

AMERICA'S ROLE IN ADDRESSING OUTSTANDING HOLOCAUST ISSUES

HEARING BEFORE THE SUBCOMMITTEE ON EUROPE OF THE COMMITTEE ON FOREIGN AFFAIRS HOUSE OF REPRESENTATIVES ONE HUNDRED TENTH CONGRESS FIRST SESSION

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OCTOBER 3, 2007
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Serial No. 110-110
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Printed for the use of the Committee on Foreign Affairs



Available via the World Wide Web: <http://www.foreignaffairs.house.gov/>

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U.S. GOVERNMENT PRINTING OFFICE

38-141PDF

WASHINGTON : 2007

For sale by the Superintendent of Documents, U.S. Government Printing Office
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WEDNESDAY, OCTOBER 3, 2007

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON EUROPE,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC.

The subcommittee met, pursuant to notice, at 1:03 p.m. in room 2172, Rayburn House Office Building, Hon. Robert Wexler (chairman of the subcommittee) presiding.

Mr. WEXLER. The Subcommittee on Europe will come to order. I want to thank Mr. Smith for joining with us today. There will be others, I know, that will be joining shortly.

It is my privilege to represent one of the largest Holocaust survivor populations in the country, and it is my intention today to shed light on several unresolved Holocaust issues including the disappointing International Commission of Holocaust Era Insurance Claims (ICHEIC) process, unresolved property restitution issues in Central and Eastern Europe, the long overdue transfer of Holocaust archives from Bad Arolsen, and the outstanding pension benefits issues for survivors. More importantly, this hearing will focus on issues of concern to Holocaust survivors in the United States and globally, and examine what issues need to be addressed in the later years of their lives.

It is self-evident that we have a unique obligation to survivors of the Holocaust. They are living victims of unconscionable atrocities, and their voices, desires, and concerns must be heard, respected, and addressed.

Since the end of World War II, a concerted effort has been undertaken both in the United States and abroad at the government and nongovernmental levels to assist victims of Nazi atrocities. Billions have been paid out in compensation, restitution given to hundreds of thousands of survivors, stolen art and property returned to their rightful owners, and millions spent on Shoah documentation, education, and research. There has also been a concerted effort to ensure Holocaust remembrance, combat Holocaust denial and revisionism, and ensure that anti-Semitism and hatred in its darkest form do not appear again in Europe or around the globe.

The American Jewish community, American Jewish organizations, the survivor community, and previous U.S. administrations, have worked with the international community and should be applauded for their Herculean effort which has often been painstakingly difficult, with many obstacles and setbacks, and at times met with strident opposition.

Despite over a 60-year effort by courageous individuals, governments, and dedicated organizations to bring a measure of justice for Shoah victims, there remain several outstanding Holocaust issues that have yet to be resolved.

First, it is critical that we address the unacceptable plight of survivors, including many who live below the poverty line and cannot afford adequate health insurance. According to a 2003 survey of American survivors by the UJA Federation, one-fourth of Holocaust survivors in America live below the poverty level. In Israel, an April 2007 report by the Holocaust Survivors Welfare Fund stated that nearly one-third of survivors live in poverty.

This brings me to the issue of unmet Holocaust era claims. It is an indisputable fact that there are individuals, organizations, and companies that have unconscionably profited from the Holocaust. And while this state of affairs may never be fully rectified, it is imperative that we continue to seek a just resolution to these issues.

Over the past several years, I have joined with my colleagues in a bipartisan fashion to correct past wrongs relating to the Holocaust, including working with organizations such as the Claims Conference on addressing onerous restrictions on German ghetto pensions, and calling for legislation to rectify Polish and Eastern European property restitution. We have also worked closely with survivor groups to address the unacceptably low percentage of claims awarded by ICHEIC, and the critical need to open the International Tracing Service archives in Bad Arolsen, Germany.

In the course of these efforts, I was shocked to learn that the obstacles Holocaust survivors face are often insurmountable, and the claims process is wrapped in so many layers of bureaucracy that even the combined powers of Congress, the State Department, and the global efforts from Jewish and survivor organizations have fallen short of the desired outcome.

To address the ICHEIC process that I believe has failed tens of thousands of survivors, I sponsored legislation, along with my colleague, Ileana Ros-Lehtinen, which would require insurance companies doing business in the United States to publicly disclose all Holocaust era insurance policies. This legislation also allows Holocaust victims and descendants to bring action in U.S. courts to settle claims.

Given ICHEIC's glaring shortcomings, it is incumbent upon Congress to pass legislation that will provide a legal avenue for survivors to resolve outstanding cases. Congress must speak clearly that there will be no unjust enrichment from atrocities. In the words of Mr. David Schaecter, the Holocaust survivor who testified before this committee in March and joins with us today, "Restitution has a material and moral dimension," and this hearing I hope will enable us to examine both of these dimensions today.

I would now like to invite the ranking member, Mr. Gallegly from California, to give his opening remarks.

Mr. GALLEGLY. I thank you very much, Mr. Chairman, and thank you for calling this hearing. This is a very important hearing. And I would just like to say that I came really to hear from our witnesses today and I don't have a formal written opening statement, but I want to go on record, Mr. Chairman. We have known a each other for a lot of years and we have worked together. In fact, we

have taken turns using this chair, and I have great respect for you. And I can say, firsthand, I know of no one that has greater passion or commitment to this issue than you have, Mr. Chairman. And I respect that and I know the depth of that commitment, and that is why we have this hearing today.

With that, I will thank you, and listen to our witnesses, and I yield back.

Mr. WEXLER. I thank Mr. Gallegly for his kind words.

Before we go to Mr. Kennedy, we are, in fact, joined by somebody who, on many, many issues relating to human rights across the globe, has been forefront, and I would like to give Mr. Smith a few minutes, if he wishes, to say a few words.

Mr. SMITH OF NEW JERSEY. Thank you very much, Mr. Chairman, and thank you for calling this important and timely hearing, and for your deep and abiding concern in trying to provide in some small way a measure of justice for surviving victims of the Holocaust and in deciphering what America's role ought to be in resolving outstanding Holocaust issues. And I do want to join you in welcoming Ambassador Kennedy, who is steadfast and well equipped to do this very, very important work.

Mr. Chairman, very briefly, the Holocaust victims who are here with us today may have escaped death at the hands of the Nazis, but most of them lost everything they and their families had built over generations, including their homes, businesses, possessions, everything. The Nazis stole billions of dollars worth of assets from private citizens, much of which ended up in the banks in Western Europe. Many victims are still waiting to see at least a portion of what was taken from them, still waiting for the compensation that they deserve. It is our duty to do everything possible that we can do to help them receive it.

For well over a decade, post-Communist countries in Central and Eastern Europe have struggled with the question of how to address wrongful confiscation of property. In some cases they have made progress, but in others, a lack of meaningful restitution has left claimants and all of us frustrated and angry. Over the past 10 years, the United States and European Governments have played crucial roles in helping to settle lawsuits with the banks that held many stolen assets, bringing about payments of over \$8 billion to victims of the Holocaust and their descendents. Many of my colleagues and I have pressed hard for years for these advances, traveling to Eastern and Central Europe to urge governments to pass nondiscriminatory laws that can be faithfully implemented.

When I served, as you know, Mr. Chairman, as Helsinki chairman—now I am ranking member—I chaired 10 hearings and briefings on addressing property restitution issues since 1996, when we convened a very important hearing that examined competing property claims in post-Communist Europe. We also had a number of hearings on the rising tide of anti-Semitism and took that issue to the Parliamentary Assembly time and time again to try to get our colleagues in other Parliaments onboard to fight the scourge of anti-Semitism. We also received a steady stream of letters at the Helsinki Commission from individuals and groups pleading for assistance, and we took every one of those requests to heart and worked on them.

While there has been some progress, the job is far from finished. As Holocaust survivors grow older and their medical and other needs increase, we need to increase our efforts to make sure these victims receive the compensation they deserve. These people are our friends and neighbors, and as we will hear today, reports indicate that over 120,000 Jewish victims of Nazi persecution live in the U.S. Some studies, as you pointed out in your opening, indicate that a quarter of them live in poverty.

There are those who would like to move on and suggest that we have already done all that we can rightfully do over the last six decades, but I say we cannot, we cannot until justice is truly done, forget those individuals who have been so wronged. Not only have they lost loved ones and family to the Holocaust; their assets remain in wrongful hands. This is a very important hearing, and again, I thank you for calling it.

Mr. WEXLER. It is my pleasure, Mr. Smith.

With that, I want to, again, thank Mr. Gallegly for his kind words and for his devotion to these issues and to this subcommittee as well.

I would like now to introduce our first witness, Ambassador J. Christian Kennedy, who has served as the Special Envoy for Holocaust issues at the Department of State since August 2006. Ambassador Kennedy is the principal adviser to Secretary Rice and to Deputy Secretary on foreign policy issues relating to the era of Nazi rule in Germany and Europe.

Ambassador Kennedy's office is responsible for restitution and claims issues resulting from the Holocaust, such as providing assistance to Holocaust survivors and their families, and encouraging the restitution of artwork and property to their rightful owners.

His office also supports the State Department's Special Envoy for monitoring and combating anti-Semitism, developing policies and programs to counter anti-Semitism, and working with European governments and nongovernmental organizations.

Since joining the Foreign Service in 1980, Ambassador Kennedy has served in Washington, Poland, Mexico, Panama, Colombia and Guyana.

Ambassador, thank you again for agreeing to come before our subcommittee. I would respectfully request that you please summarize your opening statements to no more than approximately 5 minutes. Thank you so much.

**STATEMENT OF THE HONORABLE J. CHRISTIAN KENNEDY,
SPECIAL ENVOY FOR HOLOCAUST ISSUES, BUREAU OF EUROPEAN AND EURASIAN AFFAIRS, U.S. DEPARTMENT OF STATE**

Ambassador KENNEDY. Thank you so much, Chairman Wexler, Ranking Member Gallegly, Representative Smith, ladies and gentlemen. Thank you very much for the privilege of appearing before you today at this very important hearing.

As Holocaust survivors age, we have less and less time to do what we can to help them receive a measure of justice in their lifetime. The survivor community is the principal constituency and major concern of my office. We focus on the restitution of property or, when that is not possible, a measure of compensation for lost

property. Through our work on Holocaust education and remembrance, we hope that survivors and victims' families feel that they have received a measure of compassion, too.

All of us who work on these issues recognize from the outset that nothing we can do will really compensate the survivors and victims for the horrific and unfathomable evil that befell them in the Holocaust. I would like to use the title of Former Deputy Secretary of Treasury Stuart Eizenstat's book to say that we recognize we are working for imperfect justice.

Let me turn to property restitution and compensation. Since the mid-1990s, successive administrations have made it their policy to seek policy restitution and compensation for Holocaust survivors and victims' heirs. In Western Europe, bilateral executive agreements with the United States and several countries' judicial actions have delivered a measure of justice. We have made some progress on the issues, but much remains to be done. In the new European democracies, we have urged countries to pass comprehensive laws that do not discriminate among claimants by citizenship or ethnicity.

In the years since I have been in my position, I have taken up this issue in Poland, Hungary, the Czech Republic, Slovenia, Croatia, and Bosnia-Herzegovina.

Though many new democracies have passed laws, implementation remains something we have to urge our counterparts to undertake. There are moreover five countries that either have not passed laws or not put into place real implementation measures. They are Poland, Lithuania, Romania, Croatia, and Slovenia.

Poland has not passed a compensation law for privately-owned land and buildings. I have been there half a dozen times, especially to consult with members of the Polish Parliament. There was some modest progress being made. Unfortunately, elections this month will cause further delays. I have received undertakings, however, from the biggest parties that they will take up a draft bill in the new Parliament.

Lithuania has delayed a solution to Jewish communal properties for several years, though the government is again considering legislation.

Romania has developed legislation for a compensation fund, but has not yet fully implemented it. I have met with officials there to urge action.

Our Embassy in Zagreb, and I, have been told by Croatia's political parties that they will take up a law following next month's elections.

Slovenia and the World Jewish Restitution Organization agreed to guide restitution with property inventories. There have been delays, but the WJRO feels progress is now possible.

From the mid 1990s through 2001, we reached agreements with various Western European countries and companies to address theft of assets and slave labor. Let me review them briefly. The German Foundation paid \$6 billion to 1.6 million victims of slave enforced labor. Another \$500 million was paid to cover other losses, including insurance. I would also note that, over time, German governments have paid out through various programs nearly \$100 billion at today's values. The Austrian funds comprehend payments of

about \$1 billion. Some of these payments are still underway. The United States had an oversight role in the compensation for French bank accounts looted by the Vichy government. Over \$30 million in payments were part of a more extensive French Government program.

The International Commission on Holocaust Era Insurance Claims (ICHEIC) has made \$300 million in payments to the beneficiaries of insurance policies, many of whom were survivors but many were also heirs. In addition, ICHEIC has allocated \$200 million mainly for social welfare projects benefiting needy victims. For the most part, these projects are being administered by the Conference on Jewish Material Claims Against Germany or the Claims Conference.

I would also like to note the Swiss Bank Agreement for \$1.25 billion. The negotiations facilitated by the State Department led to an agreement under the supervision of a Federal District Court here in the United States.

Drawing on nearly a decade of experience, we believe that workable agreements and continuing dialogue best serves survivors' interests as we seek to help them get a measure of justice. These mechanisms spare them the uncertainties and costs of litigation. Just 2 weeks ago, Germany announced it would pay out 100 million Euros to ghetto laborers. Six thousand people were recently added to the German pension scheme for survivors. The Claims Conference and my office have worked together on these issues.

When I appeared last before your subcommittee on March 28, the focus was getting greater access to the Holocaust records at the International Tracing Service in Bad Arolsen. I am pleased to report considerable progress, because nine countries of the 11 on the Commission have fully approved the Greater Access Rules. The French Senate did so last week. The Lower Chamber there is scheduled to take action today for a full vote next week. Greece, however, has yet to start its approval process, and I will visit the Greek Parliament in 2 weeks to urge action.

The United States Holocaust Memorial Museum has received the first electronic data from the International Tracing Service, a huge step, the first time data has been sent here.

Thank you for the opportunity to be here with you today. I will be happy to answer questions.

[The prepared statement of Mr. Kennedy follows:]

PREPARED STATEMENT OF THE HONORABLE J. CHRISTIAN KENNEDY, SPECIAL ENVOY FOR HOLOCAUST ISSUES, BUREAU OF EUROPEAN AND EURASIAN AFFAIRS, U.S. DEPARTMENT OF STATE

HOLOCAUST SURVIVORS IN AMERICA:
AN OVERVIEW OF OUTSTANDING HOLOCAUST ISSUES

Mr. Chairman, Ranking Member Gallegly, thank you for holding this important hearing.

The principal focus of the Office of Holocaust Issues in the State Department is to help Holocaust survivors and their heirs obtain a measure of justice in their lifetimes for the suffering they have endured and for the property that was stolen from them.

Property Restitution

The restitution to rightful owners of property confiscated by the Nazis in the countries they occupied, and often by the successor communist governments in those countries, is an issue successive administrations have engaged on since the mid-

1990s. Where the physical return of property may be impractical or impossible, we have advocated financial payments to the survivors and their heirs.

Property restitution is a particularly difficult and time consuming issue and one on which we have had mixed results. Property restitution is at best a controversial subject. Changing the ownership and usage of buildings and land from one party to another can cause major disruptions that already-economically challenged countries can ill afford. It can involve the displacement of current occupants, who may have had the use of the property for over a half century. When the physical return of an actual piece of property is not possible, compensation in lieu of restitution can be a serious budgetary issue. So neither restitution nor compensation is likely to have a strong domestic constituency in those countries where there are large claims.

Many countries in Eastern Europe succeeded in enacting and implementing some kind of legislation in the 1990s to deal with restitution, but some are still lagging. All the laws have shortcomings, and implementation has been uneven and often plagued with poor management.

In the year that I have held this position, I have taken this issue up in Poland, Hungary, the Czech Republic, Romania, Slovenia, Croatia, and Bosnia-Herzegovina.

Property restitution is important as an indicator of a country's commitment to property rights and a free market economy. Companies contemplating investments in a country will seek opportunities elsewhere if land titles are clouded with claims and potential claims by former owners. So, apart from the need for justice, there is also a strong economic incentive for a country to resolve these property issues in an expeditious and fair manner.

It is important to keep in mind that each country has a slightly different property restitution situation. For that reason, there is no general solution which can be applied across the board to every country. Each country has had to take into account its own history, the nature of the property at issue, and political and economical constraints. Changing the ownership and usage of buildings and land from one party to another can cause major disruptions that already-economically challenged countries can ill afford.

The United States, other countries and international organizations can offer encouragement and suggestions, but, in the final analysis, each individual country has to assess its own situation, make the necessary political judgments in drafting legislation and then implement the legislation in a manner consistent with the practices of that country. We feel, however, that diplomatic dialogue emphasizes for foreign government officials and the broader public in these countries the importance this issue has in our bilateral relations. This dialogue also reminds these audiences of the moral need for a measure of justice for victims and heirs, and it highlights the need to address problems in order to create a better functioning real estate market.

Restitution laws generally deal with two basic categories of property: property that the authorities confiscated from private individuals, and property that the authorities confiscated from communal organizations such as religious groups. The latter category includes not only property used essentially for religious purposes but also the schools, communal halls, medical facilities and recreational facilities that many European religious organizations maintained in the first four decades of the 20th century.

In encouraging restitution, we try to keep in mind the following considerations:

- Restitution laws should govern both communal and private property.
- Access to archival records needed for claims should be easy and facilitated by the government in question.
- Uniform enforcement of laws is necessary throughout a country.
- The restitution process must be non-discriminatory. There should be no residence or citizenship requirement.
- Legal procedures should be clear and simple.
- Privatization programs should include protections for claimants.
- Governments need to make provisions for current occupants of restituted property.
- When restitution of property is not possible, realistic compensation should be paid.
- Restitution should result in clear title to the property, not merely the right to use the property.
- Cemeteries and other religious sites should be protected from desecration or misuse before and during the restitution process.

For several years, the Department has maintained a country-by-country summary of property restitution in European countries. An updated version is available for

you here today, and is also posted on our website. I would highlight a few specific developments briefly:

Poland. Poland, which I have visited several times this past year, has been a particular focal point. On each visit I have taken this up with the foreign ministry and the treasury, but most importantly with members of Poland's parliament, the Sejm. While many Sejm members were generally supportive, the political situation in Poland for the past two years has been fragile. Both the President and the Prime Minister gave assurances that property restitution was on their agenda, but the government did not feel confident enough to push forward legislation past an initial reading in the Sejm. In September, the government decided to call elections. When the new government is in place, we will renew our effort on this issue.

Croatia. Croatia is now a candidate for NATO membership. The government decided in 2005 to change its restitution law, but has since made little progress. Like Poland, this is an issue that Croatia will have to deal with following its upcoming election.

Romania. Allegations of fraud and mismanagement have clouded Romania's modest progress on property restitution. A fund to pay compensation has not yet been fully implemented.

Slovenia. A promising solution to a communal restitution problem in Slovenia has been delayed by issues regarding the completion of a survey of the properties in question. We hope for progress by December.

Lithuania. A solution to the Jewish communal property issue has been delayed for several years and the government is now again considering legislation.

Art Restitution

In addition to real property, the restitution of movable property—particularly artwork—is an important issue. Art claims have generally been adjudicated by the courts, although less formal proceedings have also been successful in some cases. The United States strongly supports the Washington Conference Principles on Nazi-Confiscated Art, adopted by consensus at the 1998 Washington Conference on Nazi Era Assets.

A Measure of Justice

Let me turn now to the various arrangements reached among the representatives of Holocaust survivors and European companies in the late 1990s through 2001 to address the theft of assets and other wrongs arising from the Holocaust. A combination of court settlements and other U.S.-facilitated agreements resulted in over \$8 billion for Holocaust victims and their heirs from Swiss banks, German companies, Austrian companies, and French banks, as well as several large European insurance companies. Most of these agreements were concluded with the participation of European governments and the U.S. Government.

As of today, nearly all of the \$8 billion from these agreements has been either distributed to survivors and heirs or otherwise obligated for continuing programs to support needy survivors or promote Holocaust education and remembrance. There were some delays in implementation at the outset, largely due to the complexities of the agreements and some legal issues that arose in U.S. courts. Nevertheless, as the person in charge of the office in the Department of State responsible for monitoring and advising on implementation, I think we can be proud of the results.

Let me briefly summarize the payments programs. I and my predecessors in this office have monitored and overseen agreements relating to the following programs:

- The *German Foundation*, which made \$6 billion in payments to 1.6 million former slave and forced laborers, as well as to those who suffered other injuries. The German Foundation also made \$500 million in payments for certain property losses, including insurance.
- The *Austrian Labor Fund* (Reconciliation Fund), which paid out \$330 million.
- The *Austrian Tenancy Rights Fund*, which paid out \$150 million to compensate some 20,000 Jewish victims for the loss of household and small business leases and goods.
- The *Austrian General Settlement Fund*, which is paying out \$210 million for other property losses not covered in the Tenancy Rights agreement. In addition, The General Settlement Fund includes an agreement regarding the physical return of real property, which we cannot now value but it is likely to be more than \$30 to \$50 million.
- The *Austrian Pension Fund* expansion to include enhanced nursing home care for Jewish non-residents forced to emigrate during the Nazi period, valued to pay out some \$112 million over a decade.

- The *French Funds* which have provided over \$30 million in payments to victims and heirs, largely for property losses.
- The *International Commission on Holocaust Era Insurance Claims* (ICHEIC) has made \$300 million in payments to the beneficiaries of insurance policies, many of whom are survivors but some are the heirs of survivors. In addition, ICHEIC has allocated \$200 million mainly for social welfare projects benefiting needy victims. For the most part these projects are being administered by the Conference on Jewish Material Claims, or the Claims Conference.
- Finally, I would like to note also the *Swiss bank agreement* of \$1.25 billion. The negotiations, facilitated by the State Department, led to a settlement of class action lawsuits, and that agreement is under the supervision of a federal district court. A similar class action settlement of claims against Austrian banks resulted in additional payments of \$40 million.

Thus, approximately \$8 billion have been made available to Holocaust victims and their heirs in recent years. These programs have largely been completed and the funds paid out or allocated and will be paid out very soon. We anticipate that the Austrian General Settlement Fund will complete payments sometime in the year 2008.

With so much loss of life and the horrors of the Holocaust, there can never be adequate compensation to the victims, particularly at this late date. Our work surely embodies an effort to obtain "imperfect justice." But I am confident that the results we achieved could not have been approached, let alone achieved, had the victims and heirs been left to contend with the uncertainties and costs of litigation.

ICHEIC

We recognize that some continue to express disappointment with these agreements or their implementation. For example, there are some who believe that the process for paying insurance claims was inadequate. We at the State Department view with understanding the difficulties that the ICHEIC had to overcome, and we also must defer our own assessment to that of those survivor organizations and state insurance regulators closest to the ICHEIC process. In this regard, I note that at ICHEIC's concluding board meeting in March, there was unanimity among the survivor organizations and the state regulators on the success of the ICHEIC process. I would also note that the ICHEIC process proceeded with remarkable fairness and transparency. This is clear from the extensiveness of its web site at www.icheic.org, which includes a comprehensive final report and extensive documentation regarding its rules of procedure. I urge all who are interested to read the documents available on the ICHEIC web site, particularly those under the heading "Final Reports."

Finally, with ICHEIC, as with any of the recent arrangements, there have been concerns that the amount of money available was not enough. Again, let me stress that what was achieved was imperfect, and no amount of money could ever be enough. But in addition, it is worth noting that survivor organizations and advocates for victims played a crucial role in each and every negotiation during the recent years, and their judgment regarding what was possible and what was appropriate should also be taken into account.

