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*restitutions et réparations en Italie (1944-2017)*

*לא להתעמת עם העבר: לשאלת השילומים והפיצויים באיטליה (1944-2017)*

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# Not Facing the Past: Restitutions and Reparations in Italy (1944-2017)

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- 1 In November 1950, a memorandum of the Union of Italian Jewish Communities, the central organization representing Italian Jews, bitterly noted that “while the restoration of Jewish rights has been fully achieved from a social and political standpoint, it has been totally inequitable from a financial one, especially in contrast to the treatment of those removed from their posts for Fascist ties and later reinstated, who have been paid their entire salaries for the time they were out of service. It is obvious that the mental and financial hardship visited on the victims of racial persecution are not comparable to that of expelled Fascists!!!”<sup>1</sup>
- 2 This document captures a paradoxical situation, in which certain measures passed in the post-war period to accommodate former collaborators with the Mussolini regime were more generous than those on behalf of people who had suffered seven long years of persecution. Italian Jews as well found the return to normal life to be a rocky and wearisome path.<sup>2</sup> For them, the psychological need to put the past to rest was combined with a desire to rapidly find their place within the newly founded Republic; for the new democratic institutions, a definite underestimation of the specific nature and consequences of Fascism’s antisemitic campaign was joined to an unwillingness to fully face one of the most tragic chapters in the regime’s history, that of racial persecution, tending to shift all responsibility to the country’s Nazi allies. This narrative of the “bad German” versus the “good Italian”,<sup>3</sup> which took shape just after the war, would enjoy long-lasting popularity, to the point that even today it is a widespread theme of public discourse about Jewish persecution.<sup>4</sup>

- 3 The pages that follow attempt to provide a rapid and partial reconstruction of some measures of restitution and reparation adopted by the first post-Fascist administrations on behalf of Jews.<sup>5</sup> These measures reached their peak in 1945-1947 and had a final addendum in 1955, with the passage of a law still in force, that awarded former victims of persecution some compensation for their suffering in the form of a life pension. In 1955 the most significant measures on behalf of Jews came to an end, and as the above memorandum pointed out, they could be deemed vastly insufficient.
- 4 In the Nineties, the period of antisemitic persecution came back into the political spotlight even in Italy, as part of a new wave of international attention focused on the consequences of the Shoah from a financial standpoint as well, due to the phenomenon of the Holocaust litigations. Nevertheless, as we shall see, the Italian response was once again characterized by resistance, reticence and silence.

## Restitution, compensation

- 5 While the confiscation of Jewish property was carried out over a relatively short span of time (in most cases, the most extensive expropriations were in 1943-45), for former victims of racial persecution the process of recovering their property turned out to be complex and riddled with contradictions. The restitution process began on October 5, 1944, with the entrance into force of a decree that repealed the primary anti-Jewish measures affecting assets passed by the Fascist government. Nevertheless—an initial paradox—it did not shut down the Agency of Property Management and Liquidation (EGELI), founded by the regime in the winter of 1939 to administrate and sell real estate confiscated from the Jews, and it was to this bureau that victims would have to apply for the restitution of property still in the agency's possession. On June 5, 1946 these measures were rounded out by the decree "Claims on property seized, confiscated, or otherwise taken from those persecuted for racial motives under the regime of the self-styled government of the Social Republic", which became the main text governing restitutions. It established that "the owners of assets [moveable property or real estate] that had been subject to seizure, confiscation or other acts to the detriment of individuals who declared themselves or were considered to be of the Jewish race, or their heirs, could claim their property from anyone in possession or custody of it". Nevertheless, when the Jewish property managed by the EGELI had been sold during the period of persecution, the decree limited the victims' concrete ability to reclaim it, since the foregoing was to be "without prejudice to the rights acquired by third parties in cases where the law allows the purchase to be considered legitimate since it was made in good faith". It therefore fell to the Jews themselves to prove the bad faith of the buyers through drawn-out and chancy lawsuits. This provision—radically different from the analogous French and Swiss law—ignored a proposal made by former victims two years earlier. At the end of 1944, the Minister of Justice, Umberto Tupini of the Christian Democrats, had received many requests to make it "possible to reclaim moveable property and financial assets from any third-party buyer, whether in good or bad faith".<sup>7</sup> Even then the Minister had been opposed to this request, observing that it would undermine "a traditional principle central to all modern systems of law," the fact that a purchase in good faith "erases all irregularity".
- 6 "An exception in this regard," Tupini went on to say, "would compromise the speed and security of transactions, a speed and security that are the heart and soul of

commerce”.<sup>8</sup>The Minister’s words seem to overlook or in any case underestimate the fact that what had happened to the property of Jews in previous years had already grossly undermined “a traditional principle central to all modern systems of law”. The negation of property rights that had befallen the Jews under Fascist law was probably a circumstance that would justify legislation in the post-war period that deviated somewhat from “traditional principles”. But the new democratic government, with the provisions contained in the decree of May 1946, had in essence chosen to favor the rights of those who had profited from persecution over those of the victims.

