

## Chapter 2

# Shall We Become a Central Factor in the Compensation Issue?

Following the government's decision on February 15, 1950, Ministers Kaplan and Sharett asked the director of the Customs and Excise Division in the Ministry of Finance, Kurt Mendelsohn, to pay a work visit to the two Germanies<sup>1</sup> in order "to investigate the possibilities of receiving [compensation] money for Israel's inhabitants."<sup>2</sup> He was instructed to offer the Germans a "global [sic. overall] settlement" for the compensation claims.

This idea, likely the brainchild of Georg Landauer,<sup>3</sup> had been in the air for months. It was first brought up by Landauer during the January 8, 1950 meeting of the Jewish Agency Executive<sup>4</sup> and later in two memoranda he composed in the summer of that same year.<sup>5</sup> It likewise appeared in a special report on compensation submitted to Israeli decision makers at the close of January by the Naftali committee, prepared by Landauer together with two other committee members.<sup>6</sup>

Landauer opined that the path to the restitution of Jewish property had revealed itself to be strewn with serious obstacles. The first was a legal problem. The tens of thousands of claims submitted by the JRSO and private heirs against citizens and bodies in the FRG with Jewish property in their possession since the summer of 1948 had gone through a long and exhausting process of litigation in and outside the courts.<sup>7</sup> "If we are to go on following existing methods," Landauer concluded, the restitution project is liable "to occupy us for a generation." However, the JRSO and the private successors "don't have the time, the patience, nor the means necessary to keep fighting for their rights over the course of many years." Another obstacle was public-political in nature. According to various assessments, some 100,000

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<sup>1</sup> ISA, MFA 2417/1, Protocol of a Meeting Headed by Peretz Naftali, May 10, 1950.

<sup>2</sup> ISA, MFA 2417/1, Protocol of a Meeting that took place between Members of the Jewish Agency and Members of the Government on May 2, 1950.

<sup>3</sup> In any case, he was one the first to side with this idea. Katz, "The Role," 37.

<sup>4</sup> CZA, S100/61, Meeting of the Jewish Agency Executive, January 8, 1950, 8–9.

<sup>5</sup> CZA, S43/239, A Global Settlement of the Jewish Claims, June 1950; CZA, S6/6762, Memorandum on Restitution, August 5, 1950.

<sup>6</sup> ISA, MFA 2543/1, P. Naftali to M. Sharett, January 27, 1950.

<sup>7</sup> Finance Minister Kaplan explained to the Knesset's Finance Committee that "the courts over there [in the FRG] are not particularly quick to act [and] private individuals controlling [Jewish] property are trying to hide it as much as possible." KA, Meeting of the Finance Committee, February 20, 1950, 12–13. See in this context: Thalmann, "La Normalisation du Passé?," 56.

German citizens possessed property that originally belonged to Jewish owners, along with commercial and communal bodies that also held such property. The property restitution regulations made it difficult for them to engage in any commercial activity involving this Jewish property (for example, its sale or lease) because its future was shrouded in uncertainty. Those who had bought such assets during the period of the Nazi regime were entitled to monetary compensation from the German authorities if forced to give Jewish property back (to their owners, or hand it over to a successor organization), but due to monetary reforms enacted in 1948,<sup>8</sup> they would receive a sum below what they had originally paid. Rumors circulated among the German public about huge sums that stood to be transferred to Jewish successor organizations and private heirs, and apprehensions were voiced that, as a result, the country's economy would fail to recover from the damage of the war. Under these circumstances, many Germans were adamantly opposed to the restitution of property.<sup>9</sup> Worse, it sparked feelings of outright hostility toward Jews. Newly-founded organizations representing Germans holding Jewish property began to apply anti-restitution pressure on political circles in Bonn. They won much sympathy in the parliament, and among the public-at-large. In a poll conducted in the FRG in August 1949, only 39 percent of the public supported returning Jewish property to its rightful owners or to successor organizations.<sup>10</sup>

In light of that, Landauer proposed to the Jewish Agency Executive that the JRSO offer the Länder and the central government in Bonn the option of a global settlement. The German authorities would hand over a lump sum of money to a representative Jewish body within a short span of two to three years. The sum would cover all the claims being litigated by the JRSO and the private heirs against German citizens and bodies. In Landauer's estimation, the overall sum had to amount to at least 1.5 billion DM. The authorities in Bonn and in the Länder would subsequently work out a settlement with their own citizens (and local bodies) regarding the property. The Jewish Agency Executive weighed the idea and found it deserving. In late January 1950, it decided, among other things, that a global settlement of property claims should be sought with the German authorities.<sup>11</sup> Consequently, in March

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<sup>8</sup> In an attempt to bolster the local economy, in the summer of 1948 a monetary reform was instituted in West Germany replacing the Reichsmark, which had been the legal tender in Germany since 1924, with a new currency – the Deutsche Mark.

<sup>9</sup> Among all the compensation categories, restitution of property encountered the fiercest criticism on the part of the West German public. Goschler, "Jewish Property," 120.

<sup>10</sup> ISA, MFA 2417/1, G. Landauer to M. Sharett, March 17, 1950; Ferencz, "Restitution to Nazi Victims," 302; Goschler, "German Compensation," 381–382.

<sup>11</sup> ISA, MFA 1783/15, Jewish Agency Executive Decision Regarding Jewish Property in Germany, January 12–30, 1950.

of that year, the JRSO dispatched two representatives to West Germany with the aim of bringing the Americans on board. They met with John McCloy, the US High Commissioner in the FRG, and his economic assistant to petition the two to support a global compensation settlement and use their influence to get Bonn to accept such an arrangement.<sup>12</sup> In the months that followed, the JRSO engaged in discussions of the issue with senior officials in Bonn and in the Länder within the American High Commission's jurisdiction.<sup>13</sup>

The global settlement idea was placed at the feet of the Israeli government, which was quick to adopt it, and Mendelsohn was charged with taking it forward. His first stop was Berlin, the capital of the GDR, where, in early May, he met with Willy Rumpf, State Secretary for Financial Affairs, and two officials from the Economic Division of the East German Ministry of Foreign Affairs. He presented the concept of a global settlement and, as an incentive to his interlocutors, said that the move could open the door to far-reaching commercial ties between the two countries. The East Germans asked their guest to prepare a memorandum on the subject, which Mendelsohn promptly did, but when he sought to submit it, he discovered, much to his surprise, that Berlin had decided not to continue the discussion.<sup>14</sup>

From Berlin, Mendelsohn departed for the FRG, where he met with senior officials in the Länder in the American jurisdiction zone as well as ministers and other government officials in Bonn regarding the compensation issue. Topping this list of notable personages was the FRG's Finance Minister, Fritz Schäffer, with whom Mendelsohn conducted two lengthy discussions in early June.<sup>15</sup> He offered his hosts a global settlement that would cover both restitution and indemnification claims. In his assessment, the sum total of the claims submitted by Israeli residents was valued in the vicinity of 300 million DM. He requested that Bonn pay an advance of 100 million DM toward settling this debt.<sup>16</sup> In response, the West Germans told Mendelsohn they would establish an interministerial committee, headed by the Finance Minister of Land Hessen, that would examine the idea of a global settlement, including the Israelis' request for an advance. Mendelsohn felt that the West Germans had responded in a spirit of good faith. He surmised

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<sup>12</sup> CZA, S100/70, Meeting of the Jewish Agency Executive, August 13, 1950, 6.

<sup>13</sup> CZA, S6/6762, Memorandum on Restitution, August 5, 1950.

<sup>14</sup> Timm, *Jewish Claims against East Germany*, 82.

<sup>15</sup> CZA, S35/70, Summary of the Meetings with the Minister of Finance Herr Dr. Schaffer.