We believe the survivors' interests are best served through continued cooperation with European countries and companies on Holocaust issues, and not through confrontation. As I outline below, we have already achieved additional benefits for Holocaust victims through such cooperation. I am referring to the recent expansion of the German pensions program. This expansion of an existing program demonstrates that cooperation through diplomacy leads to quick results. Confrontation and litigation do not, and time is an urgent issue for elderly survivors. We believe that ICHEIC has already achieved many of the objectives being sought through proposed legislation. At this point, we believe legislation would not be helpful and would interfere with the work we are doing. It would also create significant foreign relations problems for the United States. I would welcome the opportunity to discuss this matter further with you.

German Payment Programs Since the Second World War

Some may understandably still ask this question: How can we as a government and nation be satisfied with merely \$8 billion in payments to Holocaust victims and heirs? However, it is important to view these recent payments in the context of numerous other programs introduced by Germany since the Second World War. German governments have established several programs and paid out some 64 billion Euro (over \$100 billion in today's dollars) in compensation and restitution to victims of Nazi crimes. Of course, while recognizing what Germany has done, we must al-

ways acknowledge that no amount of money could ever compensate for the atrocities of the Holocaust.

Recent Expansion of German Pensions Programs

Some programs continue even today and have been expanded in the last few weeks through negotiations between the German Government and the Conference on Jewish Material Claims, or the Claims Conference. I am referring in this regard to new pensions for an estimated 6,000 survivors worldwide, including many in the United States. In support of Claims Conference negotiations with the German Government, I met in Berlin with German officials on three occasions to press for an expansion of the pensions programs. We have achieved a substantial improvement. The total payout over the next ten years in new pensions is estimated to be \$250 million. This is a major expansion, perhaps the largest single expansion ever, of the pension program for survivors. In addition, following discussions with the Claims Conference, Chancellor Merkel established a new program to make one-time payments of 2,000 Euros (\$2,800) to an estimated 50,000 survivors worldwide who had worked in ghettos, another significant expansion of the program to provide payments to such workers.

Other efforts to secure compensation and restitution are underway. The United States is now consulting with a number of European Governments to organize a follow-up to the 1998 Washington Conference that laid a foundation for Holocaust-era compensation and restitution principles. The U.S. will continue to address restitution /compensation issues.

Holocaust Education and Remembrance

While today's focus is on the State Department's work on Holocaust restitution and efforts to address the injustices suffered by so many, it is also important to mention U.S. leadership in promoting Holocaust education and remembrance. Without such efforts, future generations will not be aware of the tragedy of the Holocaust, or learn the lessons it teaches us.

Since my March 28 testimony before this Committee on the subject of the International Tracing Service (ITS), the United States has steadfastly continued its push to make the Bad Arolsen archives more accessible to Holocaust survivors and victims' families. The archives, which are managed by the International Red Cross and located in Germany, are the most comprehensive source of documents regarding the fate of the victims. At the ITS International Commission meeting this past May, the 11 member states agreed to make an advance electronic copy of the collection available to member states that need to harmonize their national repository's computer system with the ITS data—in our case the U.S. Holocaust Memorial Museum. The first tranche of the advance transfer took place this August. This step is the first time that ITS archival data has been transferred outside of Bad Arolsen, and is a hugely important, indeed an irreversible, step toward making the archive freely available outside of Germany. We will continue to press France and Greece to ratify the provisions expeditiously so that the agreement can come fully into force, allowing vastly expanded accessibility to the data for survivors and scholars. Our Embassy in Paris informed me that the French Senate approved that country's ratification last week.

Conclusion

The subject of Holocaust property restitution and compensation schemes is certainly complex and difficult. There is no question that results have been mixed. For every property that has been restituted, payments made for slave or forced labor, stolen art work returned, or unclaimed insurance or bank account settled, there have been instances of foot-dragging and questions of fairness and implementation. But it is important to note that progress has indeed been made. Without U.S. leadership, many Holocaust survivors and heirs would still be embroiled in protracted court battles, and none of the recent advances would have been likely. The Swiss Bank Settlement, the German Foundation, Austrian Funds, the French Bank Agreement, and ICHEIC have cumulatively resulted in payments to over two million recipients, most of whom had insufficient legal documentation to prove any claims. The U.S. Government's position has always been to strive for a measure of justice and that is exactly what we continue to do.

There is indeed more work to be done on the issue of property restitution and compensation. I will continue to urge all the parties involved to continue their efforts and fulfill their commitments. In this area we can certainly use your help as Members of Congress in pressing your counterparts abroad to adopt or implement fair and transparent laws on this issue.

Chairman Wexler, Ranking Member Gallogly, Members of the Committee, thank you again for the opportunity to testify before you today. I'd be happy to answer any questions you may have.

Mr. WEXLER. Thank you very much, Ambassador Kennedy.

I want to thank Mr. Costa for joining with us. More than anything, I want to thank you for your testimony but especially for your personal devotion to these issues. You have highlighted, I think, several of the personal efforts that you have made and I and others are undoubtedly very grateful to you for your personal dedication.

I would first like to ask you, in the context of ICHEIC—if I understand the figures correctly, the ICHEIC process, which closed down earlier this year, resulted in a bit more than \$300 million being offered, paid to roughly 48,000 Holocaust survivors. Estimates I have seen, and there are different valuations, but the most generous estimates I have seen put that as representing roughly between 3 percent and 5 percent of the policies that were sold to Jewish people at the beginning of World War II; and, that the unpaid value of insurance is billions of dollars more. And the estimates are wide, but there is clearly at least 90 percent of the value, it seems, of these life insurance policies that remains unpaid and unaccounted for.

I was taken aback, to put it mildly, reading the administration's response to Senator Bill Nelson's series of questioning regarding the Holocaust Insurance Accountability Act, where the administration opposes the opening up, in essence, of a Federal Action to allow these Holocaust survivors who have been, it would appear, denied justice in the ICHEIC process, an opportunity to address their grievance in a United States court. The administration opposes that effort. The administration, in arguing its opposition, has in essence said that the purpose of ICHEIC has been largely accomplished. And I am at a loss to understand even if on some other grounds that argument does not support this legislation.

The idea that the administration can rationally conclude that ICHEIC has accomplished its purpose, when it seems quite evident that an overwhelming majority of insurance policies that were sold at the time have not been addressed—how can the administration argue that position? And I say this with the utmost amount of respect, please. I do not suggest this question as a criticism of either you or any of the individuals who have dedicated themselves for so long to bring a sense of justice to survivors. But as a third party looking in, one can't help but conclude at this point that maybe some of the very well-meaning people engaged in this process are so invested in the process itself that they have lost sight of what the objective was at the beginning.

And the objective, respectfully, was not to make foreign relations between the United States and other countries better or worse in any way. It wasn't designed to make any other foreign nation comfortable with the outcome. I believe there was only one goal, and that was to permit Holocaust survivors an opportunity to gain a percentage at least of what was taken from them. And now we see that process closed. ICHEIC has shut its door, and roughly 95 percent of policies, at least, remain outstanding.

We, on a bipartisan basis, have come up with an alternative; the administration, unfortunately, opposes it. And yesterday we had a wonderful ruling from the Second Circuit that in essence would in theory support the ideology of the legislation, which is that in America there is an opportunity, or there ought to be an opportunity, for people who have been wronged to seek redress in our courts.

So if you can address the administration's opposition, please do.

Ambassador KENNEDY. Thank you very much for that question, Mr. Chairman. I think it is a very important one, and I certainly understand and my colleagues understand the sentiments that are behind that question.

The negotiations for compensation that led to ICHEIC were terribly intricate, balancing negotiations between governments, private individuals, NGOs, and companies, of course.

One of the comforts that I take from the ICHEIC process is the integrity and stature of the people who made it up. The presence of Chairman Eagleburger, former Secretary of State, someone who basically came out of retirement committed to advancing the cause of getting some compensation for the victims and survivors who had insurance policies that couldn't be demonstrated, that was the big one. Things that couldn't be demonstrated. People like Roman Kent and Moshe Sanbar, who are Holocaust survivors themselves, who represented respectively the WJRO and the Claims Conference as well as their personal capacity.

The State Insurance Commissioners who took part who were invested not only politically but also morally in their commitment to helping survivors. These people looked at a tremendous array of details, including various valuation schemes, as I understand it. There is a top-down approach, which would use present-day patterns of insurance holdings, as I understand it, and then there was a bottom-up approach based on asset declarations that people were forced to make when the Nazis, for example, came into Austria and ordered all Jews to make asset declarations that included insurance policies and other financial holdings.

So there were a lot of methodologies. They made considerable efforts to put together something that would work. And this is, after all, for life insurance that was basically undocumentable. These are undocumentable claims.

The frustration that knowing there was a claim there—or that there was a policy there and not being able to claim it I think had to weigh very heavily on the minds of the people who wanted to make those claims. We certainly recognize that.

In order to achieve a settlement scheme that ICHEIC grew out of, we had to promise legal peace to the companies involved in the scheme, the Austrian and German insurance companies. That was the quid pro quo. And once that crossed, they contributed monies to the payments. You are absolutely right, \$300 million went to about 48,000 claimants. Another number of claimants did not receive payment. ICHEIC did all of the research to make those payments possible, often going into national archives, insurance company archives. In many cases, they made payments because someone had a story that sounded right.

Now, there are lots of other kinds of insurance that weren't considered. For example, casualty insurance for businesses or for other kinds of property. And acts of war are usually exclusions in those kinds of policies. Obviously, the people who held those policies did not receive—probably did not receive payments for the accidents that befell them.

I hope that gives you a flavor of why we think that we have to have the position we have on the proposed legislation.

Mr. WEXLER. I am going to follow up, but I am going to miss the first vote so I am going to give Mr. Smith the opportunity.

Mr. SMITH OF NEW JERSEY. Thank you very much, Mr. Chairman.

Ambassador Kennedy, you mentioned that you have taken up the issue in Poland, Hungary, Czech Republic, Romania, Slovenia, Croatia, and Bosnia. I know you are making a Herculean effort to raise this issue and to press whatever buttons have to be pressed to get them to finally act, and several of our witnesses do criticize Poland and some of these countries for not taking action. But I remember so well, on July 18, 1996, when I had Stuart Eizenstat sitting right where you are sitting, who was then the Under Secretary of Commerce for International Trade, and he made a statement about the Czech Republic, how they have done many positive things in the restitution area. He talked about their 1991 Property Restitution Law. And he went on and on and said there were still problems particularly with Americans and citizenship laws, and the fact that people who were here had a problem with discriminatory citizenship laws.

But he did say—and this is him speaking:

“In almost every country I have gone to, I would say in virtually every country I have gone to, I have met either with Presidents, Prime Ministers, Foreign Ministers, other senior ministers. There is a genuine interest now in resolving this issue and coming up to Western norms.”

That was in 1996.

And for the Holocaust victims and their descendents, how long can they wait? Is there any reasonable reason to believe that the countries that you mentioned really are on the verge of finally closing the door by doing what is right, providing at least adequate restitution to those who survived? And the Czech Republic in particular? All the hopes got raised, and from year to year, as one of the witnesses pointed out with Poland, year in and year out there is hope; legislation is pending, and then nothing. Could you speak to the Czech Republic?

I remember when Eizenstat said that. We all said, wow, maybe we are finally close to coming to terms with this in these European countries. How many years ago was that? 1996.

Ambassador KENNEDY. Thank you very much for that question.

I will have to say that in our office, we share a lot of the disappointment and frustration that people feel on these issues. In my visit to the Czech Republic, I wanted to consult with the Jewish community there about a couple of pending issues. I met with the lay members of the community, offered the services of the Office of the Special Envoy, my personal intervention, and was told, “We

think we have got it under control.” There are a relatively small number of issues. They are high value, but they prefer to work them on their own.

In general, I think that we have to recognize that compensation and restitution are very, very difficult issues, particularly in the new democracies. On top of World War II, you then add the Communist period and you are 60 years away from the original confiscation, the original injustice, and it becomes harder and harder every year.

I think that one of the most effective things that we can do is keep working with our European friends, reminding them that this isn't an issue that a small number of people care about. Americans in general are very, very conscious of justice, fair play. These are things we care deeply about. And the broader view that they can receive of American society, the better off we are going to be, the more it will help us advance these issues.

Access generally to officials is not the problem. The problem is that legislation is difficult. It gets caught up in other legislative fights. And, regrettably, that pushes the ball down the road. One of my messages constantly when I meet with legislators is, we don't have much time. Holocaust victims, or Holocaust survivors and victims' heirs are not getting any younger. Thank you.

Mr. WEXLER. Again to my colleagues, I am going to miss the first vote so I am going to continue through. And I believe there is a motion to recommit, which will be debated, and then another 15-minute vote. I would be happy to go to Mr. Engel now if he wished, or is he going to go vote?

Mr. ENGEL. I am going to go vote. I will be back.

Mr. WEXLER. Great.

If I could follow up, Mr. Ambassador, on the issue of ICHEIC, a couple of points which I think deserve discussion. One of your points was that, to a large degree, policies were not capable of being documented. That is partially true in that the insureds may not have the documentation, but the companies in many of these cases do. And it is the position of many of the survivors that, throughout the ICHEIC process, the survivors were denied access by the companies to the very documents that would prove their claims. And combine this with the case determined yesterday in which the Second Circuit in essence said, to that very issue, as I read it, survivors deserve their day in court.

The bill that Mrs. Ros-Lehtinen and I filed awards not a single penny to any one survivor. All it does is give each and every survivor an opportunity to go to court to prove his or her claim given the legal avenues that claimants have in the United States. So I am surprised, and I am trying to intellectually resolve, how we say the objective of ICHEIC was to provide a remedy for unresolved insurance claims. We have the history of ICHEIC. I think we do not dispute that most of the insurance policies that existed have not been addressed.

So to now with finality say that is it; we need to be honest. The administration's position is a final one, which, in essence, says that 95 percent of survivors will not have their day in court or in any other tribunal to prove that they had insurance policies. And how

we as a community of just people land in that position is what is astonishing to me.

Ambassador KENNEDY. The issue that you raise, again, I go back to what I said before. The people who were part of the ICHEIC process, the staff, the personalities represented on the board, were all deeply committed to the survivors.

Mr. WEXLER. No question.

Ambassador KENNEDY. And their integrity, I think, is unimpeachable. And they had access to the files. They audited the files in their search, because often someone would say, well, we know of examples. ICHEIC of course was its own entity, but they often shared anecdotes with us. And I have heard, for example, that someone would file and say, my father had a policy with such-and-such company. They would go in to the files and they would find out it wasn't company X, in fact, it was company Z, and they would make the payments based on the company Z policy. So it was a process that tried to do as much as possible.

One of the conclusions I draw from ICHEIC, the ICHEIC process, is that you can have all the goodwill in the world, do the very best you can, but sometimes you are just not going to, in restitution work, have the elements to make decisions on. And the people who went through the files were trying very, very hard. They were doing their best. And these were professionals. They took their caseload, they resolved it. And it is just, I think in the area of undocumented claims, they probably went as far as they could.

Now, the insurance companies have said that if people have a specific claim against a specific company, they will process it with ICHEIC-like criteria. I asked one of the attorneys for one of the larger companies if they had had any claims or if he knew of any claims. This is an attorney here in Washington. He said that, to the best of his knowledge, no claims have been filed yet. I don't want to put too much analysis on that fact, but I do think it means we may have come to the end of the possibilities.

Mr. WEXLER. Would you agree with me that to the extent that claims are, in fact, undocumented, no one will receive any benefit or will be able to receive any benefit from Mrs. Ros-Lehtinen's and my legislation? Because, in fact, if it is undocumented in ICHEIC's process, if that process was accurate, they will not be able to document it in a Federal court in the United States. The result will be the same. The only way the result will be different is if, given the opportunity of going into Federal court, that claimant is able to establish some level of proof, far more probably in a Federal court than in some instances of what you described at ICHEIC.

So I am, again, curious. Other than the cost of the legal fees—which I understand at times can be somewhat onerous—other than that, we are not seeking to create anything other than an opportunity, but the administration has reached a determination apparently that all opportunities have been evaluated by well-intentioned people.

So, therefore, it is unreasonable to assume, is your position, that there is any claim that yet exists that can be documented. I mean, is that a fair statement of where we stand?

Ambassador KENNEDY. Well, I think I might put it a little differently.

Mr. WEXLER. Please.

Ambassador KENNEDY. An enormous body of very good work was done by ICHEIC under the direction of its board and by its staff. They, it would seem, exploited the possibilities that were there in benefit of survivors.

In order to get to that settlement which paid concrete benefits to 48,000 survivors and heirs, we had to make certain undertakings in our agreements, and one of those undertakings was that we would seek legal peace on behalf of the insurance companies involved in Austria and Germany.

Mr. WEXLER. The actual numbers with respect to ICHEIC—and let's make sure you and I are dealing with the same basic set of facts, and if we are not, please tell me where I have got it wrong—as I understand it, ICHEIC companies recognized and made offers on a total of only 17,000 insurance policies in force between 1920 and 1945. In addition to those 17,000 policies, ICHEIC made 31,000 payments of \$1,000 each, and they were viewed as humanitarian payments, which may have been something similar to what you spoke about where someone came in and the story seemed right.

So if you accept those numbers as being accurate, which I believe are ICHEIC's numbers, then what we are left with is that ICHEIC has paid less than 3 percent of the value of unpaid insurance policies owned by Jewish people at the beginning of World War II. And if you use a different valuation, maybe the 3 percent goes to 5 percent.

So where we stand is we either defend and hold to a process of well-intentioned people, undoubtedly, that resulted in the forfeiture of what might be 95 percent of the value of the life insurance policies; or, as an alternative, we do what Mrs. Ros-Lehtinen and I suggest we do, and that is open up a Federal course of action for people under court supervision to engage in a litigation posture with the insurance companies that have the information and stand to be liable under the regular rules of Federal procedure.

And still, it is the administration's position—and I don't want to keep belaboring the same point, but in effect, we must because that is the administration's position—that, as you say, there was a process and the process achieved its outcome.

Was the outcome supposed to be that 5 percent or 3 percent of the values of the insurance policies be recognized and paid? Was that the perceived outcome when this quid pro quo was made that you spoke about earlier, which was, "We'll engage in a process and the end result will be no more litigation"? Was that what was assumed would be the case?

Ambassador KENNEDY. Mr. Chairman, thank you for that question. I am not sure that there was a foreordained outcome to the process. They went as far as the facts would take them.

Now, when it comes to these valuations, I have also had to try to familiarize myself with them. I think the ICHEIC Web site, their very excellent and thorough-going final report provides insights into their thinking on how things worked. As I say, the best way I can characterize it, not being an economic historian, is one set of valuations was arrived at in a sort of top-down fashion, what should it be, then how do you distribute it? And the other was

based on documentation that went from the bottom up, building the numbers. And I believe ICHEIC felt that they had done the right thing in getting to their numbers. Thank you.

Mr. WEXLER. For the record, I am repeating myself, but I don't want there to be even an inference that I am questioning either the credibility or the integrity of anyone involved in this process. Just the opposite. But even in your last response, you talk about that there is a very complex and difficult process, and that you believe and are confident that ICHEIC and the people involved went as far as they could with the information they had.

Ambassador KENNEDY. And I believe that they also thought that not only have they gone as far as they could, but that it was a thorough-going search.

Mr. WEXLER. If that, in fact, is the case—then again other than—I realize the inconvenience of being a defendant in a lawsuit, but on such a monumental question as to whether or not survivors have, in fact, reached justice, they have nothing to fear; they will have paid everything that should have justly been paid. Only will they owe more money if someone is able to document a claim that for whatever reason wasn't able to be documented in the ICHEIC process.

And there are, I think, people of equal credibility with the same integrity who have said that process did not work; "I did not have access"; "I was not able to document and, therefore, as an American citizen, I ought to have a right to go to Federal court." And it is the Congress, of course, ultimately that determines what is a Federal Action or not. But having the person responsible in the administration for these issues oppose this effort is obviously an extraordinary hurdle to overcome.

If I could just follow with what Mr. Smith said, and up the ante a little bit: On restitution issues, like Mr. Smith said, I was with I think Chairman Gilman on my first trip that I ever took as a Member of Congress. We were in Poland and some other places in 1997, and we were talking about restitution. And the Polish Government at the time said, "Soon, very soon this political dynamic needs to happen. Wait for this election. Wait for this part of our economy to be a bit more robust."

Poland is an important, extraordinary ally of the United States of America. It has worked hand in hand with us on many important trans-Atlantic issues, and many important issues beyond the trans-Atlantic relationship. The American-Polish relationship is solid. It is important. It is an integral part of our foreign policy relationships. But the Polish Government has been telling us this for more than a decade. So, when do we, as close allies and close friends, up the ante with the Polish Government so that they understand that we are truly committed, in the last hours that the generation of survivors will be with us, to, on the restitution issue, reach a resolution? Do you have any suggestions? Even if those suggestions are to be accomplished by others than those in the administration, do you have any suggestions as to what we in the Congress might do to impress upon our friends in Poland that this is an issue that is central to our bilateral relationship and that thus far has been totally unsatisfactory?

Ambassador KENNEDY. Thank you, Mr. Chairman, for that question. I think it is an extremely important one.

The reply, I guess I would say, is that the more the Polish legislators who have to pass this law realize exactly what you said, that this is a core issue for Americans, then that helps move progress forward, I think. Obviously, the Embassy and I will both be back on the doorstep of the Sejm as soon as there is a new government in place asking, "When are you going to do something about this law?" The work—a lot of work was done on the draft law, and I think that there is a lot that a new Sejm could take away—well, the just expired draft and work on it. It is a question of letting them know how important this is to us.

Mr. WEXLER. Mr. Ambassador, you have been very kind and courteous to be with us. If I could just maybe ask your counsel in a public way. Is there anything we could do in mine and Ms. Ros-Lehtinen's bill that would persuade the administration to support it rather than oppose it? Understanding that there is what appears to be a difference in principle, is there a way in which we could implement a Federal cause of action or some other remedy that might be available that would be meaningful to the survivors and that the administration could support at this point in time?

Ambassador KENNEDY. Thank you very much for that question. We feel that the best way to get things done in the area of helping survivors in their old age is to keep working with the governments through dialogue by coming up with workable agreements that the parties to the agreements can live with. In the case of the ICHEIC agreements, we promised legal peace. Or the agreements, more properly, the agreements that led to ICHEIC. We promised—we promised legal peace. What we got was a huge substantial payment to a group of survivors. Now, was it enough? It is never enough. Was it comprehensive enough? I don't think anyone would argue that. There are undoubtedly cases that fell through the cracks. But it was a substantial set of financial payments made to a group of people who probably were at utter despair that they would ever receive anything.

So I think it was a good agreement, it was a good process that came out of the bilateral executive agreements with Austria and Germany. It is important to keep working on those kinds of things, looking for ways that we can help.

I certainly understand the spirit and the desire to help survivors that is driving the legislation right now, but the problems that—one is the legal peace that was part of our earlier agreement. The second part is we feel just as a matter of principle, if you can come to agreements with companies, with governments and get payment for survivors, financial payments for survivors, in the end, that is something that is better than going to court with all the uncertainties and costs that that entails. So we want to continue to work with survivors, work with the Congress on ways to have agreements that will help us benefit survivors, sir. Thank you.

Mr. WEXLER. Again, I thank you for your responsiveness, and I promise this won't be my last question. But when I go home and I appear before various groups of either survivor groups or other groups that have survivors in them or survivors' family members, if I said the statement you just said and said, "Listen, the ICHEIC

process was agreed to; we, the United States, agreed to legal peace, they agreed to process all claims. And a substantial—I think that was the word you used—“a substantial payment has been made,” some very earnest man or woman is going to stand up and say, “Wexler, how can you tell me that paying less than 5 percent of the value of the policies is substantial?” And you bandy about this number of \$300 million that may seem like a lot of money, but it is an infinitesimality, if that is the right word, of the value of what those policies represent.

So I understand we promised legal peace. But what did they promise? What did they promise? If you could share that with me. And how do we define the payments as substantial in this context? And I will be done, I promise.