- 7 The laws on restitution contained other contradictions, however: according to an article of the aforementioned decree of 1946, former victims were to refund the EGELI, that is, the state, for what the agency had spent during the period of persecution to administrate the confiscated property; the Jewish owners were to be charged “in addition to expenses for the normal management and preservation of the assets, for all expenses regarding their management, maintenance and repair, as well as fees due to the property managers entrusted with it during the period of confiscation”. One ought to point out that the Italian law not only charged Jews for the cost of managing the property that had been expropriated from them, but did not envision any form of investigation into how EGELI or its managers had actually administered the property placed under their control in the period from 1939 to 1945. In contrast, French legislation called for all “confiscators, managers, temporary administrators or liquidators” of Jewish assets to give a detailed accounting of their management, and no form of retribution—which in any case would come from the state and not the victims—would be paid if they failed to demonstrate that they had cared for it with the proper diligence of a “*bon père de famille*”.<sup>9</sup>
- 8 As one might expect, the EGELI’s demand for payment met with protest from former victims. As one wrote in a letter addressed to the agency officials in 1947:
- You now nonchalantly [...] refer to [the Social Republic] as a ‘self-styled government’, yet you served it faithfully as the enforcers and perpetrators of all the abuses dreamed up by the Nazis and Fascists to persecute people for their race. [...] And now, after more than 21 months, you summarily present us with a TOTAL bill of over twice the sum obtained with such effort: ethical questions aside, it would be unacceptable to have victims of persecution pay the expenses for a form of management that was conceived by their tormentors to do them injury, seizing the property of those destined for the gas chambers. We would like to point out that we never appointed you to be our guardians.<sup>10</sup>
- 9 Even the wording used in the demands for payment that the victims received by was paradoxical. The EGELI wrote: “you are invited to pay the sum [...] due as a result of *the management of property prejudicially confiscated from you*”. For many Jews the new democratic state did not appear substantially different from the previous one, at least not in terms of the Kafkaesque mechanisms of its bureaucracy, which seemed characterized by the abuse of power just as it had been in the period of persecution. Backed by the Union of Italian Jewish Communities, which explicitly advised against paying such expenses, in most cases the victims did not comply with the requests for payment, even when, in 1951, the EGELI offered a 50% reduction of the sums it was demanding. In 1956 the EGELI reissued these payment requests to the Jews to prevent them from becoming null and void, since the ten-year statute of limitations set by the decree of May 1946 was coming to an end.

10 This matter was finally put to rest only starting in 1957, when the official dismantlement of the bureau began. In May of 1958, a memo from the Ministry of the Treasury recommended rescinding, due in part to “ethical, legal and financial” considerations, the demands for reimbursement that EGELI had previously issued in view of the upcoming “expiry of the statute of limitations (December 24, 1958)”, and absorbing “the assets of Jewish origin [not yet claimed and still in the agency’s possession] as a fair recompense settling the case”. In January 1960 the *Avvocatura dello Stato* (the office responsible for defending the government in lawsuits) expressed itself as follows, putting an end to the question of unclaimed Jewish goods still in the custody of the treasury:

In conclusion, it is our view that since over ten years have elapsed since June 5, 1946, the date on which decree no 393 of May 5, 1946 entered into force, the state has acquired ownership of the confiscated property, and is moreover freed of the obligation to pay back the price of sale and any revenue from the three-year period preceding the claim. The state may therefore do as it sees fit with the aforementioned property.<sup>11</sup>

11 Realizable assets such as bonds, stocks and objects of value were therefore absorbed by the state over the course of the Sixties; they had belonged to 23 victims of persecution, 19 of whom died as deportees. The remaining assets, comprising stocks, bonds and objects “no longer of any value” were instead destroyed in April 1970: burned in the fireplace of the Liquidation Office at the Ministry of the Treasury.

12 The restitution of assets was only one of the policies meant to make amends for the wrongs suffered by Italian Jews under persecution. One must also consider the initiatives that the new republic undertook regarding reparations for the former victims, to offer some ethical remedy as well for the suffering they had endured. It took ten years after the end of the conflict for a law to be issued in March 1955, “Compensation for victims of political and racial persecution and their surviving relatives”, also known as the “Terracini Law”, after Communist senator and well-known anti-Fascist activist Umberto Terracini (himself of Jewish origin), who introduced it. Given the long period that had passed since the end of the war, the law’s approval and the compensation that was issued (starting in the winter of 1957) was more a symbolic acknowledgment — however significant — than a concrete means of support for those who had suffered the racial violence of the Fascist period. The bill had also had a long, difficult journey;<sup>12</sup> introduced back in January 1952, it was approved only two years later—in the right-wing dominated political scenario brought about by the general elections of 1953—and only after the Parliament had approved a measure granting a pension even to veterans who had served in the collaborationist army of the Italian Social Republic.