<sup>16</sup> According to one report, he demanded an advance of 150 million DM. CZA, S35/70, A. Gerling to N. Goldmann, August 1, 1950.

that they were interested in reaching a settlement with the State of Israel on the compensation issue in order to normalize Jewish-German relations.<sup>17</sup>

Mendelsohn returned to Israel at the beginning of July and submitted a report of the outcome of his mission to the government. He suggested that Israel institutionalize formal ties with the two Germanies on the compensation issue (with the question of global settlement at the top of the agenda) and even that it do so openly. Short-term missions by unofficial envoys or third-party mediation, he argued, were not enough to drive the issue forward. These conclusions were presented in mid-July at a meeting of the Naftali committee. The participants were in agreement with Mendelsohn and stated unanimously that the government must “continue negotiations in [West] Germany on a global settlement of compensation for Israeli residents.”<sup>18</sup> A memorandum to this effect was submitted to the government by the committee on September 1.<sup>19</sup>

However, the best-laid plans of mice and men often go awry. The global settlement issue, including the question of an advance, was dropped when the inter-ministerial committee established in Bonn concluded, after a short investigation, that due to economic factors and technicalities it was impossible to pay an advance to the Israeli-Jewish side out of a yet-to-be-determined global sum. For reasons unclear, perhaps motivated by political considerations, the Germans did not inform Mendelson or any other Israeli party about their decision, and only weeks later did knowledge of the decision reach the Israelis, indirectly.<sup>20</sup>

Parallel to the actions taken on the subjects of restitution and indemnification (from mid-1949 onward), Israeli and Jewish parties had begun to contemplate a reparations claim. As noted in the introduction, the possibility of submitting a claim of this category had already been examined in the first half of the 1940s by Jewish and Zionist figures. The grounds for claiming reparations was the “criminal act” that Nazi Germany had committed against European Jewry, as the president of the World Zionist Organization Chaim Weizmann had defined it so eloquently in his September 1945 memorandum. The parties who were now starting to mull over the question of reparations embraced this notion and ran with it. Accordingly, Ben-Gurion stated in a cabinet meeting on June 7, 1949, that “at some point there needs to be a discussion of whether the State of Israel will submit a [collective] compensation claim against Germany through international means – not for the [pillaged] property of this or that person, but in order to take Germany to court for the

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<sup>17</sup> CZA, S35/70, Summary on Talks carried out with the Authorities in West Germany on Wiedergutmachung for Israel's Residents, and the Haavara, Without Date.

<sup>18</sup> CZA, S35/70, A. Gerling to L. Eshkol, July 14, 1950.

<sup>19</sup> DEPI, Vol. 5, Document 366, P. Naftali to M. Sharett and E. Kaplan, September 1, 1950.

<sup>20</sup> CZA, S35/70, A. Gerling to G. Landauer, July 28, 1950.

murder of six million Jews.”<sup>21</sup> At a meeting of the Jewish Agency Executive on January 18, 1950, the chair, Berl Locker, made a similar call. Reparations should be demanded, he said, “because a great wrong has been done” to the Jewish people.<sup>22</sup> Hendrik van Dam, the general secretary of the Central Council of Jews in Germany, followed suit. In a memorandum on the topic of compensation he prepared at the request of Finance Minister Kaplan, and submitted on July 1, 1950, van Dam stated that the claim of reparations rested on the grounds of “the mass crime” that was “directed at the Jewish people in its entirety [. . . and which] caused it immeasurable and irreparable harm.”<sup>23</sup>

However, the chances that the international legal and political system would recognize a reparations claim on the grounds of a “criminal act” were slim. The claim was far too abstract. It did not clarify what exactly the material (or other) damages for which the Germans were asked to pay were, and therefore the whole concept was without precedent. In international law it was not standard practice for a state to be sued for committing “a crime” in the generalized sense.

In a long and well-reasoned memorandum submitted to the Jewish Agency Executive on January 16, 1950,<sup>24</sup> Agency official Shalom Adler-Rudel suggested a new footing upon which a claim for reparations could be founded. His argument was based on two figures. The first was the maximum estimate that appeared in Nehemiah Robinson’s November 1944 study, which valued Jewish property in Nazi Germany and the seventeen European countries that were under its rule or were allied with it (except for the USSR and Luxembourg) on the eve of the outbreak of the Nazi onslaught against the Jews at 8.2 to 8.6 billion USD.<sup>25</sup> The second figure was based on the survivor ratio: On the eve of World War II there had been six million Jews in these European countries, and only 1.2 million survived, a number equivalent to twenty percent of the original Jewish population. Assuming that all eighteen countries would decide to restore the property to the survivors (most of whom were deprived of their assets during the period of Nazi rule), one could discount twenty percent of the sum total arrived at by Robinson – or some 1.7 billion USD. Thus, the scope of Jewish property without heirs remaining in the eighteen countries was valued at 6.5 billion USD. If one deducted from this sum the value of

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21 ISA, Meeting of the Cabinet, June 7, 1949, 34.

22 CZA, S100/62, Meeting of the Jewish Agency Executive, January 18, 1950, 39–40.

23 Vogel, *The German Path to Israel*, 21–22.

24 Adler-Rudel presented his memorandum during the meeting of the Executive on January 18. CZA, S100/62, Meeting of the Jewish Agency Executive, January 18, 1950, 19–22.

25 The data Robinson managed to obtain from the eighteen countries referred to different years. Overall, it spanned the period between 1933 and 1939, that is, before the Jews in those countries lost their property as a result of the Nazi campaign.

heirless property in the FRG that was in restitution proceedings (through the JRSO), then in the remaining countries (including the GDR) there was heirless Jewish property worth six billion USD. However, if the Jewish people expected to recover this looted property, they were destined to be sorely disappointed. Although the countries in question recognized the principle of restitution of property, in practice, most of them, particularly the Eastern European countries, did not trouble themselves with its implementation in cases of heirless property. Thus, there was no viable alternative other than making a direct claim against Germany (the FRG and the GDR) for collective reparations to the Jewish people for the value of heirless Jewish property that remained in these eighteen European countries.<sup>26</sup> Germany's obligation to pay rested on the fact that the German people had conducted a campaign against the Jewish people that led to the massive loss of said property. Adler-Rudel's line of thought, in contrast to the abstract one, based the claim to compensation on a solid [economic] foundation that pointed clearly to the [material] damage caused to the Jewish people in Europe.

Adler-Rudel's approach was scrutinized at a meeting devoted to Israeli-German relations held on August 1, 1950, in the office of the IMFA's legal advisor Shabtai Rosenne. Participating were senior officials of the Ministry, Adler-Rudel himself, and Mendelsohn. The question of compensation was the focal point of the discussion. In the summary, it was decided to broaden the foundation upon which Adler-Rudel sought to base the collective claim and not settle for the value of heirless property alone. Two additional categories of damages were to be included as grounds for the collective claim: property of survivors and indemnification.<sup>27</sup> IMFA officials surmised that other than the FRG, most of the countries that found themselves under the Nazi umbrella would refuse to restore property to the survivors in full. This assumption was well-founded. To the extent that survivors in these countries managed to reclaim their property at all, it was primarily limited to their homes, and in many cases, these homes had been completely emptied of their contents. Very few businesses (factories, workshops, stores), buildings or plots of land were returned. In addition, survivors who had immigrated to other countries were unable to recover their property.<sup>28</sup> As far as indemnification was concerned, under the stipulations of laws already legislated or that stood to be passed in the various

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<sup>26</sup> ISA, MFA 2417/1, Restitution of Jewish Property and Reparations for the Jewish People, January 16, 1950.

<sup>27</sup> ISA, MFA 2417/1, Summary of News and Conclusions Heard Regarding Israel-Germany Relations and the Action Necessary, August 1, 1950.

<sup>28</sup> The tendency to withhold rightfully Jewish-owned property from survivors of Nazi persecution (not to mention Jewish successor organizations) was mostly prevalent in Eastern European countries. Hilberg, *The Destruction*, 1156–1157.

Länder of the FRG, the overwhelming majority of the two million survivors of Nazi persecution were not entitled to individual compensation at all.