Ambassador KENNEDY. Well, I am always happy to answer your questions, Mr. Chairman, and thank you for that one. And, indeed, I look forward to working with your staff or you on further details if that is necessary. I plan to visit South Florida sometime this year or early next year, and I imagine I had better be ready for some questions.

I think that there is a payment, and we can talk about the adjectives to describe it, \$300 million to survivors. There was also around \$170 million paid into social programs for needy survivors that are administered by the Claims Conference. There was a remnant of money left, I believe it was \$26 million, that Chairman Eagleburger wanted to put into the hands of social programs, and that is why he closed ICHEIC down rather than continue to run up expenses, and the fact that the work appeared to be done.

So, yes. Was it a perfect process? No. But it was a process to address a set of issues that probably were never addressed before. People who had documentation, who could get at documentation were able to get insurance claims processed in many cases. This was for the people who had no evidence and, as such, I think it was a process that met its goals. Thank you, sir.

Mr. WEXLER. Mr. Ambassador, thank you for being here. Thank you for agreeing to come before the subcommittee, and thank you for your patience and what I think is your earnest attempt at answering the questions. And, again, I would like to end where I started, which is I greatly respect and admire your personal commitment to these issues. And thank you very much.

Ambassador KENNEDY. Thank you very much for those kinds words, Mr. Chairman. It was a pleasure to be here.

Mr. WEXLER. Thank you. At this point in time, I would like to begin the second round of witnesses. Before that, without objection, a statement by former Secretary Eagleburger that would be submitted to the subcommittee will be made a part of the record.

[NOTE: Information referred to was not received by the subcommittee prior to printing.]

Mr. WEXLER. And at this point, as Ambassador Kennedy leaves us, I would like to invite up the second panel of witnesses.

By way of organization, this is the second vote in a series of three votes. In about 6 minutes I am going to have to leave and go cast a vote and there will be one quick vote after that. So what I would like to do is just read through the introductions of our five panelists and then recess for what I hope will be no longer than

10–15 minutes; then I will be back and I believe other members of the subcommittee will be back as well. And I thank the gentlemen and those with us for your patience.

At this point I would like to introduce our second panel of witnesses.

Mr. Gideon Taylor is the executive vice president of the Conference on Jewish Material Claims Against Germany. Since 1999, Mr. Taylor has overseen numerous restitution negotiations and funds distributions, including the creation of a \$4.5 billion German Foundation Remembrance Responsibility in the Future, which was established to assist and compensate Holocaust victims. Mr. Taylor has also overseen the creation of Claims Conference programs designed to compensate refugees and victims of Nazi medical experimentation. Mr. Taylor, along with the Claims Conference, continues to negotiate for the expansion of other pension and one-time payment programs, recover unclaimed Jewish property in former East Germany, and distribute more than \$100 million in institutional grants annually.

Prior to joining the Claims Conference, Mr. Taylor served as assistant executive vice president of the American Jewish Joint Distribution Committee which was involved in Operation Solomon, relocating 15,000 Ethiopian Jews to Israel, and rescue work in Yemen and Syria.

Mr. Jehuda Evron is the president of the Holocaust Restitution Committee, which is the leading international body advocating for restitution of Holocaust era seized properties in Poland. The Holocaust Restitution Committee represents 3,000 Holocaust survivors from all over the world who lost their families and whose assets were stolen by the Nazis. Mr. Evron has testified before the Helsinki Commission and the European Union Parliament in Brussels on policy restitution issues.

Mr. Evron survived World War II in Romania, including a pogrom in which he lost many members of his own family. His wife is from Poland and survived the Tarnau ghetto in hiding. Mr. Evron's family lost a factory and two buildings that were never restituted.

Mr. Sidney Zabłudoff is an international economist. He has concentrated on issues relating to returning assets stolen by the Nazis and their collaborators to Holocaust survivors and their heirs for the past 12 years. He is a former consultant to the Conference on Jewish Material Claims Against Germany where he focused on the International Commission of Holocaust Era Insurance Claims (ICHEIC) of which we have been talking about today.

He also worked for the World Jewish Congress on broad economic and financial aspects of the Holocaust era asset issue. He participated in the London Conference on Nazi Gold in 1997, and the Washington Conference on Holocaust Era Assets in 1998.

He assisted in the development of the American President's Commission on Holocaust Era Assets and has published articles concerning the Nazi Gold movements. During his U.S. Government service at the CIA, Treasury, and White House from 1962 to 1994, he pioneered efforts to analyze illicit financial flows, helped to establish the Financial Crimes Enforcement Network, directed finan-

cial intelligence operations, and provided policy support on global economic issues to the highest level of government officials.

Mr. Jack Rubin, I am proud to say—very proud to say—is a constituent of mine from Boynton Beach, Florida. Like Mr. Evron, and Mr. Moskovic, he is a Holocaust survivor. Mr. Rubin is originally from Czechoslovakia. Under Hungarian authority in 1944, Mr. Rubin was picked up by the Hungarians, along with his family, and sent to the ghetto. From there, they were deported to Auschwitz, which is the last time Mr. Rubin saw his parents.

Mr. Rubin was sent from Auschwitz to a labor camp where he was forced to work in a copper mine. He survived the labor camp and was returned to the Kochendorf concentration camp where he was forced to work in the salt mine. Then he survived the freezing death march to Dachau in which thousands of prisoners perished, as well as a month also in Dachau.

After spending more than a year in a German displaced persons' camp, he registered to go to the United States and was permitted to immigrate. He served admirably in the U.S. Army in 1950. After he was honorably discharged, he prospered in the fur business, married, and had three children and four grandchildren.

Mr. Rubin retired and moved with his family from Connecticut to Florida in 1999. He has been active in his synagogue and several survivor organizations, including the Advisory Committee of the Jewish Family and Children's Service. Thank you very much, Mr. Rubin, for being here.

What I am going to do for you, Mr. Moskovic, is I believe Congressman Mahoney wanted to be here to introduce you. So with your permission I am going to hold off until I come back. I am going to grab Congressman Mahoney and ask him to introduce you. We had talked yesterday and he felt honored that he would have the opportunity to do that. So I don't want to deny him that opportunity.

And I beg your indulgence, I am going to run to go vote and I will be back as soon as I can physically run there and make the two votes. I thank you for your patience.

Mr. MOSKOVIC. We appreciate that, Congressman.

Mr. WEXLER. Thank you.

[Recess.]

Mr. WEXLER. I would like to thank everyone for their patience and indulgence. We ended off where I introduced the first four panelists. Mr. Moskovic was yet to be introduced and we were waiting for Mr. Mahoney, who had made a special request to have the opportunity to do the introduction.

And with that, I recognize Mr. Mahoney, who I will add has just become, I think yesterday, a sponsor of the legislation that we have talked about in great detail earlier in the hearing that would create a Federal cause of action for survivors regarding their insurance policies and other assets.

Also joining us in the audience for the moment, but I hope she will join us on the dais, is the leading and Ranking Republican on the Foreign Affairs Committee who is the lead sponsor of the legislation we have been talking about this morning, Mrs. Ros-Lehtinen from Florida, as well. And there is no acclamation that would be undeserved for Ileana. She has been uniquely engaged in helping

the survivor community obtain a level of justice. And she deserves our extraordinary gratitude and I think she will be here to listen to the testimony.

With that, Mr. Mahoney, also, if I could, I just want to recognize Mr. Klein who also represents a constituency that has a very strong contingent of survivors. Mr. Klein, too, is a sponsor of the bill that we have been talking about. And previous to being a Member of Congress, Mr. Klein was engaged in a very significant way in Holocaust education issues in the Florida legislature, both as a State Senator and State Representative. Also, as a leading member of the South Palm Beach County Jewish Federation, was engaged heavily in Holocaust-related issues, so we welcome him to the subcommittee as well.

Mr. Mahoney?

Mr. MAHONEY. Thank you, Mr. Chairman, for giving me this opportunity to join the Subcommittee on Europe this afternoon so I could introduce one of my most distinguished constituents, Mr. Moskovic. Before I go into detail, since you brought it up, I am glad to be a co-sponsor, because very simply stated, there is no time-out when it comes to doing what is right and what is just. And I think this is an important piece of legislation so that justice can be served.

Getting back to Mr. Moskovic, I would like to thank him for coming today. I would like to thank Ileana for introducing this important bill. And again I am truly honored to be here.

Mr. Moskovic, who today lives in Hobe Sound, Florida, in my district, is a Holocaust survivor from Slovakia. In 1944, Mr. Moskovic, his parents Josef and Gittel Moskovic, and two brothers were deported to the Auschwitz-Birkenau prison camp. Mr. Moskovic was the only one of 41 family members to survive the Holocaust, enduring a torturous march through freezing weather, nearly 2 weeks on a cramped train where thousands died of hunger, and the horrors of Auschwitz.

Upon his return after the war, he found that his family house had been destroyed. In 1947, Mr. Moskovic came to the United States where he established a successful career as an editor for ABC Sports. In fact, Mr. Moskovic was awarded numerous Emmys during his 30-year career.

After moving to Florida, Mr. Moskovic volunteered to work on the advisory committee of the Ruth Rales Jewish Family Services Board in Boca Raton, Florida, a nonprofit organization that provides members in Palm Beach County with counseling and education programs. In addition, he is a member of the Board of Directors and Executive Committee of the Holocaust Survivors Foundation USA, where he has worked to help Holocaust survivors recover their family assets.

Mr. Moskovic, I am truly honored that you took the time to come out and give this very, very important testimony today, and I appreciate the opportunity, having the ability to introduce you, sir.

Mr. WEXLER. Thank you very much, Mr. Mahoney.

Mr. MOSKOVIC. Congressman Mahoney, I want to thank you for those kind words, I really appreciate it.

Mr. WEXLER. Thank you. With that we will start the testimony. Mr. Taylor, if you would, please.

STATEMENT OF MR. GIDEON TAYLOR, EXECUTIVE VICE PRESIDENT, CONFERENCE ON JEWISH MATERIAL CLAIMS AGAINST GERMANY, INC.

Mr. TAYLOR. Thank you, Mr. Chairman and members of the committee. For 55 years, the Claims Conference has advocated for the rights of Jewish victims of Nazi persecution and heirs of the victims. Claims Conference negotiations with Germany have led to almost \$60 billion in payments to Holocaust survivors. Since 1980 the Claims Conference has administered nine programs of compensation for Jewish victims of Nazism, paying more than \$4.5 billion to survivors. Overall, more than 500,000 survivors have received payments as a result of these negotiations.

In the year 2006, the Claims Conference distributed in excess of \$600 million in direct compensation and payments to survivors and heirs, in allocations for social welfare programs, together with limited amounts for programs of Holocaust documentation and education.

These accomplishments have been aided, every step of the way, by the crucial support of the United States Government. The U.S. has played a critical role in helping in these efforts and we thank both the administration and the U.S. Congress, and the chairman of this committee and members of the committee for their continuing support on these issues.

The Claims Conference continues to intensively press the German Government for compensation for additional survivors as well as for increased benefits for those already receiving payments. The Claims Conference Negotiating Delegation, composed almost entirely of Holocaust survivors, meets regularly with the German Government in order to press for improvements in these programs.

The Claims Conference is also the primary funder of social services for Jewish victims of Nazism around the world, with funds primarily from unclaimed Jewish property in the former East Germany. Since 1995, the Claims Conference has administered more than \$1 billion in social service allocations from various sources in over 40 countries.

Allocating funds, especially those arising out of the Holocaust, is not easy and there are many strongly held views on all sides that are expressed most passionately. Every grant that the Claims Conference makes is listed on the Web site of the Claims Conference, as are full details of the financial statements and assets of the Claims Conference.

Nazi victims in the United States and all over the world face tremendous social needs as they age. We are acutely aware of these needs. When the Claims Conference first began recovering Successor Organization funds in 1995, there were no social service programs specifically addressing the needs of Holocaust survivors in the U.S. The Claims Conference approached Jewish family service agencies one by one and establish over 50 programs across the United States.

Because of these negotiations, carried out largely by the Claims Conference, allocations for programs have increased annually. In the United States alone, allocations for social welfare programs were increased from \$7 million in 2000 to over \$20 million in 2007. Yet these funds are still not enough.

In July, the Claims Conference created an expanded allocation plan of \$367 million over the next 3 years, primarily for social welfare programs for Nazi victims across the world. Demographic studies show that over the next 10–15 years, Nazi victims will continue to have growing, extensive needs. As survivors who are currently around age 75 get older, they will need even greater support. The Claims Conference's multiyear plan reflects an effort to ensure that at least some funding will be available for these critical needs after income from restitution sources cease.

There are two important, recent developments that impact greatly on survivors and meeting their needs. Just last month, the Claims Conference, in negotiations in Berlin, secured an additional 6,000 monthly pensions under the Article 2 Fund, financed by the German Government, that will total approximately \$250 million over the next decade.

In addition, last month, as a result of efforts by the Claims Conference with assistance from members of this committee and from the chairman, the German Government announced the creation of a fund of approximately \$140 million, out of which payments will be made to some 50,000 survivors of labor in Nazi era ghettos. Many of these survivors are also in the United States.

Finally, I would like to close by addressing some of the challenges lying still ahead. Firstly, there are still many open issues with regard to Germany, not the least of which is obtaining additional funding for the home care needs of Holocaust survivors. Since 2004, the Claims Conference has secured approximately \$45 million for home care services. Negotiations with the German Government on this issue are ongoing. We seek the support of this Congress to help secure an adequate level of German Government funding.

Secondly, we are making efforts to mobilize additional resources to meet the social needs of Nazi victims worldwide. Jewish federations in the United States, including those in Cleveland, Miami and New York, have allocated funds for these needs. In addition, State and city funding in Florida, Michigan, New Jersey, and New York City has been provided. We are working to expand public support for these endeavors.

Thirdly, together with our sister organization, the World Jewish Restitution Organization, we are making great efforts to secure private and communal property restitution in a number of countries. Poland remains the only major country in the former Soviet Bloc that in the last two decades since the fall of Communism has not taken any measures to help former property owners or heirs recover private property. In the past, the U.S. Congress has been very supportive on this issue and we are appreciative of the role of the chairman in this regard.

There are large amounts of property at stake in Eastern Europe and we seek the support of this committee in making a renewed effort to secure property restitution in these countries.

Fourthly, the issue of looted art and other cultural property lags behind other areas of restitution.

These efforts are ultimately not about the money; they are about trying to obtain a small measure of justice and a symbolic recognition for each individual Holocaust survivor who has been through

the unimaginable. The Holocaust survivors who are involved in the Claims Conference and others involved in the Claims Conference will continue to fight for that justice and for that recognition as long as there is one survivor still alive.

I thank you for your commitment dealing with these issues.

[The prepared statement of Mr. Taylor follows:]

GIDEON TAYLOR
Executive Vice President
Conference on Jewish Material Claims Against Germany, Inc.

Testimony
United States House of Representatives
House Committee on International Relations,
Subcommittee on Europe & Emerging Threats
Washington, D.C.
October 3, 2007

For 55 years, the Conference on Jewish Material Claims Against Germany has been the leading international organization advocating for the rights of Jewish victims of Nazi persecution and heirs of the victims. Through negotiating with governments and industry, administering compensation programs, recovering assets, and funding social services, the Claims Conference has sought to ensure that those who perpetrated history's greatest crime would not also profit from it and that victims of Nazi persecution would receive a measure of justice.

Claims Conference negotiations with Germany have led to more than **\$60 billion** in payments to Holocaust survivors from the German government. Some 80,000 survivors are still receiving pensions originating from negotiations which began in 1992.

Since 1980, the Claims Conference has administered nine programs of compensation for Jewish victims of Nazism, paying more than **\$4.5 billion** to survivors in 75 countries. Overall, more than 500,000 survivors have received payments as a result of Claims Conference negotiations and programs.

These accomplishments have been aided, every step of the way, by the crucial support of the U.S. government. The United States has played a critical role in helping these efforts, and we thank both the administration and the U.S. Congress for its continuing support and work on this issue.

The Claims Conference continues to intensively press the German government for compensation for additional survivors, as well as for increased benefits for those already receiving payments.

At the outset, I would like to highlight two recent and extremely important developments in this regard.

Just last month, the Claims Conference announced that negotiations in Berlin had led to the creation of a potential, additional 6,000 monthly pensions under the Article 2 Fund, financed by the German Government, that will total \$250 million over the next decade. Many of these pensions, which will commence in the next few months, are for Nazi victims residing in the United States. These payments will be paid to survivors who, until now, were excluded from receiving monthly pensions for the suffering they endured during the Holocaust.

Also last month, the German government announced the creation of a fund of approximately \$140 million out of which payments will be made to some 50,000 survivors of labor in Nazi-era ghettos. Many of these survivors also are in the United States. This fund came about, in large part, due to intensive Claims Conference advocacy on the issue of German Social Security payments for work in ghettos, together with strong U.S. Congressional support. Many members of this very committee have been extremely helpful in pursuing this issue during the last five years. However, the potential implementation of the program for payments is problematic and the Claims Conference is currently in negotiations with the German government. We will certainly be in touch with members of the Committee on this vital issue.

The Claims Conference is also the primary funder of social services for Jewish victims of Nazism around the world. Most funds for such Claims Conference allocations come from the recovery of unclaimed Jewish property in the former East Germany and, in recent years, the Claims Conference has administered allocations for other restitution entities as well. In sum, since 1995, the Claims Conference has administered more than \$1 billion in social service allocations in more than 40 countries.

In 2006 alone, the Claims Conference distributed in excess of \$600 million in direct compensation and payments to survivors and heirs, and allocations for social welfare programs.

After describing recent activities of the Claims Conference, I will focus on some of the current conditions facing survivors, and then address issues that have been raised about the Claims Conference.

A. Recent Developments

First, I would like to address some of the major recent developments in the area of Holocaust compensation and restitution:

1. Holocaust-Related Compensation Programs

Annually, the Claims Conference travels to Berlin and negotiates with the German Ministry of Finance to expand and otherwise liberalize the criteria for the Article 2 Fund and other programs. The most recent round of Claims Conference negotiations, commencing in June 2007, has resulted in agreements which could total more than \$300 million in direct compensation payments to survivors over the next decade. This amount is above and beyond what is already being paid by the Claims Conference. The latest negotiations resulted in major breakthroughs in the Claims Conference Article 2 Fund, which are monthly pensions of about \$320 funded by Germany. When the Article 2 Fund was established in 1992, Germany agreed to pay 25,000 survivors; Claims Conference negotiations since then have resulted in the payment, to date, of 97,000 pensions from the Article 2 and related Central and Eastern European Funds.

The major changes resulting in expansions in the compensation programs following these negotiations are as follows:

- a. Eligibility for Article 2 payments is determined by a survivor's persecution history, as well as certain financial and geographic limitations. Eligibility as specified by German government criteria is partially determined by income below US \$16,000, or its equivalent in local currency, after taxes. The most recent negotiations established that, as of October 1, 2007, all old age pensions – including governmental pensions, social security payments, occupational pensions and retirement plans – as well as pensions awarded for a reduction in earning capacity, industrial injury, occupational disease, and loss of life, or any comparable payments will not be counted – as they had previously been – towards calculation of the income limit. In addition, only the net income of the applicant will be considered, and not the income of his or her spouse, changing the previous rule. This means that payments will be made to thousands more survivors.

The changes in the income requirement will lead to a more than 10 percent increase in the number of people who will now qualify for Article 2 payments. Moreover, the income changes reflect the long-standing Claims Conference position that compensation payments, which recognize Nazi persecution and suffering, should not be based on income criteria and should be paid irrespective of financial need.

- b. The Claims Conference also obtained Article 2 Fund payments for 1,500 new claimants who are, or were formerly, citizens of certain Western European countries. This will result in an estimated, additional \$65 million in pensions, to be paid over the next 10 years. Eligibility for these survivors was obtained in negotiations in 2003, but the Claims Conference has received many more applications than the German government anticipated and the German government did not previously provide sufficient funding to make these payments.
- c. In addition, the German Ministry of Finance agreed to increase the monthly payments from the Central and Eastern European Fund (CEEF). CEEF is paid to Holocaust survivors in former Eastern bloc countries who meet the same persecution history eligibility criteria as apply to the Article 2 Fund. The Claims Conference successfully argued that the cost of living in Central and Eastern Europe has increased dramatically. As a result, the monthly CEEF payment for persons in EU countries will be increased from approximately \$245 to \$280 and for non-EU countries it will be increased from approximately \$190 to \$230 as of October 1, 2007. The Claims Conference continues to press for CEEF payments that are equal to those from the Article 2 Fund. Currently, 14,500 people receive payments from CEEF. The latest increases will result in approximately \$32 million in additional payments over the next 10 years.

2. Social Welfare Support

Following a review of income and needs, the Claims Conference Board of Directors, at its annual meeting in July, decided to allocate an additional \$67 million over the next three years for social welfare programs benefiting Nazi victims. This decision will raise the total Claims Conference allocations for social services over the next three years to a total of \$367 million. Funding for these allocations comes from the Successor Organization, which recovers unclaimed Jewish property in the former East Germany.

Successor Organization allocations will be \$110 million for programs in 2008, \$122 million for programs in 2009, and \$135 million for programs in 2010. These allocations will not only increase funding for social welfare programs, but will also make up for the decline in funding from other sources as, for example, humanitarian allocations for social welfare programs for needy Nazi victims have ceased from the International Commission on Holocaust Era Insurance Claims (ICHEIC).

In addition, the Claims Conference allocated a supplemental \$4.9 million for homecare in Israel for this year. That means total Claims Conference allocations this year for homecare in Israel will increase by 10 percent, totaling approximately \$50 million for 2007.

Further, all Claims Conference allocations over \$90 million per year – the amount which was allocated annually until 2006 – will be exclusively applied to social welfare programs. Twenty percent of the first \$90 million in allocations will fund programs of Holocaust education, documentation, and research.

In addition to these allocations, the Claims Conference was invited to and does administer other restitution funds on behalf of other entities, such as the Swiss Banks Settlement and the Hungarian Gold Train Settlement, under the auspices of U.S. Federal District Courts, and homecare funds negotiated from the German government.

Demographic studies show that, over the next 10-15 years, Nazi victims will continue to have growing, extensive needs. Simply stated, as survivors who are currently around age 75 get older, they will require even greater support. The Claims Conference's multi-year plan reflects an effort to ensure that critical homecare and other related needs of elderly Nazi victims, living in the poorest conditions, will be addressed over the next several years, even after income from current restitution sources ceases.

3. Ghetto Pension

As previously noted, the German government has announced the creation of a new fund which will total approximately \$140 million. The fund will provide for one-time payments to survivors for work they performed in ghettos. These are individuals who are eligible for so-called "Ghetto pensions" under German legislation, but whose claims were previously rejected by local authorities in Germany administering the program. The legislation will provide German Social

Security payments to survivors who performed voluntary work, for some remuneration, in Holocaust-era ghettos, but inconsistent administration and strict interpretations of the law in the past led to a very high rejection rate for claims. The Claims Conference has been vigorously pressing for additional funding for ghetto work in talks with Germany, and will continue to do so, as the payments from this new fund are not equivalent to ongoing Social Security payments. Moreover, we would like to take this opportunity to again thank the 21 members of Congress who sent a letter to Germany's Minister for Labor and Social Affairs, Franz Muntefering, urging "the German Government to act swiftly to deal with this matter of great importance to the elderly Holocaust survivors the law was intended to benefit."

4. Program for Former Slave and Forced Laborers

On December 31, 2006, as mandated by German law, the Claims Conference concluded all payments under the Program for Former Slave and Forced Laborers, which was funded by the German Foundation, "Remembrance, Responsibility, and the Future."

Under this program, the Claims Conference paid a total of approximately \$1.24 billion, on 158,097 claims, to survivors and heirs. Under a specific category of the Swiss Banks Settlement (for slave and forced labor), the Claims Conference has paid \$250.7 million to 172,906 former slave laborers and heirs. An additional \$5.6 million was paid from Austrian funds to 847 eligible survivors who applied after the December 31, 2001 deadline for the Program for Former Slave and Forced Laborers. All of these payments, totaling approximately \$1.5 billion, have been made over the course of five years, to survivors in 75 countries.

