov om krigsforsikringen for varelagre*, §6.
[101] *Midlertidig lov om krigsforsikringen for varelagre*, §3.

in a rational manner to repair the damage or to replace the damaged items."[102] In contrast to personal moveable property, stock-in-trade was compensated in full and not according to a sliding scale.

## 1.7 Uncovered Losses: The Ex Gratia Act

The purpose of the Ex Gratia Act was to provide compensations for uncovered losses in some instances. The law dealt with ex gratia payments, which is a form of compensation made without any legal obligation and often from a sense of moral obligation. It usually does not cover the loss in full and is seen as a symbolic gesture. As such, payments from the Settlements Division cannot be equated with other compensations.[103] In the proposition, the lawmakers made it clear that the Norwegian state had no legal duty to compensate the war damages treated in the law but that there were economic and moral arguments for "distributing the burdens of war so that no one is disproportionately affected."[104] Such arguments were not unique to this act, as the lawmakers repeatedly stated that the Norwegian government was not judicially liable for the damages of war and that it had no duty to pay compensations for losses in general, but that compensations were viewed as "a task that naturally belongs to the state."[105]

The payment could normally only be granted when other compensation schemes did not cover the loss or damage.[106] This could include loss of rental income from requisitioned real estate, loss of belongings in German camps, certain damages to stock-in-trade, and loss of cash. The payment only covered material losses and was not intended as compensation for pain and suffering.[107] The provisions in the law were purposely vague: The lawmakers repeatedly stated in the preparatory works that they would not make absolute and set-upon rules on several issues and that the executors had to extensively perform discretion in each case. In addition, these

[102] *Midlertidig lov om krigsforsikringen for varelagre*, §11, "sikre at erstatningen blir brukt på en rasjonell måte til utbedring av skaden eller til anskaffelse av nye gjenstander istedenfor de skadede eller ødelagte."
[103] Minority NOU 1997: 22, p. 116.
[104] Ot.prp. nr. 119 (1945–46), p. 2, "fordele krigens byrder slik at ikke enkelte blir uforholdsmessig hårdt [sic] rammet."
[105] See for example: *Innstilling fra Krigsskadekomiteen. Oversikt*, p. 2, "en oppgave som naturlig hører staten til"; Ot.prp. nr. 93 (1945–46), p. 5; Ot.prp. nr. 119 (1945–46), p. 2.
[106] *Midlertidig lov om erstatning for visse skader og tap som følge av krigen 1940–1945 m.v.*, §1.
[107] Innst. O. V. (1947), p. 13.

payments were not primarily based upon the cost of the damages, but upon the applicant's personal position and financial needs:[108]

> In determining whether and to what extent an injured party should receive compensation under this act, his financial position and needs shall be taken into account, as should his worthiness to receive compensation, including in particular his national attitude, whether he has provided valuable patriotic efforts or been subjected to particular abuses. Consideration must also be given to what benefit the injured party gains from compensation. The payment can be made conditional on it being used for productive purposes or in another justifiable way.[109]

These concepts – "worthiness to receive compensation," "national attitude," "patriotic efforts," and "productive purposes" – will be discussed in the next chapter.

***

To summarize, the Confiscated property Act governed the Reparations Office and gave the former owner of the confiscated property the right to have it returned. The House Requisition Act governed the House Distribution Board and contained a provision that stated that people who had done "national work" had the right to have their former rented accommodations returned. The Building Damages Act, the Moveable Property Damages Act, and the Stock-in-Trade Damages Act governed three Offices for War Damage, which awarded compensations for property lost or damaged as the result of acts of war. The Ex Gratia Act governed the Settlements Division, which could award ex gratia payments when no other compensation schemes covered the loss or damage. These were the six laws that were most relevant for covering losses of and damages to Jewish property.

It is essential to differentiate between the *return* of property (governed by the Confiscated Property Act and §16 in the House Requisition Act) and *compensation* for lost or damaged property (governed by the four other laws). The former was a case of returning (what was left

[108] Minority NOU 1997: 22, p. 132.

[109] *Midlertidig lov om erstatning for visse skader og tap som følge av krigen 1940–1945 m.v.*, §3, "Når det skal avgjøres om og i hvilken utstrekning en skadelidt bør få erstatning etter denne lov, skal det tas hensyn til hans økonomiske stilling og behov, og til hans verdighet til å få erstatning, herunder særlig til hans nasjonale holdning, om han har ytt verdifull patriotisk innsats eller vært utsatt for særlige overgrep. Hensyn skal videre tas til den nytte skadelidte kan gjøre av erstatning. Ytelsen kan gjøres betinget av at den blir nyttet til produktive formål eller på annen forsvarlig vis."

of) the claimant's property, while the latter was a case of the state or insurance schemes paying to cover the loss.

# 2 A Side Thought: Addressing Jewish Needs

> In one form or another, most of the country's citizens would seem to be inflicted with "damage and loss resulting from the war and the occupation," if this phrase – which is used in the formulation of the commission's mandate – is understood in the broadest sense. It is readily clear that any such harmful consequence of the conditions the war brought upon the country neither can nor should be eliminated through monetary compensations. (…) Monetary compensations will thus only be in question in cases where the damage or loss inflicted by the war and the occupation affects the individual differently and more severely than the country's citizens in general.[110]

Thus began the report from the Commission for War Damages, whose recommendations amongst others led to the enactment of the four restitution laws on compensations for war damages. This paragraph expressed the intention to aid those who had lost the most – an intention that was not fulfilled when it came to many Norwegian Jews. The insufficient restitution of Jewish losses in the Holocaust warrants the question: Did the lawmakers take the needs of Norwegian Jewish into account when designing the restitution laws? In other words, were their situation and needs considered in the legislative process, did the lawmakers take into account how the laws would affect Jews, and did they attempt to adapt the laws to their situation? Three factors will help answer this question: 1) what consequences the laws had for Jews, 2) how often Jews were mentioned, and 3) how they were mentioned.

This chapter will begin with an analysis of what consequences the restitution legislation had for Norwegian Jews. In the process, it will also examine the premise of this thesis: that the restitution laws were disproportionately unfavorable for Norwegian Jews because of their unique war experience. Then, it will analyze every passage mentioning Jews. These results will subsequently be compared to how lawmakers treated Northern Norwegians and resistance fighters in the same documents and how they treated Jews in the preparatory works for another law – the Missing Persons Act – from August 1947. This comparison will illustrate how groups

[110] *Innstilling fra krigsskadekomiteen. Oversikt*, p. 1. "I en eller annen form er vel de fleste av landets borgere påført 'skader og tap ved krigen og okkupasjonen,' hvis dette uttrykk – som er brukt ved utformningen [sic] av komiteens mandat – tas i vid betydning av ordene. Det er uten videre klart at enhver sådan skadelig følge av de forhold krigen brakte over landet hverken kan eller bør elimineres gjennom pengeerstatning. (…) Ytelse av pengeerstatning vil det således bare bli spørsmål om hvor skaden eller tapet påført ved krigen eller okkupasjonen rammer den enkelte annerledes og hardere enn tilfellet er for landets borgere i sin alminnelighet."

with special restitution needs were normally attended to and put the treatment of Jews into perspective.

This chapter will argue that the Jewish minority's situation was unique, that they were particularly vulnerable due to the genocide, and that they had special restitution needs as a consequence. It will also argue that the lawmakers took no heed of Jews when making the laws, as the restitution legislation did not meet these needs and as Jews were only mentioned ten times throughout the preparatory works.

## 2.1 A Second Loss: Consequences for Jews

### 2.1.1 Unique situation

Many Norwegians had suffered damages and losses because of the occupation. Many had lost income, several cities and towns were in ruins, and several thousand had been imprisoned. Some had lost family and friends. However, the situation of the Norwegian Jews was unique because of the scale and type of abuses they suffered during the war.

Firstly, because of the number and pattern of deaths. Around a third of Norwegian Jews had succumbed in the Holocaust and the Minority Skarpnes Commission estimated that 230 families had been completely annihilated.[111] As a result, many had to claim property on behalf of deceased family members. Compensations were based upon lists of what property was lost and damaged, written by the claimants. Remembering every single item of one's own property was challenging in itself, and doing the same on behalf of deceased family members could prove an even more arduous and often impossible task. Also, many had been murdered simultaneously, or the order of death was uncertain. When determining the order of inheritance in a family that was sent into the gas chamber together, bureaucrats had to decide which family member had succumbed to the gas first (which was, of course, impossible to do).[112]

The French case illustrates how the number of deaths impacted restitution: While over 50% of Norwegian Jews registered by the Nazi authorities were deported, this number was "only" 25% in France. Professor of History Claire Andrieu notes that this meant that French Jews could

[111] Problems relating to the high death tolls and the pattern of death is described throughout the Minority Skarpnes Report. See for example: Minority NOU 1997: 22, pp. 10–11, 117, 127, 133, and 140.
[112] Minority NOU 1997: 22, pp. 10 and 171.

claim their own property themselves and that this "made a fundamental difference in France, as here the deportation of asset-holders did not present a great obstacle to restitution."[113]

Secondly, the situation of the Norwegian Jews after the war was unique because of how the perpetrators had liquidated Jewish property. The Liquidation Board had merged the household and made one person in the household – often the father – the legal owner. As a result, many were no longer owners of their own property but heirs. If the person made owner by the Liquidation Board had died, the rest of the family could only get access to the property through inheritance. For example, in cases where the Liquidation Board made the father the owner of the apartment, his widowed wife – who had previously co-owned the apartment with her husband – would have trouble regaining this property after the war, as she no longer had any legal bonds to it other than as an heir.[114]

Thirdly, Norwegian Jews were in a unique situation because their losses were total – they had lost *everything*. Every single belonging they had not brought with them when fleeing or succeeded in hiding was liquidated: their housing, businesses, furniture, clothes, jewelry, money, and securities. The few who had survived the camps had been purged of everything they had taken with them upon arrival in Auschwitz and did not even own the clothes on their backs. The Danish case can illustrate the importance of this factor: Not only did 98% of Danish Jews survive (primarily by fleeing by boat to Sweden in the autumn of 1943), but the Danish Social Service had been given the responsibility of preserving property that had been abandoned during the war. They "visited the residence, checked conditions and made a complete inventory of the household effects. If it was possible to retain the flat, the Social Service paid the rent for the rest of the occupation." As a result, a lot of Jewish property was preserved, making its satisfactory return more tenable.[115]

Lastly, Norwegian Jews had experienced a deeply traumatic event and were in mourning. Many had fled from country to country in the 1930s, many had a dramatic flight to Sweden, many had lived a life of exile for several years, and a few had survived the camps. The perpetrators took from the Norwegian Jews not only most of their property but also their family members and friends. These deaths were often not just the loss of a specific family member,

[113] Andrieu, "Two Approaches to Compensation in France," pp. 138 and 140–141; This is also pointed out in Goschler and Ther, "A History without Boundaries," pp. 13.
[114] Minority NOU 1997: 22, p. 117.
[115] Bak, "Reparation and Restitution of Holocaust Victims in Post-War Denmark," pp. 134, 136–137, and 146.

but also of traditions and networks: When a mother was killed, so was the carrier of a family's Jewish traditions, and losing central Jewish figures rattled the whole community.

Additionally, Norwegian Jews were robbed of their homes both in the form of buildings and in the sense that their loved ones were gone. Non-material and material values were intrinsically linked. As historians Goschler and Ther described it:

> [M]uch more was destroyed than was robbed, as many of these values were inseparable from the physical existence of the Jewish property owners or Jewish communities. In addition, it must be borne in mind that property often has a symbolic value also alongside its material worth.[116]

Professor of European Social History Leora Auslander argues that we must take the psychological meaning of homes and objects seriously and that the attempts to reacquire property after the war was part of a mourning process.[117] In the words of Professor of History Shannon L. Fogg, it must be taken into account that "[a]t its most basic, looting affected individuals on the most personal and intimate level: in the privacy of family homes."[118] In many cases, it was not just *an* apartment or *a* piece of furniture. It was *the* family home or *the* heirloom. It was a connection to their past, their lost relatives, and a feeling of safety and belonging.

Fogg states that "[f]or some, returning to familiar objects lessened the pain of the Holocaust, while others felt the differences more acutely."[119] Such experiences are reflected in the memoirs of two Norwegian Jews, Jo Benkow and Herman Sachnowitz. Benkow described returning to his childhood home after the war – which is pictured at the beginning of this thesis – after all the women in his family were killed in Auschwitz:

> Still, the family was gone, as I had imagined it would remain forever. It was only Dad and I who, for a short time, lived under the same roof. The rooms were the same as before the war, but it would never again be a home.[120]

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[116] Goschler and Ther, "A History without Boundaries," p. 7; See also Bajohr, "Expropriation and Expulsion," p. 60.
[117] Auslander, "Beyond Words," pp. 1021 and 1036.
[118] Fogg, *Stealing Home*, p. 30.
[119] Fogg, *Stealing Home*, p. 26.
[120] Benkow, *Fra synagogen til Løvebakken*, pp. 181–82, "Likevel var familien borte, slik jeg hadde forestilt meg at den skulle forbli til evig tid. Det var bare far og jeg som en kort stund bodde under samme tak. Rommene var de samme som før krigen, men noe hjem kunne det aldri bli mer."

Sachnowitz was the only member of his nuclear family to survive. Upon returning to his family home in Larvik, he found that the furniture was looted and destroyed, but that the trees his father had planted for each of the seven siblings were still standing:

> But in a sense, they were closer now, my loved ones, closer than in a long time, and it was here that I said my final farewells with them all. (…) And the trees, each and every one, was in the richest bloom. (…) They had their lives to live, their place to fill, their struggle to fight. Life had meaning![121]

While Benkow described a sense of estrangement from his home, Sachnowitz found that it was there he could commemorate his family and say goodbye to them. Either way, the loss of a home affected much more than a survivor's financial status. How the restitution of homes – or lack thereof – affected Norwegian Jews after the war in non-monetary terms should be the subject of further study.

### 2.1.2 Right to restitution of former housing

Regaining ownership of these homes was not straightforward and amongst others depended on whether the claimants were owners or renters. According to the Confiscated Property Act, claimants had a broad right to be reinstated of real estate they had owned. This law was favorable to all claimants – both Jewish and non-Jewish – who owned real estate.

However, most Norwegian Jews rented their homes. §16 in the House Requisition Act covered rented accommodations, but only people who had done "national work" were given the right to regain their former requisitioned rentals. Terms such as "patriotic activities," "patriotic/national work," and "patriotic attitude" came up numerous times in the preparatory works of several of the restitution laws. Usually, when lawmakers use synonyms, it is because they intend them to have different meanings – in judicial language, precision is more important than stylistic variation.[122] However, everything suggests that they referred to the same concept. These terms were never explicitly defined in the preparatory works, making it necessary to examine their use in other written texts to determine their ordinary meaning.

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[121] Sachnowitz and Jacoby, *Det angår også deg*, p. 176, "Men på sett og vis var de nærmere nå, mine kjære, nærmere enn på lenge, og det ble her jeg tok den endelige avskjed med dem alle. (…) Og alle trærne, hvert eneste ett, stod i sin rikeste blomstring. (…) De hadde sitt liv å leve, sin plass å fylle, sin kamp å kjempe. Livet hadde mening!"

[122] Mestad, "Rettens kilder og anvendelse," p. 81.

The National Library of Norway's collection provides a unique insight into the quantitative and qualitative use of these terms in different periods, and searching for "national work" in its database can give an indication of its ordinary meaning.[123] "Figure 4" illustrates how many times "national work" was mentioned in absolute numbers in papers, books, and journals. "Figure 5" displays the same data but takes into account that the periods are of unequal length by displaying how often "national work" was mentioned on average each year in each period.

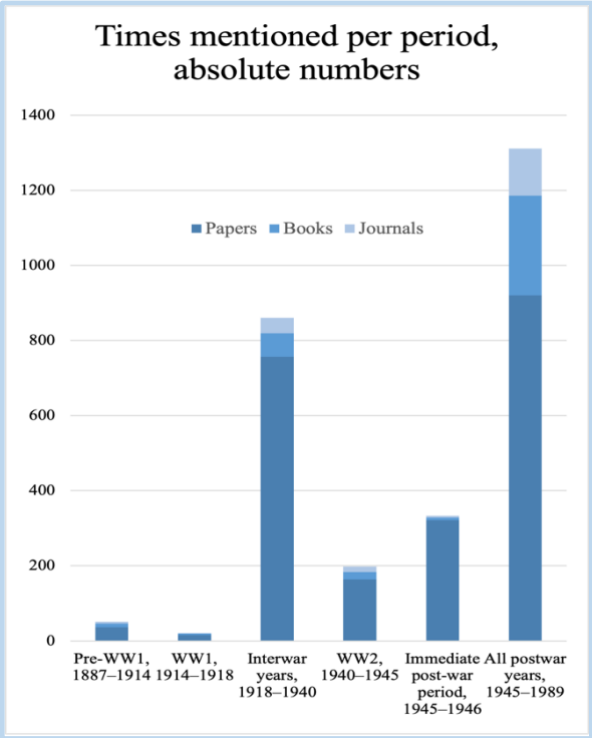


*Figure 4*

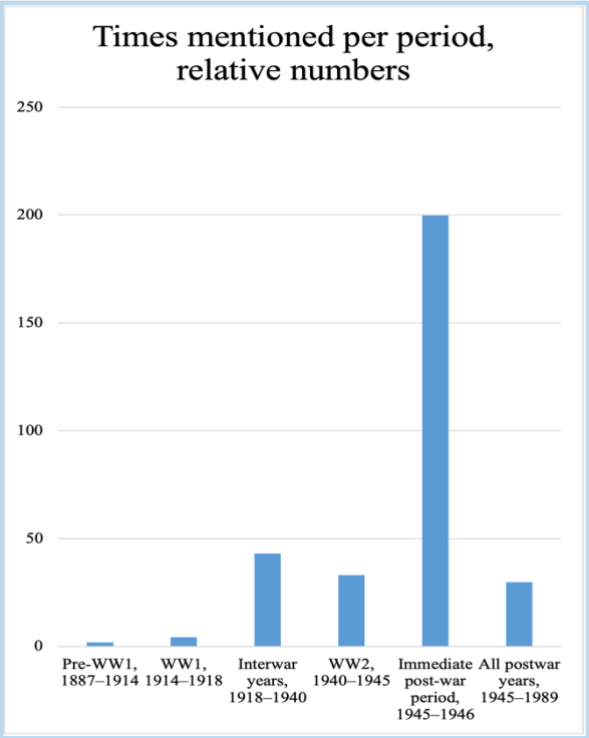


*Figure 5*

[123] The National Library of Norway has digitalized its collection of books, newspapers, and journals, comprising a large amount of all published Norwegian texts. It is possible to search for specific words and terms in this database, thereby getting an impression of when, how, and how often they were used in published texts. One can limit the search to specific time periods and types of publications. The search engine is not completely accurate, as the books are photocopies, but the searches still provide a useful overview. In May 2020, the author of this thesis conducted an examination of the use of the term "national work" in books, newspapers, and journals in Norway using the following input: "nasjonalt arbeid" OR "nasjonalt arbeide" OR "nasjonale arbeid" OR "nasjonale arbeidene" OR "nasjonale arbeidet." These different versions of the term were used to account for variations in spelling. First, the author of this thesis examined the term's usage in each decade between 1887 (when the database begins) and 1990 (allowing to examine whether its usage persisted). However, discovering that its usage changed in relation to the world wars, the search was also conducted using the periods pre-World War I (1887–1914), World War I (1914–1918), interwar years (1918–1940), World War II (1940–1945), immediate post-war period (1945–1946), and all post-war years (1945–1989). The search results were then analyzed manually, first in a quantitative study, then in a qualitative examination. The search engine displays how many publications mentions "national work" each year, where several mentions of "national work" in the same publication is counted as one, indicating the term's quantitative usage. The qualitative part of the examination was conducted by choosing a selection of these publications at random and analyzing in what contexts "national work" was used and what terms it was frequently mentioned together with.

"Figure 6" again displays the same data, but presented in absolute numbers and arranged after decade instead of period.