13 The Terracini Law allowed for Jews who were recognized by a special ministerial commission to be “victims of racial persecution” to be granted a life pension for the suffering they had endured. Nevertheless, this was only if certain conditions were met: the victims had a right to compensation only if, as a result of concrete anti-Fascist activities, they had incurred a considerable impairment (at least 30%) of their ability to work, or if this disability was the result of imprisonment, exile, or “violence and torture”. Moreover, everything that happened to the Jews after September 8, 1943—the most tragic period, linked to the stage of mass deportation—was not taken into consideration. The law therefore offered no compensation to Jews for their persecution as Jews, granting it only to Jews who had played a role in the struggle against Fascism:

as in France, the new Republic was founded on the legend of the Resistance, hence resistance fighters were the primary focus of the new state.

- 14 The rigid outlook of the ministerial commission tasked with examining applications—which led to more than one bitterly paradoxical episode—<sup>13</sup> was such that as of 1998, only 553<sup>14</sup> Jews had obtained compensation, a slim number compared to the thousands who had undergone persecution. Over the years its attitude led many former victims to turn to the courts to have their right to a pension acknowledged. As we will see, it was only in the Nineties, more than forty years after the Terracini Law was passed, that several decisions of the Corte dei Conti (Court of Auditors) helped alter the commission’s behavior.

## The turning point in the Nineties: a missed opportunity?

### The experience of the Anselmi Commission

- 15 In December 1998 the “Commission to Reconstruct Events Related to the Acquisition of Property from Jewish Citizens by Public and Private Bodies in Italy” was founded. <sup>15</sup>Known as the “Anselmi Commission” after the senator who chaired it, Tina Anselmi, this commission reflected a phenomenon not limited to Italy: between 1996 and 2001, over twenty government commissions were set up around Europe in order to investigate the extent and consequences of expropriations from Holocaust victims.<sup>16</sup>
- 16 However, compared to other similar commissions in Europe, the Anselmi Commission had a series of inherent weaknesses. For example, it included very few historians: only three out of its thirteen official members, most of whom came from the upper echelons of the ministerial bureaucracy or from insurance or banking associations. These were people unfamiliar with the tasks of a historian, who in the end did not concretely contribute to the research or to drafting the report that the commission produced at the end of its investigation. Although over the months the number of researchers was expanded to reach a final total of 15 scholars, the contrast with similar European commissions remains particularly striking, given that in France the *Mission d’étude sur la spoliation des Juifs de France* could rely on the work of 149 researchers,<sup>17</sup> and in Austria the *Historikerkommission der Republik Österreich* on no fewer than 160.<sup>18</sup>
- 17 The time that the Anselmi Commission was initially granted to carry out its task, six months, also contrasted sharply with decisions made elsewhere in Europe—the Austrian and Swiss commissions were allotted five years, while the French one was given four. The Italian government therefore seemed to show a certain obliviousness to the complexity of the investigation that the commission was called upon to carry out, an investigation hampered by the total absence of specific studies on the topic. Although the Nineties brought a new wave of Italian historiography regarding the period of Fascist antisemitism<sup>19</sup> and led to a reassessment of many paradigms of interpretation that had been widespread up to then, at the end of 1998, research into the financial consequences of Fascist persecution lacked all footholds of reference. Considering this, it would have been wiser to grant a more appropriate and reasonable time span from the outset (the commission was later given two extensions while work was underway, meaning that it was active for a total of about 24 months). One must also wonder whether the timeframe initially assigned betrayed the biased belief that

the events that the commission was to reconstruct would be of limited scope, given the popular opinion—deeply rooted at the time—that considered Fascism’s antisemitic legislation to have been mild, and applied by the regime and its bureaucracy without much zeal or conviction, especially in financial matters.