What does all this mean in concrete terms? The Claims Conference, either in direct payments to individual survivors and heirs, or in allocations for social programs, distributed a total of over \$600 million in 2006 and a total of \$2.5 billion in the past five years.

B. Situation of Jewish Victims of Nazi Persecution

Second, I would like to address the issue of the social needs of Holocaust survivors.

There have been many studies in recent years addressing the social needs of survivors in the United States and around the world. Copies of such studies are available on the Claims Conference website www.claimscon.org. The data is extremely important in shaping the allocations policy of the Claims Conference.

In addition, much has been written and discussed about the degree of persecution suffered by Jews in different circumstances during World War II. Many survivors were forced to endure concentration camps, ghettos, labor battalions, or survived in hiding under false identity. But there were also Jews, known as "flight cases," who survived the Nazi onslaught by fleeing East, primarily to the Soviet Union. The Claims Conference regards the Jews who fled and endured great hardships as victims of Nazi racial persecution who

are entitled to social assistance, and these victims have also been recognized as such by Germany.

Indeed, it is these “flight cases” that tend to be the poorest today, whether they live in the former Soviet Union, where conditions are the harshest, or are new immigrants to Israel and the U.S. Such individuals, typically, are not eligible for Holocaust compensation pensions because they were not in camps or ghettos. Moreover, as new immigrants, the U.S. government benefits they receive are quite limited. In this regard, they are in a situation similar to other elderly Jewish immigrants to the U.S. from the former Soviet Union.

The National Jewish Population Study, available at www.claimscon.org/forms/allocations/Nazi_victims_report.pdf, reviewed this issue. The study examined categories of Nazi victims who came to the U.S. before 1965 (generally those who were persecuted in camps and ghettos) and those who came post-1965 (generally flight cases from the former Soviet Union).

The findings of the study include the following:

- An estimated 122,000 Nazi victims currently reside in the United States.
- Victims are more economically and socially vulnerable, report poorer health and more disabilities that limit daily activities, and have somewhat greater social service needs than non-victims.
- Based on almost all indicators of economic, social and health status, Nazi victims who arrived in the U.S. after 1965 (i.e. the flight cases) are appreciably worse off than non-victims, demonstrating that the post-1965 arrivals are especially vulnerable to economic and social difficulties. In contrast, victims who arrived in the U.S. by 1965 enjoy parity with non-victims on many, but not all, of these indicators.

Particularly in the past decade, the Claims Conference has been in the forefront of the development of social welfare programs specifically geared to identifying and addressing the needs of Holocaust survivors in the U.S. and worldwide.

When the Claims Conference first received Successor Organization funds in 1995, there were no social programs equipped specifically to address the needs of Holocaust survivors in the U.S. Thus, the Claims Conference approached Jewish Family Service Agencies in the country and, one by one, helped to establish programs across the United States. For each program, the Claims Conference required the establishment of a related Holocaust Survivor Advisory Committee.

Since 1995, the Claims Conference has allocated more than \$1 billion for the social welfare needs of Jewish victims of Nazism in over 40 countries. In the U.S. alone, the Claims Conference established Holocaust survivor assistance programs in more than 50 communities and virtually has been their sole support since then.

These programs, with priorities set by local agencies, provide homecare, emergency cash assistance, case management, transportation, meals on wheels, and companionship to

what too often are lonely, elderly survivors. They provide a lifeline for many isolated survivors and bring an added measure of dignity to their old age.

In recent years, as previously explained, allocations for social welfare have included restitution funds from other sources that are administered by the Claims Conference. The Claims Conference was asked to allocate social service funds on behalf of the International Commission on Holocaust Era Insurance Claims, the U.S. Federal District Court administering the Swiss Banks Settlement, and the U.S. Federal District Court administering the "Hungarian Gold Train" Settlement. The Claims Conference also has administered allocations from the German government and from Austrian government and industry, all arising from negotiations initiated by the Claims Conference.

But the needs of the aging survivors continue to grow.

Moreover, it is important to bear in mind the needs of Jewish victims of Nazism in light of their geographical distribution. Of the Nazi victims living today, approximately 20 percent live in the U.S., with approximately half of those living in New York State. The majority of Nazi victims worldwide, however, live in the former Soviet Union, which has no reliable state social support system, and in Israel.

Because of successful negotiations carried out largely by the Claims Conference, allocations for all programs have increased annually. In the United States alone, allocations for social welfare projects were increased from \$7 million in 2000 to over \$20 million in 2007.

We continue to try to meet the challenge of allocating resources to effectively assist needy Nazi victims wherever they live.

C. Issues Concerning the Claims Conference

I would now like to address various issues that have been raised concerning the Claims Conference.

Firstly, the Claims Conference has two main sources of money. Most of the money the Claims Conference has received – direct compensation funds – has been the result, primarily, of negotiations with Germany. These are funds earmarked for specific payments to certain categories of Jewish victims of Nazism according to criteria set by the German Government. Only Jewish victims meeting the criteria are entitled to receive these payments. These payments are provided by the German Government, based on applications approved by the Claims Conference, subject to approval by the German Government.

The other principal source of restitution funds comes from unclaimed Jewish property in the former East Germany, recovered through what is called the Claims Conference Successor Organization. Most Claims Conference allocations for social services are made from the proceeds of this property recovery.

Secondly, the major priority of the Claims Conference allocations is meeting the needs of needy Nazi victims. Another priority is to fund programs of Holocaust education, documentation, and research. When the Claims Conference began realizing proceeds from the recovery of unclaimed property, its Board of Directors decided to allocate a small portion of these proceeds to preserve the memory of the six million killed – including the former owners of these very properties -- in order that the world did not forget both how they lived and how they died. Until recently, 20 percent of Claims Conference allocations were made to Holocaust education, documentation and research programs and 80 percent were made to social welfare programs benefiting Nazi victims in some 40 countries. There are survivors on the Claims Conference Board that support this policy, while others oppose it. Our website includes a range of viewpoints expressed by survivors and others on this issue.

At its 2007 meeting, the Claims Conference Board of Directors, as mentioned earlier, decided to increase the allocations made to social welfare programs worldwide. The first \$90 million of Claims Conference allocations will be subject to the 80/20 division. All funds allocated above that amount will be used exclusively for social welfare programs assisting and benefiting Jewish victims of Nazism. The allocations for Holocaust education, documentation and research are made only from the funds of the Successor Organization. It should be noted that, of the total of over \$600 million from all sources distributed by the Claims Conference in 2006 for direct payments, payments to heirs of property and institutional grants, approximately 3 percent of the funds supported programs of Holocaust education, documentation, and research. However, it also should be pointed out that the Holocaust documentation programs funded by the Claims Conference have helped thousands of survivors receive compensation, by providing proofs of persecution to satisfy German eligibility requirements for various payment programs.

Thirdly, the Goodwill Fund. The deadline for filing claims under the German law for restitution of assets located in the territory of the former East Germany expired on December 31, 1992 for real estate claims, and on June 30, 1993 for claims for moveable assets. Thousands of Jewish claimants filed timely applications and recovered a significant number of assets, or received substantial compensation in lieu of receiving their property back.

After the deadlines for claims for real property and other assets in the former East Germany expired, the Claims Conference was designated under the German Property Restitution Law to be the successor for Jewish assets which were not claimed (through its Successor Organization). In 1994, the Claims Conference established a Goodwill Fund. The Goodwill Fund consisted of funds set aside for payments to certain Jewish asset owners or heirs. These asset owners and heirs had not filed claims by the German-mandated deadline and, thus, were no longer legally entitled to the assets or the proceeds from the sale of such assets under German law, but they did meet the criteria of the Goodwill Fund.

In 1998, through a major, worldwide advertising campaign, the Claims Conference notified the general public that certain owners or heirs who had failed to meet the legal

deadline for filing claims for Jewish assets in the former East Germany could participate in the Claims Conference Goodwill Fund.

In September 2003, the Claims Conference published a list of former owners of Jewish assets in the former East Germany. The Claims Conference either had recovered the assets of these former owners, had received a compensation payment under German restitution law covering East Germany, or had filed claims that were not, at that point, adjudicated. Following the announcement of that list, which was extensively publicized worldwide, the Claims Conference set a March 31, 2004 deadline for claims for those properties under its Goodwill Fund.

In deciding to publish the list of owners of assets, the Claims Conference Board of Directors took special note of the following: the Goodwill Fund had been accepting applications for nine years; the uncertainty surrounding the ultimate number of applications that would be made to the Goodwill Fund; Goodwill Fund applications were frequently for assets already sold, with the proceeds of such sales already having been allocated for critical programs to assist needy Nazi victims; and the need to decide whether to continue making allocations for homecare and other social needs of Holocaust survivors from Successor Organization funds.

Fourthly, the Claims Conference goes to extraordinary lengths to be open and transparent, more so than virtually any other major Jewish organization. We take our fiduciary and moral responsibility seriously. Accountability and oversight are central to who we are and what we do.

Every year, the Claims Conference is subject to an audit by Ernst & Young.

The complete, audited financial statements resulting from that process are posted on the Claims Conference website. Accompanying the financial statements are summary charts of Claims Conference revenue, expenses, liabilities and net assets as of December 31 of the preceding year. A summary is also included in the Claims Conference annual report.

In addition, financial reviews are undertaken periodically by the German government and other funding organizations regarding specific programs. Moreover, the Claims Conference has a General Controller who reviews the operations of the organization on an ongoing basis.

On the Claims Conference website, the following items may be examined:

- A complete list of allocations made by the Claims Conference
- A description of the allocations process
- The guidelines for allocations
- Data on needs and demographics regarding Jewish victims of Nazi persecution, including reports regarding current and projected needs of Nazi victims, a significant basis for allocations decisions
- An overview of the Successor Organization, which recovers unclaimed property in the former East Germany

- A description of the Successor Organization process
- A report on current assets and pending claims
- A chart showing Successor Organization revenue
- Information on the Independent Review Authority for individual survivors regarding compensation programs

This is just some of the information available to the public concerning the Claims Conference. Much more material is posted and appears on the website and in our Annual Report.

Fifthly, Claims Conference assets and available resources. As detailed in the 2005 financial statements, which are available on our website, the Claims Conference had \$900 million in liquid assets at the end of the year. This amount falls into two categories; funds that are committed for specific payments and funds that are designated, all of which is detailed in the audit:

A. Committed Funds: \$587 million

- \$253 million for payments to identified heirs of property in the former East Germany
- \$47 million in reserve, generally for specific heirs of property in the former East Germany who are in the process of producing documentation and/or may be eligible for Goodwill Fund payments
- \$238 million in grants payable, which are funds already allocated to programs, but for which the financial reports have not yet been provided by the implementing agencies and, therefore, the funds have not yet been released by the Claims Conference
- \$20 million designated for contractual obligations: funds exclusively for distribution to designated survivors and heirs (which was done in 2006)
- \$29 million is designated as "other," which are 2005 accrued expenses that were paid in 2006

B. Designated Funds: \$313 million

Of the \$313 million in funds that are designated, \$38 million has been designated for allocations to be made in 2006.

The remaining \$275 million has been set aside for the long-term needs of Nazi victims as they age. Demographic studies (available on the Claims Conference website, as previously noted) show that there will be extensive needs on the part of survivors over the next 10-15 years. As survivors, who are currently approximately age 75, grow older in the coming years, studies clearly show that their social needs will become greater.

The Claims Conference Board of Directors, as I stated earlier, decided to allocate \$367 million over the next three years from Successor Organization funds. A good portion of these funds will come from the \$275 million set aside for the survivors' long-term needs.

Sixthly, future income. As of June 6, 2007, the Claims Conference had filed 120,373 claims related to real estate and businesses, and had made additional claims for smaller types of assets. These smaller claims are being handled separately from the real estate and business claims.

The German restitution authorities have issued decisions on 81,793 real estate and business claims, i.e. about two thirds of all claims filed. Of these decisions, 11,539 were approved for the Claims Conference (14%). Statistics regarding applications filed by the Claims Conference are available on the Claims Conference website www.claimscon.org.

Of the properties it recovered, the Claims Conference sold the largest, most valuable ones first, meaning that the properties which will be sold in the future will generate less revenue than previously recovered properties.

The German authorities have processed a large part of the real estate claims filed by the Claims Conference and the processing of business assets is now under way. Recovery of a business asset usually generates a compensation payment that is far lower than the value of a recovered real estate claim.

The relevant factors regarding the assessment of future income available for allocations are as follows:

- The success rate to date of decided cases has been approximately 14%.
- Of the successful real estate and business claims where the Claims Conference has received compensation for the assets, approximately 35% of these cases to date were business claims. However, of the pending cases in these categories, 85% are claims for business assets. These are the claims which generally only generate a modest compensation payment.
- Future income from the sale of restituted properties and compensation payments will be subject to Goodwill Fund claims. To date, approximately 41% of income of the Successor Organization has been paid or set aside for payments to Goodwill Fund applicants, *i.e.*, former owners or heirs of the original owners.

D. Challenges Ahead

Finally, I would like to close by addressing some of the challenges still ahead.

Firstly, there are many open issues with regard to Germany – not the least of which is obtaining additional funding for the homecare needs of Holocaust survivors. Since 2004, the Claims Conference has been able to secure approximately \$45 million for homecare. Through in-home services, survivors are provided with assistance for the activities of daily living, such as eating, bathing, dressing, administering medicines, light house-keeping and shopping. Negotiations with the German government concerning funding for homecare services are ongoing. We seek the support of this Congress to secure an adequate level of German government funding. In addition, there continue to be some limited groups of survivors excluded from compensation programs. Moreover, we also

are seeking to further increase the amounts of the modest pensions which Holocaust survivors, eligible under the current program requirements, receive.

Secondly, we are making efforts to mobilize additional resources to meet the social needs of Nazi victims worldwide. Jewish Federations in the U.S., including those in Cleveland, Miami and New York, have allocated funds for these needs. In addition, state and city funding has been made available in Florida, Michigan, New Jersey and New York City. We are working to expand public support for these endeavors.

Thirdly, together with our sister organization, the World Jewish Restitution Organization (“WJRO”), we have made great efforts to secure private and communal property restitution in Central and Eastern Europe. We are actively involved in property restitution efforts in Bosnia-Herzegovina, Bulgaria, Croatia, Czech Republic, Hungary, Latvia, Lithuania, Poland, Romania, Serbia, Slovakia, Slovenia and Ukraine.

Poland, however, the country with the largest Jewish population – as well as the country in which a substantial portion of the property was owned by Jewish communities and individuals – before the Holocaust, is a priority. Yet, Poland remains the only major country in the former Soviet bloc that, in the almost two decades since the fall of Communism, has not taken any measures to help former property owners or heirs recover private property stolen since 1939 that is still within the country’s borders. Over one year ago, the Polish government did submit draft restitution legislation regarding private property to its Parliament. However, the bill does not provide for the return of any actual property, excludes the substantial and valuable properties located in Warsaw from its reach, and offers severely limited compensation of 15% of the value of the confiscated property.

In the past, the U.S. Congress has been very supportive on this issue and we are appreciative of the role of Chairman Wexler in initiating a congressional letter, writing to both Polish government officials and to President Bush expressing concerns about the lack of progress on restitution. In addition, in February of this year, the Claims Conference met in Warsaw with the Polish Prime Minister concerning potential legislation.

We are working in coordination with groups representing non-Jewish former property owners who lost their assets under Communism to establish a dialogue with the Polish Government and Parliament so that any law ultimately enacted provides a just and comprehensive settlement, as well as a fair and simple claims process, for the confiscated private property.

In addition, over 3,500 claims for formerly Jewish-owned communal property (including cemeteries) have been submitted to the government. Regrettably, the recovery process for communal property has moved extraordinarily slowly. Well over five years after the claims filing deadline, only 20 percent of the communal claims have been resolved.

There are large amounts of property at stake and we seek the support of this Committee in making a renewed effort to secure property restitution especially in Poland, but also

throughout Central and Eastern Europe, for thousands of communities, Holocaust survivors and their heirs.

Fourthly, the issue of restitution of art and looted cultural property has lagged behind that in other areas. The lack of progress is the result of a number of factors, including the ease with which art can be moved across international borders, the lack of public records documenting original ownership, the difficulty of tracing art transactions over the years, and the absence of a central authority to arbitrate claims for artwork. These personal assets often have meaning beyond that of other types of assets, valued for their beauty and cultural significance, and typically passed down through the generations. In many cases, the artworks and artifacts represent the last personal link heirs may have to families destroyed in the Holocaust. Much of this plundered art has ended up in museums around the world, with no centralized method for families to locate them. Along with the WJRO, the Claims Conference has begun to work with Jewish communities around the world to bring increased attention to the restitution of looted movable cultural and religious property. The Congressional hearing of July 2006 helped highlight this issue. Specifically, we have focused on systematic issues involved in art restitution, seeking to improve and create processes to enable more owners and heirs to recover their property. This committee's assistance, as part of an intensified attempt to provide for the recovery of cultural and religious property looted from Jews, would help ensure that families can re-acquire treasures that they have been deprived of for decades, yet that rightfully belong to them.

I thank you for your patience and for your commitment to dealing with the critical issues of Holocaust restitution and compensation.

Mr. WEXLER. Thank you very much, Mr. Taylor.
Mr. Evron.

**STATEMENT OF MR. JEHUDA EVRON, PRESIDENT,
HOLOCAUST RESTITUTION COMMITTEE**

Mr. EVRON. Thank you, Mr. Chairman. I sincerely appreciate the opportunity that you have afforded me to testify on the important issue of Holocaust restitution. I also hope that under your leadership, the Holocaust survivors will be able to finally see some significant progress in this area.

I am a Holocaust survivor and the president of the Holocaust Restitution Committee, an umbrella organization in the forefront of fighting for the cause of property restitution in Poland for Holocaust survivors and their heirs.

Over the last few years, I and other survivors have had the opportunity to work with the Claims Conference on different issues including the property restitution in Poland. I would like to pay tribute to the remarkable accomplishment of the Claims Conference in securing compensation, recovering assets, and assisting Holocaust survivors. The Holocaust survivors have brought many benefits to the survivors all over the world.

We also coordinate our activities regarding Polish restitution with non-Jewish owners' organizations in the United States and Poland. Unfortunately, our common efforts regarding restitution in Poland have not brought any positive results.

Speaking personally, the process of property restitution has been critically important to my family for the past 20 years. Like many other survivors, my wife lost every member of her family in the carnage of Poland during World War II. All that is left from my wife's family are some tragic memories and her home. But a stranger lives in and owns the house in which my wife grew up. And six decades after the Holocaust, Poland has no law providing my wife and the many other survivors in a similar position with the opportunity to recover what is rightfully theirs.

The individuals that our organization represents are well into their 80s. Some of their sons and daughters are in their 60s. They seek the return of their homes in an environment of fairness and equity.

Ladies and gentlemen, time is something Holocaust survivors do not have. We need closure now. I serve on the Advisory Committee of Self-Help, the major agency providing assistance to Holocaust survivors in New York. Despite the expanded funding from the Claims Conference and other sources over the past few years, there are many survivors in need in the United States. Many of them have properties in Poland, and receiving them back would allow them to pass their final years in dignity and at the same time release large resources to assist others.

The homes, businesses, and other assets of the survivors were seized by the Nazis during World War II in what came to be known as the Holocaust or the Shoah. These properties were expropriated by the subsequent Communist regime.

We expected that a nation like Poland that suffered so much during the Nazi and Communist era would understand the suffering of other people. There are no words to describe the suffering of the

Jewish people during the Holocaust. Thus we do not understand why Poland continues to cause so much additional suffering by denying our right to our homes.

The Polish Government estimates the value of survivors' real estate at \$40 billion, but most important is the moral aspect of this issue. Poland has no right to inherit, use, or otherwise benefit from the assets of 3 million Jews that were murdered there in the most barbaric ways.

The Polish efforts to provide property restitution have so far failed. Every single year brings new reports that Poland is preparing comprehensive legislation to deal with the property restitution issue. Yet, even efforts to provide minimal, indeed insulting, restitution or compensation go nowhere. The present draft of the law submitted to the Polish Parliament in September 2006, which would only offer a symbolic 15 percent compensation of the value, has been delayed again and again.

We ask this committee to support the work of the Holocaust Restitution Committee together with that of the Claims Conference and the sister organizations, the World Jewish Restitution Organization and the World Jewish Congress, in securing fair property restitution legislation in Poland.

In the end, I would like to ask, and hope that this committee adopts a strong resolution on this subject. The Europe Subcommittee is the most appropriate body to appeal to the Polish authority to resolve this problem once and for all. And soon. This must be done immediately due to the age of the survivors' population. Justice delayed is justice denied. Thank you.

[The prepared statement of Mr. Evron follows:]

PREPARED STATEMENT OF MR. JEHUDA EVRON, PRESIDENT, HOLOCAUST RESTITUTION COMMITTEE

Thank you Mr. Chairman.

I sincerely appreciate the opportunity that you have afforded me to testify on the important issue of Holocaust restitution. I also hope that under your leadership the Holocaust survivors will be able to finally see some significant progress in this area.

I am the President of the Holocaust Restitution Committee, an umbrella organization in the forefront of fighting for the cause of property restitution in Poland for Holocaust survivors and their heirs.

Over the last few years, I and other survivors have had an opportunity to work with the Claims Conference on different issues, including property restitution in Poland. I would like to pay tribute to the remarkable accomplishments of the Claims Conference in securing compensation, recovering assets and assisting Holocaust survivors. The negotiating delegation of the Claims Conference, which includes Holocaust survivors, has brought many benefits to survivors all over the world. We coordinate activities regarding Polish restitution with non-Jewish owners organizations in the US and in Poland.

Unfortunately, our common efforts regarding restitution in Poland have not brought any positive results. We have been unable to secure even basic legislation for the return of confiscated property in. Speaking personally, the process of property restitution has been critically important to my family for the past twenty years. Like many other survivors, my wife lost every member of her family in the carnage of Poland, during World War II.

All that is left from my wife's family, are some tragic memories and her home. But a stranger lives in and "owns" the house in which my wife grew up. And, six decades after the Holocaust, Poland has no law providing my wife, and the many other survivors and heirs in a similar position, with the opportunity to recover what is rightfully theirs.

The individuals that our organizations represent are well into their 80's; some of their sons and daughters are in their sixties and they may even have adult grand-

children. They seek the return of their homes in an environment of fairness and equity.

Ladies and Gentlemen time is something Holocaust survivors do not have. We need closure now.

I serve on the Advisory Committee of Self Help—the major agency providing assistance to Holocaust survivors in New York. Despite the expanded funding from the Claims Conference and other sources over the past few years there are many survivors in need in the United States. Property legislation in Poland would allow them to pass their final years in dignity and, at the same time, release large resources to assist others.

We ask this Committee to support the work of the Holocaust Restitution Committee together with that of the Claims Conference and its sister organizations the World Jewish Restitution Organization and the World Jewish Congress in securing fair property restitution legislation in Poland.

The homes, businesses and other assets of the survivors were seized by the Nazis during World War II in what has come to be known as the Holocaust or the Shoah. These properties were expropriated by the subsequent Communist regime.

We expected that a nation like Poland that suffered so much during the Nazi and Communist eras, would understand the suffering of other people. There are no words to describe the suffering of the Jewish people during the Holocaust. Thus, we don't understand why Poland continues to cause so much additional suffering by denying our right to our homes?

The Polish Government estimates the value of the survivors Real Estate at 40 billion dollars but most important is the moral aspect of this issue. Poland has no right to inherit, use and otherwise benefit from the assets of 3 Million Jews that were murdered there in the most barbaric ways.