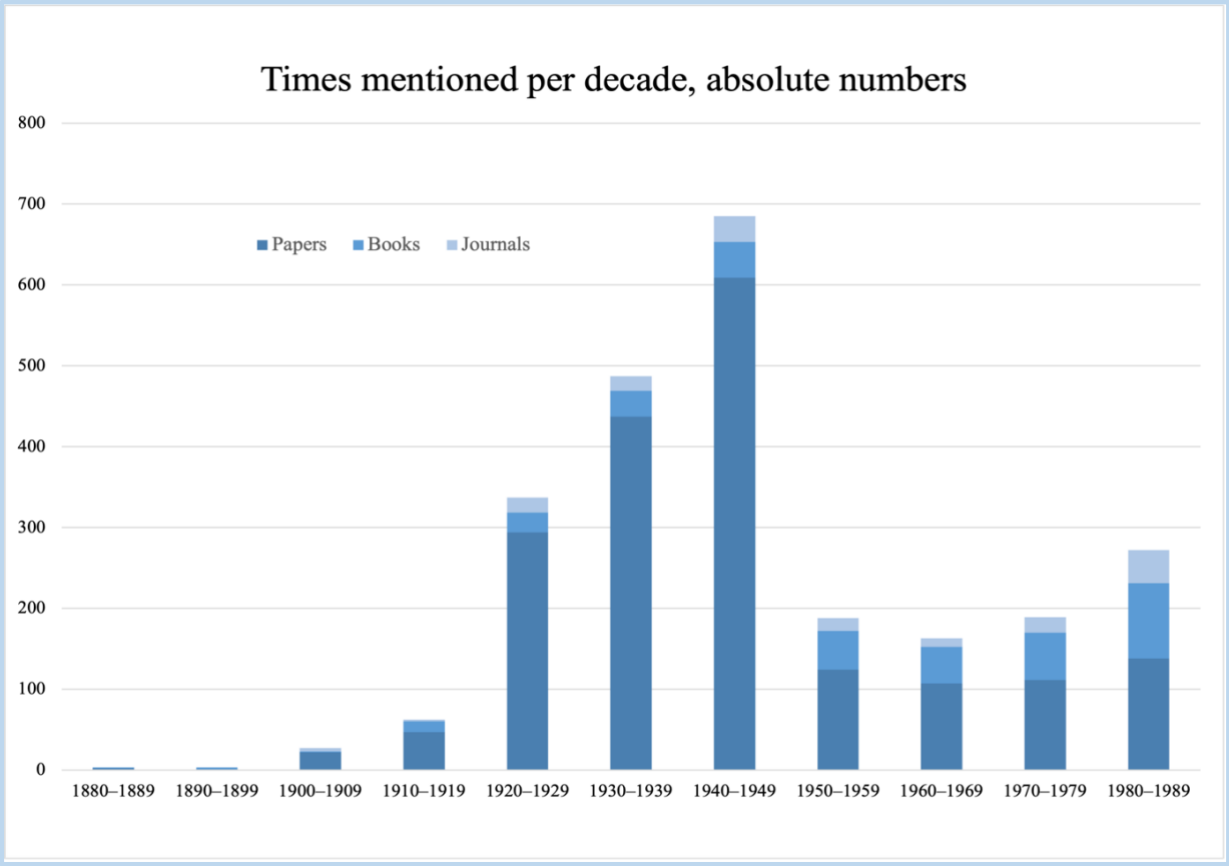


*Figure 6*

This data reveals that "national work" was not a common term in the Norwegian context, although it was not unheard of. Even between 1940 and 1949, the decade it was most frequently used, it was only mentioned in 69 publications each year on average. It was barely used before 1918, only being mentioned in two publications each year on average. Its usage increased after the end of the First World War, being mentioned in on average 39 publications per year between 1918 and 1945. Its usage increased after the Second World War, being mentioned in 333 publications between May 1945 and December 1946 alone. It was predominantly mentioned in papers but was increasingly referred to in books and journals in the post-war period.

As to its meaning, "national work" had a broad meaning between 1880 and 1945. It was an abstract concept used as a blank cheque, and it referred to positive and honorable actions that in some way served a higher collective purpose. It was often used in sentences and paragraphs containing the words "good," "youth organization," "gather," "nation," "country,"

"Norwegians," "culture," and "social." Lastly – and most importantly – "national work" changed meaning after the liberation, denoting the more concrete notions of non-collaboration and resistance. The preparatory works, too, suggest that the term denoted the actions and attitudes of people who had in some way worked against the Nazi regime in a "voluntarily active effort and sacrifice,"[124] for example through resistance groups. This likely did not include Jews who had been persecuted for Nazi racial reasons.

The term's usage in §16 in the House Requisition Act is particularly vital, as its definition would have a massive impact on Jews' restitution rights. The preparatory works for the law provide some information on the intention of §16:

> The background for the provisions proposed under this section and for which there are naturally no provisions in the "law" of November 7th, 1942, are the difficulties encountered by returned prisoners and refugees when they are to reacquire their apartments. Similar difficulties also arise for people from the resistance movement who have had to leave their homes due to resistance work (...). In such cases, it often turns out that the current requisition provisions (...) are not sufficient when it comes to reinstating them of their apartments. There have therefore been demands for special provisions in this area.[125]

Further research is needed to establish whether the executors of the laws restituted property lost in the Holocaust per §16, and this is not treated in this thesis. Research thus far indicates that they did not: Bruland has found that the House Distribution Board in Oslo decided that Jews who were persecuted "because of their race" did not fall under the law, as they "did not have to leave the residence as much because of national work as because of their race."[126] Given that

[124] *Innstilling fra Krigsskadekomiteen. Inntekts- og formuestap*, p. 8, "frivillig aktiv innsats og oppofrelse."

[125] Ot.prp. nr. 69 (1945–46), p. 9, "Bakgrunnen for de bestemmelser som er foreslått under dette avsnitt og som det naturlig nok ikke er noen bestemmelser til i 'loven' av 7 november 1942, er de vansker som møter heimvendte fanger og flyktninger når de skal ha sine leiligheter tilbake. Liknende vansker møter også folk fra motstandsrørsla som på grunn av illegalt arbeid har måttet forlate sine boliger (...). Det viser seg i slike tilfelle ofte at de gjeldende rekvireringsbestemmelser (...) ikke er tilstrekkelige når det gjelder å skaffe vedkommende deres leiligheter tilbake. Det har derfor reist seg krav om spesialbestemmelser på dette område."; The categories of returned prisoners, returned refugees, and resistance fighters are also mentioned in Innst. O. VII. (1946), p. 2.

[126] OBA, RN; Sofienberggata 54 I A, innstilling i sak gr. nr. 2–g, October 17th, 1946 (Thank you to Bjarte Bruland for lending me the document. Citation from Bruland, *Holocaust i Norge*, p. 782, footnote 293), "da jødene ikke måtte forlate bostedet så meget på grunn av nasjonalt arbeide som på grunn av deres rase"; Bruland, *Holocaust i Norge*, p. 547.

the lawmakers gave the Board broad discretionary powers, they had the power to make this decision.[127]

"National work" had positive connotations, and the lawmakers often discussed whether they should award this group extra rights (such as compensation for lost income). The term "unnational work," on the other hand – which was also used repeatedly by the lawmakers – clearly had negative connotations.[128] This word was not defined either but clearly encompassed dishonorable behaviors during the war, ranging from high treason to support of the Nazi regime. In three of the laws, a person who had shown "unnational behavior" during the war could be denied compensations.[129] As was noted in one of the propositions, one did not have to be convicted for "unnational acts" during the war to be excluded from compensations – it was enough that one "to the knowledge of the compensation authorities has shown such conduct that he should not receive compensation."[130]

In conclusion, the lawmakers did not include most Jewish experiences in the Holocaust when they referenced "national work." Neither the ordinary meaning of the term in other contemporary texts, its usage in the preparatory works, or what information is thus far available on the execution of these laws suggests otherwise. The terms were strongly connected to ideas of active resistance. In other words, the term excluded a large group of claimants. Norwegians who had been targeted by the occupation regime because of their political stance or resistance work had more formalized judicial rights regarding the return of this property after the war than Norwegians targeted because they were Jews. In combination with the fact that most Jews did not own their homes, the laws barred most Jews from the right to be reinstated of their former housing.[131]

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[127] Ot.prp. nr. 69 (1945–46), pp. 9–10.

[128] People who had participated in "unnational behavior" were amongst others mentioned in: *Innstilling fra Krigsskadekomiteen. Krigsskader på og tap av motorvogner m.v.*, p. 10; *Innstilling fra Krigsskadekomiteen. Inntekts- og formuestap*, pp. 9 and 32; Ot.prp. nr. 121 (1945–46), p. 18; Ot.prp. nr. 137 (1945–46), p. 5; Ot.prp. nr. 119 (1945–46), p. 3; Innst. O. VII. (1947), p. 5; L.tid. (1947), p. 48; *Midlertidig lov om krigsskadetrygd for bygninger*, §1; *Midlertidig lov om krigsskadetrygd for løsøre*, §1; *Midlertidig lov om erstatning for visse skader og tap som følge av krigen 1940–1945 m.v.*, §2.

[129] *Midlertidig lov om krigsskadetrygd for bygninger*, §1*; Midlertidig lov om krigsskadetrygd for løsøre*, §1; *Midlertidig lov om erstatning for visse skader og tap følge av krigen 1940–1945 m.v*, §2; *Innstilling fra Krigsskadekomiteen. Oversikt*, p. 3; *Innstilling fra Krigsskadekomiteen. Inntekts- og formuestap*, p. 56;

[130] Ot.prp. nr. 119 (1945–46), p. 12, "etter erstatningsmyndighetenes kjennskap har vist slik framferd at han ikke bør få erstatning."

[131] In this thesis, the terms "national work/attitude" and "unnational attitude" will be used to refer to the concepts described above. Not because the author of this thesis subscribes to such terms, but because they were the categories in which the lawmakers conceptualized war-time behavior. They will therefore be referred to in quotation marks.

### 2.1.3 Right to restitution of moveable property

The restitution of moveable property was similar to that of owned housing – if one was able to locate it: Those who succeeded in finding their moveable property had a right to have it returned. In every other scenario – if the property was lost or damaged – the restitution of these belongings was much less satisfactory. In addition, compensations and ex gratia payments could usually only be granted to people with Norwegian citizenship – although discretion could be performed for some non-citizens.[132]

If the claimant found the realized value of their belongings, he or she was entitled to this money – or, to be more precise, to what was left of it. During the war, the Liquidation Board placed the realized value of Jewish assets in a Jewish joint fund. The Reparations Office was given control over this fund after the war and delegated its contents to the Offices for War Damage and the Settlement Division.[133] However, there was less in the joint funds than was liquidated: The perpetrators failed to register some of the liquidated assets, the Liquidation Board and the Reparations Office used 32% of the joint funds (both Jewish and non-Jewish) to cover their operating costs, and expenses for the estates (such as rent) were charged from the funds. The institutions' operating costs – so-called "unlawful expenses" – were shared equally between the claimants. The individual estates' expenses – so-called "lawful expenses" – varied from estate to estate and were charged the individual estate.[134] In this way, the Jews' assets financed their own destruction and the restitution of their property. Consequently, there was not enough left in the joint fund to restitute the claims in full. As the Ministry of Finance decided not to cover the deficit, the returns were reduced and the fund distributed according to the laws of bankruptcy.[135]

If the property was lost or damaged, the Moveable Property Damages Act covered it. However, it did not compensate losses in full: Compensations were truncated based upon a fixed sliding scale and could be further reduced or omitted based upon the claimant's needs. Compensations could also be denied if the claimant did not fulfill certain qualifications, for example if he or she had not had fire insurance. The Minority Skarpnes Commission thoroughly

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[132] *Midlertidig lov om krigsskadetrygd for bygninger*, §6 and §9; *Midlertidig lov om krigsskadetrygd for løsøre*, §1 and §10; Innst O. V. (1947), p. 2; Minority NOU 1997: 22, pp. 115 and 125; How this decision affected Norwegian Jews without Norwegian citizenship when these laws were executed should be subject to further study.

[133] *Provisorisk anordning om konfiskert eiendom*, §1; *Innstilling til provisorisk anordning om konfiskert eiendom*, p. 5.

[134] Minority NOU 1997: 22, p. 122; Majority NOU 1997: 22, p. 48 and 77–78.

[135] Minority NOU 1997: 22, pp. 112; Majority NOU 1997: 22, p. 47.

examined the consequences of the sliding scale and concluded that "[r]ules for the assessment of compensation from the Office for War Damage were particularly unfavourable for Jewish claimants."[136] This was partly because the liquidation of Jewish assets was total – it included everything they owned. Because of the sliding scale, the higher the loss, the lower the percentage was covered. The result was that those who had lost the most got relatively least in return and that large values were not returned to the Jewish minority.[137]

These compensations only covered damages that were the result of war. How "war damage" was defined, then, was of great importance. The definition of "war damage" in the Building Damages Act and the Moveable Property Damages Act were identical:

> [A]ny material destruction or damage caused by acts with war purposes, regardless of whether the damage was caused by fire, explosion, shooting, shelling, flooding, or the like. (...) When acts of war have led to the damage in a not insignificant degree, the loss should generally be compensated as war damage to the extent that it falls outside the area of ordinary damage insurance.[138]

The Building Damages Act and the Moveable Property Damages Act covered what the lawmakers called "real damages of war," meaning for example damages caused by weapons, arson, or bombings.[139] However, the last sentence opened up for the possibility of including other types of damages too.[140] It was made clear in the proposition that this definition also encompassed so-called "damages from abuse" ["*overgrepsskader*"].[141] "*Overgrep*" is an unduly violation of someone's rights, person, or property at the hands of someone with more power than the victim.[142] There is no good English counterpart for it – "abuse" is the closest

[136] Minority NOU 1997: 22, p. 127. Translation from Reisel and Bruland, *The Reisel/Bruland Report on the Confiscation of Jewish Property in Norway during World War II*, p. 42.

[137] Minority NOU 1997: 22, pp. 10 and 152; The commission expressed concern over the fact that people with large losses would only receive severely truncated compensations. *Innstilling fra Krigsskadekomiteen. Tingsskader. B. Løsøre*, p. 16.

[138] *Midlertidig lov om krigsskadetrygd for løsøre*, §21; *Midlertidig lov om krigsskadetrygd for bygninger*, §25, "Krigsskade vil si enhver materiell ødelegging eller skade hvis årsak er handlinger med krigsformål, uansett om skaden er voldt ved brann, sprengning, nedstyrtning, beskytning, oversvømning [sic] eller lignende. (...) Når krigshandlinger i ikke uvesentlig grad har ledet til skaden, bør tapet i alminnelighet erstattes som krigsskade i den utstrekning det faller utenfor omradet for ordinær skadetrygd."

[139] *Innstilling fra Krigsskadekomiteen. Tingsskader. A. Bygninger*, p. 6, "de egentlige krigsskader."

[140] *Innstilling fra Krigsskadekomiteen. Tingsskader. A. Bygninger*, p. 6.

[141] *Innstilling fra Krigsskadekomiteen. Tingsskader. A. Bygninger*, pp. 6–8.

[142] The terms "*overgrep*" and "*overgrepsskader*" appeared repeatedly and in several preparatory works and laws: *Innstilling fra Krigsskadekomiteen. Oversikt*, pp. 4, 6–7, 10, and 12–13; *Innstilling fra Krigsskadekomiteen. Tingsskader. A. Bygninger*, pp. 2, 6–8, 16, 22, and 31–32; *Innstilling fra Krigsskadekomiteen. Tingsskader. B.*

translation in this context. This expansion of the definition of "war damage" meant that most Jewish losses – that is, losses resulting from Nazi confiscations – would warrant compensations in the same manner as losses caused by bombings.

In the preparatory works, "damages from abuse" denoted a broader range of misconducts in defiance of normal laws in a constitutional democracy, such as confiscations, theft, vandalism, raids, punitive measures, forced evacuations, damages that had arisen due to "political flight," and loss of belongings in camps in Norway. Expenses from buying belongings from the Liquidation Board to retain them on behalf of their original owners were also considered "damages from abuse."[143] In one case, the lawmakers deemed the transferal of money from a pre-war agricultural organization to its Nazi counterpart an abuse.[144] In another case, they described the closing of businesses as an abuse.[145]

The expansion of the definition was in accordance with the Norwegian Government in Exile's announcement from June 1942, where it proclaimed that damages that were the result of "abuse" would be treated as "real damages of war." No definition of the term "abuse" was provided at that point in time, but the Government in Exile gave the burning of houses, confiscations, and destruction of property as examples of "abuses."[146] In December 1942, the Invalidity of Occupation Legislation Ordinance from the Government in Exile added that also transactions influenced by "fear of abuses" were invalid.[147]

It is not possible to definitively conclude whether the lawmakers had the situation of the Jews in mind when they decided to expand the definition of war damages in the Building Damages Act and the Moveable Property Damages Act. However, evidence suggests that they did not. Jews were not referred to by name in relation to this decision, nor were they mentioned anywhere else in the preparatory works. Moreover, the Government in Exile recommended that "damages from abuse" should warrant compensations in June 1942, *before* the majority of

*Løsøre*, pp. 11–13 and 22; *Innstilling fra Krigsskadekomiteen. Tingsskader. C. Varelagre*, pp. 9–10, and 17; *Innstilling fra Krigsskadekomiteen. Inntekts- og formuestap*, pp. 6, 12, 19, 24, 27, 43–45, and 47–50; Ot.prp. nr. 93 (1945–46), pp. 4, 6–7, 10–11, and 39; Ot.prp. nr. 121 (1945–46), pp. 4 og 11; Ot.prp. nr. 2 (1947), pp. 4 and 9; Innst. O. VII. (1947), p. 2; Innst. O. V. (1947), pp. 6, 13, and 15; L.tid. (1947), p. 52; *Midlertidig lov om erstatning for visse skader og tap som følge av krigen 1940–1945 m.v*, §3 and §6.

143 Ot.prp. nr. 93 (1945–46), p. 11, "politisk flukt"; *Innstilling fra krigsskadekomiteen. Tingsskader. A. Bygninger*, p. 7; Ot.prp. nr. 121 (1945–46), p. 4.

144 Innst. O. V. (1947), 13–14.

145 *Innstilling fra Krigsskadekomiteen. Inntekts- og formuestap*, p. 12.

146 Ot.prp. nr. 93 (1945–46), pp. 4 and 14.

147 *Provisorisk anordning om ugyldigheten av rettshandler m.v. som har sammenheng med okkupasjonen*, §1(b), "frykt for overgrep."

Jewish property was confiscated and before most of its owners were deported.[148] This suggests that the lawmakers had not made this decision with Norwegian Jews in mind, even though it would prove favorable to them.

### 2.1.4 Right to restitution for businesses

Stock-in-trade damaged because of "real damages of war" were compensated per the Stock-in-Trade Damages Act. However, in contrast to the Building Damages Act and the Moveable Property Damages Act, the definition of war damages in the Stock-in-Trade Damages Act was not expanded to include "damages from abuse."[149] It did not contain the provision: "When acts of war have not insignificantly led to the damage, the loss should generally be compensated as war damage to the extent that it falls outside the area of ordinary damage insurance."[150] Therefore, most Jewish business owners were not eligible for compensation for their stock-in-trade.

The rationale behind this decision was that the original statutes of the Office for War Damage to Stock-in-Trade did not cover such damages. These statutes were inspired by the definition for war damage to buildings and not the definition for war damage to moveable property, as the Office for War Damage to Moveable Property was not yet stipulated. The statutes for the Office for War Damage to Buildings naturally contained no provisions for lost or stolen property, and thus neither did the statutes for Stock-in-Trade.[151] The Commission for War Damages noted that this decision was "probably the result of coincidences" and that it "can seem arbitrary" but still supported it.[152]

The commission recognized that the Government in Exile had promised to compensate "damages from abuse" in 1942, and therefore suggested that such damages to stock-in-trade would be covered under the Ex Gratia Act.[153] However, the minority Skarpnes Commission uncovered no cases in which the Settlements Division awarded such payments.[154] Either way,

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[148] Ot.prp. nr. 93 (1945–46), p. 4.
[149] *Innstilling fra Krigsskadekomiteen. Tingsskader. C. Varelagre*, p. 10.
[150] *Midlertidig lov om krigsskadetrygd for løsøre*, §21; *Midlertidig lov om krigsskadetrygd for bygninger*, §25, "Når krigshandlinger i ikke uvesentlig grad har ledet til skaden, bør tapet i alminnelighet erstattes som krigsskade i den utstrekning det faller utenfor området for ordinær skadetrygd."
[151] *Innstilling fra Krigsskadekomiteen. Tingsskader. C. Varelagre*, pp. 10 and 16–17; Majority NOU 1997: 22, p. 57; This is also briefly mentioned in Bruland, *Holocaust i Norge*, p. 545.
[152] *Krigsskadekomiteen. Tingsskader. C. Varelagre*, pp. 10 and 16, "skyldes sikkert tilfeldigheter," "kan virke vilkårlig"; Ot.prp. nr. 2 (1947), p. 4.
[153] *Krigsskadekomiteen. Tingsskader. C. Varelagre*, p. 17; Ot.prp. nr. 2 (1947), p. 4; Ot.prp. nr. 93 (1945–46), p. 4.
[154] Minority NOU 1997: 22, p. 132.

it would not have been a compensation but an ex gratia payment, and would therefore not have amounted to substantial sums.

Furthermore, even if damage to Jewish businesses fell under the law's definition of war damage, §11 in the Stock-in-Trade Damages Act, §19 in the Moveable Property Damages Act, and §6 in the Ex Gratia Act made it possible to deny a claimant compensation if he or she did not intend to rebuild or repair what was damaged.[155] The legislators stated that "[t]he motive for the provisions is that stock-in-trade shall as a rule serve a socially beneficial purpose."[156] Many Jewish businesses were not restarted if the owner had died and would therefore not fulfill this requirement in the eyes of the lawmakers.

Thus, the laws did not compensate Jews who had suffered "damages from abuse" to their stock-in-trade or who did not intend to or were not able to restart their business. Small businesses were the economic backbone of the Jewish community in Norway, but compensations for these losses were minimal.[157]

### 2.1.5 Right to restitution on behalf of deceased family members

There were also truncations in the restitution of inherited property. After the war, many Jews were suddenly heirs to family members that they would not have inherited from under normal circumstances. In these cases, the compensation could be reduced or omitted with the reasoning that this was an unreasonably large inheritance and that they would not have inherited from these individuals under normal circumstances. Several laws allowed for truncations in compensations based upon the claimant's "financial position and needs."[158] Additionally, the Ex Gratia Act did not cover compensation to heirs that were not close relatives of the deceased.[159] As whole Jewish families had been annihilated, this was often the case.