- 18 But aside from the resources and time allocated to carrying out the investigations, I believe other aspects were even more significant. The decree establishing the commission merits special attention itself due to the phrases that the Italian government chose to employ, or rather, chose not to employ. It was a brief text composed of only two articles, the first of which outlined the scope of the commission’s task, and due to its wording, ended up reflecting a certain view of the events linked to Fascist persecution of the Jews:

A commission is hereby established at the Presidency of the Council of Ministers for the task of reconstructing events in Italy related to the acquisition by public and private concerns of property belonging to Jewish citizens. [...] the commission — which will interact with similar bodies in other countries — will consult the public archives, and, making the necessary arrangements, the archives of private institutions.<sup>20</sup>

- 19 The directive seemed both broad and vague: the commission had “the task of reconstructing events in Italy related to the acquisition by public and private concerns of property belonging to Jewish citizens”, this was, essentially, a repetition of the official name assigned to it. The commission was not explicitly tasked with investigating what happened after the expropriations, i.e., the period of post-war restitutions (although in practice, it did attempt to carry out inquiries in this regard), as if the end of the war and the racial laws had automatically settled every question opened up by the period of persecution.
- 20 But what is especially striking is the lack of any reference to the specific historical context in which the events at the center of the investigation had taken place: the word “Fascism” appears nowhere in the text, nor do the phrases “Italian Social Republic” or “antisemitic persecution”. No political or historical reflection emerges regarding those events or the period in which “the acquisition by public and private concerns of property belonging to Jewish citizens” took place. As a result, the directive given to the commission by the executive branch did not contain even the subtlest trace of the Italian government’s desire to achieve any historical, political, or moral clarity through the study.<sup>21</sup> Nor could one see any acceptance of responsibility towards the victims of antisemitism, or a commitment to redress any wrongs that might be found to still deserve some compensation or reparation, to make up for all the limitations and contradictions that—as we have seen—characterized the post-war restitution laws.
- 21 The Italian text is therefore a neutral, fundamentally reticent one, in which “the acquisition by public and private concerns of property belonging to Jewish citizens” might just as well have taken place in the Middle Ages or in the 1970s. Who was responsible for this “acquisition”, in what context and in the name of what policies or ideologies, was not stated. The sources do not make it possible to investigate the motivations behind this wording of the decree, or to identify who actually drafted it. What is certain is that outlined in this way, the government’s directive seemed to hover in a sort of atemporal and ahistorical vacuum.
- 22 One ought to emphasize that despite the aforementioned limitations on its time and resources, the Anselmi Commission carried out a careful and extensive investigation,

often going well beyond the task assigned to it. But above all, the results of that inquiry, later condensed into a *General Report* some 600 pages long, can leave few doubts about the pervasiveness of the financial persecution under Fascism, the discriminatory measures introduced, or the zeal of the bureaucracy that diligently applied them from 1938 to 1945. The Commission's work thus showed how the bureaucratization of genocide, visible even in the stage of financial persecution of the Jews (a stage that throughout Europe had preceded or accompanied the phase of deportation), was a phenomenon that applied to Italy as well.

- 23 The *General Report* was presented to the government in the early days of May 2001. During the press conference, Giuliano Amato, the new prime minister, seemed quite struck by the extent of the spoliation visited on the Jews. However, in addition to expressing surprise at the results of the Amato Commission's investigations, Amato made observations that, in keeping with widespread popular opinion, tended to circumscribe Italy's responsibilities, making reference to the innate disposition and inherent goodness of its people: "A mild-mannered nation that was not racist, and indeed responded to the racial laws with incredulity, soiled its hands in the end with a foul crime". And it was "Evil, in the biblical sense", the prime minister went on to say, that had spread "to devastating effect through a country that was not itself prone to racist outlooks". On an official, important public occasion like the presentation of a study that for the first time spelled out the effects of Fascist persecution in black and white, with dates and figures, one of the country's highest officials chose the uncomplicated, comforting concept of metahistorical "evil" as the main interpretation for the long period of racism and its clearly apparent consequences.
- 24 The day after the presentation of the report, several articles in the main national papers—<sup>22</sup>not many, in truth—gave some resonance to the commission's work, highlighting the severity of the financial spoliation undergone by the Jews. But interest petered out very quickly and in just a few days, the entire matter had fallen into almost complete oblivion. At the end of May, Tina Anselmi, in an interview with *La Repubblica*, <sup>23</sup> appealed to the government not to let their work be forgotten: "I truly hope the new administration will not let our labor go to waste"—and, emphasizing that especially in regard to the post-war period of restitutions, there were still "many, many things yet to be done," expressed the hope that a "special office would be set up to coordinate these operations".
- 25 A few months later, Tina Anselmi's hopeful tone had become one of open indignation. For the Day of Remembrance in 2002, the senator gave another interview in which she brought up the government response—this time of the Berlusconi administration, which had won the elections in May 2001—complaining that:
- The administration has had the commission's final report for ten months now. Where is it? Outside Rome, in some warehouse, I don't know where. Despite the fact that the law calls for the report to be passed on to the deputies, senators, regional administrations, and state institutions. And associations... I've pointed out that continuing the job was in the government's interest, too. Everyone told me I was right. Months have gone by and there has been no response. Not even a negative one. Meanwhile, everything is at a standstill.<sup>24</sup>
- 26 This last polemical statement to the press essentially brought to a close the rather limited public attention granted to the commission's work. While the constant institutional changes that characterized the period from 1998 to 2001 (with the

alternation of the Prodi, D'Alema, Amato and Berlusconi administrations) probably did not facilitate the realization and coordination of the initiatives hoped for by Tina Anselmi, no legislative initiatives have been adopted by the Italian administrations that have succeeded them in the fourteen years since, and no additional studies have been conducted.