Polish Efforts on Property Restitution

The Polish efforts to provide property restitution have, so far, failed. Every single year brings with it new reports that Poland is preparing comprehensive legislation to deal with the property restitution issue. Yet, even efforts to provide minimal, indeed, insulting restitution or compensation go nowhere. The present draft of a law, submitted to the Polish Parliament in September 2006, which would only offer a symbolic 15% compensation of the value of any property, has been delayed again and again.

In the end, I would like to ask and hope that this Committee adopts a strong resolution on this subject. The European Subcommittee is a most appropriate body to appeal to Polish authorities to resolve this problem, once and for all, and soon. This must be done immediately due to the age of the survivor's population. Justice delayed, as we so often hear in this great land of ours, is justice denied.

Thank you

Mr. WEXLER. Thank you very much.

Mr. Zab Ludoff.

STATEMENT OF MR. SIDNEY ZABLUDOFF, FORMER CONSULTANT, CONFERENCE ON JEWISH MATERIAL CLAIMS AGAINST GERMANY, INC.

Mr. ZABLUDOFF. Thank you for allowing me to present the facts related to restitution of Holocaust era assets. My basic conclusion after examining the issue for some 10 years is that extraordinary events require extraordinary resolutions. Clearly the murder of two-thirds of Continental European Jewry and the confiscation of almost all assets by the Nazis and their collaborators was such an event.

I will briefly look at three aspects of the issue: Progress of overall asset restitution; ICHEIC's effectiveness; and where do we go from here.

Pledges and laws aimed at restoring property seized by the Nazis were made soon after World War II began. Most notably, the allies stated in numerous proclamations that a major aim was to ensure the return of property stolen, confiscated or taken under duress.

In the postwar era, however, other issues such as the Cold War soon overshadowed any such endeavor. By the end of the postwar era, only about 15 percent of the value of stolen assets had been returned to the rightful owners or their heirs.

A resurgence of interest in Holocaust restitution occurred in the mid-1990s. Progress was made on a number of fronts. But in the end, there was more talk and minimal action. Roughly only an additional 3 percent of stolen assets were returned, bringing the total to less than 20 percent. At a minimum, \$120 billion in stolen assets at 2007 prices has never been returned.

ICHEIC has been of particular interest in the revival of the asset issue. Established in 1998, this unique organization aimed at quickly paying unpaid Holocaust era insurance claims without going through the complexities and duration of legal procedures or government programs. When the claims process was completed this year, however, as the chairman has indicated, only about 3 percent of the amount outstanding in life insurance was paid. Few, if any, non-life policies were considered. The process took 8 years instead of the originally anticipated 2, and only a small humanitarian fund was developed from the large amounts that all parties anticipated would never be paid to claimants.

The chief reason for this failure was inept governance and poor management. For example, ICHEIC management mainly ignored the numerous studies pinpointing the serious problem with the claims process. Judge Michael Mukasey succinctly summed up the problem when he described ICHEIC as, I quote, “in a sense, the company store.”

It is for these reasons that the legislation introduced by Congressman Ros-Lehtinen and Congressman Wexler is important. It requires insurance companies to publicly disclose the names of Holocaust era policyholders, including non-life, and to be accountable for paying legitimate claims via the courts.

Clearly, a missing element remains payments to a humanitarian fund to support needy Holocaust survivors. Those working on ICHEIC and other restitution efforts knew from the very start that no matter what steps are taken to find claimants, many assets would never be restored. This is because whole families were wiped out by the horrific events of the Holocaust, leaving only distant relatives with little knowledge of the policyholders, especially when dealing with events that occurred more than a half-century ago.

Recognizing this fact, ICHEIC attempted at one time to calculate the overall value of policies, called the top-down approach. The companies would then pay the difference between the overall estimate and the amount actually paid to the claimants to a fund that would support needy survivors and other causes.

This approach, however, was forgotten as ICHEIC proceeded, and only relatively small amounts were provided for such a humanitarian fund, mostly from an accord with Germany. Insurance companies failed completely to deal with this issue.

This brings me to my final point. Where do we go from here? Besides pressing individual claims, I would suggest an international remembrance fund in support of the needy Holocaust survivors who are in their autumn years. Currently, there are approximately 600,000 Holocaust survivors worldwide. A review of available stud-

ies indicates significant differences in the estimated number of survivors that need financial support to maintain their daily lives and health requirements.

For example, one U.S. study indicates the income of more than half of the survivors falls within the poverty or near-poverty bracket; while another undertaken at the same time indicates about 30 percent.

My first approximation of what would be needed for the next 10 years is between \$20 billion and \$40 billion. Currently, less than \$1 billion is available for humanitarian funds from ongoing asset restitution programs.

What is first required is an in-depth study to determine more precisely the financial needs of needy survivors for the next 10 or 15 years. Simultaneously, we should establish an international remembrance fund financed by governments and corporations. This will require an innovative financial structure, but, again, extraordinary measures are essential in dealing with an extraordinary event such as the Holocaust.

Thank you.

[The prepared statement of Mr. Zabludoff follows:]

PREPARED STATEMENT OF MR. SIDNEY ZABLUDOFF, FORMER CONSULTANT,
CONFERENCE ON JEWISH MATERIAL CLAIMS AGAINST GERMANY, INC.

Thank you for allowing me to present the facts relating to restitution of Holocaust era assets. My basic conclusion after examining the issue for some 10 years is that extraordinary events require extraordinary resolutions. Clearly, the murder of two-thirds of continental European Jewry and the confiscation of nearly all Jewish assets by the Nazis and their collaborators was such an event. I will look at three aspects of the issue: Progress of overall restitution, ICHEIC's effectiveness and where we can go from here.

Pledges and laws aimed at restoring property seized by the Nazis and their collaborators were made soon after World War II began. Starting with Poland in late 1939, all governments-in-exile from occupied countries nullified the confiscatory actions taken by the Nazi invaders. Throughout the war, the Allies stated in numerous proclamations that a major aim was to ensure the return of property stolen, confiscated or taken under duress. In the post-war era, however, other issues such as the Cold War soon overshadowed and thwarted any such endeavor. By the end of the post-war era only about 15 percent of the value of stolen assets had been returned to their rightful owner or their heirs.

A resurgence of interest in Holocaust restitution occurred in the mid 1990s. Progress was made on a number of fronts but in the end there was more talk and minimal actions. Roughly only an additional 3 percent of stolen assets were returned, bringing the total to less than 20 percent. Altogether, at least some \$120 to \$185 billion in stolen assets at 2007 prices has never been returned.

Of particular interest in the revival of the asset issue was the International Commission of Holocaust-Era Insurance Claims (ICHEIC). Established in 1998, this unique body brought together insurance companies, state regulators and Jewish groups including the State of Israel in an effort to compensate for unpaid Holocaust era insurance claims. The concept was to do so quickly without going through the complexities and duration of legal procedures or government programs. When the claims process was completed this year, however, only about 3 percent of the amount outstanding in life insurance was paid, few, if any, non-life policies were considered; the process took eight years instead of the originally anticipated two; and only a small humanitarian fund was developed even though all parties anticipated that large amounts would never be paid.

The chief reasons for this failure were inept governance and poor management. Governance became akin to secret diplomacy, in which those who ran ICHEIC relied heavily on dealing only with those who favored their views while making promises to others that were never fulfilled or too long delayed. ICHEIC management mainly ignored the numerous studies pinpointing the serious problem with the claims process. Judge Michael Mukasey succinctly summed up the problem when he described ICHEIC as "in a sense, the company store."

It is for these reasons, the legislation introduced by Congresswoman Ros-Lehtinen is important. It requires insurers to publicly disclose the names of Holocaust-era policyholders (including non-life) and to be accountable for paying legitimate claims via the courts. It should be noted that for life policies only, insurance companies are benefitting from some \$17 billion in unpaid Holocaust era policies.

Clearly, a missing element remains payments to a humanitarian fund to support needy Holocaust survivors. Those working on ICHEIC and other restitution efforts know at the start that no matter what steps are taken to find claimants, many policies will remain unpaid. This is because whole families were wiped out by the horrific events of the Holocaust, leaving only distant relatives with little knowledge of the policyholders, especially when dealing with events that occurred more than a half century ago. Recognizing this fact, ICHEIC attempted at one time to calculate the overall value of policies—called the “top down approach.” The companies would then pay the difference between this overall estimate and the amounts actually paid claimants to a fund that would support needy survivors and other causes. This approach, however, was forgotten as ICHEIC proceeded, and only relatively small amounts were provided for such a humanitarian fund, mostly under an accord with Germany. Insurance companies failed completely to deal with this issue.

This brings me to my final point—where do we go from here. Besides pressing individual claims, I would suggest an International Remembrance Fund to support needy Holocaust survivors who are in their autumn years. Currently there are approximately 600,000 Holocaust survivors worldwide and actuarial data indicate their number will diminish sharply during the next ten years. A review of the available studies indicates significant differences both in the number of survivors and those lacking adequate income for each country, as well as to what financial support is needed to maintain the survivors’ daily living expenses and health requirements. For example, one study of United States indicates that the income of more than half the survivors falls within the poverty or near poverty bracket; while another undertaken at about the same time indicates about 30 percent. Such differences often reflect definitional issues. It also should be pointed out that the average amount required for a needy survivor will increase because of higher health care expenditures of an aging population. My first very rough approximation is that between \$20 and \$40 billion will be required during the next ten years to sustain needy survivors. But less than \$1 billion is now available from humanitarian funds of ongoing restitution programs.

Clearly, what is urgently required is an in-depth study to determine more precisely the likely financial requirements of needy survivors over the next 10–15 years. This would take into consideration funds they are already receiving through various governments as well as private assistance. Simultaneously, we must reach a global accord to establish an International Remembrance Fund financed by governments as well as corporations to deal with the plight of needy survivors of Nazi persecution. This will require an innovative financial structure. But again extraordinary measures are essential in dealing with an extraordinary event such as the Holocaust.

Mr. WEXLER. Thank you very much.

**STATEMENT OF MR. JACK RUBIN, HOLOCAUST SURVIVOR,
MEMBER OF THE ADVISORY COMMITTEE, HOLOCAUST SURVIVORS OF WEST PALM BEACH**

Mr. RUBIN. Good afternoon. My name is Jack Rubin and I live in Boynton Beach, Florida. I want to thank Chairman Wexler and the committee—Chairman Wexler is my Congressman—for holding this important hearing and inviting Holocaust survivors to speak for themselves about this issue of great concern.

I am here to urge you in the most urgent terms possible to pass the H.R. 1746, the Holocaust insurance accountability act of 2007.

I was born in 1928 in Vari, Czechoslovakia, which was annexed by the Hungarians in 1938. We lived in a building where my father’s general store was also located. There was a sign that said the building and the premises were insured by Generali Moldavia. I am certain that my father, who was a careful businessman, had all kinds of insurance, including life insurance, because he spoke

about it often. From these conversations I remembered the name of the agent, Mr. Joseph Schwartz.

Like all Jews in our town, we were forced out from our home in April 1944 with only the clothes on our back and one suitcase each and taken to Beregszasz ghetto. There the Nazis forced everyone to turn over their jewelry, watches, wedding rings, and hand over everything of value.

We were then deported to Auschwitz, where my parents perished. I survived Auschwitz and three other camps. Needless to say, after the Holocaust I had no way to find any papers such as insurance policies. After ICHEIC was created, I applied because of the publicity encouraging applications. They promised to open company records and apply relaxed standards of proof. I filed two claims naming my father, Ferencz Rubin and my mother Rosa Rosenbaum-Rubin, and their birth years. I mentioned the sign on our building for Generali Moldavia and the fact that the agent Mr. Schwartz, was our agent, who also died in the Holocaust.

This was all of the information I had. But considering the circumstances, it was certainly enough to show we had insurance. Four years later I received a letter from Generali stating they had no records from their subsidiaries and no records of policies in the family. This is absurd because I know we had insurance. Yet Generali did not produce any piece of paper to justify its decision and ICHEIC's arbitrators did not require the company to produce any proof. It did not force them to produce records from Generali Moldavia, a known subsidiary, and he did not require them to produce information about Mr. Schwartz, the agent from our town. He just accepted Generali's words.

Survivors are appalled by the treatment we have received from ICHEIC and other institutions. ICHEIC was controlled by the insurance companies and conducted in secret. Once again, the survivors were denied access to the truth. Stealing our money is bad enough, but concealing the truth from the Holocaust survivors is a terrible thing.

If our society today has any decency, it would require the companies to open their records and be fully accountable for the thefts of our family's legacy. After all, isn't this why people buy insurance? The companies betrayed us and today the U.S. justice system has blocked our access to the truth.

I am here today to ask you: Fix this, please, by passing H.R. 1746, because it will require the companies to open their records and allow the survivors to go to court for the truth.

Because of ICHEIC's failure, I and several other survivors objected to the recent class action settlement in the Generali case. That settlement made the ICHEIC settlement binding on all survivors without giving notice about what was happening. We objected, and we appealed, and I am happy to say yesterday the New York appellate court said we were right and reversed the settlement approval.

This is very important. The appeals court said this matter cannot be swept under the carpet. But without H.R. 1746, this victory will be very hollow. There is a short period of time for Congress to clarify survivors' insurance rights.

If I may, I would also like to be able to tell you about horror stories facing the elderly, poor survivors today in my community and throughout the United States. And the funds are not getting to those who were looted and those who need the help. The ICHEIC money, we talked about. Also in the Swiss bank case, Judge Korman allocated 75 percent of the looted assets fund to the former Soviet Union, with only 4 percent for the needs of the survivors in the United States. It is an insult to those of us who went through the Holocaust, denying assistance to Americans just because he believes the rich here should take care of the survivors. This is the survivors' money, but the poor here do not have a fair chance to benefit from the settlement.

And now let me turn to the Claims Conference. The Claims Conference is sitting on hundreds of millions of dollars, plus properties obtained from Germany and the uses of those funds. We deserve a full accounting because survivors are suffering.

Finally, let's not forget that Germany bears primary responsibility for the rights and the needs of the Holocaust survivors. We call upon Congress to raise with the administration and the German Government the fact that thousands of survivors today are not living with dignity to which they are entitled. We need immediate solution no matter what the source.

There is a common theme in the restitution era. There has been secrecy and the deals have been made by people we did not appoint or approve. We have been denied the truth and that is outrageous. We survivors who are most affected are not allowed to participate, and the results are terrible. They are totally inadequate. We need Congress to expose these deals and demand, as a matter of morality, a just outcome. Time for talk is over. Co-sponsor H.R. 1746 and ask your colleagues to co-sponsor H.R. 1746, because time is very short.

Mr. Chairman, our survivors' age today is over 80. And they are dying faster than snow melts in Florida. So please, I also have a few articles on these subjects which I hope you will allow for the record. Please do it before it is too late. Thank you very much.

[The prepared statement of Mr. Rubin follows:]

PREPARED STATEMENT OF MR. JACK RUBIN, HOLOCAUST SURVIVOR, MEMBER OF THE
ADVISORY COMMITTEE, HOLOCAUST SURVIVORS OF WEST PALM BEACH

My name is Jack Rubin, and I live in Boynton Beach, Florida. I want to thank Chairman Wexler, my Congressman, for holding this important hearing and for inviting Holocaust survivors to speak for ourselves about these issues of great concern. I am here to urge you in the most urgent terms possible to pass HR 1746, the Holocaust Insurance Accountability Act of 2007.

I was born in 1928 in Vari, Czechoslovakia, which was annexed by Hungary in 1938. We lived in a building where my father's general store was also located. There was a sign that said the building and premises were insured by "Generali Moldavia." I am certain that my father, who was a careful business man, had all kinds of insurance, including life insurance, because he spoke about it often. From these conversations, I even remember the name of the agent, Mr. Joseph Schwartz.

Like all Jews in our town, we were forced out of our home in April of 1944 with only the clothes on our back and one suitcase each, and taken to the Beregsasztz Ghetto. There the Nazis forced everyone to turn over their jewelry, watches, wedding rings, and hand over everything of value. We were then deported to Auschwitz, where my parents perished. I survived Auschwitz and three other camps. Needless to say, after the Holocaust, I had no way to find any papers such as insurance policies.

After ICHEIC was created, I applied because of the publicity encouraging applications. They promised to open company records and apply “relaxed standards of proof.” I filed two claims, naming my father Ferencz Rubin and my mother Rosa Rosenbaum-Rubin, and their birth years. I mentioned the sign on our building for “Generali Moldavia,” and the fact that the agent Mr. Schwartz was our agent, who also died in the Holocaust. This was all the information I had, but considering the circumstances it was certainly enough to show we had insurance.

Four years later I received a letter from Generali stating that they had no records from their subsidiaries and no records of policies in the family. This is absurd, because I know we had insurance. Yet Generali did not produce one piece of paper to justify its decision, and the ICHEIC Arbitrator did not require the company to produce any proof. He did not force them to produce records from Generali Moldavia, a known subsidiary, and he did not require them to produce information about Mr. Schwartz, the agent from our town. He just accepted Generali’s word.

Survivors are appalled by the treatment we have received from ICHEIC and other institutions. ICHEIC was controlled by the insurance companies and conducted in secret. Once again, we survivors were denied access to the truth. Stealing our money is bad enough, but concealing the truth from Holocaust survivors is a terrible thing. If our society today has any decency, it would require the companies to open their records and be fully accountable for their thefts of our families’ legacies. After all, isn’t this why people buy insurance? The companies betrayed us and to date, the U.S. justice system has blocked our access to the truth. I am here today to ask you to fix this by passing HR 1746, because it will require the companies to open their records, and allow survivors and heirs to go to court for the truth.

I would also be able to tell you about horror stories facing elderly, poor survivors today in my community, and throughout the United States. And the funds are not getting to those who were looted and those who need the help. The ICHEIC money we talked about. Also, in the Swiss bank case, Judge Korman allocated 75% of the Looted Assets funds to the Former Soviet Union, with only 4% for the needs of survivors in the United States, is an insult to those of us who went through the Holocaust, denying assistance to Americans just because he believes the rich here should take care of the survivors here. This is the survivors’ money, but the poor here do not have a fair chance to benefit from the settlement.

Also, the Claims Conference is sitting on hundreds of millions of dollars. Survivors do not believe there has been an adequate accounting of the property obtained from Germany and the uses of those funds. We deserve a full accounting, because survivors are suffering.

Finally, let’s not forget that Germany bears primary responsibility for the rights and needs of Holocaust survivors. We call upon Congress to raise with the Administration and the German Government the fact that thousands of survivors today are not living with the dignity to which they are entitled. SS officers receive more from Germany in pensions than Holocaust survivors. We need immediate solutions, no matter what the source.

I hope you will do a complete audit of where the survivors’ money has gone, because we know it isn’t coming to those who were looted, or those in need.

There is a common theme in the restitution area. There has been secrecy, and the deals have been made by people *we did not appoint or approve*. We have been denied the truth, and that is outrageous. We survivors, who are the most affected, were not allowed to participate and the results are terrible. They are totally inadequate. We need Congress to expose these deals and demand, as a matter of morality, a just outcome. The time for talk is over.

I have submitted a few news articles on these subjects, which I hope you will allow for the record.

Thank you very much.

Mr. WEXLER. Thank you very much, Mr. Rubin.

Without objection, the articles that you mentioned will be made a part of the record.

[The information referred to follows:]

The Jewish Week

SERVING THE JEWISH COMMUNITY OF GREATER NEW YORK

(05/04/2007)

Holocaust Era Claims: Mission Not Accomplished

Yisroel Schulman

The International Commission on Holocaust Era Claims (ICHEIC), with a mandate to help policyholders and their heirs receive monies from unpaid Holocaust era insurance claims, held its final meeting in Washington, D.C., on March 20. After nine years, ICHEIC is out of business.

In the weeks following ICHEIC's closing, there have been articles chronicling that organization's alleged successes. While those same articles mention that ICHEIC has had its share of critics, not enough thoughtful analysis has been given to the commission's real failures.

ICHEIC is often lauded for having processed, free of charge, more than 90,000 claims and compensated more than 48,000 claimants. What is not made clear, however, is that, of these 48,000 claimants, about 34,000 of them received so-called humanitarian awards of \$1,000. Only 14,000 claimants who applied to the commission were compensated because their relatives were actually determined to have bought insurance policies.

To put this in perspective, the Conference on Jewish Material Claims Against Germany recently met with German Chancellor Angela Merkel to bring to her attention the fact that the German social security administration has denied ghetto pensions to about 61,000 of the approximately 70,000 survivors who applied for such compensation. With a failure rate of over 87 percent, the German program has been rightfully and widely criticized by survivors and Jewish and humanitarian organizations. Considering that ICHEIC has done only marginally better, why hasn't there been a similar public uproar?

Over the years, ICHEIC fostered the notion that claimants were denied compensation solely because they did not have adequate documentation regarding purchased insurance policies. However, we are aware of numerous claimants (only the commission knows the precise number who fall in this category) who, in fact, had definitive proof that policies were purchased, but were nonetheless denied compensation because the commission allowed the use of "negative evidence."

For example, if a claimant had a copy of an actual insurance policy that her relative had bought from the Generali Insurance Company, but the policy information did not appear in Generali's records, the "negative evidence" would lead to her application being denied. It was ICHEIC's decision to allow the use of "negative evidence," which certainly belies the claim of Lawrence Eagleburger, the commission's chairman, that the organization's principal purpose was to find claimants and pay them.

Other examples of ICHEIC's failings include the way in which it dealt with decisions made by the Generali Trust Fund (GTF). The trust fund was created to process claims concerning Generali and, in that capacity, had the authority to determine if claimants had compensable claims. As early as November 2002, ICHEIC had concerns that GTF's performance was below acceptable standards and, in late October 2004, the commission terminated its relationship with the trust fund, citing GTF's gross incompetence. Despite acknowledging GTF's sub-par performance, ICHEIC refused to review any of the fund's final decisions, thereby denying

claimants a fair decision-making process.

There has been mention in the press that ICHEIC, over its nine-year lifespan, spent approximately \$100 million on administrative expenses. Because the commission distributed about \$300 million to the 48,000 claimants noted above, for every \$3 that went to the heirs of insurance owners, about \$1 went to keep ICHEIC's bureaucracy afloat. The commission, which was funded with about \$550 million, is going out of business with monies left over.

According to various press reports, ICHEIC has disbursed between \$174 million and \$200 million through a humanitarian fund to support Holocaust education and needy survivors. Unanswered questions include who made these "humanitarian" decisions and, indeed, whether it was ever in ICHEIC's mandate to disburse money for philanthropic purposes.

Among those benefiting from the commission's largesse is a program called the "Initiative to Bring Jewish Literacy to Youth in the Former Soviet Union." From 2004 to 2006, ICHEIC spent \$3.4 million to send children to camp in St. Petersburg and Moscow. While a good cause, one would be hard-pressed to find a true nexus between that grant and ICHEIC's mission to facilitate the processing of insurance claims from the Holocaust period.

At the final commission meeting, Chairman Eagleburger is quoted as having said that ICHEIC "has achieved its goal of bringing a small measure of justice to those who have been denied it for so long." As a lawyer who has closely worked with ICHEIC claimants, I sadly disagree. For nine years, ICHEIC failed the very people it was created to serve. n

Yisroel Schulman is the president of the New York Legal Assistance Group (NYLAG), a not-for-profit organization. Laura Davis and Phyllis Brochstein, attorneys with NYLAG, contributed to this column. Based in New York City, since May, 2000 NYLAG has provided free legal services to over 50,000 Holocaust survivors and their heirs. www.nylag.org

Special To The Jewish Week

The New York Times

February 28, 2007

Settlement Approved in Holocaust Victims' Suit Against Italian Insurer

By JOSEPH B. TREASTER

A federal judge approved a settlement of a class-action suit yesterday against an Italian insurance company, ending a long-running dispute over payments on life insurance policies taken out by Holocaust victims.

The settlement provides less money than Holocaust survivors and relatives had hoped to receive from the company, Assicurazioni Generali, and it significantly raised the chances that the insurer would be able to avoid public scrutiny of its records from the Nazi era.