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[155] *Midlertidig lov om Krigsforsikringen for Varelagre*, §11; *Midlertidig lov om krigsskadetrygd for løsøre*, §19; *Midlertidig lov om erstatning for visse skader og tap som følge av krigen 1940–1945 m.v.*, §6.

[156] *Innstilling fra Krigsskadekomiteen. Tingsskader. B. Løsøre*, p. 5, "Motivet for bestemmelsene er at yrkesløsøre som regel skal tjene et samfunnsnyttig formål."

[157] Minority NOU 1997: 22, pp. 89 and 132.

[158] See for example *Midlertidig lov om krigsskadetrygd for løsøre*, §16(5), "økonomiske stilling og behov."

[159] *Midlertidig lov om erstatning for visse skader og tap som følge av krigen 1940–1945 m.v.*, §8; *Innstilling fra Krigsskadekomiteen. Inntekts- og formuestap*, p. 58.

### 2.1.6 The liquidation of the Jewish Community in Oslo

Taking the restitution of the Jewish Community in Oslo as an example might help illustrate this process's many difficulties. As described in the first chapter, the trustee Helge Schjærve had liquidated the Community's property in 1942 and 1943. In June of 1945, a new trustee was assigned to DMTO – lawyer Finn Bjerke – and he set out to find and return the liquidated assets. This was a tedious process involving retracing the steps of Schjærve and the Liquidation Board.[160] Bjerke sent letters to numerous banks, asking if they had accounts containing DMTO's funds.[161] Oslo Sparebank informed Bjerke that they had had an account with 15 119 Norwegian Crowns belonging to the community but that Schjærve had liquidated these in May 1943.[162] In October 1945, Bjerke appealed to the Reparations Office to have the funds refunded, which informed him that there was not enough money to refund all the claims directed against them and that rules for the restitution were being written.[163]

Bjerke also wrote to several institutions, asking if they had the protocols belonging to DMTO.[164] After four months, they were found in the Ministry of Justice and Police.[165] Furthermore, the synagogues in Oslo had been used as storage space during the war. Bjerke had the owners move all the stored goods from the Bergstien synagogue to the Calmeyer synagogue, so that at least one synagogue could be operable, and asked them to pay rent for the storage space. He sent a petition for eviction to the Tingrett, but the owners finally agreed to rent the space. This process took four months.[166]

This is only a glimpse into a process many Jews faced upon returning after the war. As demonstrated, it was tedious, involving waiting for legislation to be made, looking for property, and terminating legal agreements such as renting contracts made after the deportations. Notwithstanding these efforts, the return and compensations resulting from these efforts were often unsatisfactory.

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[160] JMO, D-0019 DMT, Korrespondanse I, letter from Tilbakeføringskontoret to Finn Bjerke, 05.06.1945.

[161] JMO, D-0019 DMT, Korrespondanse I, letters between Finn Bjerke and Norwegian banks, 20.09.1945, 10.10.1945, 10.10.1945, 12.10.1945, 13.10.1945, 13.10.1945, 15.10.1945, 19.19.1945, and 25.10.1945.

[162] JMO, D-0019 DMT, Korrespondanse I, letters between Finn Bjerke and Oslo Sparebank, 10.10.1945, 25.10.1945, 29.10.1945, 30.10.1945, and 31.10.1945.

[163] JMO, D-0019 DMT, Korrespondanse I, letter between Finn Bjerke and Tilbakeføringskontoret, n.d, 29.10.1945, and 31.10.1945.

[164] JMO, D-0019 DMT, Korrespondanse I, letters 14.07.1945, 19.09.1945, 22.10.1945, 22.10.1945, 22.10.1945, 22.10.1945, 26.10.1945, 27.10.1945, and 14.10.1945.

[165] JMO, D-0019 DMT, Korrespondanse I, letter from the Ministry of Justice and Police to Finn Bjerke, 14.11.1945.

[166] JMO, D-0019 DMT, Korrespondanse I and II, letters between Finn Bjerke and Oppgjørskontoret, and between Finn Bjerke and Otto Robsahm & Co, 11.07.1945, 11.07.1945, 12.07.1945, 21.09.1945, 03.10.1945, 05.10.1945, 05.10.1945, 10.10.1945, 10.10.1945, 10.10.1945, 29.10.1945, 29.10.1945, and 01.11.1945.

## 2.2 In Passing: Mentions of Jews

Despite these difficulties and despite Jews being overrepresented as claimants, the lawmakers barely mentioned them. They were not mentioned in the preparatory works for the Moveable Property Act, whose provision on the sliding scale was one of the most detrimental to the compensation for Jewish assets. Neither were they mentioned in the preparatory works for the Building Damages Act or the House Requisition Act, who together covered the return of real estate. Although the lawmakers mentioned Jews in the Confiscated Property Act, the Stock-in-Trade Damages Act, and the Ex Gratia Act, their mentions only numbered ten times in total. These ten paragraphs display four tendencies:

Firstly, Jews and their needs were not the center of attention. This is especially clear in one instance, when the Commission for War Damages stated that the following stock-in-trade would not be eligible for compensation:

> Any form of seizure or confiscation (…) for political reasons or in connection with actions of a political nature, such as persecution of Jews, of persons fleeing the country, of persons suspected of resistance activity, of persons demonstrating against the new system, etc. – as well as any financial loss in connection therewith or as a result thereof.[167]

In other words, the lawmakers only mentioned Jews to exclude them – and several other groups – from the laws' provisions. Jews were not mentioned because the lawmakers took them into account, but because they did not.

A second passage where Jews were in no way at the center is a paragraph where the director of the Reparations Office discussed the problem of duplicate securities: When people fleeing the country brought securities with them, the stock-based companies had often issued duplicate papers and transferred the rights to new owners. After the war, the question was whether the companies should be reimbursed for having to pay for duplicates:

> It turns out that refugees have quite often taken with them or hidden away their securities. The "law" of January 6th, 1944 added to the 'Law of October 26th, 1942, on the confiscation of

[167] *Innstilling fra Krigsskadekomiteen. Tingsskader. C. Varelagre*, p. 9, "Enhver form for beslag og inndragning (…) av politiske hensyn eller i forbindelse med aksjoner av politisk art, så som forfølging av jøder, av personer flyktet ut av landet, av personer som mistenkes for illegal virksomhet, av personer som demonstrerte mot nyordningen etc. – samt ethvert økonomisk tap i forbindelse hermed eller som følge herav."

> property belonging to Jews,' made it possible for the state to "annul" such securities and demand that a new document be issued. The Liquidation Board then raised dividends on the new coupons. After the liberation, the Jews presented the original coupons, resulting in that the company had to pay again. As the Law Department has previously stated that the 'annulation' that has taken place must be considered to have no legal effect, the companies have considered themselves obliged to pay the coupons again.

The director asked for a solution to this problem and suggested that "the company can make a claim in accordance with §16 on repayment of the dividend's retained counter value."[168] In other words, this passage discussed the needs of the stock-based companies, not Jewish needs. The lawmakers described duplicate securities as a problem for the companies, and the proposed solutions were designed to alleviate their situation, not the situation of the people whose securities had been reissued.

A second tendency found in the preparatory works is that several of the passages correctly described the situation of many Jews and the hardships facing them after the war, but that these descriptions were general: They described the needs and problems of many Norwegians, not singling out what made the situation of Jews different or suggesting measures adapted specifically to them. For example, in one passage the confiscations of the property of "refugees, Jews, etc." were discussed:

> Confiscations carried out by the occupation regime or by the bodies deployed or approved by the occupation regime have hit those affected in a particularly sensitive manner. In the cases that the commission is best aware of, namely confiscation by the Liquidation Board of refugees, Jews, etc., the confiscation has generally concerned the person's entire property or a significant part of it. (…) If the whole family is gone, everything single thing is confiscated. When such a family returns, it gets a painstaking job of retracing its property, which has been scattered. (…) Therefore, it is of great social and economic [*privatøkonomisk*] importance that those who are

[168] Ot.prp. nr. 137 (1945–46), p. 10, "Det viser seg at flyktninger ganske ofte har tatt med seg eller gjemt bort sine verdipapirer. Ved en 'lov' av 6 januar 1944 om tillegg til 'lov' av 26 oktober 1942 om inndragning av formue som tilhører jøder ble det åpnet adgang for det offentlige til å 'mortifisere' slike omsetningsgjeldsbrev og kreve at det ble utstedt nytt dokument. Deretter hevet Likvidasjonsstyret utbytte på de nye kuponger. Etter frigjøringen har jødene presentert de opprinnelige koponger [sic] med den følge at selskapet har måttet betale omigjen [sic]. (...) Jeg finner det rimelig at der åpnes adgang for selskapet til å gjøre krav gjeldende etter §16 om tilbakebetaling av utbyttets beholdne motverdi."

> fortunate enough to find their confiscated assets in the possession of third parties can be referred to a quick and easy way to get them back.[169]

Out of the ten mentions, the passage cited above is the one that most thoroughly described the situation of Norwegian Jews and their needs – which is to say that it was not described thoroughly at all.

Although the lawmakers did not define "refugees" and "prisoners," their discussion on these groups suggests that they did not deliberately include Jews in these terms. For example, during a discussion in the Storting on compensating political prisoners for lost income, one member of parliament noted that "This primarily applies to the Milorg.-organizations."[170] Also, the usage of the term "political prisoners" in other legislation does not include Jews who were incarcerated because of anti-Jewish policies. In a provisional ordinance from 1945, "political prisoners" were defined as persons incarcerated because of "patriotic work or attitude."[171] The same goes for a law from 1946.[172]

Thirdly, Jews were never mentioned alone. They were always listed together with other groups, such as refugees, organizations, and what lawmakers called "good Norwegians." Four examples can be given thereof. In a discussion relating to confiscations, the legislators mentioned Jews in passing:

> In most cases, however, the property was confiscated in favor of funds that were supposed to stand outside the treasury and be managed by the Liquidation Board or other N.S. institutions.

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[169] *Utkast til kgl. resolusjon om forskrifter om rettergangsmåten m.v. i restitusjonssaker vedrørende konfiskert eiendom, avgitt av et utvalg nedsatt av Tilbakeføringskontoret for inndratte formuer*, attachment to Ot.prp. nr. 137 (1945–46), p. 27, "Konfiskasjoner foretatt av okkupasjonsmakten eller av de av okkupasjonsmakten innsatte eller godkjente organer, har rammet dem det har gått ut over på en særdeles følelig måte. I de tilfeller som Utvalget har best kjennskap til, nemlig inndragning foretatt av Likvidasjonsstyret hos flyktninger, jøder m. fl., har inndragningen som regel gjeldt vedkommendes hele formue eller en vesentlig del av denne. (…) Er hele familien borte, er rubb og stubb konfiskert. Når en slik familie vender tilbake, får den et møysommelig arbeid med å etterspore sine eiendeler som er spredt for alle vinder. (…) Det er derfor både sosialt og privatøkonomisk sett av stor betydning at de som er så heldige å finne igjen konfiskerte eiendeler i tredjemanns besittelse, kan henvises en rask og enkel måte å få tingene tilbake på." This document was included as an attachment to the proposition, but was initially a preparatory work for one of the law's predecessors.

[170] O.tid. (1947), p. 141, "Det gjelder Milorg.-organisasjonene i første rekke."

[171] *Innstilling til Krigsskadekomiteen. Personskader*, p. 10, "patriotisk arbeid eller holdning."

[172] *Innstilling fra Krigsskadetrygden. Personskader*, p. 38; *Lov om krigspensjonering for hjemmestyrkepersonell og sivilpersoner*, §3.

> This applied to e.g. the fortune of the Masonic lodge, the properties of the political parties, estates belonging to Jews and refugees, the funds of Scouting organizations, etc.[173]

The liquidation of Jewish property in the genocide was put in the same category as the confiscation of property from organizations and political parties. The legislators did not express that they acknowledged that these confiscations were vastly different: that they had different motives and were carried out in dissimilar manners. These same tendencies can be found in another passage, in a discussion of compensations for confiscations:

> During the occupation, the Germans and the N.S. have confiscated a large amount of private property. Political refugees, prisoners, and Jews have been particularly affected. The losses that have thus arisen apparently do not differ significantly in nature from those that occur in other ways, in the event of direct war damage and the like. However, the cause of the damage is so peculiar that a special presentation is seen as appropriate. To some extent, there will also be questions about the special treatment of these cases, which will be discussed below.[174]

However, Jews were not included in the legislators' following discussions on special treatment. Neither does this passage reflect the Jews' special circumstances. The lawmakers mentioned Jews in passing in a similar matter-of-factly way when they discussed damages to cars:

> Norwegian N.S. authorities also acquired cars during the occupation. A number of cars were requisitioned to the state police or other institutions. It is not a large number, and ample compensation is apparently almost always paid. However, several cars were also confiscated, especially from Jews and refugees.[175]

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[173] *Innstilling fra Krigsskadekomiteen. Tingsskader. Tyske beslagleggelser (rekvisisjoner) av fast eiendom m.v. og skade på jord, skog og annen grunn*, pp. 25–26, "I de aller fleste tilfeller ble imidlertid eiendommen inndratt til fordel for fonds som skulle stå utenfor statskassen og bestyrt av Likvidasjonsstyret eller andre N.S.-institusjoner. Det gjaldt f.eks. Frimurerlosjens formue, de politiske partiers eiendommer, boer tilhørende jøder og flyktninger, Speiderorganisasjonsmidler m.v."

[174] *Innstilling fra Krigsskadekomiteen. Inntekts- og formuestap*, p. 26, "Tyskerne og N.S. har under okkupasjonen konfiskert meget privat eiendom. Særlig har det gått ut over politiske flyktninger, fanger og jøder. De tap som derved er oppstått skiller seg visstnok etter sin art ikke vesentlig fra dem som oppstår på annen måte, ved direkte krigsskade o.l. Men skadeårsaken er så vidt særegen at en særlig fremstilling antas å være på sin plass. I noen grad vil det også bli spørsmål om særlig behandling av disse saker, som nedenfor skal omhandles."

[175] *Innstilling fra Krigsskadekomiteen. Krigsskader på og tap av motorvogner m.v.*, p. 7, "Også norske N.S.-myndigheter har under okkupasjonen tilegnet seg biler. En del biler ble rekvirert til statspolitiet eller andre institusjoner. Noe stort antall dreier det seg ikke om, og det er visstnok praktisk talt alltid betalt en rommelig erstatning. Men det ble også konfiskert en del biler, særlig for jøder og flyktninger."

The same tendencies are found in a discussion of the economic position and national attitude of the claimants:

> During the occupation, compensations for rent and damages, etc., have mostly been paid regardless of the person's financial position and political attitude. Economic considerations have only indirectly been given importance when luxury items and the like are among the seized assets. And the political attitude is only clearly taken into account where the property has been confiscated – that is, to the detriment of Jews and good Norwegians.[176]

The last tendency found within the preparatory works is that the lawmakers noted that Jews were persecuted because of their descent on three occasions. One of the passages differentiated between "Nazi arbitrariness and abuse of power" and "racial prejudice as in the case of the Jews" when discussing economic support to political prisoners:

> Even where it is not a previous effort that has led to their captivity, but only Nazi arbitrariness and abuse of power, or racial prejudice as in the case of the Jews, the fact that they have endured their captivity in a dignified manner is reason enough that they deserve the society's recognition. In these cases, it will often be appropriate to emphasize the nature and duration of the captivity and the loss it entailed, rather than the reason why the individual was put behind bars, although some may have been negligent and some even foolish.[177]

In two other passages, Jews were not mentioned by name but were probably referred to as the lawmakers referenced people who "have been subjected to persecution by the occupation regime" because of "their descent" and people who had "been subject to racial persecution."[178]

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[176] *Innstilling fra Krigsskadekomiteen. Tingsskader. Tyske beslagleggelser (rekvisisjoner) av fast eiendom m.v. og skade på jord, skog og annen grunn*, p. 24, "Under okkupasjonen har det stort sett vær betalt leiegodtgjørelse og skadeserstatning m.v. uten hensyn til vedkommendes økonomiske stilling og politiske holdning. Hensynet til økonomien har bare indirekte fått betydning hvor det beslaglagte har omfattet luksusverdier o.l. Og den politiske holdning er bare klart tillagt virkning hvor eiendommen har vært konfiskert – altså til skade for jøder og for gode nordmenn."

[177] *Innstilling fra Krigsskadekomiteen. Inntekts- og formuestap*, pp. 34–35, "Selv hvor det ikke er en tidligere innsats som har brakt dem innenfor, men bare nazistisk vilkårlighet og maktmisbruk, eller rasefordom som når det gjelder jødene, vil den ting at de har utholdt sitt fangenskap på en verdig måte, være grunn nok til at de fortjener samfunnets anerkjennelse. Det vil derfor her oftest være mer grunn til å legge vekt på fangenskapets art og varighet og på det tap det har medført enn på årsaken til at de enkelte er kommet inn, om somme kanskje har vært uaktsomme og noen endog tåpelige."

[178] Ot.prp. nr. 137 (1945–46), p. 17, "sin avstamning" and "har vært utsatt for forfølgning fra okkupasjonsmyndighetenes side"; *Innstilling fra Krigsskadekomiteen. Inntekts- og formuestap*, p. 27, "har vært utsatt for raseforfølgelse."

Other than acknowledging that Jews had been persecuted, these mentions did not recognize that Jews were in a special situation, nor were they part of a discussion on adapting provisions to Jewish needs. These paragraphs show the same tendency as the others: Jews were mentioned in passing together with other groups and their special situation and needs were not discussed.

Andrieu argues that French legislation did not mention Jews by name because of the country's secular traditions, but that they were referred to using long euphemisms. She used a 1948-law on reimbursing a Nazi law on Jews as an example, where Jews were referred to as "persons who, as a consequence of actions, so-called laws, decrees, orders, regulations or rulings by the de facto regime known as the government of the French state, were robbed."[179] However, similar tendencies cannot be found in the preparatory works of the Norwegian restitution laws: These ten mentions are the only instances in which Jews are referred to and nowhere else in the preparatory works did the lawmakers indicate an awareness of them.

## 2.3 "First in Line": Treatment of Other Groups

In addition to Jews, there were other groups with restitution needs that deviated from the rest of the population, such as many Northern Norwegians[180] and resistance fighters. Many resistance fighters had been imprisoned in camps and had their property confiscated and many Northern Norwegians had suffered extensive damages from bombings, a scorched earth policy, and forced evacuations. In one estimate of the damages in the counties Finnmark and Nord-Troms (today's Finnmark), around 49 000 people were evacuated, thousands of square kilometers were burned, and thousands of homes were gone.[181] Although their war experiences do not compare to that of Jews – who had been the victims of a genocidal policy – it is helpful to compare how the lawmakers treated different groups with special restitution needs.

There was an overlap between these groups. There are no exact numbers for how many Norwegian Jews lived in Northern Norway, but they probably amounted to no more than a handful – Nazi perpetrators had registered only 22 Jews in Finnmark and Troms.[182] As to Jewish resistance fighters, Norwegian Jews were probably relatively better represented in the resistance than non-Jews. A database on Norwegian Jews who fought against Nazism – either

[179] Andrieu, "Two approaches to compensation in France," p. 145.
[180] To be clear, Northern Norwegians are not treated here as a distinct cultural or ethnic group, but as the individuals populating Northern Norway.
[181] Dancke, *Opp av ruinene*, pp. 136–137.
[182] Bruland, *Holocaust i Norge*, pp. 366–367.

as resistance fighters, members of the merchant navy, or combatants in war – counts around 160 individuals.[183] Jewish Northern Norwegians suffering losses because of "real damages of war" to their homes in Nord-Troms and Finnmark were entitled to the same benefits as other Norwegians. Similarly, Jewish resistance fighters suffering damages because of their resistance efforts were entitled to the same benefits as non-Jewish resistance fighters. The laws were not unbeneficial to all Jewish losses per se, but to the types of losses that were specific to the Jewish population, as the lawmakers did not address the Jewish minority as a whole and the unique damages they had suffered in the Holocaust.

How often lawmakers mentioned Northern Norwegians, how they described them, and to what degree they adapted the laws to their situation differed drastically from the lawmakers' treatment of Jews. "Finnmark and Nord-Troms" and "Northern Norway" (and variations thereof) were repeated at least over 130 times across the preparatory works,[184] mainly in relation to damages or claimants from that area.[185] Not only were they repeatedly mentioned, but their situation was also thoroughly discussed. The lawmakers stated that these areas "must be placed first in line when it comes to the settlement of damages to moveable property"[186] and stressed that:

> [T]he damages in the particular war-torn areas can not only be said to have affected the individual victim, but also the existence of the places themselves, and that it must therefore be considered a societal task to help with the reconstruction of the buildings there.[187]

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[183] JMO: Database over jødiske krigsdeltakere 1940–1945; Christensen and Moland, *Myter om krigen i Norge 1940–1945*, pp. 187; Jødisk Museum i Oslo, "Det jødiske året," p. 10.

[184] "Finnmark og Nord-Troms" and "Nord-Norge."