## Historicizing justice. The case of the Terracini Law

27 In January 2014, the Court of Padua notified Adele Drutter that the hearing for the lawsuit that she had brought against the Ministry of Economy was postponed until the following year, even though in 2015 the woman would be turning 105. A victim of racial persecution born in 1920, Adele had been battling Italian bureaucracy to obtain a life pension (an average monthly sum of 430 euros) based on the aforementioned Terracini Law of 1955, still in force. Her story is just one of many related to the application of that law over the past seventy years. Mrs. Drutter, like hundreds of her fellow Jews, had appealed to the courts after her application was turned down by the ministerial commission responsible for issuing this pension. This commission, set up at the Presidency of the Council of Ministers,<sup>25</sup> had applied a very narrow and restrictive interpretation over the decades, granting it only to Jews who could prove they had suffered physical violence and only in relation to events that took place before September 8, 1943.

28 In the late Nineties, hence at the same time as the upsurge in international attention to the issue of compensation for Holocaust victims, some decisions of the Corte dei Conti contributed to a significant turnaround after years of quite severe, even punitive application of the compensation laws. With a decision of March 1998,<sup>26</sup> the Corte dei Conti put an end to the long dispute surrounding the concept of violence referred to in the text of 1955; emphasizing the spectrum of rights of the individual protected by the Italian constitution, it affirmed that the violence suffered by the Jews had been not just physical, but psychological:

The function of solidarity and goal of compensation in the law in question cannot refer to physical harm alone, to the exclusion and erasure of the other fundamental qualities of the individual that, like physical well-being, are protected under the constitution. Rather, the intention of the laws in question regards the well-being of the individual as a whole in all its many facets. Limiting the law's function of solidarity and compensation only to events that caused physical harm would mean arbitrarily singling out, within the sphere of individual rights, one element of value, overlooking all the others — such as dignity, honor, identity, etc. — that form a harmonious, indivisible whole along with it.

29 Though it clarified the broad reach of the concept of violence, the decision did not put all problems of interpretation to rest. The inconsistency regarding the law's applicability only up to the date of September 8, 1943 remained, and the judges also ruled out the idea that "mere subjection to antisemitic laws would be enough to constitute violence". To be entitled to compensation it was therefore necessary for the persecutory laws, and racial prejudice that inspired them, to have been "concretely applied in the form of harmful actions". The category of "mere subjection" to antisemitic laws left open two different paths of interpretation: did the passage of persecutory legislation constitute, in itself, an act of violence to the individual's

inviolable rights, or was it necessary for there have been a specific measure of implementation that infringed on those rights in a more concrete fashion?

- 30 In 2003 the Combined Sections of the Corte dei Conti were therefore convoked again with the task of clarifying for once and for all “whether the concrete measures implementing anti-Jewish laws (including expulsions from the public schools) should be considered mere subjection to race laws, or whether they could instead be abstractly considered sufficient to embody a specific harmful action on the part of the state apparatus aimed at harming the individual’s inviolable rights”.<sup>27</sup> The reference to expulsions from the public schools was connected to the circumstances that had led to the Court’s new intervention. Nella Padova, expelled from elementary school in 1938 for being Jewish, then arrested and held in the Modena prison in the spring of 1945, had attempted to obtain compensation from the state back in 1956, when she sent in an initial application that proved fruitless. In 1992, a second attempt was also turned down by the ministerial commission, which rejected the application as not meeting the legal requirements. Nella Padova therefore appealed this decision with the Emilia Romagna section of the Corte dei Conti, which in a decision of 2001 not only overturned the commission’s ruling, but ruled that the woman was entitled to compensation starting from 1956, the date in which she had presented her first application. Action by the Ministry of the Economy, which was opposed to this decision, had therefore brought the question before the Combined Sections of the Corte dei Conti, which handed down their ruling in 2003. It is significant, in my opinion, that many passages in that decision led toward what could be called a true “historicization” of rulings in this field: in the words of the judges, the historical context won out over a literal interpretation of the regulations, and in the new interpretation that was proposed, one could see traces of the many recent historical findings about Jewish persecution that had more clearly demonstrated its breadth, its administrative and bureaucratic mechanisms, and its concrete repercussions:

It can be observed that the legislative decision, unequivocally ‘public’ and ‘political’ in origin, regarding the acts of violence for which the state is offering reparation [...] in itself establishes the absolute nature, coercibility and hence ontological intensity of the persecutory force to which the law relates, in that it was deployed by public authorities that were institutionally empowered to implement measures of persecution.