But Judge George B. Daniels of Federal District Court in Manhattan said he was convinced that the deal was the best the survivors and their relatives could get.

"The settlement is not perfect," he told a room of lawyers and a handful of survivors and relatives. But he said that for most families who had bought coverage from Generali, it "may be their only real opportunity for any monetary recovery."

Lawyers representing the survivors had reached an agreement with Generali last summer after another federal judge dismissed their claims and they decided the odds of winning an appeal were low.

Judge Daniels had interrupted an initial hearing on the fairness of the settlement on Jan. 31 after Samuel J. Dubbin, a Miami lawyer opposing the settlement, appealed for more time to give survivors and relatives a chance to look for evidence to support their insurance claims in long-sealed Holocaust-era archives in Bad Arolsen, Germany.

The United States and 10 other countries that control the archives have agreed to open them and are meeting in the Netherlands on March 7 and 8 to discuss speeding up the process.

At Judge Daniels's urging, Generali and lawyers for survivors and relatives amended their agreement to extend the deadline for filing claims to take account of evidence found at Bad Arolsen until Aug. 31, 2008. The judge said yesterday that the extension eliminated his major concern. The deadline for all other claims remains March 31.

Before the settlement Generali had paid about \$100 million in claims on Holocaust-era policies, mainly through a commission in Washington. It agreed to pay \$35 million more as a result of the settlement. The company said the \$135 million covered 5,500 claims.

Generali said it had received 3,300 more claims as the settlement has been pending, and Robert A. Swift, a Philadelphia lawyer for the Holocaust survivors, estimated that the company would pay another \$10 million on those and other claims made before the deadlines. Generali will pay about \$4 million in legal fees.

Mr. Dubbin has contended that Generali sold policies worth billions on which it has never paid claims. But Generali and the lawyers in the class-action suit take issue with Mr. Dubbin's estimates.

Mr. Dubbin also argued that Generali had failed to adequately publicize the settlement. He and other advocates for the survivors said that because Generali has refused to publish a full list of its policyholders, tens of thousands of Holocaust survivors and relatives have been unaware that they had reason to file a claim -- with the approval of the settlement they would be foreclosed from ever doing so.

Generali has published the names of many policyholders, but contends that survivors and relatives have other ways of knowing whether they are eligible to file claims.

Mr. Swift, who helped draw up the agreement, used almost the same words as Judge Daniels in characterizing the settlement.

In a statement distributed before the hearing, Generali said it viewed the settlement "as an important step in its longstanding commitment to bring fair closure to the Holocaust-era claims process."

In the late 1990s, American lawyers filed lawsuits against more than 20 European insurance companies, accusing them of refusing to pay claims on billions of dollars in policies they had sold to people who became victims of the Holocaust.

The other lawsuits were either dropped or resolved. The settlement ends the biggest case against Generali. But a handful of lawyers, including Mr. Dubbin, are continuing to appeal the earlier dismissal of a group of lawsuits against the insurers. In dismissing the case, Judge Michael B. Mukasey cited a Supreme Court ruling that dealing with Holocaust claims in United States courts could interfere with the president's ability to resolve international disputes.

In an interview, an aide to Representative Ileana Ros-Lehtinen, a Republican of Miami, said the lawmaker was planning to introduce legislation that would require Generali and other insurers to publish lists of policyholders -- a longstanding request of survivors and relatives -- and would attempt to provide jurisdiction for European insurance cases in American courts.

Generali says its policy is to pay valid claims and has denied accounts by Holocaust survivors that its representatives demanded copies of policies from people who had lost everything and death certificates for policyholders who died in camps.

In the settlement, the company acknowledges no wrongdoing.

"This is a sad day for Holocaust memory and historical justice," said Thane Rosenbaum, a son of Holocaust survivors and a professor at the Fordham University law school. "The only entity that really benefited from this is Generali. They avoided having to pay tens of thousands of claims and they avoided opening up their archives and historical records to reveal what happened, how and why."

The Jewish Week
SERVING THE JEWISH COMMUNITY OF GREATER NEW YORK

(06/29/1997)

'Phantom Rule' May Have Limited Holocaust-Era Awards To Claimants

Former arbitrator says policy that should have favored survivors and heirs was not applied in many cases.

Stewart Ain - Staff Writer

When a commission investigating Holocaust-era life insurance policies ended its work in March after nine years, it boasted that it had awarded more than \$300 million to survivors and their heirs.

Now, a former commission arbitrator is criticizing the group's work, alleging that a "phantom rule" was used by some of the dozens of arbitrators, accounting in part for the denial of 84 percent of all claims filed.

The arbitrator, Albert B. Lewis, who is also a former New York State insurance superintendent, is calling for a reopening of these cases.

The "phantom rule," as Lewis described it, was that without an actual insurance policy in hand, either from the company or the claimant, the onus was on the claimant in seeking financial redress.

In fact, though, when the commission was established, the actual rules called for a more sympathetic stance toward the survivors and their heirs, specifying that there would be "relaxed standards of proof" favoring the claimant in determining the awards.

Lewis's comments follow that of other critics of the International Commission on Holocaust-Era Insurance Claims (ICHEIC), who have pointed out the wording of the 1998 memorandum of understanding signed by the six major European insurance companies that provided the money. The memorandum said the commission "shall establish 'relaxed standards of proof' that acknowledged the passage of time and the practical difficulties of the survivors, their beneficiaries and heirs, in locating relevant documents."

Lewis told *The Jewish Week* that Katrina Oakley, the commission's law administrator in London, had tried to pressure him into changing two awards that he granted to claimants. She complained that his interpretation of "relaxed standards of proof" differed from that of other arbitrators.

In an e-mail she sent Lewis on Nov. 26, 2003, Oakley wrote that she was "concerned" that his "interpretation is sufficiently different that it would set a precarious precedent."

Oakley wrote also that in cases where neither the heir nor the company was able to prove a policy's existence, "the appellant has a heavy burden of proof that" such a policy was issued.

Lewis said he refused to change his ruling and that the appellants were paid because the "phantom rule" Oakley cited "was never adopted by ICHEIC, nor was it included in the arbitrator's handbook."

"Ms. Oakley had no authority to promulgate any of ICHEIC's rules," Lewis said.

He relied instead, he said, on rules adopted by ICHEIC that said arbitrators should be more lenient, following the "principles of equity and justice." And he quoted the commission's chairman, Lawrence Eagleburger, as saying "there is intentionally built into the standards wide latitude and flexibility."

But Oakley delayed granting the contested awards, prompting Lewis on June 15, 2004, to send her an e-mail saying he considered her actions a "blatant attempt to pressure me as an arbitrator to reverse proposed monetary awards to claimants. It was a flagrant violation of the rules and it denied the claimants due process. ... Your unauthorized conduct in delaying [the] award during which [the claimant] is receiving no interest is an affront" to those who drew the rules and acted as arbitrators.

Elan Steinberg, a former member of the ICHEIC board, said he had never heard of the "phantom rule" and termed it a "smoking gun" for those who are still seeking payment of their relatives' Holocaust-era life insurance policies.

"We had agreed that we would use relaxed standards of proof, which is contrary to the adjudicator's letter," he said, referring to Oakley.

Steinberg, who left the commission in 2004, said he was “deeply saddened and troubled” by the high percentage of claim rejections.

“There should be no statute of limitations on justice,” he said.
 “There is no question in my mind that these issues, which touch on the moral and ethical obligations we have to our Holocaust martyrs, must remain open.”

Sidney Zabludoff, a retired U.S. government economist who was a consultant to Jewish claims restitution groups and has been highly critical of ICHEIC, said he had never before heard of the “phantom rule.”

Although he said it was “always clear” that documentary proof of each Jewish life insurance policy could never be found – he estimated that there were 870,000 of them in 1938 in what was later Nazi-occupied Europe – the commission’s rejection of 84 percent of claims “sounds a little high.”

“ICHEIC rules clearly state that there was to be a relaxed standard of proof and that if any evidence existed at all, the burden of proof shifted to the company,” he said.

The rule Oakley mentioned in her e-mail, Zabludoff said, “is absolutely strange because it is against ICHEIC’s precedent.. I never heard anybody say that.”

Lewis said he was unable to review the cases before him in a detached way.

“You have to be made of wood not to feel the pain,” he said. “One woman of six siblings is living in Borough Park and said she had a sister who had a \$10,000 policy. I believed her. She said she went to five concentration camps and when she was liberated she couldn’t walk. She asked me to hurry up [with his review] because if she got something [from the policy] she would like to share it with her grandchildren. Is there an emotional involvement? Yes. Should I tell her she’s a liar? I gave her \$104,000. It was my last award. They were upset with that one too.”

The \$104,000 reflected the price of the insurance payoff adjusted for inflation over more than 60 years.

After his ruling, Lewis said he learned that the woman wrote to ICHEIC “wanting to know my mother’s name because she wanted to make a special prayer for her memory. ... If I had to do it again, I

would.”

Asked why he was coming forward now, Lewis said he was not aware of the high percentage of rejected claims until the commission released the figures in March. He said that of the more than 90,000 claims made, 78,814 – or 84 percent – were denied.

What’s more, 34,158 of the claimants received a \$1,000 humanitarian award, seemingly a token amount.

“Is a humanitarian award a mendicant award?” he asked.

“I’m appalled,” Lewis continued. “It indicates to me that something is wrong, and part of what might be wrong is that phantom rule that was put into the system.

“When ICHEIC was formed, [heirs] were urged to file their claims. Thus, they were given hope by ICHEIC that their claims would be heard, only to have them denied by ICHEIC. Is this tantamount to being indirectly labeled as fraudsters or liars? How much abuse must they take?”

Samuel Dubbin, a Miami lawyer who represents Holocaust survivors and their heirs, said he was aware that there had been “a lot of inexplicable denials” of claims. He noted that the ICHEIC process “resulted in the payment of less than 3 percent of all the policies owned by Jews at the beginning of World War II.”

Zabludoff said that of the more than 90,000 claims filed, only 16,000 were offered settlements as a result of documentary evidence or because of sketchy documentation that could be pieced together to prove a claim.

Lewis is calling for survivors and heirs to be able to press Holocaust-era claims in the courts, and he said he would ask the National Association of Insurance Commissioners to address this issue once more. He noted that the European insurance companies only began to address this issue after state insurance commissioners, who regulate the insurance industry in the United States, warned them that their Holocaust claims practices jeopardized their licenses in the U.S.

Dubbin noted that Congressional legislation is now being written that would require insurers to disclose all Holocaust-era policies and permit heirs to pursue their claims through the courts. Few names of Jewish policyholders from Eastern Europe were ever

published, despite the existence of ICHEIC. It is estimated that the value of those Holocaust-era policies is between \$17 billion and \$200 billion, according to a draft of the bill.

The Jewish Week
SERVING THE JEWISH COMMUNITY OF GREATER NEW YORK

(07/06/2007)

Probe 'Phantom Rule,' Says Congressman

Rep. Engel, sponsor of Holocaust-era insurance disclosure bill, says former arbitrator has raised 'serous allegations' about denied claims.

Stewart Ain - Staff Writer

An investigation should be launched into charges of a so-called "phantom rule" favoring insurance companies being improperly used to decide Holocaust-era insurance claims, according to Rep. Eliot Engel (D-Bronx).



Engel was responding to a claim by Albert Lewis in The Jewish Week that he was pressured into applying this rule while he served as an arbitrator for the International Commission on Holocaust-Era Insurance Claims (ICHEIC).

"His charges should be looked into" by Congress or the Justice Department, Engel told The Jewish Week. "These are very serious allegations."

Lewis, a former New York State insurance superintendent, said he believes the "phantom rule" may have played a role in the commission's decision to deny 84 percent of all claims it reviewed.

Engel said he is co-sponsoring a bill that would require Holocaust-era insurance companies to disclose the names of all Holocaust-era policies and to permit federal courts to consider claims stemming from unpaid insurance claims.

ICHEIC, which was created to handle all Holocaust-era insurance claims, ceased operations earlier this year after saying the deadline for filing claims had ended and that it had resolved all outstanding claims. In all it awarded more than \$300 million to survivors and their heirs.

"You cannot put a timetable on justice," Engel insisted, "when we're talking about crimes as monumental as the Holocaust. In no way could you ever have a statute of limitations ... While some people want to slam the door on it and move on to more pleasant things, the victims and justice" should not allow that.

But passage of such legislation would do no more than "give rise to decades of further litigation on top of all the litigation that has already occurred," according to Peter Simshauser, a lawyer representing Assicurazioni Generali, the largest insurance writer at that time in Europe and one of six major European insurance companies that

provided the money.

He said claims had already been resolved through the actions of organizations such as ICHEIC that had been created by both the Bush and Clinton administrations.

“Generali has paid more than \$170 million with respect to these claims in reliance on those policies [of the Bush and Clinton administrations],” he said.

Asked about the high percentage of claims that had been rejected by ICHEIC, Simshauser insisted that Generali “was audited by independent authorities, including prominent international accounting firms, which have verified that its historical records are complete and enabled it to make a determination of which policies were in effect in 1936 and thereafter. And those findings were accepted by ICHEIC and its members, including State of Israel and the insurance commissioners in the United States.”

Another attorney involved with the case said the insurance companies “bent over backward” to side with claimants, but that many of the claims were invalid, accounting for the high percentage of rejected claims. “Standards were lenient, but some evidence was required,” said the attorney, who asked not to be named.

Nevertheless, Leo Rechter, director of the National Association of Jewish Child Holocaust Survivors, said he knew of individuals who submitted claims to collect the death benefits of their family members and were rebuffed because they had no documentation.

“Very few people kept the actual policy,” he said. “When you are running for your life, you don’t want to identify as a Jew.”

Alex Moskovic of Sound Hope, Fla., said he applied to ICHEIC when it was established in 1998 and didn’t receive a reply. He said he later saw the name of his father, Joseph Moskovic of Sobrance, Hungary, and two uncles — along with their hometowns — on the Web site of two insurance companies.

“In 2001 I received a \$1,000 check from a humanitarian fund” from ICHEIC, Moskovic said.

He said he believes he should have received more than that because “we had a store and two houses and were pretty well off. I was 13 when we were taken away and I remember them [his relatives] talking about policies.”

But Moskovic said he had no further details.

Esther Finder of Rockville, Md., president of the Generation After in Washington, D.C., said her organization and others have been sending letters to House members asking them to support the legislation.

Told Generali's position that its historical record is complete, she said: "I don't know that all the records have been made available. There is always another archive opening here and another there. The archive in Vienna just became available. It could be that not a single piece of paper is in there having to do with insurance claims, but we still need to open the process. ... I'm tired of hearing everyone's assurances. I'd like to see for myself that there is no paper in there. Show me."

Lewis, the former ICEIC arbitrator, provided The Jewish Week with copies of e-mails he said he had received from Katrina Oakley, the commission's law administrator in London, who suggested that he reconsider his decision to pay two claimants. (See June 29, page one.) Oakley said the two claimants didn't have copies of the policies and none of the insurance companies in ICHEIC claimed to have a record of those policies, therefore they should be denied.

Oakley cited the actions of another arbitrator who denied similar claims, noting that the rule is that when no written proof exists, the burden on the claimant is a "heavy one."

But Lewis said no such rule existed. And in a note to Oakley, Lewis wrote that he reviewed that arbitrator's records and found that he had granted awards "where there was no written evidence of a policy" simply based on anecdotal evidence.

"I had accepted such evidence in granting my monetary awards," Lewis wrote.

He then questioned why this arbitrator's other decisions granting awards based solely on anecdotal evidence was not sent to him.

"Were any other arbitrators similarly pressured by you and changed their awards?" he asked.

Cleveland Jewish News
March 13, 2003

Debate rages over aid to survivors

By MARILYN H. KARFELD Staff Reporter

Of the estimated 2,000 to 3,000 Holocaust survivors currently living in Cleveland, a small number are needy. Sometimes, say social workers, they're forced to choose between paying for medicine or paying for heat.

About 30 poor survivors here receive limited home care services paid for by a grant from the Conference on Jewish Material Claims Against Germany, referred to as the Claims Conference. Others are turned away due to limited funds.

The size of the Claims Conference grant to Cleveland and other cities like Miami, with large survivor populations, is the subject of a disturbing debate in the Jewish community. Some Jewish leaders are loudly criticizing the Claims Conference for what they call a failure to distribute to Holocaust survivors all the funds raised in their names.

Since 1993, the Claims Conference has devoted 80% of the Holocaust restitution money it receives to care for needy survivors. The remaining 20% goes toward Holocaust remembrance, research and education.

In response to widespread rebuke from Jewish leaders that 100% of the money should go to poor, frail survivors, the Claims Conference has recently told Jewish news media that it most likely will examine its distribution split at its July meeting in New York.

The Claims Conference was founded in 1951 to distribute reparations from Germany and other sources to Jewish victims of the Holocaust. It's also the agency responsible for allocating the proceeds from the sale of unclaimed property in the former East Germany that the Nazis seized from Jews.

Last week for the first time, the Claims Conference posted on its Web site an accounting of the \$82 million it received in 2002 from the East German property and the German fund for forced and slave laborers.

About \$76.8 million was allocated to organizations that care for needy survivors worldwide, while \$9.5 million went to Shoah research, education and documentation. The latter included grants to Yad Vashem, Israel's Holocaust memorial, and to youth visiting the sites of concentration camps. The organization also said it allocated \$4.2 million from the Swiss banks settlement for emergency assistance to needy survivors in 20 countries.

The Jewish Council for Public Affairs, a consortium of local and national organizations, last week joined a growing chorus of leaders criticizing how the Claims Conference spends what they say is, in essence, the survivors' money. Holocaust education and archival programs should only receive funds after all the survivors' present and future needs are fully met, the organization said.

Officials from United Jewish Communities (UJC, the umbrella organization of North American federations) and individual federations around the country have also weighed in on the controversy. The heads of the federations in Miami, Los Angeles, Boston and New York have met with Gideon Taylor, Claims Conference executive vice president, to discuss the claims of the survivors.

Also present was Clevelander Stephen H. Hoffman, president and CEO of UJC and former longtime chief professional officer of the Jewish Community Federation of Cleveland.

In the past, earmarking funds for education and remembrance has been a wise policy, Hoffman notes. But with the establishment of Yad Vashem, the U.S. Holocaust Memorial Museum and other institutions, "the original mission in this area has been accomplished."

How much more money should be raised for Holocaust remembrance now must be balanced against the needs of survivors, he says.

While survivor groups have been criticizing the Claims Conference for some time, a firestorm erupted in June 2002, when Israel Singer, Claims Conference chairman and the son of Holocaust survivors, wrote an essay in the Jewish opinion magazine Sh'ma. He suggested a new organization be created to spend any leftover Holocaust restitution "to rebuild the Jewish soul and spirit" and "ensure the continued existence of the Jewish people" through education and other projects.

Singer also suggested using the restitution money for a voucher system to allow every Jewish child to attend Jewish day schools.

Survivors and Jewish leaders lashed out at Singer, saying the Claims Conference was seeking to perpetuate itself as an organization with funds that rightfully belong to survivors.

Others came to Singer's defense, agreeing that those who perished in the Holocaust would want remembrance and Jewish education to be their legacy, not only social welfare to the Nazis' victims.

Claims Conference officials say they don't have enough money to take care of all survivor needs. There are an estimated 500,000 to 800,000 Holocaust survivors worldwide. Of the 127,000 to 145,00 survivors who live in the U.S., about 40% rely on Medicare, Social Security and reparations to cover their rising health care costs, JTA reports.

The federations, Claims Conference officials insist, should be raising more money to aid survivors.

Hoffman does not think that is the federations' mission. "The Claims Conference is designed to address the needs of survivors in particular," he notes. "The federations have responsibility for all older persons in need."

The ugly specter of Jews fighting Jews is nothing new, he says. Every year in the community there is combat over the distribution of Jewish welfare campaign funds. What is new is how public these arguments have become, he says.

"It's uncomfortable to see it played out in the Wall Street Journal and The New York Times," he admits. "No one likes to see the family argument in print, but we'll get over it."

Cleveland Robert Goldberg, chairman of the UJC executive committee and its top volunteer, has urged the Claims Conference to resolve the controversy. "There are survivors in this country who are in need of home health care and not all of them are getting it," Goldberg says. He's asked the Claims Conference for a detailed accounting of the value of all its remaining East German property.

Holocaust and Jewish education is a worthy project, Goldberg adds. "But if I had to choose between helping a survivor and anything else, I would lean toward helping the survivor. That is our number one obligation."

Federations around the country are currently helping the survivor community, Goldberg says. But federations can only raise so much money.

By speaking out, Goldberg feels he and other federation leaders will ultimately persuade the Claims Conference to increase grants to survivors. "You can't force anybody to do anything, but we can drive them crazy," he says.

Through last September, the Claims Conference has received over \$1 billion from the German-Jewish property, either through sale of the property or compensation from Germany, The Jewish Week reports. Subtracting payments to rightful property owners and those expected to still make claims, and setting aside money for future survivor needs, the Claims Conference has thus far distributed \$451 million for survivor assistance. That was 80% of the available money, they say.

In Cleveland, the Holocaust Survivors Program of the Jewish Family Service Association receives \$150,000 annually from the Claims Conference. That pays for staff salaries, case management, assistance with reparation forms, a drop-in center called Europa Café, and up to six hours of home care weekly for about 30 people.

According to Michelle Keller of the Holocaust Survivors Program, she and her staff have seen about 800 to 1000 Holocaust survivors, many of whom just stop by to receive help in filling out the reparations forms. Others are alone and destitute.

"Some go without medication," says Keller. "They will choose heat over filling a prescription. Of if they need a pill twice a day, they will take it once a day."

For these people, Keller arranges for groceries to be delivered, provides transportation to link the isolated to the outside world, and sets up a schedule of home assistance, including personal care, laundry and light housekeeping. Most people get only two hours a week of help.

"Of course we could use more money," says Sue Biagiatti, JFSA director of elder care services. "There's no way we can meet everyone's need."

Scarce funds mean some survivors who could use the aid had to be turned away. Others receiving help were removed from the program, Biagiatti says.

The Claims Conference's stance is "incredibly disappointing," says former Cleveland Mark Talisman, a founding vice president of the U.S. Holocaust museum, who has been working on this problem pro bono for almost four years.

"Needy survivors are blown off and don't get the help they need. When billions of dollars are negotiated on behalf of survivors and they don't get the benefit of those dollars, it's unconscionable," says Talisman, who arranges exhibits and other projects through his Project Judaica Foundation.

Some survivors also don't think the Claims Conference represented their best interests in negotiating for reparations from the Swiss banks that confiscated Jewish wartime accounts and German industries that exploited slave labor.

In May 2001, the Holocaust Survivors Foundation, based in Florida and comprised of about 50 grass-roots survivor groups, appealed to Judge Edward Korman, who is overseeing the Swiss banks settlement. The foundation asked for additional money to help with the human services needs of U.S. survivors, says Sam Dubbin, Miami attorney for HSF and chairman of the Miami Jewish Community Relations Committee.

The judge had allocated 75% of the money - \$67 million - to survivors in the former Soviet Union and less than 1% - or \$215,000 - to those in the U.S., Dubbin says. While there is no doubt great need in the former Soviet Union, U.S. survivors call that distribution unfair.

The HSF eventually withdrew its appeal of the Swiss settlement with the understanding that U.S. survivors would get more help from a secondary distribution of leftover restitution funds, Dubbin says. So far survivors are still waiting.

The Association of Jewish Family and Children's Agencies has said \$30 million annually for five years would provide adequate home care for about 8,000 needy survivors in the U.S.

"For the Jewish community to stand by and allow restitution money to be hoarded so their fund-raising burdens can be alleviated now and in the future is wrong," says Dubbin. "The general community has an obligation for Holocaust education. It's a bizarre concept to say take the money and pay for their (survivors') memorial while their (immediate) needs are going unmet."