[185] The population of Finnmark and Nord-Troms were amongst others mentioned in: *Innstilling fra Krigsskadekomiteen. Oversikt*, pp. 1, 6, 8, and 12; *Innstilling fra Krigsskadekomiteen. Tingsskader. A. Bygninger*, pp. 6, 15–16, 20–21, 31, and 43; *Innstilling fra Krigsskadekomiteen. Tingsskader. B. Løsøre*, pp. 8 and 13–14; *Innstilling fra Krigsskadekomiteen. Tingsskader. C. Varelagre*, pp. 12, 8–9, 15–16, and 20–22; *Innstilling fra Krigsskadekomiteen. Tingsskader. Tyske beslagleggelser (rekvisisjoner) av fast eiendom m.v. og skade på jord, skog, og annen grunn*, pp. 6, 8, 28–29, and 32; Krigsskader på og tap av motorvogner m.v., pp. 5–6. *Innstilling fra Krigsskadekomiteen. Inntekts- og formuestap*, pp. 15–16, 24, 32, and 45; Ot.prp. nr. 93 (1945–46), pp. 10, 23–25 and 45; Ot.prp. nr. 121 (1945–46), p. 9; Ot.prp. nr. 2 (1947), pp. 2–6; Ot.prp. nr. 137 (1945–46), p. 15; Ot.prp. nr. 119 (1945–46), p. 5; Innst. O. V. (1947), pp. 10, 12, and 16; O.tid. (1946), pp. 517–518 and 520–526; L.tid. (1946), pp. 169 and 171–172; L.tid. (1947), pp. 50–56.

[186] *Innstilling fra Krigsskadekomiteen. Tingsskader. B. Løsøre*, p. 14, "må stilles først i rekken når det gjelder oppgjøret for løsøreskadene."; See also: *Innstilling fra Krigsskadekomiteen. Tingsskader. A. Bygninger*, p. 21.

[187] Ot.prp. nr. 93 (1945–46), p. 25, "skadene i de særlig krigsherjede strøk ikke bare kan sies å ha rammet den enkelte skadelidte, men også selve stedenes eksistens, og at det derfor må ansees som en samfunnsoppgave å hjelpe til med gjenreisningen av bebyggelsen der." There is a similar argument in Innst. O. VI. (1946), p. 4.

The lawmakers also sympathized with the situation and struggles of Northern Norwegians. For example, one member of parliament said:

> For me, who did not previously know what the conditions were like in Finnmark and elsewhere in Northern Norway, it seemed completely overwhelming to see the total destruction, and my attitude after that trip was that everything had to be put into (…) helping the situation in order to sort out the huge chaos that is up there.[188]

The degree to which the legislators adapted laws to Northern Norwegians also stands in sharp contrast to the lawmakers' treatment of Jews. The Building Damages Act and the Moveable Property Damages Act – the two laws that were arguably the most important for the damage-struck Northern region – were explicitly adapted to their situation. §9 of both laws stated that damages in especially war-torn areas should be compensated regardless of whether the claimant had fire insurance. It was specified in the preparatory works that although this provision "does not *say* Nord-Troms and Finnmark, it *means* Nord-Troms and Finnmark."[189] These findings are intriguing, given that previous research has uncovered that Northern Norwegians were often seen as second-rate citizens and discriminated against after the war.[190]

The process of rebuilding Northern Norway was not limited to the post-war restitution laws. The Norwegian Government in Exile had begun planning the rebuilding of this region in the autumn of 1944. The goal was not only to rebuild the old but to create a new and better region.[191] In addition, special offices where the population of Northern Norway, refugees, and seamen could apply for assistance and information were established. No such office was created for Norwegian Jews.[192]

Resistance fighters were also granted numerous discussions and mentions.[193] "National work" and similar terms were mentioned at least 50 times throughout the preparatory works.

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[188] O.tid. (1946), p. 518, "På meg, som ikke tidligere kjente til hvordan forholdene var i Finnmark og ellers i Nord-Norge, virket det fullstendig overveldende å se den totale ødeleggelse, og min innstilling etter den turen var at alt måtte settes inn på å (…) legge alt til rette slik at man kunne komme ut av det veldige kaos som er der oppe."

[189] L.tid. (1947), p. 53, "Det *står* ikke Nord-Troms og Finnmark, men det *betyr* Nord-Troms og Finnmark," original italics.

[190] See for example Hellstad, "Nordlendinger uønsket."

[191] Hauglid et. al., *Til befolkningen!*, pp. 110–111; Brox, "Hvordan skulle Finnmark gjenreises?."

[192] Minority NOU 1997: 22, p. 111.

[193] People who had done "national work" were amongst others mentioned in: *Innstilling fra Krigsskadekomiteen. Oversikt*, pp. 4, 5, 11, and 14; *Innstilling fra Krigsskadekomiteen. Tingsskader. A. Bygninger*, pp. 2 and 22; *Innstilling fra Krigsskadekomiteen. Tingsskader. C. Varelagre*, p. 16; *Innstilling fra Krigsskadekomiteen.*

Although this was not as often as Northern Norwegians, several chapters and subchapters in the preparatory works were devoted to their situation. For example, there was a separate subchapter on whether resistance fighters should have a right to be compensated for lost income.[194] Although resistance fighters were often mentioned together with other groups and did not dominate every conversation they were included in,[195] they were still devoted exclusive attention on several occasions. In addition – and in contrast to Northern Norwegians and Jews – people who had done "national work" were mentioned in the laws themselves. §16 in the House Requisition Act is an example thereof.

The laws were also favorable to resistance fighters. For example, in the Ex Gratia Act, people who had done "national work" were seen as particularly worthy of ex gratia payments, and §4 and §5 only applied to them. According to §4, they could be compensated for income loss as a result of imprisonment, even if the "national work" they had done was not "the direct cause of the incarceration."[196] In contrast, people who had suffered "damages from abuse" could usually only apply for compensation for income losses on the requirement that their financial position was worse than before the war and that the compensation would be used for repairing or replacing the damaged property.[197]

Also, an additional law was made specifically for resistance fighters: the Resistance and Civilian Pension Act. It governed pensions to several groups who had been killed or injured in the war, such as resistance fighters, political prisoners, medical personnel, people forced to serve in a foreign army, fishers, and sailors. Together with the Military Pension Act – which similarly governed pensions to military personnel who had died or were injured while participating in the war – this law was based upon the report on injuries to people given by the Commission for War Damages.[198] That is, it was written by the same commission that wrote

*Inntekts- og formuestap*, pp. 6, 8, 13, 27, 30, 34–35, 37, 47, 50, and 56–57; Ot.prp. nr. 137 (1945–46), p. 17; Ot.prp. nr. 93 (1945–46), pp. 6, 8, and 25; Ot.prp. nr. 121 (1945–46), p. 5; Ot.prp. nr. 119 (1945–46), pp. 10 and 13; Ot.prp. nr. 2 (1947), p. 3; Innst. O. VI (1946), p. 6; Innst. O. V. (1947), pp. 2, 12–13, 15–16, and 18; Innst. O. VII. (1947), pp. 2 and 6; O.tid. (1946), p. 529; O.tid. (1947), pp. 140, 144, and 153; L.tid. (1947), pp. 47, 49, and 53; *Midlertidig lov om erstatning for visse skader og tap som følge av krigen 1940–1945 m.v.*, §3, §4, and §5; *Midlertidig lov om krigsskadetrygd for løsøre*, §11; *Midlertidig lov om avståing av bruksrett til husrom*, §16.

194 *Innstilling fra Krigsskadekomiteen. Inntekts- og formuestap*, pp. 41–43.

195 See for example *Innstilling fra Krigsskadekomiteen. Tingsskader. A. Bygninger*, p. 2.

196 *Midlertidig lov om erstatning for visse skader og tap som følge av krigen 1940–1945 m.v.*, §4 and §5; Innst. O. V. (1947), p. 18, "behøver ikke være en direkte årsak til fengslingen."

197 *Midlertidig lov om erstatning for visse skader og tap som følge av krigen 1940–1945 m.v.*, §6.

198 *Innstilling til Krigsskadekomiteen. Personskader*.

the reports for four of the restitution laws. However, these laws did not explicitly include pensions for injuries suffered as a result of the Holocaust.[199]

Interestingly, the restitution laws gave Northern Norwegians and resistance fighters group rights. Professor of International and Public Affairs Elazar Barkan argues that in pre-World War II justice, rights were attributed to individuals in line with the spirit of the Enlightenment. However, after the war, rights were increasingly attributed to groups such as religious or ethnic communities.[200] However, in contrast to Northern Norwegians and resistance fighters, Jews were not given rights as a group but as individual claimants. In that sense, Norway differed from countries such as France. There, historian Claire Andrieu notes:

> [P]eople did not distinguish between different degrees of suffering caused by the war as they do today. Jews, resistance fighters, and victims of bombings all had the same entitlement to restitution and compensation. Their claims against the state were treated relatively uniformly as cases of war damage.[201]

The lawmakers' frequent mention of other groups not only shows that there was room for granting Jews the same attention but created an expectation and perhaps even *necessitated* explicit references to all groups with special restitution needs. Other groups with unique war experiences and special restitution needs were not only mentioned often and substantially in the preparatory works but the laws were adapted to their situation. This substantiates the claim that it would have been reflected in the preparatory works if Jews had been considered in the legislative process.

## 2.4 "First and Foremost to Be Mentioned": The Missing Persons Act

Although it was not a restitution law per se, the Missing Persons Act from October 1947 became central to the restitution of Jewish property because of the unique pattern of death, the high death tolls, uncertain orders of inheritance, and unconfirmed deaths. This law added to an 1857-law on missing persons and was designed to meet challenges posed by the war relating to people that could not be accounted for. It is central to treat in this thesis, both for comparative purposes

[199] *Lov om krigspensjonering for militærpersoner*; *Lov om krigspensjonering for hjemmestyrkepersonell og sivilpersoner*.
[200] Barkan, *The Guilt of Nations*, p. xx.
[201] Andrieu, "Two Approaches to Compensation in France," p. 135.

and because of its centrality to Jewish restitution. The law was passed in the same parliamentary term as the restitution legislation, and one of the authors of its standing committee report had also been a member of the standing committee that made the report for the Stock-in-Trade Damages Act. Its proposition was delivered after three of the restitution laws were already passed, and the law itself was the last of the seven to be treated and enacted in parliament (see "Figure 1" on page 20).

Under normal circumstances, heirs would inherit property promptly after the owner was deceased. However, in cases where a person was presumed but not confirmed dead, a law from 1857 on missing persons trod in action. According to the 1857-law, the heirs of a missing person could ask for a decree of presumption of death three years after he or she went missing if he or she had disappeared in a particular event, such as in a pitched battle or shipwreck.[202] If the cause of the disappearance was unknown, they could apply for the decree after seven years.[203] If such a decree was granted, a legal guardian was given control over the property. The heirs were given full ownership of the property only 20 years (or in some cases ten) after the person went missing.[204]

As the lawmakers for the Missing Persons Act noted, the 1857-law was originally intended for a time when communications were slow and when it was not uncommon for people who went missing to reappear after many years.[205] It was poorly constructed for the post-war situation of the Jews: Hundreds of Norwegian-Jewish deaths in Auschwitz could not be confirmed and Jews returning from Auschwitz and Sweden, sometimes with only their clothes on their backs, could hardly wait ten or twenty years to inherit: They had lost all their belongings and were in dire need of regaining this property. Furthermore, many could not get immediate access to their own property because of how the Liquidation Board had liquidated Jewish assets. As explained earlier, the Liquidation Board merged the household and made one person in the household – often the father – the owner. If he died, the rest of the family could not get access to the property for several years, as they were no longer owners of their own property but heirs.[206]

In October 1947, the Missing Persons Act revised the 1857-law. The revisions only applied to people who went missing between April 9th, 1940, and December 31st, 1945, and where it

[202] *Lov om forsvundne og andre fraværende personer, §4.*
[203] *Lov om forsvundne og andre fraværende personer, §5.*
[204] Ot.prp. nr. 14 (1947), pp. 3–4.
[205] Ot.prp. nr. 14 (1947), pp. 4–6.
[206] Minority NOU 1997: 22, p. 117.

was overwhelmingly likely that the war was the cause of death.[207] The new law substantially shortened the time limits. In cases where the missing person had disappeared in a particular event or where he or she was in obvious peril at the time of disappearance, the heir could ask for a decree of presumption of death after one year instead of three. In cases where the owner had disappeared under unknown circumstances, the time limit was reduced from seven to three years.[208] Also, the relatives could reclaim property valued under 3 000kr without a decree of presumption of death.[209] These shortened time frames were a massive relief for the Jewish minority, who were the main benefactors of this law.

However, even with laws making it easier for heirs to gain access to their inheritance, properties without heirs were still in dispute – both in Norway and abroad.[210] "After the war, the respective home states, the reconstructed local Jewish communities, and international Jewish organizations all competed for heirless Jewish property," writes Goschler and Ther. "The difficulties concerning heirless Jewish property became more acute the greater the percentage of Jews that were murdered."[211] After the war, the Jewish Community in Oslo appealed to the Ministry of Justice, asking them to change the laws of inheritance so that the Community could inherit the property of the Jews who had perished without leaving heirs. The Jewish Community argued that it had lost considerable revenue (such as membership charges, funeral fees, and wedding fees) as many of its members had been killed. It also argued that the community itself had lost considerable values in the liquidation that was not yet returned. Furthermore, the Community argued that the deceased, had they been given a choice, would have wanted them to inherit their property, not the Norwegian state.

Lastly, and importantly, it argued that its revenue was lower because many of its members were "busy recovering their lost property and has therefore only to a very limited extent got their business back on track. The members therefore do not have the ability to pay taxes as they normally would."[212] Both the liquidation of the Jewish Community's assets itself, its loss of members, and its members' financial situation had a dire impact on the organization's finances. The Community made an interesting observation in the letter: It was not only the liquidation

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[207] *Midlertidig lov om folk som er kommet bort under krigen, §1;* Ot.prp. nr. 14 (1947), p. 7.
[208] *Midlertidig lov om folk som er kommet bort under krigen, §2.*
[209] *Midlertidig lov om folk som er kommet bort under krigen, §6;* Minority NOU 1997: 22, pp. 117–19.
[210] See for example Lustig, "Who Are to Be the Successors of European Jewry."
[211] Goschler and Ther, "A History without Boundaries," pp. 4–5.
[212] JMO, D-0019 DMT, Korrespondanse I, letter from DMTO to Lovavdelingen Justisdepartementet, 22.01.1946, "opptatt med å skaffe seg sine tapte eiendeler tilbake og har derfor bare i meget begrenset utstrekning fått sine forretninger igang igjen. Medlemmene har derfor ikke den evne til å betale skatt som de normalt ville ha hatt."

and the murder of Norwegian Jews itself that had an impact on its ability to rebuild financially but also Jews' difficulty in retrieving their property, as they had to spend their time attempting to recover their assets.

The Missing Persons Act differed substantially from the restitution legislation, not only in that it was beneficial for Jews but in that the lawmakers took explicit heed of Norwegian Jews when making the law. Jews were mentioned more often by name in the preparatory works of this law alone than all the restitution laws combined. Furthermore, when they were mentioned, they were at the front and center. Usually, propositions began with an overview of the current legal framework. In contrast, the proposition to the Missing Persons Act began as follows:

> During the war, a large number of Norwegians went missing in such circumstances that it must be considered overwhelmingly probable that they have lost their lives. First and foremost to be mentioned are the Norwegian Jews (…).[213]

What followed was a one and a half-page explanation of the deportation and murder of the Norwegian Jews. Then the proposition shortly mentioned other Norwegian concentration camp inmates (such as political prisoners, students, and officers) and war combatants, as well as "a whole other category" of Nazi sympathizers such as Norwegian volunteers in Waffen-SS ("front fighters").[214] However, the proposition made clear that it was first and foremost aimed at Jews and political prisoners. It stated that the likelihood that these individuals were deceased was not only higher, but that they had a greater need for their possessions because of their difficult situation.[215]

That is not to say that this law was hugely beneficial to Norwegian Jews: Heirs were still barred from the property for several years. Furthermore, the restitution laws' limitations – such as the sliding scale, the lack of compensation for stock-in-trade, and the lack of rights to former rented housing – still applied. The law only mitigated a few of the challenges facing Norwegian Jews after the war and corrected none of the ill-fated provisions in the restitution legislation. Also, it did not give Jews an abnormal amount of attention compared to other groups – it granted Jews the same amount of attention and thorough treatment they always gave resistance fighters

[213] Ot.prp. nr. 14 (1947), p. 1, "Under krigen kom et stort antall nordmenn bort under slike omstendigheter at det må anses for overveiende sannsynlig at de har mistet livet. I første rekke kan her nevnes de norske jøder (…)."
[214] Ot.prp. nr. 14 (1947), p. 2, "en helt annen kategori."
[215] Ot.prp. nr. 14 (1947), p. 5.

and Northern Norwegians. The Missing Persons Act is not exceptional in that it took extra care of Jewish claimants – it simply solved the problem of vast amounts of ownerless property and in many ways performed a task that would be expected of a state power. It was exceptional in that it took heed of Jews at all.

The shortcomings of the restitution laws become even more apparent when compared to the Missing Persons Act. This law demonstrates an important point: When lawmakers took heed of Jewish needs in the legislative process, this left marks in the preparatory works. In more concrete terms, lawmakers mentioned Jews and the experiences that made their situation different. This strengthens the theory that the restitution laws' failure to do the same entails that Jews were not taken into account.

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Norwegian Jews were in a unique situation after the war because of the Holocaust, which resulted in them having special restitution needs that deviated from the needs of the rest of the population. The restitution legislation failed to address these needs, resulting in a disproportionally unfavorable restitution for Jews.

Part of the reason why the laws were unfavorable to the Jewish minority was that lawmakers did not take heed of Jews. There is no indication that lawmakers made attempts to adapt the laws to the Jews' situation or paid attention to how the provisions might affect them. These conclusions are drawn based upon three observations:

1) *Unfavorability*. Several provisions in these laws were disproportionately unfavorable to the Jewish minority. Because Norwegian Jews were in a unique situation after the war with challenges only faced by them, many of the provisions led to severely truncated returns and compensations – such as the return of realized values or compensation for damages to belongings. Some provisions even excluded most Jewish losses altogether – such as the return of rented accommodations or compensations for stock-in-trade. Although the lawmakers had made some choices that were favorable for Jewish claimants – such as the expansion of the definition of "war damages" and the right to be reinstated of owned real estate – nothing suggests that they made these choices with Jews in mind.

2) *Mentions*. Even though the lawmakers produced lengthy preparatory works, and even though Jews had unique needs and were overrepresented as claimants, the legislators only

mentioned Jews ten times. The few times Jews *were* mentioned, their situation was described in a general nature, and the particular difficulties facing this group were not discussed. The lawmakers never described Jews as a group in need of extra protection or specially adapted provisions and never discussed these laws' consequences for the Jewish minority. Furthermore, there were no cases of entire chapters, paragraphs, points, or even sentences being dedicated solely to Jews: They were not mentioned alone but as part of a list of different groups. Other than referring to racial persecution, the lawmakers showed no signs of conceptualizing the Holocaust as something that differed from other "abuses" by the government.

3) *Comparison.* Other groups with special needs were taken into account in the legislative process and were substantially mentioned, demonstrating how groups were treated by the lawmakers when they were taken heed of. Northern Norwegians and resistance fighters were mentioned repeatedly in the preparatory works of all six laws, and their situations and war experiences were substantially described and discussed. Central issues relating to these groups were raised both in the commission report, the proposition, the standing committee report, and in the debates in the Storting, and were often discussed in depth. Additionally, an analysis of a seventh law – the Missing Persons Act – illustrates what it looked like when Jews were taken explicit heed of in the legislative process. The lawmakers mentioned Jews often, discussed their situation in-depth, referred to details making their situation unique, and adapted the law to their situation. Had the Jews been substantially taken into account in the drafting of the restitution legislation, they would presumably have been treated similarly there.

The main trend in Norwegian legislation on restitution was that Jewish individuals were treated like any other citizen. For the most part, they were not singled out as a special group, neither in a positive nor negative sense. Unfortunately, Jewish experiences and losses were so fundamentally different from that of other groups that this equal treatment resulted in an unequal outcome. As Fogg points out in the case of France: "While Jews were to be treated on an equal footing with other war victims, such policies also put them at a disadvantage in the restitution process when competing with other groups for scarce resources."[216]

[216] Fogg, *Stealing Home*, 59.

# 3 An Unfavorable Starting Point: Context of Restitution

How the lawmakers designed the restitution laws must be seen in relation to how they interpreted and acted within the larger post-war context. The lawmakers did not write the legislation in a vacuum – they both helped shape and based themselves on larger post-war policies. The existing legal framework influenced their choices, and they wrote the legislation in the context of post-war economic limitations. The lawmakers' choices within this context were shaped by how they conceptualized the restitution and vice versa – a topic which will be discussed in the next chapter.

This chapter will begin by analyzing how the legal framework – meaning earlier laws and established legal tools – influenced the new restitution legislation. It will then explore the principles by which the laws distributed the limited economic funds. As will be argued in this chapter, the legal framework was not adapted to meet the challenges of a post-Holocaust world. Furthermore, the restitution principles tied into larger post-war policies and were not suitable to meet Jewish needs. Given no interference on behalf of the Jews, these conditions would favor an outcome that was disadvantageous for Jewish claimants.