The Jewish claim for collective reparations from Germany – whether based on abstract grounds as a “criminal act” or on real economic foundation, as presented by Adler-Rudel – raised a fundamental legal-political problem. Underlying the very idea of the claim was the assumption that the Jewish people, while scattered throughout the world, belonged, in practice, to one national-political trans-territorial entity, whose citizenship was held by, among others, the two million Holocaust survivors, and by the six million Jews who had perished. It was from this premise that the conclusion was derived that this sovereign political “entity” had – through a representative body – the juridical and political authority to speak in the name of Jewish victims of Nazi Germany and to submit a reparations claim. However, legal-political reality was completely different. Jewish victims of the Nazis were in practice the legal and recognized citizens of a dozen and a half states.

At the meeting held in Shabtai Rosenne's office on August 1, 1950, participants in fact admitted that there was no legal-political foundation for a Jewish claim to reparations. However, the claim had a strong *moral* foundation.<sup>29</sup> Hendrik van Dam set forth the moral dimension in his memorandum, and Israeli spokespeople used this line of reasoning frequently when queried about the reparations issue.

According to the moral argument, Jews had not been targeted by Nazi Germany because they were Austrian, or Polish, or French, or Hungarian citizens. They had been singled out, persecuted, incarcerated, robbed, tortured, subjected to forced labor, and exterminated only due to their being an integral part of the Jewish people. From this perspective, if the victims' calamity was a byproduct of their collective affiliation to the Jewish nation, there was therefore a moral foundation to compensate this nation collectively. One could put it this way: the Nazi campaign against the Jews, in its unique form and scope, both of which were unprecedented in the history of humankind, imbued the Jewish people with a national-political significance in the highest ethical sense and, consequently, gave them the right to claim reparations. This compensation, according to Adler-Rudel and the IMFA's economic approach, was based on the loss of Jewish property, as well as personal damages incurred by the survivors. In other words, the Jewish “political entity” that was crystallized following and due to the Holocaust, seized property rights from the eighteen European states in which said property's Jewish owners had resided and transferred these rights to the Jewish nation-state. Since these countries (excluding the FRG) had refused to transfer heirless property to the Jewish entity and to restore to the survivors

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<sup>29</sup> ISA, MFA 2417/1, Summary of News and Conclusions Heard Regarding Israel-Germany Relations and the Action Necessary, August 1, 1950.

their property (or offer the monetary value of the Jewish property), the German people were being sued to compensate this Jewish entity for property lost at the hands of the Nazis. The same argument applied to personal damages. The individual compensation that was denied to the overwhelming majority of the two million Holocaust survivors (now considered “citizens” of the Jewish polity) under current West German laws was to be incorporated into the collective reparations.

The concept of introducing the matter of trans-territorial Jewish representation into the compensation issue was not entirely theoretical. It had been recognized at the Paris convention in June 1946, and in the American Military Law No. 59, adopted in November 1947. Konrad Adenauer’s November 1949 declaration admitting Germany’s debt to the Jewish people had also granted important political legitimacy to this line of reasoning. These three moves, however, only applied to a limited region in regard to the compensation question – primarily Germany (and only its western part at that). The claim for reparations, on the other hand, with its enormous scope encompassing Jewish communities and their property in eighteen different countries, sought to implement this concept in a much more far-reaching fashion that challenged international legal and political norms in this domain.

Among those dealing with the compensation issue in the Jewish camp, there were differences of opinion as to the identity of the body that should speak in the name of the Jewish people and its victims (as well as how the reparations funds should be allocated). The proxy-representative could be the State of Israel or a corporation of leading Jewish organizations in the world (similar to that incorporated under the JRSO) or even a combination of the two.

Van Dam’s memorandum expressed the opinion that the State of Israel needed to take the initiative on the reparations issue, and the same sentiment was also voiced at the consultation held in Rosenne’s office. The participants in the latter validated this approach saying that the Jewish state – conceptually and by its very essence – represented the entire Jewish people.<sup>30</sup> One of the participants, director of the Political Division of the IMFA, Boris Guriel, raised an additional argument supporting this outlook in a memorandum he submitted to the Minister of Foreign Affairs. According to Guriel, the State of Israel had, in practice, taken part in the Allies’ military campaign against Nazi Germany, by way of the Jewish Brigade’s participation in the war.<sup>31</sup> Therefore, it was entirely justified to view the State of Israel as one

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<sup>30</sup> ISA, MFA 2417/1, Summary of News and Conclusions Heard Regarding Israel-Germany Relations and the Action Necessary, August 1, 1950.

<sup>31</sup> The “Jewish Brigade” was established in the fall of 1944 by the British Army. Approximately 5,000 Jews from Mandatory Palestine fought in this unit under the Zionist flag. The force took part in the first stages of the last Allied offensive in Italy. Gutman, *Encyclopedia of the Holocaust*, “Jewish Brigade Group,” 745–747.

of the victorious political entities entitled to claim reparations from the vanquished side.<sup>32</sup> A third argument was raised by van Dam in his memorandum: “Israel made a substantial contribution [. . . by taking in] the Jews persecuted and expelled by Germany; it accepted this particular group without practical restrictions and without regard to the difficulties involved.”<sup>33</sup> In saying this Van Dam was referring to the fact that Israel had absorbed close to two-thirds of the “surviving remnant” – Jewish survivors who refused to begin life anew in Holocaust-devastated Europe and who gathered in transit camps in Germany, Austria, and Italy demanding to leave Europe, primarily to go to the Jewish homeland in Mandatory Palestine. This group encompassed some 200,000 survivors of the concentration, extermination, and labor camps, as well as the death marches. They were joined, in the years immediately following the end of the war, by Jewish refugees, primarily from Eastern Europe, who were not necessarily direct survivors of Nazi rule.<sup>34</sup> The fiscal burden of their economic and physical rehabilitation, especially of those Jews who had been liberated from the camps and the death marches, considering the horrific abuse they had experienced, was enormous. According to van Dam, Israel’s readiness to open its gates to such a huge number of survivors, despite the country’s economic straits, entitled it to take the lead in the collective Jewish claim. He also implied that Israel had the right to demand the lion’s share of the reparations funds in light of the heavy financial yoke it had assumed.

In an August 6, 1950 letter to the Minister of Foreign Affairs, Sharett, Rosenne wrote that should the government decide to accept the role that, according to the outlook expressed by his office, the State of Israel ought to play with regard to the reparations claim, it must approach the Jewish Agency and leading Jewish organizations in the world without delay. The aim would be “to bring them to acknowledge the [. . .] position of the Government of Israel in relation to this subject and relinquish the position they have held thus far.”<sup>35</sup>

Indeed, the leading Jewish organizations had different views on the matter. They recognized the centrality of the State of Israel to Jewish life and appreciated the scope of Israel’s contribution to the rehabilitation of the hundreds of thousands of Holocaust survivors. But at the same time, they found it hard to get on board with the notion that Israel should represent the Jewish people as a whole, including all Holocaust victims. After all, out of the roughly eleven million Jews living in the world at the outset of the 1950s, only ten percent resided in the State of Israel, and out of the two million survivors of Nazi persecution, only about

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<sup>32</sup> DEPI, Vol. 5, Document 276, Memorandum by B. Guriel, June 12, 1950.

<sup>33</sup> Vogel, *The German Path to Israel*, 23.

<sup>34</sup> Gutman, *Encyclopedia of the Holocaust*, “Displaced Persons, Jewish,” 377–389.

<sup>35</sup> ISA, MFA 2417/1, The Legal Advisor to the Minister of Foreign Affairs, August 6, 1950.

twenty percent had been absorbed by the Jewish state. In memoranda submitted by World Jewish Congress official, Alexander Easterman,<sup>36</sup> and the World Jewish Congress Executive<sup>37</sup> to Western parties in the summer of 1950 on the subject of reparations (in the spirit of the stance formulated by Adler-Rudel and the IMFA), it was not clarified who should submit the Jewish claim for collective reparations. It was, however, clearly stated that payment was to be given to “Jewish organizations” in the world. These would use the received funds to rehabilitate survivors in their countries of origin or in the new countries where they had chosen to settle. One can assume that the Congress intended the claim to be submitted by these “Jewish organizations,” but in close cooperation with the Government of Israel.<sup>38</sup>

Over the next two years, it would become apparent that the Jewish organizations in the Diaspora tended to accord Israel a leadership role when it came to the matter of reparations, albeit not exclusive control. Their willingness to stand in Israel’s shadow on this issue most likely stemmed from the fact that they already had their hands full dealing with the other two categories of compensation – restitution and indemnification. It is also possible that the complex political and legal tangle tied to reparations deterred them from getting overinvolved. Of course, it could also be that, internally, the Jewish organizations accepted the Israeli argument regarding the right of the State of Israel to spearhead the struggle for reparations.