- 31 The judges also dealt with the question of the time limit set by the Terracini Law: September 8, 1943, a limit that had led to the rejection of applications concerning wrongs inflicted subsequent to that date. To overturn the previous interpretations, upholding the legitimacy of granting compensation even for events that occurred in the period from 1943 to ’45, the court invoked “the inseparable historical context” that a judge could not help but take into account when making a decision:

As regards the identification of time limits of applicability for the law concerning the pension of merit, it should be generally observed that any legal evaluation of the conditions for acknowledging the right to this benefit for victims of political and racial persecution cannot, on the one hand, be separated from the essential historical context within which the persecution of these citizens developed and came about.

- 32 The rulings of 1998 and 2003 definitely marked a turning point in the interpretation and application of the Terracini Law. Nevertheless, the ministerial bureaucracies failed to fully embrace this new orientation, as if even the country’s institutions still had difficulty arriving at an understanding of the racial chapter of Fascism as a widespread,

conscious historical awareness and perspective. While overall, the attitude of the ministerial commission unquestionably changed—to the point that 4539<sup>28</sup> applications from former victims were approved between 2001 and 2012 (83% of those presented since 1955)—in many cases it still refused to grant compensation: from 1998 to 2015, 236 suits were argued before various sections of the Corte dei Conti, resulting from as many rejections by the commission.<sup>29</sup>

- 33 Noting that very narrow interpretations of the Terracini Law continued to be applied even after the new guidelines set by the judiciary, the Presidency of the Council of Ministers (to which, one should recall, the commission answered) also felt the need to intervene. A circular issued on July 22, 2005 by the undersecretary to the President<sup>30</sup> confirmed that the law had been extended to included events that took place after September 8, 1943, given that the racial laws had remained in force “with a further exacerbation of discriminatory and persecutory acts, as can be seen from incontrovertible historical evidence”. The memo listed what events should be considered “acts of violence”, i.e., “exclusion from enrollment in school courses”, “loss of one’s job” (whether employed in the public or private sector), “loss of copyright revenue”, “being sent to forced labor”, or “forced emigration”. It was also announced that all provisions for Italian Jews were extended to include Jews resident in Libya. Another significant element in the text of this circular is the reference to historiographic consensus as an element of proof: in the absence of official documentation that could back the Jews’ requests, decades after the events in question, “reliable historiographic works on the events in question containing references to episodes and individuals” could be used as evidence. Nevertheless, not even this circular from the Presidency of the Council seems to have solved every problems.
- 34 Even in 2014, a decision by the ministerial commission had forced F.M. to appeal. Born in Benghazi in 1928, the elderly lady had actually applied for and been granted the pension in 2007. In 2012, displaying a punctilious zeal that would have been better applied elsewhere, the commission had re-examined the initial documentation that she had presented, deducing from the certificate of residency attached to the records that F.M. had become an Italian citizen only in 1957. Since the Terracini Law contemplated benefits only for Italian citizens, the commission presented an appeal requesting that the compensation be revoked and that the sum already paid out be returned. It was the Corte dei Conti—Piedmont Section that intervened,<sup>31</sup> confirming F.M.’s right to the pension: based on the citizenship laws issued in 1919 and 1927 for the territory of Libya, the magistrates found that the woman was to be considered Italian from birth, and that it was precisely due to the Fascist racial laws that she had lost her citizenship, which she later regained after the war.
- 35 The obstacles created for pension applicants, and, as demonstrated once again by the case of F. M., the stubborn lack of any historical grounding shown by the commission, led a judge of the Corte dei Conti to call the attitude that had guided its behavior over the decades “intolerant”:
- A bureaucratic, intolerant mindset, backed by an overly narrow interpretation, has for the last fifty years severely limited the chance of receiving compensation for the victims of racially motivated persecution.<sup>32</sup>
- 36 The story of the Anselmi Commission and the controversies regarding the application of the Terracini Law can be tied, though in an indirect and oblique way, to the broader international phenomenon of Holocaust litigation that characterized the Nineties. But

due to their genesis and outcome, they are above all emblematic of a relationship with Fascist antisemitic persecution that even today, seventy years after the events in question, is contradictory and in some ways unresolved. In it, we can see a dysfunctional gap between the often exploitative, superficial use of public rhetoric about the legacy of the Holocaust, and the concrete behavior still adopted toward its victims by significant sectors of state institutions and their bureaucracy.