## 3.1 Extraordinary Times, Ordinary Measures: The Legal Framework

As described earlier, post-war restitution legislation was to a large degree not made from scratch but based upon earlier solutions. The House Requisition Act, for example, lent provisions on private property requisition from its war-time forerunner. Furthermore, with the exception of the Reparations Office, the institutions of restitution were established either before the war or under the occupation regime.[217]

Also, new provisions found inspiration in old methods, applying previous solutions to new problems. For example, rather than making new laws on compensations for "damages from abuse" to buildings and moveable property, such damages were included in the definition of war damage and compensated according to the same procedure as so-called "real damages of war." Another example is that the values in the joint funds were returned according to bankruptcy laws, where each person who had suffered losses would hold a percentage share of the funds available for compensations, based on how much this person had lost. Also, the lawmakers justified their decision not to include "damages from abuse" to stock-in-trade by

[217] This was described in subchapter 1.1.

pointing out that the original statutes for the Office for War Damage to Stock-in-Trade had included no such provisions.[218]

That is not to say there were no new solutions. Notably, in the case of the Confiscated Property Act, it was a breach of normal rules of law that the original owner's right to have his confiscated property returned overrode the buyer's good faith.[219] In another example, the lawmakers expanded the definition of war damages both in the Building Damages Act and the Moveable Property Damages Act to include "damages from abuse." Regardless, most of the restitution laws' provisions were based on or found inspiration in earlier laws.

The Holocaust presented novel challenges to the Norwegian legal system, for example relating to mass death, unlawful expropriation, total losses, several claims to the same property, and a large number of unconfirmable deaths. Historian Jürgen Lillteicher observed a tendency in the restitution of Jewish property in West Germany that is also applicable to Norway:

> [C]onventional political modes of compensation and traditional German legislation (…) were not well suited for the challenges presented by injustice on this scale. The result was an inability to deal effectively with these matters, which was only partly mitigated by the special regulations and laws introduced; after all, these still had to operate within the existing judicial system.[220]

Bruland and Riesel came to a similar conclusion in the minority Skarpnes report: "Annihilation on this scale cannot be equated with ordinary deaths, and ordinary legal procedures for settling estates are thus not appropriate in such a context."[221]

To base the restitution laws on earlier legislation to such a large degree had adverse effects upon the restitution of Jewish property, as the lawmakers found little inspiration for solutions to the problems posed by genocide there. They were either established before the full extent of the destructive nature of Nazi anti-Jewish policies had been displayed or by a Nazi occupier who had no interest in securing Jewish needs. On the contrary, some of the laws and institutions aided in the destruction of the Norwegian Jews. As Professor of Law Patrick Macklem formulated it: In law, "the past is both a source of right as well as the location in which violations occur."[222]

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[218] *Innstilling fra Krigsskadekomiteen. Tingsskader. C. Varelagre*, p. 10.
[219] Innst. O. nr. 272 (1946), p. 362; *Midlertidig lov om konfiskert eiendom*, §3.
[220] Lillteicher, "West Germany and the Restitution of Jewish Property in Europe," p. 108.
[221] Minority NOU 1997: 22, p. 171.
[222] Macklem, "Rybná 9, Praha 1," p. 14.

Provisions taking heed of Jewish post-Holocaust needs had to be made from scratch. The lack of novel solutions, then, hindered the more satisfactory return of Jewish property. This continuation of policy was not historically determined but an active choice. The issue was not that the legal framework limited the lawmakers' maneuvering space, but that accommodating Jewish needs demanded of the lawmakers an inventiveness. They demonstrated such ingenuity in the treatment of other groups who faced novel challenges, such as resistance fighters, thereby demonstrating that accommodating special needs was possible.

That is not to say that entirely new provisions would have solved all the problems created by genocide: It is doubtful that any legal system could fully resolve such an event's consequences. A punitive justice system can punish the perpetrator, deter him and others from committing similar crimes, and compensate the victim. However, in cases where a perpetrator has murdered hundreds of people, no punishment could be equal to the crime, the crime itself is so extreme that deterrence measures can be said to have little effect, and no restitution could reinstate him to his original position. That alleviations would have been possible, though, is indisputable.

## 3.2 Economic Capability: Principles of Restitution

There was also another contextual factor that decisively influenced the restitution of Jewish property: The fact that there was not enough money in the national treasury to fully cover all damages and losses suffered by Norwegians during the war. The lawmakers argued that the state was not able to financially cover the rebuilding of the country and the complete restitution of property to all individuals and that they had to "take into account the economic capability of the individual citizen and society."[223]

Before venturing into this subject, it is important to establish that it would have been economically possible to more satisfactorily restitute all Jewish property had the Norwegian state made it a priority and deprioritized other projects. The Jewish minority was a small group, and although their material losses were often total, completely refunding so few individuals would not have been an insurmountable expense – a trait which Norway shared with many other European countries.[224] The lawmakers estimated that compensations for lost and damaged property per the restitution policies would cost 1 160 million NOK in 1946-values.[225] The

[223] *Innstilling fra Krigsskadekomiteen. Oversikt*, p. 12, "tas omsyn til den enkelte borgers og samfunnets økonomiske bæreevne."
[224] Goschler and Ther, "A History without Boundaries," p. 12.
[225] *Innstilling fra krigsskadetrygden. Oversikt*, pp. 12–13.

Minority Skarpnes Commission estimated that the liquidated Jewish assets amounted to at least 23 million NOK in 1940-values (although the actual number is higher, as some assets were not included in the calculations).[226] In 1946-values, Jewish losses would have made up 2.7% of the total budget of restitution compensations.[227] However, the restitution institutions only awarded Jewish claimants 7.9 million NOK.[228] In other words: It was not the lack of funding in itself that hindered the satisfactory restitution of Jewish assets but how the lawmakers chose to distribute these funds.

In the preparatory works, the lawmakers repeatedly mentioned two stated main principles of restitution by which the limited funds should be distributed, which were identified by the Skarpnes Commission and which for the purpose of this thesis can be called "the reconstruction principle" and "the equalization principle."[229] When designing the laws, the lawmakers often referred back to these two goals and discussed how potential provisions would meet them.

According to the "reconstruction principle," the goal of restitution was to rebuild the country. This means that the laws should distribute the funds in a manner that served to reconstruct infrastructures that were important not only to the individual claimant but to society as a whole, such as rebuilding damaged areas and getting businesses up and running again. This goal entailed that the claimants' economic needs and compensations' benefit to society was considered when awarding the compensations. Northern Norwegians benefitted greatly from this principle. Special measures for this region were ultimately justified by referring to the importance of rebuilding the nation. In one instance, for example, the lawmakers wrote that:

> [S]uch concentrated war damages must be said to have affected not only the individual victims but also the very existence of these places. Therefore, it seems justified in these cases to see the rebuilding more as a social measure than as compensation for the individual injured party.[230]

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[226] Minority NOU 1997: 22, p. 155.

[227] According to the Central Bureau of Statistics of Norway, 23 million NOK in 1940 would have been worth 31.7 million NOK in 1946. Statistisk sentralbyrå, "Konsumprisindeksen."

[228] Minority NOU 1997: 22, p. 11.

[229] See for example *Innstilling fra krigsskadetrygden. Oversikt*. However, references to these goals can be found throughout the preparatory works. These two main goals of restitution are also recognized in the literature. See for example Minority NOU 1997: 22, p. 170; Theien and Westlie, "The Restitution Process and the Integration of the Jewish Minority into the Norwegian Collective Memory of the Second World War," p. 129.

[230] *Innstilling fra Krigsskadekomiteen. Oversikt*, p. 6, "slike konsentrerte krigsskader må sies å ha rammet ikke bare de enkelte skadelidte, men også selve disse steders eksistens. Det synes derfor berettiget i disse tilfelle å se gjenreisningen mer som et sosialt tiltak enn som en skadeserstatning til den enkelte skadelidte."

However, "the reconstruction principle" would not make an argument for more fully restituting Jewish property. While the rebuilding of Northern Norway was in the national interest in that it was paramount to reconstruct the damage-struck region, no such argument could be made on behalf of Norway's Jews. This was because most Norwegian Jews lived in Trondheim and Oslo or other areas that had not suffered large-scale damages from bombings, because Jewish assets represented such small values in a national perspective, and because most Jewish losses resulted from a redistribution of property rather than a destruction of property. Contrary to Northern Norway, more satisfactory restituting Jewish losses would have made little impact on the overall goal of rebuilding the country. Besides, this principle was also the grounds for policies that hindered Jewish restitution, such as not providing compensations for stock-in-trade when the claimant did not intend to use the money to rebuild what was lost.

According to the second "equalization principle," the goal of restitution was to distribute the burdens of war evenly across the nation so that no individuals or areas suffered more than others. The lawmakers stated that hardships suffered by the population at large that had not disproportionally affected certain groups would generally not grant compensations. For example, radios and weapons were generally not compensated, as the lawmakers argued that such nationwide confiscations had affected most Norwegians equally.[231] Only people who had been "particularly affected" should be compensated: "Monetary compensations will thus only be in question in cases where the damage or loss inflicted by the war and the occupation affects the individual differently and more severely than the country's citizens in general."[232]

In an ideal execution of "the equalization principle," Jews should not suffer more severe losses than the rest of the population. However, instead of guaranteeing added help to the damage-struck minority, "the equalization principle" justified policies that were severely unfavorable to them, such as the policy of the sliding scale. Compensations for moveable property were increasingly truncated the more the claimant had lost. The effect was that the people who had lost the most got the least help.

Although the second principle was targeted at justice for individuals to a more significant degree than the first, it also had the larger goal of reconstruction. As commented by the Minority

[231] This is amongst others mentioned in: *Innstilling fra Krigsskadekomiteen. Oversikt*, pp. 9 and 13; Ot.prp. nr. 93 (1945–46), pp. 7 and 11; Ot.prp. nr. 121 (1945–46), pp. 4 and 11–13; *Innstilling fra Krigsskadekomiteen. Tingsskader. B. Løsøre*, pp. 13, 27–29, and 35; O.tid. (1947), pp. 131 and 139; Innst. O. V. (1947), pp. 5–6.

[232] *Innstilling fra Krigsskadekomiteen. Oversikt*, p. 1, "særskilt rammet" and "Ytelse av pengeerstatning vil det således bare bli spørsmål om hvor skaden eller tapet påført ved krigen og okkupasjonen rammer den enkelte annerledes og hardere enn tilfellet er for landets borgere i sin alminnelighet."

Skarpnes Commission: "The intention here was to share what one had, and to cooperate on the work of reconstruction."[233] That is not to say that restitution was entirely subordinate to reconstruction. Although the two goals did to some extent overlap – the restitution policies were geared towards compensating individuals for property that it was in the national interest to rebuild – restitution and reconstruction were also to some degree opposing goals: Individual-centered restitution would likely not have been the most efficient policy to ensure the rebuilding of the country.

Therefore, the policy of reconstruction through restitution must also be explained by another factor: It was also guided by the process of re-establishing a constitutional democratic rule. Upon the liberation, Norway went from being under the control of a Nazi occupation power to being the subject of a democratic government. A difficulty facing the new rule was the continuation or discontinuation of war-time laws, practices, transactions and agreements. The world had not stopped in 1940: financial transactions still happened, legal agreements were made, property changed hands, people were expelled from their homes, securities were annulled, and assets were liquidated. Some of these actions were illegitimate in the eyes of the post-war government, as they were conducted under the influence of Nazi laws or practices or in violation of international or Norwegian law. The destructive effects of the war did not automatically solve themselves upon the liberation – reversing or compensating these transactions was a complicated task demanding active actions. Restitution laws became a central tool in this process: They were to ensure that transactions, agreements, and ownerships were based upon what post-war authorities viewed as a legitimate legal foundation.

These principles guiding the restitution were not historically determined. The lawmakers could have chosen other aims, interpreted the goals differently, or have secured these goals with other policies. Why lawmakers decided that the principles of reconstruction and even distribution would guide the restitution is a larger question exceeding the borders of the preparatory works, as rebuilding the country was not a goal limited to restitution but an overarching policy in the years after the war. As was stated in a later Central Bureau of Statistics report on the Norwegian economy after the war: "Rebuilding the country's production capacity was the dominant task" between 1945 and 1949.[234] Moreover, ideals of equal distribution and

[233] Minority NOU 1997: 22, p. 131. Translation from "The Reisel/Bruland Report on the Confiscation of Jewish Property in Norway during World War II," p. 45.

[234] Statistisk sentralbyrå, "Norges økonomi etter krigen," p. 36, "Gjenoppbyggingen av landets produksjonsevne var den dominerende oppgaven (...)."

the policy of spending money where it would be most beneficial for production purposes strongly resonated with a post-war political climate driven by ideals of unity, cross-party cooperation, reconstructing a war-damaged country, and rebuilding a democratic society, as expressed in "*Fellesprogramet*."[235] As historians Iselin Theien and Bjørn Westlie argue:

> Equal treatment within the boundaries of the national state was designed to promote the Labor government's dual programme of production-oriented reconstruction and social equality. Individual claims for compensation were measured against what the bureaucracy judged to be objective needs and potential for social usefulness.[236]

However, another principle – although not explicitly identified in the preparatory works as a principle of restitution and not acknowledged in existing research literature – was also apparent in the preparatory works and is vital for understanding the design of the restitution laws: to restitute "especially deserving individuals" who had done an "estimable effort," taking into account the claimant's "worthiness to receive compensation."[237] This tendency can be seen implicitly throughout the preparatory works and was also expressed explicitly, such as in the proposition for the House Requisition Act*:*

> The ministry is aware that a distinction must be made between refugees – and often also between prisoners – as not everyone is equally worthy of protection. Simultaneously, the situation may be such that it will not be reasonable or appropriate for the refugees or prisoners to get the entire apartment back. The provisions in §16 in the draft are therefore shaped so that the House Distribution Board has access to take the considerations that one finds reason to and meet all reasonable requirements.[238]

Different war experiences were mentioned numerous times in the judicial sources. In three of the laws, a person who had shown "unnational behavior" or committed high treason in wartime

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[235] Sørensen, "Hegemonikamp om det norske," p. 44–45; Maerz, *Okkupasjonstidens lange skygger*, pp. 50–51.

[236] Theien and Westlie, "The Restitution Process and the Integration of the Jewish Minority into the Norwegian Collective Memory of the Second World War," p. 129.

[237] *Midlertidig lov om erstatning for visse skader og tap som følge av krigen 1940–1945 m.v.*, §3, §4, and §5, "verdighet til å få erstatning" and "fortjenstfull innsats."

[238] Ot.prp. nr. 69 (1945–46), pp. 9–10, "Departementet er merksam på at det må skjelnes mellom flyktninger – og ofte også mellom fanger – da ikke alle er like beskyttelsesverdige. Situasjonen kan samtidig ligge slik an at det ikke vil være rimelig eller hensiktsmessig at flyktningene eller fangene får tilbake hele leiligheten. Bestemmelsene i §16 i utkastet er derfor formet slik at husfordelingsnemda får adgang til å ta de omsyn som en finner grunn til og imøtekomme alle rimelige krav."

could be excluded from compensations, regardless of his economic needs or the compensation's benefit to society.[239] Also, the lawmakers mentioned "national work" or variations of this term numerous times and gave this group special rights.[240] Again, the laws awarded these compensations regardless of their necessity to the claimant or society. For example, in the House Requisition Act, people who had contributed to "national work" were given the right to reclaim their former rented accommodations at the expense of existing tenants, regardless of whether they needed the apartment.[241]

This shows that the war experience of the claimant affected what rights he or she had to compensations. In fact, war experience in many cases took precedence over "the reconstruction principle" and "the equalization principle." Thus, these laws were not only an expression of pragmatic financial considerations and a wish to re-establish a democratic order but also of what groups the legislators saw as worthy of compensation. The reasons for this will be explored in the next chapter.

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The restitution laws were to a large degree not built from scratch but based on or inspired by earlier laws. However, lawmakers would not have found inspiration for laws that could meet the challenges of genocide in earlier legislation: Pre-war laws were not adapted to solve the problems posed by genocide, and war-time laws were made under Nazi rule, and neither were adapted to Jewish post-Holocaust needs. Given no interference on behalf of the Jews, these conditions would favor an outcome that was disadvantageous for Jewish claimants. That being said, it would have been possible to create legislation that would have significantly improved their situation.

Economic limitations and the restitution principles by which these inadequate means were distributed also had a decisive impact on the restitution. Since there was not enough money in the national treasury to comprehensively cover all damages, the legislators distributed the limited funds according to two stated principles. These principles sprung out of larger post-war policies, and restitution was closely tied to rebuilding the country. The favorability of the laws

[239] See subchapter 2.1.2; *Midlertidig lov om krigsskadetrygd for bygninger*, §1*; Midlertidig lov om krigsskadetrygd for løsøre, §1; Midlertidig lov om erstatning for visse skader og tap som følge av krigen 1940–1945 m.v*, §2.
[240] See footnote 193.
[241] *Midlertidig lov om avståing av bruksrett til husrom,* §16.

for Northern Norwegians can be explained by their individual interests lining up with national economic interests that the two stated principles of restitution were designed to secure.

However, the economic goals could be overridden by another consideration: A third, unstated "worthiness principle" was not founded on economic considerations but upon the idea that some claimants were "especially deserving" – a topic that will be treated in the next chapter. The favorability of the laws for resistance fighters can be explained by the lawmakers seeing them as worthy of special attention under this third, unstated principle. Norwegian Jews, on the other hand, were disadvantaged by the two economic principles – as they functioned as justifications for truncated compensations and returns – and were not included under "the worthiness principle."

Although the legal framework and the economic principles guiding the restitution favored an outcome that was disadvantageous to Jews, this was far from unavoidable, and there was definite room for maneuvering. Fairly simple steps – such as changes in the sliding scale, giving the victims of persecution the right to be reinstated of their rented accommodations, and compensating stock-in-trade that was damaged as a result of abuse – would have dramatically lessened the post-war economic hardships of Norwegian Jews. Such measures would have necessitated the de-prioritization of other projects but were viable, as is proven by the fact that the lawmakers took similar steps to secure the needs of former resistance fighters.

# 4 No Room for Jews: Conceptualizing Restitution

While the economic and legal context of restitution helps explain the prioritization of Northern Norwegians and why restitution laws were disproportionately unfavorable to the Jewish minority, it does not satisfactorily explain why lawmakers did not prioritize Jews and why active measures were not put in place to secure their interests. Neither can economic considerations explain "the worthiness principle" or why resistance fighters were included but not Jews. Restitution legislation was not only influenced by the context in which it was made, larger post-war goals, and economic considerations. It was also shaped by how the lawmakers conceptualized the war and the claimants – by how the lawmakers understood the claimants' war experiences and post-war needs.

This chapter will examine whether antisemitic notions, the position of Jews and resistance fighters in historical narratives, or a lack of understanding of the singularity of Jewish war experiences and needs can explain why the laws were unfavorable to Jews. As will be argued in this chapter, although antisemitism was apparent in Norway at the time, such tendencies cannot be found in the preparatory works, and it is therefore difficult to conclude to what degree this influenced the laws. The historical narrative explains why the lawmakers gave special attention to resistance fighters. An underdeveloped understanding of the persecution of the Norwegian Jews and their post-war needs, as well of a lack of conceptual categories befitting of this group's experiences, explains why the laws were unfavorable to Jews and why they were not taken special heed of.

## 4.1 A Societal Current: Antisemitism

The term "antisemitism" can be defined in different ways.[242] On the one hand, it can denote all forms of hostility against Jews, including both anti-Judaic views, modern racist ideas about a "Jewish race," and everyday prejudices. According to historian Wolfgang Benz,

[242] This presentation is partly based on Berggren, "Antisemitism without Jews."

"[a]ntisemitism is hostility to Jews in all forms and shapes."[243] One often-used definition is that of historical sociologist Helen Fein, who defines antisemitism as:

> [A] persisting latent structure of hostile beliefs toward *Jews as a collectivity*, manifested in *individuals* as attitudes, and in *culture* as myth, ideology, folklore, and imagery, and in *actions* – social or legal discrimination, political mobilization against the Jews, and collective or state violence – which results in and/or is designed to distance, displace, or destroy Jews as Jews.[244]

Antisemitism can also be viewed specifically as a type of modern, racial Jew-hatred. According to professors of history Albert S. Lindemann and Richard S. Levy, antisemitism is a modern historical phenomenon which utilizes previous anti-Jewish ideas, and which calls for institutionalized action against Jews.[245]

It is often more correct to talk of several antisemitisms rather than just one antisemitism. Antisemitism manifests itself differently in different geographic and temporal contexts and several forms of antisemitism might exist side by side in a society. These different forms might bear little resemblance to each other and have different effects.[246] In this thesis, antisemitism is understood as a worldview or set of ideas which propagate stereotypical ideas about Jews and ascribe them negative (and often self-contradictory) traits, and which views "the Jews" as a potent power.[247]

As Norwegian researchers have mainly focused on the prevalence and forms antisemitism in Norway between 1900 and 1940 and have devoted little attention to the immediate post-war period, it is necessary to reference these findings in order to get an idea of the form and prevalence of Norwegian antisemitism directly after the war. Kjetil Braut Simonsen – a researcher on antisemitism at the Oslo Jewish Museum – argues that there were two ideal types of antisemitism in Norway before the war: one he calls ideological-propagandistic and one that can be called ideological-abstract.