In the eyes of IMFA officials who examined the compensation issue, advancement of the reparations claim, as well as other aspects of material compensation (first and foremost, the Haavara question), required direct, formal, and open Israeli contact with the German authorities. In practice, the intention was to establish contact with the FRG government. From this point in time (1950), it became more and more evident that the USSR and its East German satellite would refuse to make progress on the compensation issue in any way, shape, or form.<sup>39</sup> To clarify, Israel had no intention of giving Berlin a “pass” on paying reparations, but, recognizing reality for what it was, it chose to focus its practical efforts on the FRG.

In the consultation that took place in Rosenne’s office, the participants emphasized that “all those keeping a sharp eye on the [prevailing] state of affairs have come [ . . . to the conclusion] that the nature of the problem [the reparations

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<sup>36</sup> Balabkins, *West German Reparations*, 280–281.

<sup>37</sup> ISA, MFA 1783/9, Memorandum on Jewish Demands, September 11, 1950.

<sup>38</sup> The idea of cooperation with the State of Israel on the issue of compensation from Germany was firmly embedded in the thinking of leading Jewish organizations in the world. AJJDC, AR NY 45/54 File 1398, J.J.Jacobson to E. Rock, July 4, 1950.

<sup>39</sup> On the topic of compensation from East Germany, see the closing section of Chapter 4.

claim] is one that precludes any solution, save on a government-to-government level.”<sup>40</sup> Echoing this same sentiment, Adler-Rudel stated in his memorandum from January 1950 that “It seems not feasible to negotiate with the German Government on reparations to the Jewish people and maintaining at the same time that no relations exist between the two governments.”<sup>41</sup> Moshe Bartur, deputy director of the Economic Division of the IMFA, suggested that a legation representing the Government of Israel should be established in the FRG, or one of the bordering countries, in order to negotiate with the HICOG and the Bonn government on material compensation.<sup>42</sup>

Ministers Sharett and Kaplan, who from early 1950 had been resolute proponents of direct Israeli-German negotiations, sided with this proposal.<sup>43</sup> In keeping with their position, on August 8 they directed the Naftali committee to prepare a proposal for adoption by the government to dispatch an Israeli diplomatic mission to the FRG that would operate in accordance with Bartur’s suggested plan.<sup>44</sup> The committee did so, and as a result, the Israeli consul in Zurich was requested by the director of the Economic Division of the IMFA, Gershon Meron, to send a letter to Konrad Adenauer’s personal secretary and inform him that “it is the intention of the Government of Israel, after receipt of the proposals of the German Federal Government [regarding the issue of global settlement] to take up matters by way of direct contact with the Chancellor of your Government.”<sup>45</sup> However, the idea of a global settlement had been taken off the German agenda completely, and no direct and official Israeli-German contact was established in the months that followed, much to the chagrin of Sharett and Kaplan.

Mendelsohn’s mission and the talks that consul Livneh conducted in the spring of 1950 with Jakob Altmaier, a Jewish member of the Lower House of the FRG parliament (the Bundestag) from the Social Democratic party,<sup>46</sup> were the only genuine points of contact between the two countries.<sup>47</sup> More frequent and substantial

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<sup>40</sup> ISA, MFA 2417/1, Summary of News and Conclusions Heard Regarding Israel-Germany Relations and the Action Necessary, August 1, 1950.

<sup>41</sup> ISA, MFA 2417/1, Restitution of Jewish Property and Reparations for the Jewish People, January 16, 1950.

<sup>42</sup> ISA, MFA 2417/1, Claims to Jewish Property in the Western Zone of Germany, July 31, 1950.

<sup>43</sup> Sharett did everything in his power to promote contact between Israeli diplomats and Jewish functionaries and German officials. He also endeavored to convince his colleagues at the helm of the necessity of direct contact between Jerusalem and Bonn. Sheffer, *Moshe Sharett*, 525.

<sup>44</sup> DEPI, Vol. 5, Document 328, Note 4.

<sup>45</sup> ISA, MFA 2417/1, G. Meron to S. Tolkowsky, October 2, 1950.

<sup>46</sup> Altmaier had been appointed by his party to be responsible for the issue of Holocaust compensation to the Jewish people. Albrecht, “Ein Wegbereiter,” 206.

<sup>47</sup> Gilead, “The Reparations Agreement,” 89.

contacts were created that same year between the Chair of the European Executive of the World Jewish Congress, Noah Barou, and senior German officials,<sup>48</sup> particularly with Herbert Blankenhorn, Chancellor Adenauer's political adviser and director of the Political Department in the German Ministry of Foreign Affairs in Bonn.<sup>49</sup> Another Jewish-German communications channel operated through Robert Kempner, an American of Jewish extraction who had served as assistant chief counsel of the United States in the Nuremberg Trials.<sup>50</sup> Both Barou and Kempner discussed the subject of compensation at length with their German interlocutors, but no concrete results emerged.

Among officials at the IMFA it was widely assumed that the main – perhaps the only – thing that could move the FRG leadership to take a positive approach to the reparations claim, as well as other facets of the compensation issue, was a cold calculation of expediency. “What interest does Germany have to make such a gesture [in the compensation realm]?,” was the rhetorical question raised in Shabtai Rosenne’s office. The answer was: “Based on the reports we have heard and several other sources, we know the following three things: a) Germany’s intense desire to reenter the Family of Nations; b) profound recognition in the hearts of a good number of German leaders that the Hitlerite stain will be a hindrance [to this objective]; c) awareness among several German leaders of the [existence of] Jewish influence in a number of countries that could also hold up this process.”<sup>51</sup>

Indeed, when one examines Bonn’s foreign policy from September 1949, as outlined by Chancellor Adenauer, one can see that it rested on three prime objectives: attaining full independence for the FRG (i.e. ending HICOG’s oversight), transforming the FRG into an integral factor in the Western camp, and integrating Germany as an equal rights partner into the international community.<sup>52</sup> In Israel and in the Jewish world it was believed that in order to attain these ambitious objectives *rapidly and fully*, Bonn would need to regain the trust of the world’s nations, particularly those on the European continent. It would have to prove that a “new Germany” had arisen from the ruins of the Third Reich, one that had abandoned a modus operandi based on extreme racism, unrestrained aggression, and murderous cruelty. In this specific context, Bonn’s attitude toward the Jewish

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<sup>48</sup> Barou made about forty trips to the FRG in the course of 1950. Most if not all dealt with the compensation issue. Gilead, “The Reparations Agreement,” 88.

<sup>49</sup> Shafir, “Goldmann and Adenauer,” 67; Schwarz, *Konrad Adenauer*, 645.

<sup>50</sup> Vogel, *The German Path to Israel*, 26–27.

<sup>51</sup> ISA, MFA 2417/1, Summary of News and Conclusions Heard Regarding Israel-Germany Relations and the Action Necessary, August 1, 1950.

<sup>52</sup> Feldman, *The Special Relationship*, 50–51; Banchoff, *The German Problem Transformed*, 23–36.

people, who were in many senses the ultimate victims of Nazi evil, would serve as an important touchstone for judging the degree of change that had taken place in the German national psyche. As far back as July 6, 1949, the US High Commissioner in West Germany, John McCloy, had already made it clear that the world would keep a watchful eye on the new Western German state, and one of the standards by which it was to be judged was “its attitude toward the Jews and how it treats them.”<sup>53</sup>

However, a dramatic development in the international arena – the Korean War, which broke out in June 1950 – created an opportunity for Bonn to achieve its national objectives, particularly the first two, rapidly and fully without much need for a “Jewish litmus test.” The war in the Korean Peninsula was a product of the “Cold War.” This term came to refer to the ideological struggle between the totalitarian Communist bloc (“the East”), led by the Soviet Union, and the democratic Capitalist bloc (“the West”), led by the United States. Many locate the roots of the Cold War in the rise to power of the Bolsheviks in Russia in 1917, which made the democratic-capitalist West fear a global ideological communist takeover. Toward the close of the Second World War, and all the more so in the period that followed, the struggle between East and West intensified and the Cold War, so called because it was waged primarily on the political-economic-cultural plane, became more salient than ever.