The average age of survivors is now 80; they are dying at a rapid pace, sometimes poor and alone. As Goldberg notes, the problem of assistance to survivors is one that will not be with us for too many more years. "I would not want the lesson to our children to be that we did not take care of the survivors."



The Global News Service of the Jewish People

Survivors still seek justice

Holocaust survivor groups and key congressional leaders have joined two separate issues — the opening of the Bad Arolsen archives on Holocaust victims and the quest to recover unpaid insurance claims — into a single cause.

NEW YORK (JTA) — Reaction to recent revelations of corporate complicity, unrevealed insurance company involvement and the great number of IBM punch cards among the papers in a secret archive in Bad Arolsen, Germany, have reignited a grass-roots campaign among Holocaust survivors to recover Nazi-era insurance claims against companies such as the Italian insurance giant Generali.

Following a series of revelations that began last year in Jewish media, grass-roots survivor and second-generation groups in Miami and New York have mounted a fierce campaign in Congress to supersede international agreements brokered by the State Department to settle insurance claims through the International Commission on Holocaust Era Insurance claims (ICHEIC), as well as a variety of adverse Supreme Court rulings that have denied survivors the right to sue to recover policy claims or disgorge profits from the insurance companies.

The groups have used revelations about the unreleased Bad Arolsen records as a rallying point to prove that their insurance claims have been pushed into oblivion. Key congressional leaders agree and have promised swift action.

Thus, two separate issues — the opening of the Bad Arolsen archives and the quest to recover unpaid insurance claims — have been joined into a single cause among survivor groups and key congressional leaders.

The latest round of efforts began last fall, when officials of survivor groups unsuccessfully demanded that ICHEIC and other authorities postpone the final disposition of claims pending further research in the International Tracing Service files at Bad Arolsen. The groups include such elected bodies as the Miami-based Holocaust Survivors Foundation USA and the Queens, N.Y.-based National Association of Jewish Child Holocaust Survivors.

The International Tracing Service, or ITS, was established by the Allies after the war to help families trace Holocaust and war victims. The Allies forwarded millions of captured documents to

the facility in Bad Arolsen. The international Red Cross was given custody and control of the archives, which provided information on individuals only to survivors and their families. A typical family request could take years to process.

In January, Holocaust survivors petitioned federal Judge George Daniels to reject a settlement with Generali because ICHEIC had failed to publish the names of all Jews whom the company insured before World War II. The petition, which included numerous quotations from the Jewish media about Bad Arolsen's insurance documentation, decried the alleged rush to judgment.

Judge Daniels temporarily delayed a decision, but ultimately finalized the permanent settlement with a limited extension for claims based on discoveries that might emerge from the Bad Arolsen archive.

Having lost in court — and convinced that established Jewish organizations would not aid them — survivor groups lobbied Congress to link the campaign to open Bad Arolsen to the separate campaign to recover insurance claims and compel disclosure of the names of those insured.

On March 28, U.S. Rep. Ileana Ros-Lehtinen (R-Fla.) introduced the Holocaust Insurance Accountability Act of 2007, to enthusiastic support on both sides of the aisle.

The act seeks to supersede international agreements brokered by the State Department to settle insurance claims through ICHEIC. The bill concludes that ICHEIC, which is due to terminate operations soon, "did not make sufficient effort to investigate" or compile the names of Holocaust-era insureds or the claims due to survivors. The bill adds that recent media disclosures about the contents of Bad Arolsen have given new justification to such legislation.

In response, a representative for ICHEIC said the commission had accomplished its mission of identifying and settling unpaid Holocaust-era life insurance claims by processing more than 90,000 claims and distributing more than \$306 million to more than 48,000 claimants. More than half of the funds distributed via ICHEIC were the result of ICHEIC's archival research and matching work, the representative said..

Still, Ros-Lehtinen's bill would require insurers to disclose comprehensive lists of Jewish policyholders from the Nazi era. The legislation also would enable federal lawsuits to recovery money from insurers, thus overruling ICHEIC's final word and a variety of Supreme Court rulings that have denied survivors' rights to sue or gain access to policyholder names.

The proposed law thus would trump both the executive and judicial branches on Holocaust-era insurance.

The same day that Ros-Lehtinen's bill was introduced, Rep. Robert Wexler (D-Fla.), chairman of the House Foreign Affairs Committee's Subcommittee on Europe, convened an extraordinary hearing on Bad Arolsen. The purpose was to orchestrate congressional pressure on the 11 governments — the United States, France, England, Belgium, Greece, Luxembourg, Netherlands, Poland, Israel, Italy and Germany — that control the ITS to rush full access to its archives, providing the insurance information that has been submerged for decades.

Members of the Foreign Affairs Committee sat stony and grim-faced, some holding back tears, as the hearing unfolded about the Bad Arolsen archives and their impact on survivors' decades-long effort to recover their insurance claims. Survivor David Schacter of Miami, who admitted he was "emotionally overcome," spoke of impoverished survivors in South Florida who cannot afford housing or medicine because their insurance payouts were first denied by the insurance companies and then by ICHEIC.

"I am begging this Congress," he implored, "to please believe us. We have been wrongly stripped of our pride and property."

Leo Rechter of Queens pleaded, "Open up Bad Arolsen to expose the Holocaust profiteers."

Rep. Albio Sires (D-N.J.) held back tears both in the hearing room and in the corridor. Wexler promised to fast-track legislation and action to open Bad Arolsen.

"We will take the next step and then the next step, and then the next step," Wexler said.

The New York Times

March 14, 2004

For Holocaust Survivors, It's Law Versus Morality

By ADAM LIPTAK

IN 1998, after Swiss banks agreed to pay \$1.25 billion for keeping the property of victims of the Nazis and for laundering the profits of Nazi slave labor, the question arose: how should the money be spent, given that only part of that sum could be traced back to individual who had their money stolen?

On Tuesday, a federal judge in Brooklyn ruled that the poverty of Holocaust survivors in the former Soviet Union required the bulk of the available money, saying that current need is more important than perfect restitution. In essence, he said survivors who live in richer countries should receive less than those in poorer ones.

But that answer leaves some people, including many Holocaust survivors, angry and frustrated. "The whole point of restitution is to compensate people for their actual suffering at the time of the crime," said Thane Rosenbaum, a law professor at Fordham University and the son of Holocaust survivors.

History rather than charity should supply the guiding principles, said Mr. Rosenbaum, the author of a forthcoming book, "The Morality of Justice," which argues that the legal system often fails to achieve moral results. The Swiss bank settlement, he says in the book, is such a case.

"From a moral perspective, it's the victims' money," Mr. Rosenbaum said, adding that it is up to survivors to determine how the money should be used.

Edward R. Korman, the chief judge of the federal district court in Brooklyn, acknowledged the difficulty of the problem. "A comparison of needy survivors is by definition an odious process," he wrote in the decision issued last week. But morality required him, he said, to send some 70 percent of what may amount to \$400 million to survivors in the former Soviet Union, and only 4 percent to survivors in the United States.

Of the 900,000 or so Jewish survivors of Nazi persecution, 19 percent to 27 percent live in the former Soviet Union while 14 percent to 19 percent live in the United States. Those in the former Soviet Union, the judge wrote, live in desperate poverty. The poverty of

some American survivors is by contrast "clearly less pressing," he said, given the public assistance and private charity available to them.

But Samuel J. Dubbin, a lawyer for the Holocaust Survivors Foundation-USA, which says it represents more than 50 organizations and 20,000 American survivors, objected to the judge's reasoning.

"You can't say that a survivor in need here is less worthy than a survivor in need in the former Soviet Union," he said. "The reason you can't say that is that this is survivor money. Maybe you could say that if this was community money, if this were charity."

Instead, the foundation asked Judge Korman to base future distributions on pro rata allocations to the nations where large numbers of survivors live and only then require distribution within those nations to the neediest survivors.

"There's not enough money to hand out to all the survivors, unfortunately," said Leo Rechter, a 76-year-old retired banker who was born in Vienna and spent the war in hiding. "The next best solution is that all the needy people be taken care of."

"The percentage of survivors' money in each country should be allocated to that country," said Mr. Rechter, whose father died at Auschwitz, "and from that money the needy people there should be taken care of."

Judge Korman rejected that and other alternatives. He wrote that trying to adjudicate claims individually would be unwieldy, expensive and in many cases impossible. A simple pro rata distribution, on the other hand, would yield "literally pennies to each of the millions of individuals" victimized by the Nazis, including all survivors and their heirs. He called the hybrid solution proposed by Mr. Dubbin and the survivors' foundation frivolous and inconsistent with law and morality.

Should other lawsuits for historical wrongs succeed, the problem in the Swiss bank case is likely to recur. Burt Neuborne, who represents the plaintiffs in the settlement, has written that some claims should by their nature give rise to indirect compensation in the form of social programs.

For instance, he said, if lawsuits seeking damages for American slavery ever produce damages, the proper response may be affirmative action or providing money to assist for poor blacks.

And Stuart E. Eizenstat, deputy treasury secretary from 1999 to 2001 and the author of "Imperfect Justice: Looted Assets, Slave Labor and the Unfinished Business of World War II," an account of the negotiations leading to the settlement, said such suits have an important moral and political aspect that may call for ignoring some usual legal remedies.

"A purely legal response," he said, "does not work."

In this case, all agree that the dispute needs a speedy resolution. The average survivor is 77 years old if living in Israel and 84 if living elsewhere. Their numbers, according to a report issued in 2000 by the court-appointed special master in the case, Judah Gribetz, are projected to fall by 6 to 8 percent each year through the end of the decade and faster afterward.

The Jewish Week

SERVING THE JEWISH COMMUNITY OF GREATER NEW YORK

(08/24/2007)

Claims Conf. Revises Old Funding Formula

An added \$100 million to go to survivors over four years, as controversial Holocaust education funding is frozen.

Stewart Ain - Staff Writer

With no fanfare and little debate, the Claims Conference has overturned its controversial 17-year policy of setting aside 20 percent of its allocations for Holocaust education.

As a result, the group has decided to pump another \$112 million into social-service programs for survivors over the next four years while freezing funds for educational, documentation and research projects at \$18 million annually.

The 80/20 formula — 80 percent for survivor benefits and 20 percent for education programs — will be applied only to \$90 million of the conference's yearly allocation, the amount it had been distributing since 2003.

Julius Berman, chairman of the Conference on Jewish Material Claims Against Germany, said the action was taken last month at the group's annual meeting "because of the crying need for social welfare programs as survivors get older and sicker."

But Roman Kent, a survivor and the group's treasurer, said the move was in response to "pressure" from survivors. He said he spearheaded the effort to revise the allocation distribution.

"As long as survivors are in need, they come first," Kent said he has argued. "Even the rabbis acknowledged that if you have a sick man, you could break the sanctity of the Shabbos to help the sick."

Samuel Dubbin, a Miami lawyer who represents survivors, noted that the Claims Conference board met just a month after an Op-Ed article in The New York Times questioned the millions of dollars the group had spent for education, including "\$700,000 to a 'consultant' — a friend of the organization's president — who, in an interview with The Jewish Week, couldn't recall what he had been asked to consult on."

"While the conference supports many worthy projects, it is controlled not by survivors but by surrogates, and operates with limited oversight and financial accountability," wrote Thane Rosenbaum, a professor of law at Fordham University.

"They obviously decided that when it hit The New York Times, it was time to act," Dubbin said. "This decision just sharpens the focus on the continued expenditure for non-survivor needs and demands justification in light of the suffering those expenditures permit."

The 80-20 split has been the subject of debate even outside of the Claims Conference. In 2002, Israel Singer, then president of the Claims Conference, defended the allocation, telling the Jewish Telegraphic Agency, "The survivors are not the only heirs of Jewish property. They are the first beneficiaries, but not the only heirs. The Jewish way is to take care of those in need, but also to educate our children."

But as medical costs of survivors have increased as they aged — most are now about 80 — more and more people questioned the split. Just last year, Wolf Factor, chairman of the Foundation for the Benefit of Holocaust Victims in Israel, told JTA that Holocaust

commemoration and youth trips to Poland are not as immediately relevant as help for survivors.

He said he hoped that the Claims Conference and the State of Israel would "come to their senses and understand that honoring the memory of the Holocaust is not only to remember the dead, but essentially to remember the living who still need us."

The number of needy applicants approaching the foundation has increased by more than 60 percent since it was created in 1994. The foundation said that 40 percent of Israeli Holocaust survivors lived below or just barely above the poverty line. And it was reported that one-fourth of Israel's 280,000 survivors could not afford medications or the cost of a home health aide.

Just this week, the State of Israel announced that some 100,000 survivors would receive a \$285 increase in their monthly allowance. But no decision has yet been made about increased assistance for another 150,000 survivors in Israel who fled the Nazis by escaping to the Soviet Union.

Dubbin said that in 2004 there were a reported 175,000 survivors in the United States, at least 85,000 of whom were living at or below the poverty line or considered poor.

Berman, the Claims Conference board chairman, said \$18 million annually for education "is a good hunk of money" that would be sufficient to meet the "competing needs and priorities."

Since 2003, the Claims Conference's annual allocation had been \$90 million. It was increased this year to \$100 million and will jump to \$110 million next year, \$122 million in 2009 and \$135 million in 2010.

"The board usually makes its decisions year by year, but we decided that because of the [growing] needs we should tell social welfare agencies and the people that they will have more money," Berman said.

"The cost of living of a sick person is becoming astronomical," he added. "People are living longer and they are sicker and they need financial support in greater dimensions."

Menachem Rosensaft, founding chairman of the International Network of Children of Jewish Holocaust Survivors, called the Claims Conference's decision a "welcome step in the right direction.

"I've been aware that discussions were going on for years," he said. "The overriding mission of the Claims Conference is and must be to ensure that Holocaust survivors can live out their remaining years in dignity and with their basic needs met," he said. "Once that is accomplished, one can have a discussion as to how to apply remaining funds."

Asked if he supported allocations to educational projects, Rosensaft replied: "There are very legitimate Holocaust remembrance projects. Having said that, it is very clear that medical care and food for an elderly survivor trumps any cultural or educational project."

There are so many other organizations that also fund Holocaust education programs that funding from the Claims Conference is not necessary, maintains Leo Rechter, president of NAHOS (National Association of Jewish Child Holocaust Society).

He said he had just received the magazine of a major organization that is spending more than the Claims Conference on Holocaust education.

"We are very much in favor of educational efforts and we survivors go to classes and speak to high school and junior high school students" about the Holocaust, he said.

But Rechter maintained that some of the educational projects funded by the Claims Conference are nothing more than "pet projects" of board members who get them funded "for their own glorification."

He cited capital investments in St. Petersburg and Kishinev in Russia, cities in which "there were no survivors."

"St. Petersburg was not occupied by the Germans," Rechter said.

However, Eli Zborowski, another survivor and chairman of the American Society for Yad Vashem, said he supported the 80-20 mix because much of the money distributed by the Claims Conference comes from the sale of German Jewish property owned by Jews who had no heirs.

"Shouldn't part of the money go to remembering them?" he asked.

But David Mermelstein, president of the Miami Holocaust Survivors, said he believes the \$18 million annual education allocation should either be eliminated or cut in half to provide more money for needy survivors.

"The needs gets worse as we get older," he said. "Until now we didn't have to worry about wheelchairs. But today I helped a man get a wheelchair" who could not get to the synagogue without it.

"If they would only take a person who would go from state to state and visit some of the cities and see the need of the survivors, they would understand better," he said. "We tell them, but it is not the same as being there."

Asked what could be done if all \$18 million were allocated for the care of survivors, Mermelstein replied: "Just give us \$1 million and we could add to the hours of homecare" and other services.

Mr. WEXLER. Mr. Moskovic.

**STATEMENT OF MR. ALEX MOSKOVIC, HOLOCAUST SURVIVOR,
MEMBER OF THE BOARD OF DIRECTORS AND EXECUTIVE
COMMITTEE, HOLOCAUST SURVIVORS FOUNDATION USA,
INC.**

Mr. MOSKOVIC. Good afternoon, subcommittee members of the Foreign Affairs. My name is Alex Moskovic. At the age of 14, I was the only one of 41 family members to survive Auschwitz-Birkenau and Buchenwald extermination and concentration camps. I came to this country in 1946. Today I don't want to talk about or repeat myself about the atrocities that were part of our lives, our young lives. However, I want to talk mostly about what the needs of the survivors are.

I am here to speak as a Holocaust survivor about the failure of what is often called the quest for a measure of justice for survivors. The processes employed over the past decades have mostly failed. We have been denied access to the truth about our families and their lives in allowing unauthorized negotiators to enter compromises over the Swiss bank thefts, insurance thefts, and property restitution. The notion that perfect justice is impossible has served to cover secrecy and for allowing governments and global financial institutions to benefit from the theft of tens of billions of dollars in the Holocaust.

We need Congress to pass bill H.R. 1746 to correct these injustices, at least with respect to insurance.

I only have time for a few specific remarks here but I ask you to read my entire submission and the attachments which I request to be allowed in the record.

My father had a business in my home town of Sobrance, Hungary during the 1940s. This was an area where Generali, a Jewish company at the time, was a major force in the insurance market. The International Commission for Holocaust Era Insurance Claims (ICHEIC) was formed in 1998. I applied and gave all the information I had which wasn't much for a boy who survived at age of 14 with no living relatives. Several months later, my name and the names of several family members appeared on the ICHEIC Web site indicating that policies had been sold to us before the Second World War. But ICHEIC denied the claim without providing any information whatsoever. I had no choice but to accept their decision.

The fact that 97 percent of the Jewish families' insurance monies was not repaid does not surprise me at all, because the survivors who went through ICHEIC believed it was a fiasco. Survivors are angry and hurt that so many billions remain held by corporate plunderers of the Holocaust. Not only is this concealment wrong morally, it is unacceptable when you consider the amount of poverty and need among the survivors today.

You might be surprised, if you read statements by the Claims Conference President Israel Singer, that over \$20 billion was recovered for the Holocaust survivors in the last decade. If this is true we are wondering, what happened to the money? What we do know is that not enough of this is being used for the care of survivors in need. The major source of money for these programs is the fund

recovered from the German properties claimed and managed by the Claims Conference, but the Conference has never published an accounting of what they did with these properties. So no one really knows how much it has available to spend.

Ernst and Young recently wrote that the group's disclosures were not proper. We are all waiting for the full story.

In addition, the Conference spends 20 percent of its annual discretionary budget for projects unrelated to survivors' needs for research, education, documentation. Many of these grants go to the board members or their affiliates, which raises ethical questions if not legal ones.

We survivors believe that the money recovered belonging to our families should either go to the actual heirs or to the benefit of living survivors who are in need today. We are the ones who lost everything, our beloved parents, brothers, sisters, as well as everything we owned. Who is the Claims Conference or anyone else in this world to tell us that the memories of our murdered loved ones should be honored with various programs while the living survivors are suffering and money is being hoarded and hidden?

Today, H.R. 1746 has over 30 co-sponsors. We don't understand why there aren't 300 co-sponsors. Please, I am urging you to co-sponsor H.R. 1746.

I am also urging you to tell other Members what you heard today and tell them that Congress really has a chance to right an awful historical wrong. The years left are but a few to be required to be concerned with the survivor needs in the world. Time is running out. The hourglass is emptying. If not here, where? If not now, when? Thank you.

[The prepared statement of Mr. Moskovic follows:]

PREPARED STATEMENT OF MR. ALEX MOSKOVIC, HOLOCAUST SURVIVOR, MEMBER OF THE BOARD OF DIRECTORS AND EXECUTIVE COMMITTEE, HOLOCAUST SURVIVORS FOUNDATION USA, INC.

Good Afternoon. My name is Alex Moskovic. At the age of 14, I was the only one of 41 family members to survive the Auschwitz-Birkenau and Buchenwald extermination and concentration camps. I came to this country in 1947 and after my retirement, I moved to Florida and volunteered to work on the Advisory Committee of the Ruth Rales Jewish Family Services in Boca Raton FL. The growing problems facing survivors as they age, the lack of resources to assist them, and the overall frustration faced by all survivors, including me, who attempted to recover their family assets such as insurance policies, led me to become active with local survivor groups and the national Holocaust Survivors Foundation USA.

I am here to speak, as a Holocaust survivor, about the failure of what is often called the quest for "a measure of justice" for survivors. All agree that no amount of money can ever compensate us for the crimes of the Holocaust. But the processes employed over the last decade have mostly failed. We have been denied access to the truth about our families and their lives. In allowing unauthorized negotiators to enter compromises over Swiss bank thefts, insurance thefts, and property restitution, the notion that "perfect justice is impossible" has served as a cover for secrecy, and for allowing governments and global financial institutions to benefit from the theft of tens of billions of dollars in the Holocaust. We are asking Congress to help. You are our last chance for a dignified outcome that respects survivors' rights and interests.

I only have time for a few specific remarks here, but I ask that you read my entire submission and the attachments which I request be included in the official record. Some of these materials are older as you can see, and were based on the best data available. More recent data, which I have also included, show that over 80,000 Holocaust survivors in the United States either live below the poverty level, or have incomes so low that they are considered poor. Tens of thousands cannot afford a decent quality of life. All of our volunteer activities cannot provide the medicines,

home care, dentistry, rent, food, and other basic needs of these survivors. You must ask all participants in the hearing about these problems. You are our last hope.

My father had a business in our hometown of Sobrance, Czechoslovakia. This was an area where Generali, a Jewish company at the time, was a major force in the insurance market. The International Commission for Holocaust Era Insurance Claims, the ICHEIC, was formed in 1998. I applied and gave all the information I had, which wasn't much for a boy who survived at age 14 with no living relatives. Several months later, my name and the names of several family members appeared on the ICHEIC website, indicating that policies had been sold to us before WWII. Yet I never received any specific response from ICHEIC. ICHEIC denied my claims without providing any information whatsoever. I had no choice but to accept their decision. The fact that 97% of the Jewish families' insurance money wasn't repaid does not surprise me because most survivors who entered ICHEIC believe it was a fiasco. We need Congress to pass HR 1746 to correct this injustice.

Survivors are angry and hurt that so many billions remain held by the corporate plunderers of the Holocaust. Not only is this concealment wrong morally, it is unacceptable when you consider the amount of poverty and need among survivors today. This might surprise you if you read statements by Claims Conference President Israel Singer, that \$20 billion was recovered for Holocaust survivors in the last decade. If this is true, we are all wondering what happened to that money. I will give you one example because of time, but it is similar to thousands of similar cases all over the U.S. and the world.

Mr. and Mrs. L. (86 and 79 years old), Survivors of Poland, now live in a small condo at Century Village in Boca Raton FL. Mr. L. is a stroke victim now suffering from dementia and cannot be left alone. Mrs. L. was Mr. L.'s caretaker, however a while ago Mrs. L. had an emergency and was hospitalized and received coronary bypass surgery, valve replacement and repair of a hole in the heart. Her recovery had complications and she needed to be in extensive re-hab. Though a relative helped with Mr. L. at first, she could not afford to miss more work. The Social Services provided some stop-gap assistance, but due to their experiences as survivors, and the problems of age, the separation was traumatic for both Mr. L. and Mrs. L. and it was clear they needed to be together. But the JFS lacked the funds to allow Mr. L. to join his wife in the re-hab center. Survivors can only receive approximately 8 hours from the Claims Conference and the community for home care or situations such as this.

I see these kinds of tragic problems all the time. It is happening more often as the survivor population is aging and it becomes almost impossible for them to take care of one another. On the Advisory Committee, we are forced to turn down requests for medications and devices such as dentures all the time because there is not enough funds. Today, Mr. and Mrs. L., and many thousands of survivors, are simply not able to receive assistance they require for a decent level of health care and human dignity.

At the Ruth Rales JFS, the clients in the past few years have *doubled* because of aging and but the allocation of funds have remained the same. How can we live with such a deplorable situation?