Ideological-propagandistic antisemitism was not widespread in Norway, neither before nor after the Second World War, and it was mainly expressed within radical groups such as the NS

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[243] Benz, *Was ist Antisemitismus?*, p. 235, "Antisemitismus ist Judenfeindschaft in allen Formen und Ausprägungen"; Historians Vibeke Moe and Christhard Hoffman has a similar definition in Hoffmann and Moe, "Introduction," p. 8.
[244] Fein, "Dimensions of Antisemitism," p. 67, original italics.
[245] Lindemann and Levy, *Antisemitism*, pp. 251 and 255.
[246] Simonsen demonstrates this in the Norwegian context in Simonsen, "Antisemittismen i Norge, ca. 1918–1940."
[247] Berggren, "Antisemitism without Jews."

and among extremist propagandists such as Eivind Saxlund.[248] Those holding such ideas wishes to call for action against Jews. This antisemitism is a conspiracy theory construct,[249] where "the Jew" is presented as a powerful and unethical character who undermines society through hidden means.[250]

Antisemitism in Norway mainly took an ideological-abstract form. This is an instrumental antisemitism and an antisemitism that includes different forms of culturally anchored notions of what constitutes "Jewishness." "The Jew" was a concept, a placeholder, and an umbrella term for unwanted trends in society.[251] In the words of Simonsen, antisemitism in the media and in public was "used instrumentally and sporadically, as a tool in an ongoing political polemic and as an element in the construction of Norwegian national identity." He argues that "'The Jew' was used as a symbol of – and identified with – undesirable political directions and ideologies, [and] disturbing social changes."[252]

Lars Lien – a historian at the Norwegian Center for Holocaust and Minority Studies – explained the contents of ideological-abstract antisemitism in his doctoral dissertation on Jews as a cultural construction in Norwegian media between 1905 and 1925: "Even where "the Jew" is portrayed as a threat to specific Norwegian circumstances, the notion was an abstraction in the sense that it very rarely deals with specific matters or refers to named Jews or identifiable Jewish groups." According to Lien, the construction of 'the Jew' in the press "was only to a very limited extent incorporated into a debate on immigration and/or minority issues" and was rather "related to abstractions that deal with 'the Jew's' behavior, spirit, and, not least, power and interests that were seen in contrast with Norwegian national culture."[253] This type of

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[248] Emberland, "Antisemittismen i Norge 1900–1940," p. 401; Hoffmann, "A Marginal Phenomenon?," p. 162; Dahl, "Antisemittismen i norsk historie," pp. 442 and 454–458; Banik, "Antijødiske holdninger i mellomkrigstidens Norge," p. 386; Simonsen, "Antisemittismen i Norge, ca. 1918–1940," p. 26.

[249] Two recent publications sheds light on this subject: For an overview of conspiracism in antisemitism through history, see Simonsen, "Antisemitism and Conspiracism"; For a run-through of central theories on conspiracies and on conspiracy beliefs about Jews in Norway today, see Dyrendal, "Conspiracy Beliefs about Jews and Muslims in Norway."

[250] It is also possible the view conspiracism not as an intrinsic part of antisemitism, but as something closely affiliated with it. For example, Professor of History Asbjørn Dyrendal suggests that there is a "relatively strong relation between antisemitism and conspiracy mentality" in several regions. Dyrendal, "Conspiracy Beliefs about Jews and Muslims in Norway," p. 188.

[251] Lien, "'... pressen kan kun skrive ondt om jøderne'," p. 377; Banik, "Antijødiske holdninger i mellomkrigstidens Norge," p. 376.

[252] Simonsen, "Antisemittismen i Norge, ca. 1918–1940," pp. 36–37, "anvendt instrumentelt og sporadisk, som et virkemiddel i en pågående politisk polemikk og som et element i konstruksjonen av norsk nasjonalidentitet. (...) 'Jøden' ble brukt som et symbol på – og identifisert med – uønskede politiske retninger og ideologier, urovekkende sosiale endringer."

[253] Lien, "'... pressen kan kun skrive ondt om jøderne'," pp. 118–119, "Selv der hvor 'jøden' blir trukket inn som en trussel mot samtidige særnorske forhold, var forestillingen en abstraksjon i den forstand at den svært sjelden

antisemitism indicated support of what was "Norwegian" and opposition to what was "foreign." The term was invoked in debates that had nothing to do with the actual Jewish-Norwegian minority – in discussions on national identity, economic politics, and modernity. Calling a political opponent "Jewish" was not a comment upon his heritage but an accusation of being "un-Norwegian" or not having "Norwegian interests" in mind.[254]

The fact that ideological-abstract antisemitism was *instrumental* does not entail that the people expressing such views did not have antisemitic views. Moreover, although these ideas were often invoked in contexts that had nothing to do with Jews, such views could be directed at Norwegian Jews and have consequences for them. Two examples of this are the *schächtning*[255]-debate in the 1920s, which resulted in a ban on Jewish religious slaughter,[256] and the policies in the 1930s that made it harder for Jews to achieve Norwegian citizenship.[257]

Some researchers argue that Norwegian antisemitism was mainly a written phenomenon between 1900 and 1940,[258] meaning that it primarily appeared in papers, literature, and religious texts.[259] Antisemitism was regularly expressed in the press,[260] but could also surface with greater force in certain debates. Between 1900 and 1940, four debates in particular had antisemitic undertones:[261] the debate on Jewish immigration,[262] the debate on *schächtning*,[263]

omhandler konkrete forhold, eller viser til navngitte jøder eller identifiserbare jødiske grupperinger. (...) Konstruksjonen av 'jøden' i pressen var kun i svært begrenset grad innlemmet i en innvandringsdebatt og/eller minoritetsproblematikk. Den var knyttet til abstraksjoner som omhandler 'jødens' atferd, ånd og ikke minst makt og interesser som i særlig grad ble satt i kontrast til norsk nasjonalkultur. Ved den minste friksjon mellom den jødiske minoriteten og majoritetsbefolkningen ble imidlertid avstanden mellom jødene og 'jøden' kort."

254 Lien, "'... pressen kan kun skrive ondt om jøderne'," p. 374.

255 Jewish slaughter methods.

256 See Snildal, "An Anti-Semitic Slaughter Law?"

257 Johansen, *Oss selv nærmest*; Simonsen, "Antisemittismen i Norge, ca. 1918–1940," p. 25.

258 This topic is one of the most well-researched when it comes to Norwegian antisemitism. See for example: Simonsen, "Den store jødebevægelse"; Simonsen, "Antisemittisme, innvandringsfiendtlighet og rasetenkning i norsk bondebevegelse, 1918–1940"; Lien, "'... pressen kan kun skrive ondt om jøderne'"; Banik, "Tiltalt, omtalt og forhåndsdømt?"; Foskum, "Nationen og antisemittismen"; Gogstad, "Jødebolsjeviken"; Nilsen, "Antisemittisme og antijudaisme i Vestfold 1918–1942."

259 Emberland, "Antisemittismen i Norge 1900–1940," p. 401; Lien, "'... pressen kan kun skrive ondt om jøderne'," p. 370; Banik, "Antijødiske holdninger i mellomkrigstidens Norge," p. 385; Although it is worth noting that not all depictions of Jews in public were negative, as Clemens Räthel argues when writing of depictions of Jews in Scandinavian Theatre and Literature in the 1800s. Räthel, "Beyond Shylock."

260 Lien, "'... pressen kan kun skrive ondt om jøderne'," p. 370, "bidro i høy grad til å gjøre 'jøden' nærværende i samfunnsdebatten."

261 This account is based upon the works of Bruland, *Holocaust i Norge*, pp. 31–36; Lorenz, "'Vi har ikke invitert jødene hit til landet'"; Emberland, "Antisemittismen i Norge 1900–1940"; Hoffmann and Moe, *The Shifting Boundaries of Prejudice*, pp. 13–14; Mendelsohn, *Jødenes historie i Norge gjennom 300 år*; Johansen, *Oss selv nærmest*.

262 Johansen, *Oss selv nærmest*, pp. 17–18; Lorenz, "'Vi har ikke invitert jødene hit til landet'," pp. 46–50.

263 Snildal, "An Anti-Semitic Slaughter Law?"; Mendelsohn, *Jødenes historie i Norge gjennom 300 år*, pp. 405–437; Johansen, *Oss selv nærmest*, pp. 63–72; Bruland, *Holocaust i Norge*, p. 32; Lorenz, "'Vi har ikke invitert

the debate on communism,[264] and the debate on Nazi-Germany.[265] This correlates with another repeated finding, which is that Norwegian antisemitism was often latent and situational and that it came to the surface as a result of "cyclical factors."[266] In that sense, Norwegian antisemitism was often a flexible antisemitism, meaning that it could appear in different forms and in different circumstances.[267]

Antisemitism was far from uncommon in Norwegian society. For example, Lien has found that such ideas were openly expressed in the press in Norway between 1905 and 1925, with practically no objections.[268] After the war, however, Simonsen found that such notions were no longer accepted in public. One of the reasons for this, he argues, was that the Holocaust was discussed in newspapers and that these debates helped strengthen the preparedness against antisemitic ideas. Antisemitism was associated with Nazism and thereby identified as "unnational." However, antisemitism was still expressed in private settings.[269] The same tendency can be found in West Germany, where antisemitic attitudes were still widespread in the general population after 1945, but "could not be communicated publicly under the new political conditions" – a phenomenon that is often conceptualized as "communication latency."[270] The fact that there was a more significant degree of opposition to antisemitic ideas in public does not necessarily mean that there was significantly less antisemitism than before. How Norwegian antisemitism changed after the war should be subject to further research.

This creates a methodological difficulty in tracing antisemitic attitudes in the laws' preparatory works: If it was no longer socially acceptable to express antisemitic notions in the public sphere, it is less likely that it would be openly expressed in preparatory works, even if such ideas influenced the design of the laws. Another methodological difficulty is that the genre

jødene hit til landet'," pp. 43–44; "Antisemittismen i Norge 1900–1940," p. 410–411; Dahl, "Antisemittismen i norsk historie," p. 446; Banik, "Antijødiske holdninger i mellomkrigstidens Norge," pp. 382–383 and 386.

[264] Bruland, *Holocaust i Norge*, p. 32; Lorenz, "'Vi har ikke invitert jødene hit til landet,'" pp. 40–42; However, this idea was in decline from the latter half of the 1920s. See Gogstad, "Jødebolsjeviken," p. 81; Johansen, *Oss selv nærmest*, pp. 42–49.

[265] Bruland, *Holocaust i Norge*, pp. 32–33; For more information on the treatment of Jews in the Norwegian press in the period in question, see for example Mendelsohn, *Jødenes historie i Norge gjennom 300 år*, pp. 356 ff. and 396 ff.

[266] Lorenz, "'Vi har ikke invitert jødene hit til landet,'" p. 35 and 50, "Konjunkturelle faktorer"; Bruland, *Holocaust i Norge*, p. 33; Emberland, "Antisemittismen i Norge 1900–1940," p. 401 and 407; Banik, "Antijødiske holdninger i mellomkrigstidens Norge," p. 385.

[267] Snildal, "An Anti-Semitic Slaughter Law?," p. 56; Lien, "'... pressen kan kun skrive ondt om jøderne'," p. 386.

[268] Lien, "'... pressen kan kun skrive ondt om jøderne'," pp. 374–375.

[269] Simonsen, "'(...) det krasseste utslaget av de samfunnsmessige understrømningene som truer sivilisasjonen'," pp. 230–234.

[270] Hoffmann and Moe, "Introduction," pp. 10–11.

requirements of preparatory works leave less room for expressing such notions, as the language is generally neutral, professional, and technical, thereby possibly concealing such ideas.

Given the prevalence of antisemitism in Norway at the time, it is plausible that some of the lawmakers were prejudiced against Jews. However, the methodological problems mentioned above make it harder to trace antisemitism's impact on the laws. The lawmakers never *expressed* negative feelings towards or stereotypical notions of Jews, never openly deemed them unimportant, and never explicitly deprioritized them. However, this is mainly a negative finding – a conclusion based upon *a lack of data*. A lack of antisemitic expressions does not prove that the lawmakers did not deliberately exclude Jews because of antisemitic notions. For example, it is possible that lawmakers did not explicitly express antisemitic reasoning in writing because of the newfound stigma connected to publicly expressing antisemitic notions, but that antisemitism was nevertheless a factor in a deliberate exclusion of Jews. The conclusion, therefore, is that it is challenging to *detect* such ideas.

However, the lawmakers' personal antipathies are not the only way antisemitism could impact the restitution legislation. Several researchers have found that in Norway in the 1930s, there was a differentiation between "political refugees" and "economic emigrants." The former was preferred over the latter and was given more accessible access to asylum. Jews were considered "economic migrants" and to be a Jew was not enough in itself to get asylum in Norway between 1933 and 1939.[271] As Bruland describes it:

> Jews who fled Nazi Germany (or the annexed territories) were in practice considered "economic emigrants," people who had to flee – not because of political repression – but because of race. Thus, they did not have the same right to use the asylum institute as others. For example, they could be rejected at the border, without the Norwegian authorities having to assess their asylum.[272]

Furthermore, while "political refugees" from Nazi-Germany were often assisted by the labor movement, Jewish refugees had no such powerful apparatus at their aid. Johansen concluded

[271] Bruland, *Holocaust i Norge*, 30 and 397; Johansen, *Oss selv nærmest*, pp. 90–104; Skjønsberg, "Norsk politikk overfor jødiske flyktninger 1933–1940"; Johansen, "I forkant av jødeforfølgelser," pp. 30–31.

[272] Bruland, *Holocaust i Norge*, p. 397, "Jøder som flyktet fra det nazistiske Tyskland (eller de inkorporerte områdene), var i praksis regnet som 'økonomiske emigranter', mennesker som måtte flykte – ikke på grunn av politisk undertrykkelse – men på grunn av rase. Dermed hadde de ikke samme rett til å benytte seg av asylinstituttet som andre. De kunne for eksempel avvises på grensa, uten at norske myndigheter måtte vurdere deres asylgrunnlag."

that Jews were discriminated against by the bureaucracy when treating Jewish refugee cases before the war and that Jews were seen as "second class refugees."[273] These concepts likely partly originated from "an underlying racist and antisemitic current," as Bruland argues.[274] Therefore, although it is not possible to detect the influence of the lawmakers' personal antipathies' on the laws, antisemitism could still have influenced the laws through conceptual categories previously formed under an antisemitic framework.

An interconnected question is whether the lawmakers did not take heed of Jews because they did not view them as "Norwegians" and excluded them from a national "we." Researchers have debated similar questions in other case studies, such as examinations of the Rød-trial. Knut Rød was a police officer and member of *Nasjonal Samling*. He organized the arrests of Jews in Oslo in the autumn of 1942 but was acquitted of these crimes after the war. Together with the acquittal of the murderers in the Feldmann-case, this is one of the most controversial immediate post-war verdicts in Norway relating to the Holocaust, and it has been widely criticized. Two articles – one by Øyvind Kopperud and Irene Levin from 2006 one by Christopher Harper from 2010 – argue that the language used in the trial indicates that Jews were not viewed as "Norwegians." Kopperud and Levin present the case that since Rød was acquitted because "the court stated that he had not in any way acted 'unnationally'," it means "the Jews in the acquittals were not included in the national community."[275] Examining the Rød-trial and a trial against a man in the Stapo, Harper argues that the court differentiated between "the Norwegian" and "the Jewish" because of formulations such as "protect Norwegian interests," "good Norwegians," and "benefit their countrymen." However, he does not conclude in this case, calling the subject an unanswered question.[276]

The examinations in this thesis faces a similar problem: It is difficult to conclude with certainty whether lawmakers saw Jews as "Norwegians." This is partly because Jews were mentioned so seldomly, matter-of-factly, and in passing, giving little material for a content analysis and making several possible interpretations equally valid. For example, not mentioning Jews can be seen as an indication that lawmakers did not want to take heed of them because

[273] Johansen, *Oss selv nærmest*, pp. 95 and 103–104; Johansen, "I forkant av jødeforfølgelser," pp. 30–31, "annenrangs flyktninger."
[274] Bruland, *Holocaust i Norge*, p. 29, "underliggende rasistisk og antisemittisk strømning."
[275] Levin and Kopperud, "Da norske jøder ikke fantes," p. 296, "anførte retten at han ikke på noen måte hadde opptrådt 'unasjonalt'" and "jødene i frifinnelsesdommene ikke inkluderes i det nasjonale fellesskapet."
[276] Harper, "Landssviksoppgjørets behandling av jødeforfølgelsen," pp. 483–484, "'gode nordmenn', 'verne norske interesser', og 'gagne sine landsmenn'."

they didn't see Jews as "Norwegians." Conversely, it can also be seen as an indication that lawmakers saw them as any other Norwegian and therefore found it unnatural to mention them as a distinct group. Bente Senneset Skilbrei found such a tendency in illegal Norwegian newspapers during the war, where Jews mentioned but not denoted as Jews. Her interpretation was that the writers of the newspapers did not differentiate between "Norwegians" and "Jews" but saw them as a part of a collective "we."[277]

In one instance, described in chapter 2, the lawmakers mentioned Jews and "good Norwegians" side by side. This might indicate that the lawmakers did not conceptualize of Jews as "good Norwegians." A similar argument might be made in relation to paragraphs were Jews and resistance fighters are mentioned side by side. On the other hand, mentioning several groups did not necessarily entail that the lawmakers viewed them as absolutely separate. Overlapping groups such as refugees, camp prisoners, and resistance fighters, for example, were mentioned side by side.

An alternative approach is seeing the use of these categories as the continued application of categories created by the Nazis. Jews were in a detrimental position after the war because the Nazi regime had differentiated them from the rest of the population and persecuted them. And no one were refugees, camp prisoners, or resistance fighters before the war, but became so because of the occupation. The continued application of these categories can be seen as an acceptance of the distinctions created by the Nazis. Simultaneously, the distinction applied by the Nazis also created differences between people, thereby necessitating the continued application of these categories and a tailored treatment. However, by mentioning Jews but not accommodating to them, the lawmakers continued the differentiation of Jews from the rest of the population but without recognizing that they had special restitution needs.

To conclude, the lawmakers were undoubtedly occupied with notions of what was "national." However, it remains unclear whether Jews were seen as "Norwegians" by the lawmakers and whether the exclusion of Jews from more favorable restitution solutions was the result of such ideas or antisemitic sentiments.

## 4.2 In the Public Eye: Historical Narratives

In his study of restitution in West Germany, Lillteicher argues that West Germany's lack of ability to expand the definition of Nazi injustices to include fiscal theft had "less to do with the

[277] Skilbrei, "Den frie presse i eit ufritt Noreg," p. 39.

limitations inherent in political and legal responses to mass injustice than with the desire to provide a specific interpretation of the past."[278] Such interpretations can be called "historical narratives." More specifically, historical narratives are recurring ways of retelling the past in public discourse, meaning that the discourse repeatedly focuses on certain historical events and actors, and that certain interpretations of these events and actors are dominant. This can be a patriotic or national narrative – meaning that it helps shape a specific national self-image that "legitimize special core values, such as unity and solidarity" and "mobilize the whole nation and be identity-creating within delimited and national frameworks."[279] In this context, it is the historical narratives of the Second World War in the immediate post-war years that is of interest – specifically the way in which the lawmakers portrayed the war and the victims of Nazi policies.

Restitution raised questions of what role the occupied countries played in the genocide, what responsibility it had to the victims, and whom the laws were designed to help. The legal solutions to these questions can be an indication of what self-image and historical narrative the lawmakers built on and wanted to project. Restitution was not only influenced by this self-image but also helped create it,[280] meaning that laws were both founded on and formed ideas about Norwegians' conduct during the war.

How the history of the Second World War and the Holocaust has been told in public, the press, and in historical works in Norway has been the subject of several books, dissertations, and theses.[281] A consistent finding is that resistance fighters occupied a central spot in the national narrative.[282] The same can be said for international literature. Professor of History Pieter Lagrou, for example, has argued that a "patriotic memory" of the resistance emerged directly after the war in Belgium, the Netherlands, and France, meaning that arrested resistance fighters dominated the image of the concentration camps. The same tendencies can be found in the preparatory works of the restitution laws. The repeated mention of resistance fighters and

[278] Lillteicher, "West Germany and the Restitution of Jewish Property in Europe," p. 107.
[279] Reitan, "Møter med Holocaust," p. 101, "De skulle legitimere spesielle kjerneverdier, som enhet og solidaritet, de skulle mobilisere hele nasjonen og være identitetsskapende innenfor avgrensede og nasjonalstatlige rammeverk."
[280] Lillteicher, "West Germany and the Restitution of Jewish Property in Europe," p. 107; Goschler and Ther, "A History without Boundaries," p. 6.
[281] Among them are Brakstad, "Jødeforfølgelsene i Norge. Omtale i årene 1942–1948"; Corell, *Krigens ettertid*; Reitan, "Møter med Holocaust"; Eriksen, *Det var noe annet under krigen*; Eriksen, *Historie, minne og myte*; Sørensen, "Hegemonikamp om det norske"; Simonsen, "'(...) det krasseste utslaget av de samfunnsmessige understrømningene som truer sivilisasjonen'"; Brakstad provides a thorough summary of the discussion on patriotic memory in Norway in Brakstad, "Jødeforfølgelsene i Norge. Omtale i årene 1942–1948," pp. 21–30.
[282] Eriksen, *Det var noe annet under krigen*, pp. 58–72; Storeide, *Fortellingen om fangenskapet*, pp. 178–194.

the lawmakers' willingness to adapt the laws to their situation illustrates that they undoubtedly occupied a central spot in the historical narrative, where they were presented as heroic and where they constituted a central part of a national identity. This image of resistance fighters explains why they were seen as "especially deserving" of restitution and why they were given special rights per "the worthiness principle."