Germany was transformed, unwillingly, into a central battlefield in this ideological struggle. Its division into two polities in the fall of 1949 was a byproduct of the polarized international arena, but at the same time a catalyst of the Cold War. From the perspective of the Western powers, the FRG held immense importance for a number of reasons: its strategic location in the heart of Europe on the seam between east and west; its expansive territory and huge population; its abundance in natural resources; its tremendous economic capacities, particularly in the industrial-technological realm; and its far-reaching military potential. It is therefore not surprising that immediately after the establishment of the FRG, the Western powers embarked on a political maneuver designed ultimately to integrate West Germany into the Western camp as an independent polity.

Thus, in late October 1949, the FRG became a member of the Organization for European Economic Co-operation. A month later, the three Western powers signed the Petersberg Agreement with Bonn, which laid the foundation for granting the FRG full independence.<sup>54</sup> Among other things, Bonn was allowed to conduct consular ties

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53 Schwartz, *America's Germany*, 176–177; Dochartaigh, *Germans and Jews*, 39.

54 Bark and Gress, *A History of West Germany*, 258–260.

with foreign countries and join international organizations.<sup>55</sup> On December 15, 1949 the FRG was included in the Marshall Plan – the US economic assistance plan in Western Europe – and on April 1, 1950, Bonn was invited to join the Council of Europe, a supra-continental political construct; it did so on July 1 of the same year.<sup>56</sup>

The Korean War considerably accelerated the processes of restoring independence to the Germans and integrating the FRG into the Western camp. This war made it clear to Western leaders that the Communists were willing to take military action to achieve their strategic goals. They believed that under certain circumstances Moscow and its satellites would try to replicate the Southeast Asian model and apply it to the European arena,<sup>57</sup> most likely on German turf first and foremost, as the epicenter of the East-West conflict on the continent. The conclusion the Western powers came to was that the Federal Republic of Germany needed to be strengthened politically, economically, and militarily by granting it full sovereignty and maximizing its integration into the Western camp so that the FRG could defend itself and contribute to the defense of the West as a whole.<sup>58</sup> This realization was accompanied by a long string of political steps taken by the US, Britain and France starting in the fall of 1950. One of the most important of these related to the greatest taboo of all regarding Germany – the question of its demilitarization. A central takeaway from the two world wars was that the formation of a large and armed German military force must not, under any circumstances, be allowed. Now, however, voices were beginning to emerge in the Western capitals in favor of a reexamination of the military issue (in the American military establishment this was already true in late 1949, marked by calls for a change in attitude).<sup>59</sup> There were those who proposed that a small German force be allowed to form; others recommended integrating German units within the framework of a Western European army. For the time being, the Western powers authorized Bonn to create a 12,000-strong force in uniform and allowed Chancellor Adenauer to establish a Ministry of Military Affairs.<sup>60</sup>

These developments with regard to Germany did not go unnoticed in the halls of the IMFA. Due to the outbreak of the Korean War and escalation in the Cold War, Israeli observers feared that the FRG would soon be deemed fully rehabilitated by

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55 The three Western powers rushed to propose to Bonn that it open German consulates in their capitals. Grosser, *Germany in Our Time*, 293.

56 Schumacher, "From Occupation to Alliance," 91.

57 Large, "Grand Illusions," 376.

58 Bark and Gress, *A History of West Germany*, 268; Banchoff, *The German Problem Transformed*, 28.

59 Jonas, *The United States and Germany*, 289.

60 Bark and Gress, *A History of West Germany*, 278–286.

the Western powers, without having had to make any gesture of compensation to the Jews.<sup>61</sup> IMFA officials believed the government in Jerusalem needed to act at once and open a dialogue on compensation with the authorities in Bonn and the HICOG before the FRG was completely absolved and reintegrated into the Family of Nations. In their estimation, Bonn would seek to take “the Jewish factor” into account, that is, it would take a favorable stance on the compensation issue in order to ensure its rapid rehabilitation process could go on uninterrupted, if not accelerate.<sup>62</sup>

As part of rehabilitation measures, in a meeting that took place in London in May 1950 the foreign ministers of the three Western powers decided to establish a committee that would prepare a proposal for revision of the occupation statute. The committee was asked to determine what powers in terms of managing internal and foreign affairs would be transferred from the HICOG to the government in Bonn; in other words, to what extent the independence of the FRG would be expanded.<sup>63</sup> The committee formulated its recommendations, and they were meant to be discussed in the next meeting of the three foreign ministers, scheduled to take place in New York in mid-September.

In the midst of deliberations on changes in the occupation statute, and in direct continuation of the rapid rehabilitation process, the three Western powers issued a dramatic announcement indicative of their intention to nullify the state of war existing between them and the Federal Republic of Germany. On October 24, 1950 they turned to Israel in a letter requesting that it join the initiative.<sup>64</sup>

Sharett brought the issue before the cabinet a week later, on October 30. He was worried about the ramifications that such a step would have on the compensation issue, and felt frustrated by the Israeli government’s lack of action on the matter.<sup>65</sup> “There is much resentment among the public,” he argued, “[who think] that we are missing the last hour [sic. opportunity . . .] to present Germany with

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<sup>61</sup> This fear existed prior to the outbreak of the Korean War as well, but much less intensely. DEPI, Vol. 5, Document 245, M. Sharett to E. Elath, May 21, 1950; CZA, S43/239, M. Rosenthal to L. Eshkol, June 21, 1950.

<sup>62</sup> ISA, MFA 2417/1, The Minister of Foreign Affairs to the Minister of Finance, July 2, 1950; ISA, MFA 1783/9, E. Livneh to the Ministry of Foreign Affairs, August 29, 1950; ISA, MFA 2413/2, W. Eytan to R. Dafni, September 18, 1950; DEPI, Vol. 5, Document 376, A. Eban to M. Sharett, September 8, 1950.

<sup>63</sup> ISA, MFA 1782/16, E. Livneh to the Ministry of Foreign Affairs, July 14, 1950.

<sup>64</sup> DEPI, Vol. 5, Document 423, Note by the British Legation, October 23, 1950.

<sup>65</sup> Officials in the Joint who conducted discussion in Israel on the compensation issue were witness to that inaction exhibited by the government. It was made clear to them that the Jewish Agency should deal with indemnification and restitution, while the government in Jerusalem “would refrain for the time being from any participation” in the issue of compensation. AJJDC, AR NY 45/54 Fie 1398, J. J. Jacobson to J. Schwarts, May 31, 1950.

a claim for compensation.” In the face of these developments, Prime Minister Ben-Gurion asked Sharett whether “a claim on the part of the Government of Israel regarding compensation from Germany had ever been submitted.” Sharett replied in the negative and when Ben-Gurion expressed his disappointment, he responded by saying that indeed the time had come to take a clear position on the issue at hand. In the same spirit, Minister of Justice Pinhas Rosen asserted that “unless the State of Israel enters the arena as a polity there will be no progress.” In saying this, Rosen expressed the position of his party – the Progressive Movement, which had begun to vigorously demand that the government openly and formally take the issue of material compensation into its own hands. This approach was understandable, considering that the Progressive Party had many members who were German and Austrian Jews.<sup>66</sup> The Prime Minister summed things up, saying that “it needs to be defined what our claims from Germany are and what our conditionals to Germany are,” stressing that this should be done “in the near future.” It seems that the Allied powers’ October 24 request made it plain to Ben-Gurion, Sharett and their colleagues just how fast the rehabilitation process was moving along. From the Israeli perspective, this meant ever-decreasing chances of filing a successful reparations claim, which emphasized the need for the government to take the bull by the horns, immediately and substantively.<sup>67</sup> As for the matter of terminating the “state of war,” the government decided “to authorize the Minister of Foreign Affairs to reply in the negative to the three powers’ request.”<sup>68</sup> This decision was foreseeable. An affirmative reply was liable to be interpreted as Israel’s reconciliation with West Germany’s rehabilitation before this polity had showed any readiness to fully satisfy the claims of Israel and the Jewish people in the compensation realm (including the new reparations claim). Besides, such a step would have aroused opposition and tremendous indignation among the public and in the political system.