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## NOTES

1. Ilaria PAVAN, *Tra indifferenza e oblio: Le conseguenze economiche delle leggi razziali in Italia (1938-1970)*, Firenze: Le Monnier, 2004, p. 222.
2. Guri SCHWARZ, "The Reconstruction of Jewish Life in Italy after World War II", *Journal of Modern Jewish Studies* 3, 2009, pp. 360-377.
3. Guri SCHWARZ, "On Myth Making and Nation Building: the Genesis of the 'Myth of the Good Italian' 1943-1947", *Yad Vashem Studies*, 1, 2008, pp. 111-143.
4. Filippo FOCARDI, *Il cattivo tedesco e il bravo italiano: La rimozione delle colpe della seconda guerra mondiale*, Rome/Bari: Laterza, 2014.
5. For a detailed reconstruction of the laws on restitution and compensation, see Ilaria PAVAN, *op. cit.*, pp. 183-261.
6. Les Rapports de la Mission d'étude sur la spoliation des Juifs de France Jean Matteoli, *La Persécution des juifs de France 1940-1944 et le rétablissement de la légalité républicaine, Recueil des textes officiels 1940-1999*, Paris : La Documentation française, 2000, p. 180 ; Rapporto finale della Commissione indipendente d'Esperti Svizzera-Seconda guerra mondiale, Locarno: Armando Dadò Editore, 2002, p. 191.
7. Archivio Centrale dello Stato (ACS), PCM 1947-49, 11472 3.3.3, f. 3.
8. Ilaria PAVAN, *op. cit.*, p. 191.
9. See Les Rapports de la Mission d'étude sur la spoliation des Juifs de France Jean Matteoli, *La Persécution des juifs de France 1940-1944 et le rétablissement de la légalité républicaine, op. cit.*, pp. 161-162.
10. Fabio LEVI, *Le case e le cose. La persecuzione degli ebrei torinesi nelle carte dell'EGELI, 1938-1945*, Torino: Campagna di San Paolo, 1998, pp. 75-76.
11. ACS, Fondo Egeli, b. 47, f. Liquidazione Egeli, promemoria 401459 per il Ministro del Tesoro, 16 maggio 1958.
12. The history of the law has been reconstructed by Elisabetta CORRADINI, *Il difficile reinserimento degli ebrei: itinerario e applicazione della legge Terracini n.96 del 10 marzo 1955*, Torino: Silvio Zamorani, 2012.
13. In 1967, D. S., a Jewish member of the Resistance who was deported to Auschwitz in April 1944, had her application turned down because the commission did not believe the mental and physical problems that plagued her were connected to her deportation.

The commission went so far as to ask her to provide “healthcare records related to her hospitalizations during deportation”. As the woman’s lawyer wrote to the commission: “requesting such records can only mean: either not knowing that Auschwitz was not a health clinic or spa [...] or knowing it and pretending not to”. CORRADINI Elisabetta, *op. cit.*, p. 137.

14. *Ibid.*, p. 202.

15. On the Anselmi Commission, see Michele SARFATTI, “Le vicende della spoliazione degli ebrei e la Commissione Anselmi (1998-2001)”, in Giuseppe SPICALE (ed.), *Le leggi antiebraiche nell’ordinamento italiano: Razza diritto esperienze*, Bologna: Patron, 2013, pp. 299-311; Ilaria PAVAN, *Le Holocaust Litigation in Italia. Storia, burocrazia e giustizia (1955-2015)*, in Cecilia NUBOLA, Giovanni FOCARDI (eds.), *Nei tribunali. Pratiche e protagonisti della giustizia di transizione nell’Italia repubblicana*, Bologna: Il Mulino, 2015.

16. On the role of mediation and reconciliation played by such commissions, see Alexander KARN, *Amending the Past: Europe’s Holocaust Commissions and the Right to History*, Madison: Wisconsin University Press, 2015.

17. *Mission d’étude sur la spoliation des Juifs de France, Rapport général*, Paris, 2000, pp. 190-191.

18. Clemens JABLONER, “Scholarly investigation: The Austrian historical commission at work”, in Dan DINER, Gotthart WUNBERG (eds.), *Restitution and Memory: Material Restoration in Europe*, New York/Oxford: Berghahn, 2007, p. 105.

19. See, in particular, Michele SARFATTI, *The Jews in Mussolini’s Italy*, Madison: Wisconsin University Press, 2006.

20. Anselmi Commission, *Rapporto Generale*, Rome, 2001, p. 539.

21. The full text of the General Report is visible on the website [http://www.governo.it/Presidenza/DICA/beni\\_ebraici/](http://www.governo.it/Presidenza/DICA/beni_ebraici/).