Lagrou has also argued that that the government attempted to nationalize the resister's efforts and claim their merits.[283] Researchers have found the same tendencies in Norway in the press and historical writings: Resistance fighters became the main focus of the immediate post-war historiography on the Second World War.[284] Furthermore, resisters' merits were expanded to include "*jøssinger*," meaning all Norwegians on "the right side" during the war.[285] However, the category "national work" in the laws was not expanded in a similar manner. Judging from the preparatory works and from the fact that it would not have been financially possible to extend the privileges given to this group to the whole population, it only applied to a small group of people. At the same time, the lawmakers' choice of wording to describe resistance fighters did have a similar effect of expanding their merits to include all Norwegians, although the actual benefits were not. Instead of using the more self-descriptive term "resistance fighters" ("*motstandsfolk*"), they chose to use the lesser-used and more ambiguous expression "national work." By branding their accomplishments and the values they portrayed as "national," their merits were marketed as something deeply "Norwegian." It reveals that the lawmakers were occupied with notions of what was "national." This situates the restitution in larger post-war nation-building projects: Resistance fighters were used as a tool for constructing a post-war national identity.

This treatment of resistance fighters differed substantially from the treatment of the persecuted Jewish Norwegians, both in the preparatory works and in the public in general. The genocidal policies were barely mentioned in historical works and schoolbooks in the first decades after the war.[286] These same tendencies can also be found outside of Norway, where the topic first began receiving more attention in the 1960s, when the Eichman trial helped bring

[283] Lagrou, "Victims of Genocide and National Memory," p. 194.
[284] Maerz, *Okkupasjonstidens lange skygger*, p. 63.
[285] Simonsen, "'(...) det krasseste utslaget av de samfunnsmessige understrømningene som truer sivilisasjonen'," pp. 233–234; Maerz, *Okkupasjonstidens lange skygger*, p. 9; Eriksen, *Det var noe annet under krigen*, p. 61; Storeide, *Fortellingen om fangenskapet*, p. 181.
[286] Simonsen, "'(...) det krasseste utslaget av de samfunnsmessige understrømningene som truer sivilisasjonen'," pp. 231 and 256–257; Corell, *Krigens ettertid*, pp. 149–158; Reitan, "Møter med Holocaust," pp. 101–107.

it more to the foreground.[287] In memoirs, historian Jon Reitan has found that the Holocaust was devoted attention as a unique event in some texts but overlooked in others.[288] In Norwegian newspapers, on the other hand, researchers have found that topics such as the Holocaust, Jews returning from concentration camps, and antisemitism were elaborately discussed and included in the historical narrative, and that these events were used to help construct a new national identity.[289] Historian at the Norwegian Center for Holocaust and Minority Studies Ingjerd Veiden Brakstad argues that parts of the narrative of the war in the newspapers in the first post-war years centered on how Norwegians resisted the plunder and murder of the Norwegian Jews,[290] and Reitan argues that the persecution of Jews was used as "a normative tool" to rebuild "the Norwegian brand" as a country characterized by solidarity, unity, and democratic values.[291]

As to whether this was a form of national self-criticism or not, researchers disagree. While Simonsen argues that the press criticized a Norwegian antisemitic tradition,[292] Reitan states that the papers expressed the idea that the German occupants were to blame for the Holocaust and antisemitism,[293] and Johansen noted that "[t]here was little interest among Norwegian journalists for the Norwegian responsibility for the persecution of Jews."[294]

The centrality of Jewish experiences in historical narratives varied not only between different mediums – such as between the press and historical writing – but also within the same milieus. Although there is no comprehensive analysis of the position of Jews in legal texts in Norway after the war, there are case studies. Two examples can be mentioned here, which illustrate that ideas about the uniqueness of Jewish war experiences were circulating in judicial contexts already in 1945. The first example is the trial against Vidkun Quisling in 1945. There, the prosecutor described the murder of the Norwegian Jews as "among the most gruesome parts of the history of the occupation" and one of "the most serious accusations against the accused

[287] Lawson, *Debates on the Holocaust,* p. 19; Marrus, *The Holocaust in History*, p. 4; Stone, *Constructing the Holocaust,* p. 87.
[288] Reitan, "Møter med Holocaust," p. 111.
[289] Simonsen, "'(...) det krasseste utslaget av de samfunnsmessige understrømningene som truer sivilisasjonen'," pp. 231, 235–236, and 240; Mendelsohn, *Jødenes historie i Norge gjennom 300 år*, p. 742; Reitan, "The Holocaust," pp. 112–113; Reitan, "Møter med Holocaust," pp. 132 and 213–214; Brakstad, "Jødeforfølgelsene i Norge. Omtale i årene 1942–1948," p. 30; Corell, *Krigens ettertid,* p. 214.
[290] Brakstad, "Jødeforfølgelsene i Norge. Omtale i årene 1942–1948," pp. 23–24.
[291] Reitan, "Møter med Holocaust," p. 160 and 213, "et normativt redskap," "'merkevaren' Norge."
[292] Simonsen, "'(...) det krasseste utslaget av de samfunnsmessige understrømningene som truer sivilisasjonen'," p. 245.
[293] Reitan, "Møter med Holocaust," pp. 119, 132, and 144–145.
[294] Johansen, "Rettsoppgjøret med statspolitiet," p. 89, "Det var liten interesse blant norske journalister for det norske ansvaret for jødeforfølgelsene."

[Quisling].” The prosecutor also detailed the specifics of the extermination, mentioning when the deportations had taken place and the use of gas chambers as instruments of murder.[295]

In another example, in a preliminary report from 1945 written by the Norwegian government for use in the Nuremberg trials, Jews were mentioned specifically under the heading “Crimes against humanity”:

> As a crime against humanity, special mention must be made of the cruelties and miseries which were inflicted on the Jewish population of Norway. (See page 25, 3.) The “Jewish problem” was one of the main policies of the Nazi programme, and the “carrying out” of this policy has cost the lives of millions of innocent human beings.[296]

As historians Arnd Bauerkämper, Odd-Bjørn Fure, Øystein Hetland, and Robert Zimmermann notes:

> [T]he report recognizes the special place the Jews held in Nazi policy and it duly acknowledges their suffering as the worst amongst all Norwegians, while simultaneously including them in the ‘national register of victims’ and using their fate to illustrate the overall extent of Nazi brutality in Norway.[297]

As to the Missing Persons Act, not only did the legislators give Jews ample attention but they gave them more attention than resistance fighters. “First and foremost to be mentioned” when it came to missing persons, the Ministry wrote in the proposition, “are the Norwegian Jews (…).”[298] The proposition mentioned Jews before resistance fighters, and dedicated one and a half-page to their situation. Resistance fighters were only bestowed with one paragraph and were mentioned in bulk together with arrested students and officers. In sum, both the prosecutor in the Quisling trial, the authors of the preliminary report, and the lawmakers who drafted the Missing Persons Act expressed the idea that the persecution of the Jews differed from other abuses during the war and that it deserved special mention. These three examples correlate with international findings. Professor of History Tom Lawson argues that “courts and commissions

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[295] *Straffesak mot Vidkun Abraham Lauritz Jonssøn Quisling*, p. 22, “er av de uhyggeligste blad i okkupasjonens historie” and “hører til de alvorligste anklager mot tiltalte.”
[296] Palmstrøm and Normann, *Preliminary Report on Germany’s Crimes against Norway*, p. 30.
[297] Bauerkämper et al., “Introduction: From Patriotic Memory to a Universalistic Narrative?,” p. 31.
[298] Ot.prp. nr. 14 (1947), p. 1, “I første rekke kan her nevnes de norske jøder (…).”

responsible for post-war justice and retribution" were among the first to discuss the murder of European Jews in the immediate post-war years.[299]

However, when examining the restitution legislation, one will look in vain for these tendencies. As demonstrated, the legislators barely mentioned Jews. The treatment of Jews in the six laws is more similar to their treatment in historical works written directly after the war, where they were granted little attention. This illustrates that the tendencies found in the restitution legislation cannot necessarily be generalized to other sectors of society. How the memory of the war and Jewish war experiences manifested itself within lawmaking circles after the war is a topic that would benefit from a more extensive study than what is possible within this thesis's framework.

Two important points can be drawn from the information above: Firstly, resistance fighters occupied a central place in the historical narrative after the war – both in the restitution legislation's preparatory works and in the public at large. Secondly, Jews' position in the historical narrative varied considerably in different contexts and that their war experiences were sometimes used to help construct a national identity – but that they were not part of the historical narrative used or expressed in the preparatory works.

However, although the historical narrative explains why the lawmakers prioritized resistance fighters, this does not explain the lack of inclusion of Jews in the historical narrative of the war. Giving resistance fighters special attention and giving Jews who had been persecuted by the Nazis special attention was not mutually exclusive: It would have been possible to do both, as illustrated by the press' ability to devote attention to the resistance and the Holocaust at the same time.

## 4.3 "Society as a Whole": Conceptualization of the Holocaust

To explain the laws' exclusion of Jews, one must rather turn to the legislators' understanding of the genocide. Whether or not the Holocaust was a completely unique event has been a larger discussion in Holocaust historiography.[300] This thesis will not fully dive into this debate or take a stance on the subject, and neither is this necessary for the argument. However, it will make the point that although the Holocaust was not the first large scale genocide, it presented some

[299] Lawson, *Debates on the Holocaust*, p. 19.

[300] For an overview of the historiography of discussions on the uniqueness of the Holocaust, see for example Moses, "The Holocaust and genocide"; Stone, *Constructing the Holocaust*, pp. 183–205; Marrus, *The Holocaust in History*, pp. 18–25; Lawson, *Debates on the Holocaust*, pp. 7–8.

singular and unprecedented traits and was a breach with what conducts of war that most people were familiar with.[301] As Professor of History Yehuda Bauer formulated it:

> We [today] already know what happened, and that mass murder was possible; they, who lived at that time, did not. For them it was a totally new reality that was unfolding before their shocked eyes and paralyzed minds. It was literally unbelievable, because it was unexpected and unprecedented.[302]

Both its consequences – the murder of six million Jews and the destruction of countless Jewish communities across Europe – the goal of the policy – the total disappearance of a people – and the measures taken to achieve this – gas chambers, ghettos, camps, and shootings – made it an event that was outside the frame of reference for the genocide's contemporaries.[303] In the context of this thesis, "frame of reference" is the experiences and knowledge each individual uses to make sense of new events and information. New experiences are understood in reference to previous knowledge. When something is outside of one's frame of reference, it means that it is more challenging to acquire an adequate concept of it. This did not entail that it was impossible to form an understanding of the Holocaust but that there was a barrier to understanding.

Neither does it mean that there was a lack of information on the genocide. Intelligence on Jews' fates had already begun spreading during the war and also started to become known through the press after the liberation. However, several historians differentiate information from knowledge. Historian Michael Marrus, for example, states that "the presence of such information [about Nazi persecution of European Jewry] does not mean that it was *known*, in the usually understood sense."[304] According to historian Walter Laqueur, "[t]here had been a steady flow of information, but it had quite obviously not registered."[305] According to Bauer, information first has to be disseminated, then believed, and then internalized.[306] To understand an event can be said to place pieces of information into a larger concept and to conceptualize it

[301] See for example Marrus, *The Holocaust in History*, p. 24.
[302] Bauer, *The Holocaust in Historical Perspective*, p. 7.
[303] This is amongst others described in Berggren, Bruland and Tangestuen, *Rapport frå ein gjennomgang av 'Hva visste hjemmefronten?'*, pp. 82–87.
[304] Marrus, *The Holocaust in History*, p. 158, original italics.
[305] Laqueur, *The Terrible Secret*, p. 2.
[306] Bauer, *The Holocaust in Historical Perspective*, p. 18.

on its own terms. Understanding of this extreme event was not necessarily immediate and complete, but rather gradual and partial.[307]

This barrier to understanding is evident in the preparatory works. The lawmakers mentioned Jews as a distinct claimant group and acknowledged that they had been persecuted because of a racial ideology, thereby partly recognizing the peculiarity of their predicament. However, this crucial element was only mentioned in passing and not elaborated on. Furthermore, the lawmakers later contradicted these observations by repeatedly stating that the war was not directed at specific groups:

> In the commission's view, the general starting point should be that the damage in question [war damages] originates in a state of war and occupation that has encompassed the entire people and the entire country. The war as such is not directed at individual persons or groups of persons or certain values, but at society as a whole.[308]

The legislators made a similar point in another instance: "The last war was of a total character, it was aimed at each and every one, and whom the individual war damage afflicted and where was subject to the game of chance."[309] These contradictory statements indicate that the lawmakers had begun to form an understanding that Jews had been specifically targeted during the war and that there was something unique about their experiences, but that this insight was severely underdeveloped.

Furthermore, the lawmakers described the Jews' experiences in general terms – in a way that could apply to many Norwegians – and placed them in the same category as groups with vastly different war experiences. They never mentioned any of the elements that made the persecution of the Jews different from other Norwegians' experiences during the war, such as a genocidal policy, special laws, special institutions for persecuting Jews, and discrimination on racial

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[307] This presentation is partly based on Berggren, "Contemporaries' Understanding of the Shoah" and Berggren, Bruland, and Tangestuen, *Rapport frå ein gjennomgang av "Hva visste hjemmefronten?"*.

[308] *Innstilling fra Krigsskadekomiteen. Oversikt*, p. 13, "Det alminnelige utgangspunkt bør etter komiteens mening være at de skader det her gjelder har sitt utspring i en krigs- og okkupasjonstilstand som omfattet det hele folk og det hele land. Krigen som sådan er ikke rettet mot enkelte personer eller persongrupper eller mot visse verdier, men mot samfunnet som helhet."

[309] Ot.prp. nr. 93 (1945–46), p. 8, "Den siste krig hadde total karakter, den var rettet mot alle og enhver, og det var undergitt tilfeldighetenes spill hvem og hvor de enkelte krigsskadene rammet."

criteria. The lawmakers had access to information on the genocide, but the preparatory works indicate that they had not yet fully internalized this information. As Brakstad argues:

> It was not necessarily indifference to the Jews as a group that caused the lack of perception of Jewish experiences. What had happened to them was something that had never happened before, and contemporary observers thus found it difficult to grasp the Jews' special experiences.[310]

Although he does not treat the subject in depth in his book *Holocaust i Norge,* Bruland made an insightful comment on the subject:

> In the post-war period, the authorities could hardly have completely healed the wounds of the war years. However, with regard to some decisions, one did undoubtedly not make it easy for Jews to return home. The reasons for this are multifaceted and should have been more thoroughly scientifically investigated. There is every reason to believe that the main cause was the emphasis the fate of the Jews had in Norwegian power structures in the post-war years. It is evident that the extent of the catastrophe that had befallen the Jewish minority was difficult for the authorities to grasp after the war. This lack of understanding of the catastrophe that befell the Jews should also have been investigated further.[311]

This underdeveloped conceptualization was not limited to the lawmakers' understanding of the genocide. Although the lawmakers repeatedly and thoroughly discussed the war experiences of resistance fighters, the experiences deviating from former known conducts of war were barely mentioned. The peculiar hardships of a Nazi camp, for example, was not detailed. This strengthens the theory that the lawmakers had not adjusted their frame of reference to include these concepts.

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[310] Brakstad, "Jødeforfølgelsene i Norge. Omtale i årene 1942–1948," p. 96, "Det var ikke nødvendigvis likegyldighet overfor jødene som gruppe som gjorde at jødenes erfaringer ikke alltid ble oppfattet. Det som hadde hendt med dem var noe som aldri hadde hendt før, og samtidige observatører hadde således vanskelig for å gripe jødenes spesielle erfaringer."

[311] Bruland, *Holocaust i Norge*, 549, "Myndighetene kunne i etterkrigstiden neppe fullstendig ha leget sårene som oppsto i løpet av krigsårene. Men med hensyn til enkelte beslutninger var det utvilsomt slik at man ikke alltid gjorde det enkelt for jøder å vende hjem. Grunnene til dette er mangefasetterte og burde vært grundigere vitenskapelig undersøkt. Det er all grunn til å tro at hovedårsaken lå i vekten jødenes skjebne hadde i de norske maktstrukturene i etterkrigsårene. At selve omfanget av katastrofen som hadde rammet den jødiske minoriteten, var vanskelig å fatte for myndighetene etter krigen er lett synlig. Også denne mangelen på forståelse for den katastrofe som rammet jødene burde vært undersøkt nærmere."

Similar tendencies could also be found in other sectors of society and in other countries. In Belgium, for example, historian Rudi van Doorslaer argues that although restitution to Jewish-Belgian victims was satisfactory in some areas, it had some serious shortcomings, and he comments that "it is clear that those responsible in politics and the administration lacked sufficient insight into what the genocide of the Jews had really meant." He also argues that it "took considerably longer in Belgium than in Holland or France for the Jewish population to be perceived as a specific group of victims of Nazi occupation."[312]

A similar tendency can be found in the early World War Two-historiography. According to Lawson, it did mention Jews and their suffering, "but in a manner which does not conform to present-day conceptions of the Holocaust." He argues that Jewish suffering was universalized:

> The Nazi genocidal campaigns were often rendered, for example, in a manner which utterly failed to acknowledge the specific role which Jews (and perhaps the Roma and Sinti 'Gypsy' populations) played in the Nazi imagination, and as such as victims of Nazi barbarism too.[313]

This means that Jews were recognized as victims of the Nazi regime, but that they were seen as only one of many victim groups. This stands in contrast to the understanding of the Holocaust today, where the genocide is often seen as a unique event and the Jews as the primary victims of Nazi policies. The genocide occupies a central space in our collective memory and of the history of the war – in our frame of reference. The Jews are often viewed as the prime victim of the war, and their murder is seen as the worst of all Nazi crimes. This is the "reversal of memories" that Lagrou observed in Belgium, France and the Netherlands, where the main "martyrs" are no longer resistance fighters, but Jews.[314]

In addition, the terminology used by the lawmakers did not reflect Jewish experiences in the Holocaust. In the words of Brakstad, "The persecution of Jews during World War II transcended previous categories, for both abuse and victim status, which made the victims difficult to categorize within the previously given framework."[315] This was expressed by the lawmakers in two ways. Firstly, terminology specifically made to describe such events did not

[312] Doorslaer, "The Expropriation of Jewish Property and Restitution in Belgium," pp. 165–167.
[313] Lawson, *Debates on the Holocaust*, p. 19.
[314] Lagrou, "Victims of Genocide and National Memory," pp. 183, 185, and 219.
[315] Brakstad, "Jødeforfølgelsene i Norge. Omtale i årene 1942–1948," p. 96, "Jødeforfølgelsene under andre verdenskrig sprengte tidligere kategorier, for både overgrep og offerstatus, noe som gjorde ofrene vanskelige å plassere innenfor de tidligere gitte rammer."

exist yet or were not widespread. As Lagrou pointed out, "the historical understanding of the continental project to destroy European Jewry as transpires in the present-day terminology of 'genocide,' 'Holocaust' and 'Shoah,' only emerged in later years."[316] Secondly, existing categories for characterizing war experiences did not reflect the special characteristics of the persecution of the Jews.

The latter was especially apparent in a concept found throughout the laws' preparatory works: the dichotomy between "national work" on the one hand and "unnational attitude" on the other. The first represented the "patriotic," "honorable," and "good," and the latter the "treacherous," "dishonorable," and "bad." This was not two opposites on a sliding scale of varying degrees of "national behavior," but two poles with nothing in between – not in the sense that every Norwegian fell into either category, but in the sense that they were the only types of "national" behaviors during the war the lawmakers categorized. While "unnational" conduct during the war served as a negative foil to Norwegian identity, "national efforts" were an example to follow. This finding is not limited to the preparatory works. Both Reitan and Anette Storeide has argued that a fundamental characteristic of the Norwegian war-time narrative was that there emerged a dichotomy between the "good and national" forces on the one hand and the "unnational" forces on the other.[317]

This dichotomy was well-adapted to a heroic view of resistance fighters and was likely applied because of their centrality to the historical narrative and because of the legislators' preoccupation with notions of what was "national." However, it was not suited to describe the Norwegian Jews' experiences in the Holocaust. They were difficult to place in this dichotomy, as they were seen as neither "heroes" nor "traitors." This difference can be summed up in the dichotomy "*ein Opfer*"/"*zu opfern*" or "*et offer*"/"*å ofre*" – between the inactive status of being a victim and the active and heroic connotations of having sacrificed something to help others. As Fogg concludes: "Jews arrested for 'racial' reasons were victims without agency, while Jews arrested for Resistance activity could claim their place in the dominant postwar narrative."[318] This lack of agency did not fit the image of the active resistance to the Nazi regime expressed in the idea of "national work," thereby leaving a large victim group out of the laws' central dichotomy.

[316] Lagrou, "Return to a Vanished World," p. 22.
[317] Reitan, "Møter med Holocaust," p. 99; Storeide, *Fortellingen om fangenskapet*, p. 179; Maerz, *Okkupasjonstidens lange skygger*, pp. 8–9.
[318] Fogg, *Stealing Home*, p. 131.

The differentiation between people who had contributed to the fight against the Nazi state and people who were not involved in illicit activity was probably already at work during the war. Amongst others, the distinction between fleeing resistance fighters and civilians appeared numerous times in Ragnar Ulstein's interviews with people who had helped refugees cross the border to Sweden during the war.[319] However, this distinction was not necessarily normative: In the context of moving refugees across the Swedish border, it was important to distinguish between those who were familiar with illicit activities, and those who had no such experience and thus needed extra guidance.[320]

Even before the war, persecution of Jews did not fit pre-established categories. As described in subchapter 4.1, there was a differentiation between political refugees and economic emigrants in Norway in the 1930s – a categorization that was both ill-befitting and unbeneficial to Jews, and which was used to discriminate against them. Once again, victimhood resulting from what was deemed "political reasons," received a more attentive treatment than victimhood from what was deemed "racial reasons."