Parallel to deliberations in the cabinet, the West European Division of the IMFA turned to certain Israeli diplomats who had experience dealing with German affairs to request their opinion on the recent developments, most crucially, the intention to terminate the state of war with the FRG.<sup>69</sup> Their responses reinforced the opinion

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<sup>66</sup> Bondy, *Felix*, 463–464.

<sup>67</sup> See in this context: Ben-Asher, *Israel – Foreign Relations*, 238.

<sup>68</sup> ISA, Meeting of the Cabinet, October 30, 1950, 17–24.

<sup>69</sup> DEPI, Vol. 5, Editorial Note, Consultations on the Matter of Germany, 609.

echoing in the halls of the IMFA from the beginning of the summer: that the road was paved for the FRG to gain full rehabilitation from the West.<sup>70</sup>

In light of this, all but one respondent reached the same conclusion: the developments in the German arena required Israel to immediately open contacts with the Bonn Government regarding compensation. Michael Amir, Israel's minister to the Benelux countries, asserted that continuing to boycott Germany was paramount to "continuing fighting a Don Quixote battle" that had no utility and could only lead to further losses.<sup>71</sup> The most assertive approach to direct contact with the FRG was presented by the consul Livneh.<sup>72</sup> This was, in fact, the first time since he had taken office that Livneh spoke out so unequivocally on the matter. In two letters to the IMFA from November 2<sup>73</sup> and November 9, 1950,<sup>74</sup> Livneh expressed his support for "taking serious [Israeli] diplomatic steps [toward the FRG]" in order to advance the compensation issue. In a subsequent letter from November 22, he asserted emphatically that "there are still opportunities [...] to receive [collective] compensation and [to get back] a substantial part of the property." Similar to the sentiments expressed by his colleagues in the IMFA, he must have meant that, fast as it was, the rehabilitation process was not yet complete and Bonn would still have to reckon with the "Jewish factor." In addition to that, there was a "stratum of Germans who genuinely recognize that it is Germany's duty to compensate the Jewish people." Such a state of affairs required Israel to arrive at "partial conciliation" with the FRG in order to promote the compensation agenda.<sup>75</sup> This was the most far-reaching proposal to be voiced up to this point by an Israeli official on the subject of breaking Israel's boycott of Germany.

In late November, Shabtai Rosenne submitted an extensive memorandum to the Minister of Foreign Affairs that set forth his outlook on the German question. In the first part of the memorandum, he dealt with the issue of compensation. With regard to indemnification, Rosenne recommended the government press for improvements to existing legislation in West Germany. As for reparations, he proposed that the government take it under its wing and, among other things, ensure that there would be a "thorough investigation of the positions of the Western

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<sup>70</sup> DEPI, Vol. 5, Document 440, S. Ginossar to G. Avner, November 2, 1950; ISA, MFA 2539/1, E. Ben-Horin to G. Avner, November 6, 1950; ISA, MFA 2539/1, M. Amir to the Ministry of Foreign Affairs, November 13, 1950.

<sup>71</sup> ISA, MFA 2539/1, M. Amir to the Ministry of Foreign Affairs, November 13, 1950.

<sup>72</sup> In keeping with this orientation, from late 1950 onward, Livneh and his staff at the consulate in Munich had carried out a host of unofficial contacts with German political figures. Chen, "Contact but no Established Relation," 42.

<sup>73</sup> ISA, MFA 1783/9, E. Livneh to G. Meron, November 2, 1950.

<sup>74</sup> ISA, MFA 1783/9, E. Livneh to the Ministry of Foreign Affairs, November 9, 1950.

<sup>75</sup> ISA, MFA 2539/1, E. Livneh to the Ministry of Foreign Affairs, November 22, 1950.

powers toward this claim." Finally, Rosenne touched on the Haavarah question. He argued that the government must take this matter into its own hands and warned that without a smoothly operating Haavarah system in place, transfer of compensation monies from Germany would be a lost cause. All of these suggestions, Rosenne clarified, required the Israeli government to make a decision in favor of direct contact with the Bonn Government, "even if this will require sending a delegation [...] to this government."

In the second part of the memorandum, Rosenne dealt with the issue of ending the "state of war" with West Germany. Making any kind of decision on this matter, in his mind, required first answering a fundamental question: had Israel been in a state of war with the Third Reich and was it, as a result, currently in a state of war with the FRG? Rosenne argued that it had not, and was not. The State of Israel did not exist at the time of the Second World War, and therefore it certainly could not have been in a state of war with Nazi Germany. Furthermore, Mandatory Palestine had not been in a state of war with Germany from a legal standpoint (even though Britain, the mandatory power, had), and even if it had been, the Government of Israel was not the legal heir of the mandatory government. Despite this clear conclusion, Rosenne recommended not making any public declaration on the matter, since it ran "counter to Israel's interests."<sup>76</sup>

Rosenne, and other IMFA officials who held the same view, did not clarify why such a declaration ran counter to Israeli interests; however, we can logically surmise two possible arguments underlying it. First, Israel could have employed its ostensible "state of war" with the FRG as a political bargaining chip. It could have made cancellation of the state of war hinge on progress the Bonn government made with regard to the compensation issue. Secondly, as already noted, Boris Guriel, the director of the IMFA's Political Division, proposed basing Israel's status as the representative of the Jewish people in the reparations claim on the premise that an *Israeli* entity had taken part in the military campaign waged by the Allies against Nazi Germany by virtue of the participation of the Jewish Brigade in the war. This position won support within the IMFA, and found its way into the letter Jerusalem submitted to the four major powers in March 1951 claiming reparations.<sup>77</sup> Consequently, if Israel were to announce that it had not been in a state of war with the Third Reich, it would cancel out this argument.

In early December, Rosenne held a discussion with director-general of the IMFA, Walter Eytan, and other senior officials in the Ministry about a fitting Israeli

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76 ISA, MFA 1808/12, S. Rosenne to the Minister of Foreign Affairs, November 30, 1950.

77 AIG, Document 5, Israel note of 12 March 1951 to the Four Occupying Powers Concerning Reparations.

response to the three powers' proposal to terminate the state of war with the FRG. On the face of it, it is unclear why this meeting took place, since the government had already decided to give the powers a negative response. It would seem that the IMFA wanted the government to convene for an additional deliberation where it would present other possible responses. These consisted of the following four options raised during the IMFA meeting: 1. to refrain from answering; 2. an official answer in which Israel would respond in the negative; 3. an official answer in which a host of topics relevant to the compensation issue – restitution, indemnification, reparations, an Haavara agreement, and amendments in the occupation statute regarding compensation – would be raised; 4. an answer combining options 2 and 3.<sup>78</sup> The proposals were sent to Sharett and he replied that he thought the second option most appropriate, adding that it should also contain a statement about Israel's intention to present a detailed memorandum on the issue of material compensation in the very near future.<sup>79</sup>

The topic was reopened for discussion at a meeting of IMFA division heads, where the general opinion was that it would be best to send a letter on the compensation issue and call it a day. With regard to the Western powers' query, there was broad consensus that Israel should avoid giving a clear answer, or even any answer at all.<sup>80</sup> One can understand why a positive answer was out of the question: it had already been rejected by the government during its October 30 meeting. As reasoned above, it was likewise advisable to refrain from publicly declaring that Israel was not in a state of war with West Germany. However, it is not entirely clear why Israel could not reply to the powers' letter in the negative (as approved by the government on October 30). The documents offer no definitive explanation on the matter, and one can only conjecture two main possible reasons. For one, giving a negative response was liable to arouse antagonism toward Israel among the Western powers, and certainly in West Germany, making it all the more difficult in the future to convince them to accept the merits of Israel's compensation claim. Secondly, an official negative response was sure to echo down the halls of government in the Western capitals. It was not inconceivable that, as a result, officials, particularly jurists, would seek to examine more closely whether the Jewish polity had indeed been in a state of war with Nazi Germany (and as a consequence, was now in a state of war with the FRG). Should they come to a negative conclusion, it could place the government in Jerusalem in an

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<sup>78</sup> DEPI, Vol. 5, Document 497, W. Eytan and S. Rosenne to M. Sharett, December 8, 1950.