22. See “Agli ebrei sottratti beni per duemila miliardi”, *Corriere della sera*, May 3, 2001; “L’Italia del fascismo depredò gli ebrei”, *La Repubblica*, May 3, 2001.

23. See “L’Italia è in debito con gli ebrei, risarciamo le vittime del fascismo”, *La Repubblica*, May 26, 2001.

24. “La destra blocca il rapporto sui beni degli ebrei”, *L’Unità*, January 28, 2002.

25. The commission, founded pursuant to art. 8 of the Terracini Law, is appointed by a decree of the Presidency of the Council of Ministers. Its chair is chosen by the administration and it is composed of one representative for each ministry whose areas of expertise are involved: Interior, Justice, Economy and Finances, Labor and Social Security, as well as two representatives of the Associazione Nazionale Perseguitati Politici Italiani Antifascisti (National Association of Italian Anti-Fascist Victims of Political Persecution). Since 2001, after a ruling by the Corte Costituzionale in 1998, it has also included a representative of the Union of Italian Jewish Communities.

26. Corte dei Conti, ruling no. 9 of March 11, 1998.

27. Corte dei Conti, ruling no. 8 of March 25, 2003.

28. Elisabetta CORRADINI, *op. cit.*, pp. 202-203.

29. Overall, the 236 suits handled by the Corte dei Conti between 1998 and 2015 have resulted in a ruling in favor of the former victims in 70% of the cases. The rulings are visible on the website <https://servizi.corteconti.it/bds/>.

30. The circular was signed by Gianni Letta, undersecretary to the third Berlusconi administration.

31. Corte dei Conti, Sezione Giurisdizionale per la Regione Piemonte, ruling no. 14 of February 11, 2014.

32. Maurizio MOTTOLESE, "La Commissione per le provvidenze ai perseguitati politici antifascisti o razziali nell'ambito della Presidenza del Consiglio dei Ministri: Un caso esemplare", in *Amministrazione e Contabilità degli enti pubblici*, 36, 2001 visible on the website <http://www.contabilita-pubblica.it/dottrina.htm>.

## ABSTRACTS

This essay provides a partial reconstruction of some measures of restitution and reparation adopted by the first post-Fascist Italian administrations on behalf of Jews. These measures reached their peak in 1945-1947 and had a final addendum in 1955, with the passage of a law, still in force, that awarded former victims of persecution some compensation for their suffering but, overall, the reparation measures were vastly insufficient. In the Nineties, the period of antisemitic persecution came back into the Italian political spotlight, as part of a new wave of international attention focused on the consequences of the Shoah from a financial standpoint as well, due to the phenomenon of the Holocaust litigations. Nevertheless the Italian response was once again characterized by resistance, reticence and silence.

Cet article revient sur les mesures de restitution et de « réparation » adoptées en faveur des Juifs par les premières administrations italiennes post-fascistes. Ces mesures ont atteint leur apogée en 1945-1947 et ont été complétées par un ultime *addendum* en 1955, avec le passage d'une loi, toujours en vigueur, qui a attribué aux anciennes victimes des persécutions des compensations financières pour les souffrances subies, mais, dans l'ensemble, cette « réparation » a été très insuffisante. Dans les années 1990, la période de persécution antisémite est revenue sous les projecteurs des milieux politiques italiens, dans le cadre d'un nouveau contexte international où l'on s'est intéressé aux conséquences de la Shoah d'un point de vue financier et en raison du phénomène des litiges qui ont éclaté à ce propos. Néanmoins, la réponse italienne s'est de nouveau caractérisée par la résistance, la réticence et le silence.

תקציר: מאמר זה בוחן מחדש חלק מן הצעדים שננקטו ביחס להחזרת רכוש ופיצויים ליהודים על ידי המינהל האיטלקי שלאחר הפאשיזם. צעדים אלו הגיעו לשיאם בין 1945 ל 1947 והושלמו ב 1955 על ידי חוק (המצוי עדיין בתוקף) הקובע כי יש לפצות את קורבנות העבר מחמת סבלם, ואולם ככלל פיצויים אלו לא היו מספקים. בשנות ה-90, עידן הרדיפות האנטישמיות הופיע שוב על זרקורי הבימה הפוליטית האיטלקית בהקשר בין לאומי של בחינת ההיבטים הפיננסיים הנובעים מן ההשלכות המשפטיות של השואה. גם כאן מתאפיינת התשובה האיטלקית בעמידה מנגד, בהתאפקות ובשתיקה.

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