It is not only non-Jewish Norwegians who struggled to find appropriate words to describe the Holocaust: As Professor emeritus at OsloMet Irene Levin argues, this also applied to the Norwegian-Jewish survivors themselves. In an article describing the silence surrounding the Holocaust in some Jewish families, she argued that "normal language" did not make it possible to describe such extreme events.[321]

The Missing Persons Act illustrates that lawmakers took more heed of Jewish needs when they had a more developed understanding of the Holocaust. The Ministry's account of the Jews' experiences in Auschwitz in the proposition to the Missing Persons Act was remarkably detailed and empirically correct, considering it was written only two years after the war. It listed the correct dates of the deportations, the ships' names, recounted the number of Jews on board with notable accuracy, and described the realities of Auschwitz. For example, the lawmakers wrote:

> [A] large number of the missing persons can be considered dead with certainty. (…) In a number of other cases where there are no direct witnesses to the death, it can nevertheless be considered

[319] NHM 16 J. Utskrifter. Svensketrafikken. Ragnar Ulstein; See for example Berggren, Bruland, and Tangestuen, *Rapport frå ein gjennomgang av 'Hva visste hjemmefronten?'*, p. 205.
[320] Berggren, "Hjelperes negative uttalelser om jøder på flukt."
[321] Levin, "Taushetens tale," p. 375, "normalspråk."

> practically certain, or at least overwhelmingly probable, that the person in question is dead. (…) In many cases, one can probably consider the fact that a person has been taken away after a "selection" as sufficient proof that he is dead.[322]

This quote displays signs of an informed understanding of the Norwegian Jews' experiences in Auschwitz and the facts of life in the camp. The lawmakers also used special terminology to describe the events, referring to Auschwitz and its sub-camps, the cruelty in the camps, selections, crematoriums, and murders in gas chambers.

This understanding was probably derived from the interviews the Ministry of Justice and Police had conducted with 14 Norwegian Jews who had returned from Auschwitz. As cited by Bruland, the purpose of the interviews was to "provide information for the use of the probate courts about the fate that had befallen the Jews who have not returned to this country, possibly about when and where they died."[323] In other words, their purpose was to expedite the process of inheritance from Jews. Amongst others, it contained lists of Jews that were presumed dead. The interviews were mainly conducted in the first half of 1946, and the documents were delivered to the probate courts on May 20th, 1947. These documents made it possible for the courts to provide a decree of presumption of death for many Norwegian Jews. The most plausible explanation for why the Missing Persons Act is different from the other six laws is that its lawmakers had acquired a better understanding of the Holocaust as a result of these interviews and because the law itself was a response to post-war difficulties primarily arising among Jews.

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It is methodologically challenging to trace the impact of the lawmakers' possible antisemitic attitudes on the laws. However, regardless of the lawmakers' personal prejudiced ideas, it is possible that some of the lawmakers' conceptual categories were made under the influence of

[322] Ot.prp. nr. 14 (1947), pp. 1–2, "(...) en stor del av de savnede med sikkerhet kan anses som døde. (…) I en rekke andre tilfeller hvor det ikke finnes direkte vitner til dødsfallet, kan det likevel anses for praktisk talt sikkert, eller i hvert fall overveiende sannsynlig, at vedkommende er død. (…) I mange tilfelle vil en trolig kunne anse den omstendighet at en person er ført bort etter en 'seleksjon' som tilstrekkelig bevis for at han er død."

[323] Bruland, *Øyenvitner*, p. 27, "å framskaffe opplysninger til bruk for skifterettene om hvilken skjebne som har rammet de jødene som ikke er kommet tilbake hit til landet, eventuelt om når og hvor de er død." Bruland is citing from a document from May 20th, 1947, written by representatives for the Ministry of Justice and Police.

antisemitic attitudes and that this might have affected the unfavorable outcome. Furthermore, by mentioning Jews as a distinct group but not make adjustments in the laws to accommodate their needs, the lawmakers continued the differentiation of Jews from the rest of the population created by the Nazis but without recognizing that they had special restitution needs.

Resistance fighters were central in the historical narratives prevalent both in the preparatory works and in public society in general, where they were presented as heroic and admirable. This explains why the lawmakers gave resistance fighters so much attention and why they were treated in accordance with "the worthiness principle." The degree to which Jews' were included in historical narratives varied depending on the medium, but the historical narrative perpetrated by the lawmakers in the preparatory works did not include them. Seeing as an historical narrative including Jewish experiences in the Holocaust and a historical narrative including resistance fighters' experiences were not mutually exclusive – as proved by parts of the Norwegian press, which succeeded in including both – national narratives cannot explain why the lawmakers failed to do the same.

The lawmakers' inadequate conceptualization of the war experiences of the Jews can explain why they did not make active efforts to adapt the laws to Jewish needs and why Jewish restitution was not carried out in accordance with "the worthiness principle." The lawmakers never acknowledged the unique nature of the persecution of the Jews or that certain groups were deliberately targeted by the Nazis. Also, the lawmakers' categories did not fit persecuted Jews, and neither were new categories established to include them. There was, in other words, a terminological barrier to understanding. In short: Jews were not singled out as a group in need of special attention or as a group with unique restitution needs because the lawmakers had an underdeveloped understanding of the Nazi persecution of Jews and the losses this entailed and did not conceive that this was a group in need of special attention in the first place.

# 5 Conclusion: The Harms of Ignorance

Because of the Holocaust, Norwegian Jews had suffered losses specific to this group. With a little under 800 Jews deported, many never returned to reclaim their property. The pattern of deaths of many families was unclear, as relatives were killed simultaneously in the gas chambers, complicating inheritance settlements. Their losses were often total, comprising near everything they owned, and the way the Liquidation Board had liquidated Jewish assets hindered survivors' access to their own property. In addition, parts of their stolen assets were either unregistered, gone, or spent by the Liquidation Board or the Reparations Office.

As a result, many Norwegian Jews had special restitution needs, and restitution provisions affected them differently than other Norwegians. The Missing Persons Act partly mitigated challenges relating to inheritance, but the restitution legislation failed to adequately meet many of the problems caused by the genocide. Policies where rebuilding was a prerequisite for compensations disadvantaged a minority whose property was oftentimes not rebuilt because the owners were killed. The same goes for reimbursements that were means-tested, as this often served as justifications for truncations or for denying compensations on behalf of deceased family members. Furthermore, compensations that were increasingly truncated the more the claimant had lost was hard-hitting for families who had been robbed of everything they owned. Large amounts of Jewish property were not eligible for compensations and the process of restitution was particularly tedious for them. In short, the restitution laws were disproportionately unfavorable to Norwegian Jews. Provision after provision was ill-adapted to their needs.

The question posed at the beginning of this thesis was why the legislators designed the central Norwegian restitution laws in a way that had such adverse effects upon the restitution of Jewish property. The examination has been conducted by analyzing the preparatory works of the laws, using research literature to provide context and analytical tools, and comparing the treatment of Jews to that of other groups and restitution processes in other countries. The answer to this question is multifaceted, including an unbeneficial starting point, an unfavorable framework, and a series of ill-fated choices.

The laws were greatly influenced by their economic context and the legal framework they were made within. The economic principles of restitution by which the inadequate means were distributed sprung out of larger post-war policies on rebuilding the country and did not favor

prioritizing Jewish losses. The economic context thereby facilitated policies that were severely unfavorable to Norwegian Jews. The same can be said about the legal framework. The challenges Jews faced after the war demanded of the lawmakers an inventiveness, but restitution laws were to a large degree based on or inspired by earlier legislation and did not address these needs.

These factors are decisive for understanding why the restitution laws were designed as they were. However, economic priorities and the legal framework only explain why these policies *were* chosen, not why Jews were *not* prioritized. The unsatisfactory return of Jewish assets was far from a predetermined outcome – the lawmakers had maneuvering space. Therefore, the decisive reason why the central Norwegian restitution laws were designed in a way that had such adverse effects upon the restitution of Jewish property is that lawmakers did not pay attention to Jews in the legislative process and made no active efforts to adapt the laws to their situation. The few times Jews were even mentioned in the preparatory works, it was in passing and together with other groups, and the particularities of their situation were never addressed.

Comparing this to the beneficial treatment of Northern Norwegians and resistance fighters in the same documents, as well as the more attentive treatment of Jews in the preparatory works of a seventh law on missing persons, proves that it was very much doable to adapt the provisions to accommodate groups with special needs. It also shows what traces were left behind in the preparatory works when groups were taken heed of, substantiating the claim that Jews were not.

In many ways, the restitution of Jewish property and the restitution of the property of resistance fighters and Northern Norwegians followed different tracks: In contrast to Northern Norwegians and resistance fighters, Jews were not given rights as a group but as individual claimants. Furthermore, Jews were restituted in accordance with the principles of reconstruction and even distribution – that is, on principles made to serve the interest of the country as a whole rather than the interests of the individual claimant – which resulted in restitution policies that were severely unfavorable to them. Conversely, these principles were beneficial to Northern Norwegians, seeing as there was an overlap of interest: It was in the national interest to rebuild their homes and businesses. Similar to many Jews, resistance fighters would not have benefited from the principles of reconstruction and even distribution. However, resistance fighters also gained from a third and unstated principle – "the worthiness principle" – which placed the interests of "especially deserving individuals" above the interests of

rebuilding the country. This prioritization of resistance fighters can be explained by their centrality in the national narrative.

There are several methodological difficulties relating to tracing antisemitism in the preparatory works, and this thesis has not succeeding in uncovering such ideas there. To what degree the prevalence of antisemitism in Norwegian society in general and the lawmakers' personal antisemitic sentiments influenced the restitution, remains unclear. One tendency that is evident in the preparatory works, however, is that the lawmakers had an underdeveloped understanding of the Nazi persecution of the Norwegian Jews. Apart from mentioning Jews as a specific claimant group and recognizing that they had "been subject to racial persecution,"[324] lawmakers did not recognize the persecution as something that differed from other Norwegians' war experiences. They had not yet fully formed a concept of the genocide and expressed the understanding that no group had been specifically targeted by the Nazi regime. How the lawmakers conceptualized the war and its victim groups – the conceptual categories they applied and their understanding of the war-time events – was not suitable for discerning Jewish war experiences as something in need of special attention.

In short: The context of restitution did not favor an outcome where Jewish restitution needs were met. Legal and economic hurdles explain why restitution laws that did not take special heed of Jews were disproportionately unfavorable to them. A historical narrative that heroized resistance fighters explains why lawmakers gave resistance fighters special attention, while the underdeveloped conceptualization of the Nazi persecution of Jews explains why Jews were not and why the lawmakers failed to take active steps to meet their needs. While the unfavorable framework was a *necessary* cause of the unfavorable outcome, the way the lawmakers conceptualized Jewish war experiences was a *decisive* cause. This means that if the starting point had been favorable and enough in itself to secure Jewish needs, the lawmakers' inaction or insufficient conceptualization would not have made a negative difference – and that given an unfavorable starting point, the inaction was a crucial step in sealing this outcome.

No restitution policies negatively singled out or adversely targeted Jewish Norwegians, but they were never singled out in a positive manner either. This raises questions about what equal treatment and equality before the law is. Jews suffering losses from the genocide were treated equally with other Norwegians in the sense that they were given access to the same resources,

[324] Ot.prp. nr. 137 (1945–46), p. 17, "sin avstamning" and "har vært utsatt for forfølgning fra okkupasjonsmyndighetenes side"; *Innstilling fra Krigsskadekomiteen. Inntekts- og formuestap,* p. 27, "har vært utsatt for raseforfølgelse."

but not in the sense that they were secured an equal outcome. The restitution laws' tools for adjusting the compensations to accommodate different circumstances were not only insufficient in securing Jewish needs but often even disadvantaged Jewish claimants. The sliding scale is an example thereof: although a tool for securing more comprehensive compensations to the people who had the least, it truncated compensations for those who had lost the most. In a situation where Jewish needs drastically deviated from the rest of the population, equal treatment resulted in an unequal outcome. The Majority Skarpnes Commission failed to take this into account when they based their report on the premise that "the rules for compensation to Norwegian Jews and non-Jews were the same."[325]

This leads to a central point: The laws were exclusionary not because they created new discrimination, but because they failed to address previous discrimination and persecution. They thereby inadvertently solidified parts of the economic consequences of the Holocaust and did the Jews an additional wrong by not correcting past injustices. The history of the unfair treatment of Jewish Norwegians is often the history of active exclusion, discrimination, and persecution: of the "Jew clause" in the 1814 Constitution, of Norwegian bureaucrats' discrimination of Jewish refugees in the 1930s, and of Norwegians' participation and initiatives in the Holocaust. These events are of major importance and should continue to be the subject of further study. However, the history of the unfair treatment of Jewish Norwegians should also encompass the harmful effects of inaction: of not taking heed of Jews, of not including them, of not making an effort on their behalf. As this thesis shows, failing to actively include Jews could be just as harmful as actively disadvantaging them.

As Holocaust research examines some of the most extreme, violent, and hateful events in human history, more subtle forms of discrimination against Jews are easily overshadowed and overlooked. While antisemitism, racial laws, and deportations are often obvious and easily identifiable forms of oppression, cases such as laws' lack of adaptability to Jewish needs are more prone to slipping under researchers' radar. Nevertheless, the harms of the unsatisfactory restitution of Jewish property should not pale in comparison to the events it succeeded. The restitution must be examined in its own right. Highlighting the harms of heedlessness and inaction as central in disadvantaging Norwegian Jews is one of the most important contributions of this thesis. Further research should continue to uncover other such cases of injustice.

[325] Majority NOU 1997: 22, p. 167.

Most of what was lost in the Holocaust could never be retrieved. This includes family members, community structures, and lost years. While tools such as persecuting the perpetrators and providing compensations for pain and suffering would be a part of restituting the victims for such harms, it would never actually restore what was lost. Many of the economic components of the Holocaust was different. Although not all property could be retrieved (including destroyed sentimental belongings and irretraceable objects), and although property was often intrinsically linked to non-material values that were irrevocably lost, it would have been possible to restore much of Jewish material assets. As such, the lawmakers passed up the chance not only to redo some of the damage inflicted by the Nazi regime but the only damage of genocide that *could* be restored, in the process missing the opportunity to alleviate Norwegian Jews of some of their post-war burdens. The harmful effects of the Holocaust continued to be reproduced after the war.

Together with the Skarpnes Report, this thesis has begun to map the under-researched topic of restitution of Norwegian-Jewish property after the war by investigating the previously unexamined question of why the restitution was unfavorable to many Jewish claimants. It has also uncovered a need for further research and raised new questions. The executors of the restitution laws – meaning the people involved in processing individual claimant cases in the restitution institutions – should be subject to historical inquiry. Further research should map how they interpreted the restitution laws and whether the tendencies found among the lawmakers could also be found among the executors. In particular, it would be of interest to uncover whether they conceptualized the persecution of the Jews in a similar manner as the lawmakers and how this understanding changed upon interacting with Jewish claimants. Also, attention should be allocated to how Norwegian Jews experienced restitution and how this process impacted the rebuilding of Jewish lives, families, and religious and cultural communities, focusing on both material and non-material values. Hopefully, this thesis has made the examination of these essential subjects more attainable, as an analysis of the restitution laws in many ways is a precondition for their study. Furthermore, the subject of this thesis itself will hopefully be re-examined with time, with other researchers uncovering new details using new perspectives, methods, and sources.

Although the findings in this thesis cannot be generalized – as this examination specifically addresses a small group of laws from a limited time period – this thesis also contributes to many larger subjects central to the study of the Jewish minority in the immediate post-war years in

Norway. They support Bruland's hypothesis that the fate of Norwegian Jews was given little emphasis in Norwegian power structures in the post-war years.[326] Further research should continue addressing this subject to establish whether the tendencies found in the restitution legislation are part of a larger societal problem where Jewish Norwegians were not taken heed of by decision-makers.

This thesis' conclusion is also in line with Brakstad's hypothesis that there was a lack of perception of Jewish experiences and that the genocide's contemporary observers had difficulties understanding these experiences and categorize them within the previously given framework.[327] Likewise, it is in line with Bruland's hypothesis that Norwegian authorities struggled to grasp the extent of the catastrophe that had befallen Norwegian Jews.[328] Contemporary Norwegians' understanding of the Holocaust is a subject in need of further research. It would be of interest to determine whether the lack of understanding displayed by the legislators who designed the restitution laws is unique to this group or presents itself in other legislative processes, governmental institutions, or parts of society.

This thesis is also a contribution to international research on restitution as a case study on restitution in the Norwegian context. It has mapped how the specific Norwegian post-war context and the peculiarities of the Holocaust in Norway influenced restitution. It has uncovered some of the same tendencies as researchers studying other countries, for example that the number of survivors impacted how much was restituted and that an equal treatment of victims often resulted in an unequal outcome. In particular, the finding that lawmakers had difficulties in grasping what the Nazi persecution of Jews entailed is not limited to Norway or to legal contexts, but found across Europe in many sectors of society. Norway is one of many countries that insufficiently compensated and returned Jewish assets after the war, and that had a second round of restitution in the 1990s. It should have a more prominent spot in the international scholarship on restitution, as up until now, it is mostly mentioned in passing and in the form of a summary of previous findings. Because the Norwegian-Jewish minority was so small, a study can potentially map restitution in every single family, which would be an almost unique research opportunity which should grab the attention of researchers outside of Norway.

Historical accounts of the Holocaust in Norway should to a greater degree expand its temporal frame to also include the post-war years. The attempt to rebuild their lives and recover

[326] Bruland, *Holocaust i Norge*, p. 549.
[327] Brakstad, "Jødeforfølgelsene i Norge. Omtale i årene 1942–1948," p. 96.
[328] Bruland, *Holocaust i Norge*, p. 549.

their belongings was central in the struggles Jewish Norwegians faced as a result of the war. Although restitution of Jewish property is not included in most accounts of the Holocaust, it is in many ways the last chapter of the genocide.

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## The National Library of Norway's Database

The search engine on the web-pages of the National Library of Norway has been used to track the quantitative and qualitative usage of the term "*nasjonalt arbeid*" in written texts in Norway. The database comprises all published books, newspapers, and journals that has been digitalized by the Library.

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# Appendix: Translations

All translations are done by this author unless otherwise stated. They are done according to common praxis and with the help of Norwegian-English judicial dictionaries.[329] Many translations are adapted from or inspired by the translated version of the Minority Skarpnes Report.[330] The names of the central laws are short versions created by this author.

**Translations of laws**

| | |
|---|---|
| The Building Damages Act | Midlertidig lov om krigsskadetrygd for bygninger |
| The Confiscated Property Act | Midlertidig lov om konfiskert eiendom |
| The Confiscation of Jewish Property Act | Lov om inndragning av formue som tilhører jøder |
| The Ex Gratia Act | Midlertidig lov om erstatning for visse skader og tap som følge av krigen 1940–45 m.v. |
| The House Requisition Act | Midlertidig lov om avståing av bruksrett til husrom |
| The Invalidity of Occupation Legislation Ordinance | Provisorisk anordning om ugyldigheten av rettshandler m.v. som har sammenheng med okkupasjonen |
| The Military Pension Act | Lov om krigspensjonering for militærpersoner. |
| The Missing Persons Act | Midlertidig lov om folk som er kommet bort under krigen |

[329] Lind, *Norsk-engelsk juridisk ordbok*; Craig, *Stor Norsk-Engelsk Juridisk Ordbok*.
[330] Reisel and Bruland, *The Reisel/Bruland Report on the Confiscation of Jewish Property in Norway during World War II*.

| | |
|---|---|
| The Moveable Property Damages Act | Midlertidig lov om krigsskadetrygd for løsøre |
| The Property Disclosure Act | Midlertidig lov om plikt til å gi opplysninger om løsøre som er kommet bort som følge av forføyninger av okkupasjonsmyndighetene eller deres hjelpere |
| The Provisional Ordinance relating to confiscated property | Provisorisk anordning om konfiskert eiendom |
| The Resistance and Civilian Pension Act | Lov om krigspensjonering for hjemmestyrkepersonell og sivilpersoner. |
| The Stock-in-Trade Damages Act | Midlertidig lov om krigsskadeforsikringen for varelagre |

**Translations of institutions**

| | |
|---|---|
| the Administrative Council | Administrasjonsrådet |
| the Commission for War Damages | Krigsskadekomitéen |
| the Government | Regjeringen |
| the House Distribution Board | husfordelingsnemda |
| the Jewish Community of Oslo | Det Mosaiske Trossamfund i Oslo |
| the Law Department | Lovavdelingen |
| the Liquidation Board | Likvidasjonsstyret |
| the Odelsting | Odelstinget |
| the Office for War Damage to Buildings | Krigsskadetrygden for bygninger |

| | |
|---|---|
| the Office for War Damage to Moveable Property | Krigsskadetrygden for løsøre |
| the Office for War Damage to Stock-in-Trade | Krigsskadeforsikringen for varelagre |
| the probate court | skifteretten |
| a proposition to the Odelsting | odelstingsproposisjon |
| the Reparations Office (for Confiscated Assets) | Tilbakeføringskontoret for inndratte formuer |
| the Settlements Division (of the Ministry of Justice) | Justisdepartementets Oppgjørsavdeling |

**Translations of terms**

| | |
|---|---|
| damages from abuse | overgrepskader |
| Jewish joint fund | jødisk fellesmasse |
| moveable property | løsøre |
| national work | nasjonalt arbeid |
| preparatory works | lovforarbeider |
| provisional act | midlertidig lov |
| provisional ordinance | provisorisk anordning |
| stock-in-trade | varelagre |
| trustee | bobestyrer |