<sup>79</sup> ISA, MFA 2203/2, M. Sharett to W. Eytan, December 11, 1950.

<sup>80</sup> ISA, MFA 344/15, S. Rosenne to Y. Robinson, December 13, 1950.

awkward diplomatic situation since an Israeli negative response would imply otherwise.<sup>81</sup>

On December 17, Walter Eytan turned in to the cabinet secretary a letter asking that the “problem of relations with Germany” be raised on the agenda of the next meeting of the cabinet. The IMFA requested to present in this meeting its position regarding the Western powers’ query. It included five options for a response:

1. Not to answer at all.
2. To reply that we have taken note of missive’s content.
3. To reply that in essence we were in a state of war with Germany, and we cannot align ourselves with the position submitted in the three powers’ letter.
4. To bundle in one letter our reply according to 2 or 3, and also reiteration of our claims against Germany in the field of restitution, reparations, indemnification, and the Haavara.
5. Two separate letters; one [containing] an answer according to 2 or 3, [and] the second presenting our claims [in the material compensation realm].

Eytan updated the cabinet secretary that Sharett recommended option 5, where the answer to the Western powers would follow option 2. Thus, Sharett ended up siding with those who felt Israel should avoid giving a concrete answer on the “state of war.” As for compensation, the IMFA sought to bring to the attention of the government that “all parties handling the issue agree that real progress on this matter can only be achieved if the Government of Israel enters into direct negotiations not only with the occupying powers in Germany but also with the German authorities.” The Ministry proposed to dispatch “a special permanent delegation to Germany” for this purpose.<sup>82</sup>

One should keep in mind that although the IMFA talked about sending a delegation to “Germany,” in practice, they meant West Germany only. As already noted, Berlin and its patron in Moscow rejected any move that would amount to granting compensation to the Jewish people, be it personal, collective, or restitution of property.

The German issue was raised on the government’s agenda on December 27. The timing for the IMFA to present its proposal for direct Israeli-German negotiations on the matter of compensation could hardly have been less convenient. The

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<sup>81</sup> Gershon Meron, director of the Economic Division in the Ministry of Foreign Affairs, was in the minority. He believed that the Jewish community of Mandatory Palestine had been in a state of war with Nazi Germany and had passed this legal status on to the State of Israel. In his opinion, Israel could not make progress on the issue of compensation from the FRG, especially not reparations, without declaring that it was a belligerent side in the Allied camp. ISA, MFA 1782/16, G. Meron to the Minister of Foreign Affairs and the Director-General, December 10, 1950.

<sup>82</sup> ISA, MFA 2417/1, Director-General of the Ministry of Foreign Affairs to the Cabinet Secretary, December 17, 1950.

stauncest advocates of the move – Ministers Sharett, Kaplan and Rosen – were not present at the meeting (the first was in the United States and the others were absent due to health issues). Director-general Eytan presented the Ministry's position, focusing on the compensation issue and refraining from addressing the question about the state of war with Germany. Eytan informed his audience that, beyond sending a letter of response to the Western powers, the IMFA was proposing “the bold step of dispatching an official Israeli delegation to [West] Germany in order to conduct negotiations on compensation.” From his remarks, it could clearly be discerned that the intention was, among others, to open a direct dialog with the Bonn government. Any other way – that is, though intermediaries – would not take the issue forward, he asserted. Eytan warned the ministers that the ever-accelerating rehabilitation of the Federal Republic required immediate action. He was aware of the political difficulty entailed in direct Israeli-German contact: “I understand that one of the factors, perhaps the primary factor, holding us back, is apprehension of public opinion inside the country in particular, and among the Jewish people in general.” It seemed to him that this obstacle could be overcome if it were made clear “that there is an opportunity here to get what is coming to us, what all of Hitler’s victims deserve,” and that “there is no question here of ostensibly recognizing the German government or anything of that kind.”

Eytan’s overview was followed by a discussion among the cabinet members. The ministers were unconvinced by the arguments presented to them and remained fervently attached to the boycott concept that negated any contact with the Germans. Minister of Welfare Yitzhak Meir Levin (the only member of the Israeli cabinet who was an Holocaust survivor) presented the most vehement opposition. He insisted that option 3 in Eytan’s letter to the cabinet secretary be adopted, and that Israel announce before the whole world “that we are in a state of war with Germany” and then demand “to receive compensation as a belligerent side.” The suggestion, it would appear, made quite the impression on Prime Minister Ben-Gurion. “I propose,” he said “to assert [here and now] politically, officially and juridically, that a state of war exists between us and the two Germanies. Let the matter be settled from a legal perspective.” Based on the new legal-political reality that would thus be created, continued Ben-Gurion, it would be possible to enforce the boycott more effectively. Henceforth, for instance, Israeli citizens who travelled to either part of Germany would be punished by law. As for compensation, Israel would approach a third party – one of the European nations – to procure it from Germany.

It is unclear why Ben-Gurion would take Levin’s outlandish idea to heart. He had to have known that such a dramatic declaration six years after the close of the war, with the Western powers proposing to *end* the state of war with the FRG, would badly complicate things for Israel in the international arena, particularly in terms of its relations with the Western powers, and seal the fate of the compensation issue.

One can only surmise that the Prime Minister wanted to shock his audience – his colleagues at the helm who were unwilling to yield on the boycott question and, in doing so, were narrowing the chances of extracting material compensation from the Germans. Perhaps Ben-Gurion hoped that by ramping up the antagonistic atmosphere to the extreme he could bring his ministers to their senses and thereby make them susceptible to adopt a more conciliatory, flexible, and creative way of thinking with regard to Germany and the compensation issue.

Their response was, indeed, one of bewilderment. One of the ministers said the world would not understand why “we’ve suddenly woken up and are declaring war in such a manner.” In his opinion, the Prime Minister could simply say no to the Western powers’ proposal. Ben-Gurion decided at this stage to moderate his approach and announced that he endorsed his colleague’s suggestion. Eytan, taken aback by the Prime Minister’s “war initiative,” quickly gave blessings to the compromise suggestion, thus abandoning the IMFA’s position that Israel should avoid giving a concrete answer to the powers’ letter. Compared with Ben-Gurion’s initial “proposition,” this was the lesser of two evils. As for the dispatch of a delegation to Bonn, as result of the sweeping opposition in the cabinet to direct contact with the Germans, Eytan was forced to voice his acceptance of the terms stipulated by two of the ministers that such a delegation would negotiate matters of compensation with the Western powers only. At the close of Eytan’s remarks, the government moved to continue the discussion and make a decision in the next cabinet meeting.<sup>83</sup>

Eytan left the meeting disappointed and worried, particularly in the face of Ben-Gurion’s preposterous “war initiative.” He feared that the Prime Minister might pull an ambush by deciding to raise this suggestion again in the next cabinet meeting. Troubled by this apprehension, he rushed to wire telegrams to Yaakov Robinson and Shabtai Rosenne, who were abroad at the time, in order to share his feelings with them and ask for their advice. “I consider such a declaration pointless and harmful, both politically and practically speaking,” he wrote.<sup>84</sup> He asked for their opinions on the “war initiative” from a legal and diplomatic perspective, as well as on its possible impact on the various compensation claims, including reparations.<sup>85</sup> The replies of the two officials did not take long to arrive. They were also joined by a response from Abba Eban, Israel’s permanent representative at the United Nations and ambassador to the United States, who had gotten wind of the matter from Robinson. As could be expected, the three rejected Ben-Gurion’s initiative hands down. Eban pointed out the destructive ramifications for Israel’s relations with the two

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<sup>83</sup> ISA, Meeting of the Cabinet, December 27, 1950, 2–23.

<sup>84</sup> DEPI, Vol. 5, Document 522, W. Eytan to S. Rosenne and Y. Robinson, December 28, 1950.

<sup>85</sup> ISA, MFA 2377/1, W. Eytan to S. Rosenne and Y. Robinson, December 28, 1950.

Germanies (in all likelihood, he meant vis-à-vis the compensation issue).<sup>86</sup> Robinson argued that declaring war at this time was anachronistic, and would not benefit Israel; rather, it only stood to complicate the young state's relations with the major powers and the United Nations.<sup>87</sup> A highly detailed reply arrived from Shabtai Rose-nne's office. His assistant Eli Nathan wrote a memorandum in which he clearly stated that declaration of war on Germany would have devastating results in every possible respect, first and foremost with regard to the compensation issue, including the question of reparations.<sup>88</sup>

On January 3, 1951 the government renewed its discussion. Foreign Minister Sharett was still abroad and the Ministry's position was once again presented by the director-general Eytan. It was proposed to dispatch a delegation to the FRG that would only be in contact with the Western High Commissioners. As for Ben-Gurion's proposal to declare war on Germany, Eytan clarified that in the expert opinion of various jurists, such an act would cause severe damage to Israel. The Prime Minister rushed to intervene, saying that the Attorney General also ex-pressed objection to the proposal. Thus, the only option left on the table was to give the three Western powers a negative response.

Once Eytan had come to the end of his remarks, deliberations ensued on the question of the delegation. At this point, ministers Kaplan and Rosen, who were taking part in the meeting, sought to "steamroll" their colleagues into adopting the IMFA'S position. They warned that huge sums of money would be lost if no action was taken on the issue of compensation. In Kaplan's opinion, it would be preferable to adopt the IMFA's original proposal to open direct contacts with the Germans. The pressure applied by the two was to no avail. The majority of the cabinet members had serious reservations regarding the idea of sending an Israeli delegation to West Germany, even if its mandate were limited to negotiations with the High Commissioners. Some of the ministers raised alternative ideas for possible action. Minister of Labor Golda Meir suggested (in the spirit of the IMFA's proposal) submitting a letter to each of the three Western powers, as well as to the USSR, laying out the claim to compensation from the two Germanies.<sup>89</sup> After lengthy discussions, the cabinet decided to support this proposal.<sup>90</sup>

The IMFA felt deeply frustrated by the government's choice. The two courses of action they had proposed – sending a delegation to the FRG to establish contacts

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<sup>86</sup> DEPI, Vol. 5, Document 522, Note 3.

<sup>87</sup> ISA, MFA 2329/10, A. Lourie to W. Eytan, December 31, 1950.

<sup>88</sup> ISA, MFA 1808/11, E. Nathan to W. Eytan, December 31, 1950.

<sup>89</sup> She had spoken of this idea in general terms in the previous meeting of the cabinet. ISA, Meet-ing of the Cabinet, December 27, 1950, 17–18.

<sup>90</sup> ISA, Meeting of the Cabinet, January 3, 1951, 2–15.

with the Bonn government or at least with the High Commissioners and refraining from giving a concrete answer to the powers' "state of war" letter – had been rejected. Most of the ministers supported maintaining a firm stance on the boycott principle, some on solidly ideological grounds, others due to political considerations. The latter were mainly members of Ben-Gurion's Mapai Party.<sup>91</sup> The coalition government led by Mapai had encountered a host of political crises in recent months.<sup>92</sup> Under such circumstances, Mapai's ministers were not interested in another uproar – this time regarding the German question – that was liable to shake the already rickety foundations of the coalition and jeopardize its chances of survival. It is worth noting the fact that even Ben-Gurion – a firm supporter of direct contact with the Germans on the compensation issue – refrained from imposing his position on the government in such a complex political situation.

Among senior officials in the IMFA there was much skepticism as to whether Israel had the ability to extract compensation from Bonn based on the line of action approved by the government. In the context of an escalating Cold War, it was hard to image that the Western powers would press West Germany, their potential ally, to make such a gesture to the Jews. "If indeed we are interested in ensuring that our claims [in the compensation realm] are satisfied," asserted one of the Ministry's officials, there is no alternative but "to dispatch a delegation that will have the power to establish direct contacts with the German government from the outset."<sup>93</sup>

The sense of frustration and disappointment within the halls of the IMFA was understandable, but a broader and deeper look demonstrates that, objectively speaking, the Israeli government had come a long way since the summer of 1949 on the issue of compensation from Germany. From a situation wherein the government was at best a secondary – almost a marginal – actor assisting other entities (the Jewish Agency, the JRSO, survivor organizations and private survivors) in their efforts to obtain material compensation, the two resolutions adopted at the beginning of 1950 and at the outset of 1951 transformed it into a party seeking to be at the center of the process. The markers of this transformation – taking initiatives, readiness to lead the campaign to extract compensation, and even establishing direct contact with the Germans (the Mendelsohn mission) – may have been hesitant, sporadic and restrained in the course of 1950; however, they were destined to emerge in full force the following year.

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<sup>91</sup> Hebrew acronym for "Land of Israel Worker's Party." A left-wing Labor Zionist party which was founded in 1930.

<sup>92</sup> Korn and Shapira, *Coalition Politics in Israel*, 241–243.

<sup>93</sup> DEPI, Vol. 6, Document 3, Y. Tekoah to W. Eytan, January 4, 1951.

Jerusalem, 16th January, 1950

To : Executive of the Jewish Agency for Palestine  
From: S. Adler-Rudel

RE: Restitution of Jewish Property and  
Reparations for the Jewish People.

The following notes are intended to initiate and facilitate discussions in respect of reconsideration of the two problems:

Restitution of individual and communal property to the surviving Jews in the countries of residence;

Reparation for the Jewish people.

1. The 18 countries (excluding the Soviet Union) occupied before and during the War by Germany, had in the year 1939 a Jewish population of over 6,000,000. In 1949 the number of Jews in these countries was about 1,200,000 which indicates that an average of only 20% of the Jews survived the War.
2. The value of Jewish property in the 18 countries amounted, according to a study of Dr. Nehemia Robinson, to between 8,230 and 8,620 million dollars. This figure was also accepted by Dr. Bernard Joseph in his memorandum on Reparations submitted to the Jewish Agency on the 27th April, 1945. A similar amount - 2 billion pounds - was mentioned by Prof. Weizman in his letter regarding reparations due to the Jewish people to the Foreign Office in London and other Governments, on the 20th September 1945.
3. All countries in question recognized the principle of restitution of confiscated and robbed Jewish property to the surviving owners. Legal proceedings by the surviving Jews claiming restitution have been concluded for a number of years now, and considerable amounts - especially in Western Europe but also in the Eastern countries - have been restituted. For the sake of argument it is assumed here that the value of restituted property may be equal to the percentage of Jews who survived in the countries in question. This would indicate that about 20% of the value of Jewish property has been returned to the previous owners.
4. If we accept a round figure of only 8,000 million dollars as the value of the Jewish property in 1939 and deduct from it 20% as being restituted, there remains an open balance of 6,400 million dollars.
5. Of the 18 countries in question, 9 have no provision in respect of the restitution of "heirless property" which means that the Governments of these countries became the heirs of the murdered Jews. 5 countries have some vague provisions that unclaimed Jewish property should be used for the rehabilitation of the surviving Jews in their countries. Only one country - Germany - has enacted laws in respect of unclaimed property for the benefit of Nazi victims living outside Germany.

Figure 2.1: Shalom Adler-Rudel's memorandum. January 16, 1950 (first page). (ISA, MFA 2417/1).