So we don't know where the \$20 billion has gone, but we know not enough is being used to care for survivors in need. The major source of money for these programs is the funds recovered from German properties, claimed and managed by the Claims Conference. But the Conference has never published an accounting of what it did with all these properties, so no one really knows how much it has available to spend. Ernst and Young recently wrote that the group's disclosures were not proper. We are all waiting for the full story.

In addition, the Conference spends 20% of its annual discretionary budget for projects unrelated to survivors needs, like education and research. Over half of these grants go to board members or the Claims Conference, or their affiliates, raising moral if not legal questions. We survivors believe that money recovered that belonged to our families should either go to the actual heirs, or to benefit living survivors who are in need today.

We are the ones who lost everything, our beloved parents, brothers, and sisters, as well as everything we owned. Why should others decide what happens to our families property like ICHEIC did? Who is the Claims Conference or anyone else to tell us that the memories of our murdered loved ones should be honored with various programs while living survivors are suffering and money is being hoarded and hidden? Survivors do not understand why public officials and other organizations that have supported the status quo do not give us the respect of allowing us to make these decisions for ourselves, and why they tolerate this kind of injustice.

I would like to add that there is no reason the German Government itself should be on the sidelines in this discussion. Germany remains responsible for the catas-

trophe that befell us, and should not be allowed to sit by as an observer while any Holocaust survivor today lacks the care, food, and shelter they need. Shouldn't survivors receive at least as much as retired SS officers?

The years left are but few to be required to be concerned with the survivors needs in the world. Time is running out, the hour glass is emptying, and if not Here, Where? And if not Now . . . When?

Thank You.

Mr. WEXLER. Thank you very much, gentlemen, for your very earnest, compelling, and I think thoughtful testimony.

Before we begin I would be remiss if I did not acknowledge and recognize a young lady who has dedicated herself to this subcommittee for many years, Beverly Razon, who is sitting in the corner. It is her last day with us. She worked with Mr. Gallegly as chairman and Mr. Bereuter as chairman of this subcommittee before me.

She is going with her husband to Denver, I believe, and she will be sorely missed. And on behalf of Mr. Gallegly and me, we want to wish her well and thank her publicly for all of her hard work.

Gentlemen, if I could, all of you sat through Ambassador Kennedy's testimony. Some of you have talked directly to the point of ICHEIC. I would be curious, particularly Mr. Zabludoff and Mr. Rubin—Ambassador Kennedy essentially starts from the point that the mission was accomplished. The ICHEIC mission was accomplished. You heard what he said. The deal was made. A quid pro quo was reached. And the American Government—at least the administration's—position is that the deal on the American side, from the government's perspective, was to end litigation.

Mr. Zabludoff, you have, I think, direct experience as a consultant to ICHEIC. Mr. Rubin, you have direct experience as an unsatisfied petitioner. Please, if you would, if you wish, direct your comments to what Ambassador Kennedy told us and would have us accept in terms of the history of ICHEIC. And again I say this with no disrespect—nothing other than respect for Ambassador Kennedy—but your testimony seemed to be in direct conflict with what Ambassador Kennedy has provided to this subcommittee. So I would be curious if you could expound upon what Ambassador Kennedy said in the context of both your professional experience or as a petitioner, if you wish. Please.

Mr. ZABLUDOFF. As I was saying, ICHEIC basically, I thought originally when ICHEIC was started—and I was involved in it when it started—it was a very good idea. The idea was to really get things moving fast, to get claimants paid as best one could, and have a fairly sizable humanitarian fund for those people who had no knowledge of their policies, or policies that existed and companies held onto the money.

But as time went on it became absolutely clear that the performance was very poor. Part of this had to do with the governance. I think that what tended to happen is that the insurance companies now thought they had a solution to their problems. If they could get by with the least they possibly could, they would. And that is essentially what happened.

And the number of the decisions that were made were extraordinary in the sense of excluding claimants. To give one example, it was called the subsidiary issue. The question was: What do we mean by subsidiary? If Generali, for example, owned another com-

pany in Eastern Europe like Moldavia Generali, what percentage would be considered to be a subsidiary? If you look at EU rules, general international rules, even U.S. rules, you will see that 25 percent is the amount.

Mr. WEXLER. 25 percent ownership?

Mr. ZABLUDOFF. 25 percent ownership of the subsidiary. But what ICHEIC insisted upon, and the chairman pushed for—probably—I don't have any direct evidence of this—was what the companies insisted upon—50 percent. This excluded thousands of policies in Eastern Europe that ICHEIC would actually handle because of that. So I am just trying to explain one example here of why I consider the governance very poor and not forthright.

Mr. WEXLER. Thank you. Mr. Rubin?

Mr. RUBIN. Mr. Chairman, may I just ask a question? Maybe you have the answer. I hope you do. What happens to those policies that were burned up in Auschwitz with their owners and there are no heirs left? No children, no grandchildren? ICHEIC must have those names. Don't you think it would be a nice gesture, as Mr. Zabludoff said, that ICHEIC should come forward and say, "Yes, we really should come forward," and say, "Yes, we should do something for these people who are in need." Because those policies were paid but there is nobody to claim it. What would be such a big thing? They are billionaires. They are still selling insurances. And I would think that would be a wonderful, wonderful, humanitarian—you know, they sent me \$1,000. Big deal.

I could have been without \$1,000, Mr. Chairman. But there are thousands and thousands of Holocaust survivors who are in need, and that money they are holding on to, that was owned by human beings, by fathers and mothers and grandfathers. Like I said, the policies were burned up with their bodies in Auschwitz and Dachau and Buchenwald. Is there such a thing that you could tell the Generali Insurance Company, "Hey, where are those names?" We can't produce the policies. We can't prove the bodies. They are gone.

And I just speak like a layman, Mr. Chairman; I have no higher education, unfortunately. Hitler didn't allow me to get into a higher education because I was a Jewish young boy. But I think that would be wonderful if the committee would look into it.

Mr. WEXLER. Thank you, Mr. Rubin. And that was one of the primary points of the legislation, which is to require the disclosure of the policy records from that period of time and then allow those that are identified and anyone else to then have the opportunity of a Federal cause of action. So I, and I think all the members of this subcommittee, could not be more sympathetic with what you are saying.

Mr. Taylor?

Mr. TAYLOR. I just want to add, I am not in a position to evaluate many of these issues relating to ICHEIC overall, but there are people who participated, there are Holocaust survivors who did participate from Israel and the United States.

Just in terms of context, just for the record, I think it is important that it is understood that when one talks about the total insurance market, what ICHEIC was dealing with was only that portion of the market that was covered by companies that were par-

ticipating or were covered by ICHEIC. So when one looks at the percentages and the total amounts, it is important to understand not all companies—and there were many areas of the market that were not included.

And also, there were obviously issues of companies that went out of business. And what their proportion of the market was and who is responsible for them was, as I understand it, also a complex issue. And you had this issue of valuation which was also not a black-and-white issue, in terms of what value a policy was at; whether it was—as the position of companies in these issues tended to be—that if a local currency was issued in Pengo and so on, then they may have been worthless, and therefore the policy is worthless.

But there were, I think in its context, important to bear in mind that, before the ICHEIC process, for 50 years there were no payments to anyone. There were no humanitarian payments, no payments of policies. So I just wanted to put that into context.

Mr. WEXLER. Thank you.

Mr. Gallegly?

Mr. GALLEGLY. Thank you very much, Mr. Chairman.

And to start with, I want to echo the comments of the chairman in wishing Beverly well in her new endeavors and new life in Denver. It is going to be a big change.

And I thank you for the personal service you have given me when you served on my subcommittee, when I was chairman and all with my predecessor Doug Bereuter and so on. Thank you very much, and Godspeed, Beverly.

Thank you all for being here today. There has been some very compelling testimony, testimony that leaves a very indelible image on those of us that have studied this issue for a long time and for those that have not. But for even those of us that have heard so much for so long, it never ceases to amaze me how compelling testimony like this can be. And I thank you, because this is the real thing. This isn't view graphs and flow charts and bureaucrats talking about resolution. This is the real thing, Mr. Chairman.

Mr. Taylor, do you know if there are any real definitive numbers on the number of Holocaust survivors living in our country here today that are living at or below the poverty level?

Mr. TAYLOR. I think a threshold question for us is who is a survivor. And that in itself is a very loaded and complicated and difficult question, because there are many different views. There are people who were in concentration camps. There were people who fled and escaped. So you have this whole question, and that makes a very big difference.

There are certainly tens of thousands of people, primarily Nazi victims who came from the former Soviet Union, who fled, escaped Nazism and then came to this country in the 1990s who are Nazi victims and who are today in a very serious financial situation.

The National Jewish Population study that took place that was quoted analyzed the background not only of those survivors below the poverty line but looked at who they were and when they came to the U.S. And a majority, an overwhelming majority of those people—and I think it was somewhere around 20,000 or 25,000 people—were primarily those new immigrants who had come to this

country after fleeing the Soviet Union during World War II. They came with nothing. They came often with severe health situations, having lived under communism as well as having escaped the Nazi regime.

And those are the people, certainly in excess of 20,000, who are below the poverty line and who are the target for the kind of social welfare programs, together with other survivors, of course. There are other survivors in need also, who are the target for the programs that we have funded from resources we have been able to obtain in the various restitution negotiations.

Mr. GALLEGLY. So it is not just the economics. It is the complexity of establishing those that qualified clearly, that there is certainly enough out there that clearly we know are qualified.

Mr. TAYLOR. Truly, there is a significant need, a very significant need, on the part of Nazi victims in the United States, and I should say also in Israel and in the former Soviet Union, where there are particular problems because you don't have any social safety net, as you do in other countries, such as in Europe, the United States and Israel. In the former Soviet Union, you face the situation where there is no social safety net from the government.

Mr. GALLEGLY. Mr. Rubin, thank you very much for your testimony.

I would maybe like to hear in your own words what you consider the most immediate needs of the survivors, not only here in the United States but, as Mr. Taylor said, in the former Soviet Union, in Israel and other places. Maybe we start with the U.S. to start with, and maybe if you want to extend to beyond the country.

Mr. RUBIN. I think in the United States would have 90,000 or 100,000 Holocaust survivors. And I know, in my own community, in Boynton Beach area, Boca Raton, there are people who are suffering. They have no food; they can't pay for their medicine. The synagogue I belong to, we set up packages we bring out to their homes for holidays and for Sabbatum because they have no food. They have no way of going to the store. They are locked in. They are sick. They would need home care. They would need maybe somebody to stay with them 3 or 4 hours a day. And there is no money for it. The Jewish Welfare Services, Family Services, they have no money.

And it is a terrible situation. It hurts me and it pains me to see this going on, to see the suffering. That is why I am so adamant about this, the way I tried to explain myself. A company like Generali, who sits on billions of dollars, and they know that the policies were given to these people. But, unfortunately, those policies were burned up with their bodies in Auschwitz, and there are no heirs, there are no children left, there are no grandchildren left. It would be a great help for the Holocaust survivors who are in need that a company like Generali would come out, "Yes, we took those monies from the people, and we cannot return it to them because they are not around."

Mr. GALLEGLY. Thank you.

Mr. WEXLER. Mr. Moskovic?

Mr. MOSKOVIC. Yes, I would like to add something to that about the Holocaust survivor needs. I sit on the Advisory Committee of

Jewish Family Services, which is South Florida, also on the Alpert Jewish Family Services, which is in West Palm Beach.

The social services have the numbers who are the needy, because those are the people that they are helping. It would be very simple to find out what those numbers are, just go and ask them. They may not give you the names, because they are not allowed to do that by law. However, they are the ones that are helping the needy survivors, emergency grants, home care, and whatever else is needed.

So that is the answer. I am on the committee, and even I am not allowed to know. All I know is, if there is a need that comes in, let us say for emergency grant because a person needs dental work, needs to fix his teeth, all I get is an application for approval that this person needs such and such. The money does not go to the needy survivor directly; it goes to the dentist.

So I personally don't see that there is a problem to find out, if you want to, who those needy survivors are in the country.

Mr. GALLEGLY. If I could have one more question, Mr. Chairman.

Mr. Taylor, could you give me your assessment as to how you would describe the way survivors are treated by the Claims Conference?

Mr. TAYLOR. The Claims Conference invests a huge amount of effort in dealing with survivors in a way that is sensitive and concerned. Our board has a significant number of Holocaust survivors. We have Holocaust survivors on our staff. We have tried to secure sufficient resources, or additional resources, in addition to the direct payments for social programs. And the results are, we have managed to get to Holocaust survivors last year somewhere around \$600 million worldwide in direct payments and in social programs.

But it is not a question simply of how much money; it is also how we do it. And we have tried to do it in a way that is careful and as sensitive as possible to the needs of Holocaust survivors.

Mr. GALLEGLY. Thank you, Mr. Chairman.

Mr. WEXLER. Mr. Evron, did you wish?

Mr. EVRON. Yes, I would like to mention a few things.

Number one, I understand the tragedy of the records by the Swiss banks and the records that were destroyed by the insurance companies. But I have to say that there is one thing good in Poland, there are good records about deeds. And people have the deed of the property in Poland, and Poland is doing absolutely nothing to return them.

I mentioned already, as Mr. Zabudoff mentioned, that we have \$1 billion in property to assist survivors but we need \$40 billion. But I am saying \$40 billion is the estimated value by the Polish Government of the Jewish assets in Poland. And I am sorry to say that, without pressure from the Congress, I don't see that anything will happen. I went there and I had meetings with the Claims Conference that had succeeded in Austria, in Germany, and to have a delegation to Poland. We met with the Prime Minister and the Foreign Minister and everybody. Except promises, we didn't get anywhere.

I spoke with the president of the owners organization in Poland, and he told me that the only hope we have is that the United States would put enough pressure on Poland to do something on

this subject. If the Congress cannot do it, put that adequate pressure and convince Poland to do something, I am afraid that in a few years we will meet again and it will be in the same situation.

Poland doesn't want to return property. And they—I don't know who knows Hebrew, there is a saying in Hebrew—they say you cannot kill and inherit. But that is exactly what they did. Three million Jews were killed there, and the assets are being taken away by the Polish Government. They are inheriting the assets of the Jews. This is unacceptable.

Mr. MOSKOVIC. Mr. Chairman, I have some personal experience with ICHEIC, and I have some documents over here. Could I have a couple of minutes just to tell you what my personal experience was?

Mr. WEXLER. Certainly, yes.

Mr. MOSKOVIC. Thank you.

Mr. WEXLER. Could we do this, Mr. Moskovic? Mr. Engel has been sitting very patiently, and I think he has an appointment that he must go to. So with your permission, I would rather go to Mr. Engel, and then when Mr. Engel is done, we will go right back to you, if that is okay.

Mr. MOSKOVIC. Thank you, Mr. Chairman.

Mr. WEXLER. Mr. Engel has been deeply involved in Holocaust-related issues for many, many years, and it is my great pleasure to turn to Mr. Engel for questioning.

Mr. ENGEL. Well, thank you, Mr. Chairman. And I hope you will indulge me for a minute or 2 while I make a brief statement.

I want to first thank the panelists. Very moving testimony. Unfortunately, we have heard a lot of this before, and it is just a never-ending source of frustration and aggravation to me that here we are, in 2007, sitting here and hearing the same thing, Mr. Rubin, Mr. Moskovic. It just boggles my mind.

We all know about the genocide and 6 million people killed because they happened to be Jewish. But now we don't only look at genocide, we look at robbery, thievery. The thieves weren't just Nazis. The Swiss Banks stole billions of dollars from so-called unclaimed Jewish accounts. They finally settled for \$1.25 billion—much, much less than there was. There were tens of billions of dollars of assets in bank accounts and in insurance policies, as you mentioned, gentlemen, artwork, dental gold, personal property. You name it, we can add it.

And it just irks me that these insurance companies have the gall, in New York we would say “chutzpah,” to claim that if an insured's name doesn't appear on the Stato Fine list, the policy was cancelled or redeemed.

I think, Mr. Rubin, you said it well when you said the policies were paid, but no one has claimed them; and so these insurance companies have their cake and they eat it, too. Because they claim on the one hand that—they assume that—if you can't produce it or prove it, that the policy was either never there or redeemed. But what about all these policies that can be proved of people who perished? They are, again, stealing.

It is just—if the name doesn't appear on the Stato Fine list, they say the policy was cancelled or redeemed. It is like the saying,

“There is no doughnut on the counter, it means you have eaten the doughnut.” It is bad logic, and I just cannot see why it is accepted.

I have a constituent; his name is Mr. Sello Fisch. He has a copy of his father’s insurance policy. An Italian insurance company, Generali, produces no other facts other than the negative evidence of its lack of appearance in the Stato Fine records. And of course ICHEIC has denied his claim, and he has the policy in his hands. He has shown it to us. I have written letters to everybody, and to no avail.

Again, I know you gentlemen pointed out about the Federal Appeals Court yesterday extending the time for a major lawsuit. I am happy about that. But either way, we need to pass this bill. And Mr. Wexler has been a champion, Ms. Ros-Lehtinen as well. I am proud to be an original co-sponsor of this bill.

And I want to thank you gentlemen for your personal, compelling testimony. I know this is not easy for you. And when I think about what you have gone through and the fact that we are kind of making—we are adding insult to injury by not doing what we should do.

Let me ask Mr. Evron, since you had mentioned Poland, I was going to talk about Poland. Again, the problem is there are properties. The Nazis stole them, and then the Communists came in and nationalized them. So it is insult to injury.

I tell you, it reminds me of when I went back to the little town in Ukraine where my grandparents came from. They escaped the Holocaust only because they emigrated before the war. But their parents, my great grandparents, were murdered. And when we visited, we saw the last Jewish cemetery that was in this little town. And they told me that there were three Jewish cemeteries, but that after the war all the cemeteries were desecrated, and then the Soviets built housing on two of the cemeteries. So what the Nazis didn’t get, the Communists got. And that has been a thing that we have.

In Poland—we all sent a letter, just a few months ago, to President Bush raising concerns over all these unresolved Holocaust property restitution issues in Poland. And we urged the President to raise with Polish President Kaczynski these property restitution issues, which affect thousands of United States citizens. So I want you to know that we are attempting to put pressure on it, to highlight it.

I know you say congressional pressure. I wanted to ask you, where do we stand now on all these issues in Poland? What can Congress do, besides passing this bill, in putting on pressure?

Mr. EVRON. I suggest, number one, that another resolution should be sent to the Polish Government, as I mentioned, to remind them that this is an urgent issue they have to address.

I think also that maybe the Congress can assign a special committee to keep follow-up on this restitution law in Poland, because they cannot continue to promise and promise and promise. I have a promise from the first President of Poland, Mr. Lech Walesa, in 1988. He says, “In a few months, we will have a restitution law.” And now we are almost 20 years after that and nothing happens.

The Congress must have the power to do something. Unfortunately, all due respect to the White House, I am afraid that they

have the wrong attitude, by thinking that putting pressure on Poland on this issue might affect their assistance in Iraq, which I don't think it is the right thing. I think that Poland decided to help us; it is their decision. And you can tell your friends like Poland, like you mentioned, Mr. Chairman, that they are wrong. You can tell them when they are helpful, and you can tell them when they are wrong.

And that on this issue, they are very wrong. People are dying. We lost, this year, six members of our organization, and those died with bitter feeling that there is no justice in Poland. They lost their families, and now Poland is taking also their homes.

Mr. ENGEL. Thank you.

Mr. Taylor, did you want to comment?

Mr. TAYLOR. Yes. The Claims Conference had a meeting in Warsaw back in February of this year, and we requested and finally obtained a meeting with Prime Minister Kaczynski. We met with the President previously, but the Prime Minister had direct responsibility for this issue. And he talked about the intention to have property restitution legislation. It is complicated by the factors you mentioned, obviously of Communist-era taking.

What he did say was that the government would bring legislation, that they would make every effort possible to pass it by the end of the year; that there was draft legislation and we would have an opportunity to comment on that legislation. It was very problematic, both in terms of the substance—it provided simply for 15 percent payments, 15 percent of today's value—but it also had procedural requirements that would have made it virtually impossible for claimants outside of Poland to obtain the legal papers of ownership and the proof of heirship. Both of those issues we pressed very strongly. Nothing ever moved, and unfortunately now we are in the election phase in Poland.

But hopefully soon, once a new government is established, it is an issue that Congress can take up, both on the substance and on the process. And perhaps, at that time, a hearing by this committee, by the Europe committee, inviting, perhaps, the Polish authorities to present their position, would certainly be a helpful step forward.

Mr. ENGEL. Mr. Taylor, let me ask you—and I know you have worked on this for so many years. I have known you personally and your family personally for so many years, and I want to thank you for your hard work.

What about Germany? What are the open issues pending with Germany which will affect the quality of life for Holocaust survivors?

Mr. TAYLOR. There are a few different issues. The most important is our effort to secure additional funding for home-care needs. Without doubt, that is the major priority for us. Initially our breakthrough was 3 years ago, where, up to then, the German Government's position was that home care was not an area that they would provide funding for. They would deal with individual compensation and with property issues, but not with funding for home care. So that is the prime, most important issue that we have. And our current funding expires at the end of this year, so we are now going into negotiations with the German Government on that.

A second issue is for those people who did work in ghettos, where, partly due to the efforts of this committee and those of you who signed letters and took an active role, the German Government has now established a fund of about \$140 million. How that fund will operate, what the criteria will be, how much will ultimately get paid out and so on are issues we are discussing with Germany at the moment.

And then thirdly, there are still some groups of people, despite the huge breakthrough we had a few months ago, of potentially adding 6,000 new pensions—6,000 new pensions—about \$250 million. Despite that, there are still some groups of survivors who were in camps or ghettos or in certain kinds of areas, and that is the group that we continue to press the German Government to include.

Mr. ENGEL. Thank you, Mr. Chairman. I wonder if I could ask Mr. Taylor one more question which is not specifically on this but which is certainly related.

Could you talk a little about the status of the restitution of looted art? Because this is an important issue, and I really believe that a congressional role here can be very helpful.

Mr. TAYLOR. I think, of all the areas of Holocaust restitution, the issue of looted art and cultural property has lagged behind virtually all other areas of restitution.

I think this is for a number of reasons. Partly, information is very hard to come by. The art world and world of cultural property tends to operate with very limited documentation or information. The items are easily transportable, so something that is taken in France could be brought to Germany, through Switzerland, and end up in the United States.

There was a congressional hearing on this subject back in the summer of last year that addressed the issue, including art in the United States, because a lot of art from that era ended up in the United States. And we think there are two main avenues of approach. Firstly, provenance research; that museums and private individuals, but particularly museums, research what is in their collection and make that information available. And, secondly, a fair liberal claims process. And that is something that in some countries there has been success with and in some countries not.

And I think it is a very important issue because it is not just an issue of another country, this is an issue that affects the United States just as much as everywhere else. And I think the hearing last year was extremely important, because it sent a message to these countries that this is not about the United States saying you have to do this, that or the other. It is saying, we all have an issue here, and we all have to address this issue.

And I think heightened scrutiny and discussion on this art restitution issue, on provenance research, and on claims process is an important step, and public attention is very important.

Mr. ENGEL. Thank you.

And I want to conclude by, again, thanking the chairman for calling this hearing and for his work through the years of being very dogged, in terms of zooming in on this and not letting it go. So I want to make a pledge, I will continue to work with the chairman.

And let me assure you, gentlemen, we are not going to let this issue drop. We are going to push it as hard and as heavily as we can.

Thank you.

Mr. WEXLER. Thank you very much, Mr. Engel.

It has been a very long day. I very much appreciate the time.

Mr. Moskovic, you had wished to speak to some documents that you had.

Mr. MOSKOVIC. Yes. Thank you. And this won't take very long.

In the year 2000, I applied for some monies from ICHEIC for my family. A few months later, I have received from them in the mail a claim number. In case I called them up, I should refer to the claim number. Then, for a few years, nothing happened. One day I happened to be surfing on the network, and I got on the ICHEIC Web site. And I looked under my name, and guess what? I found the name of my father on the Web site, my uncle's name and my name, that we had policies.

So I called up ICHEIC, and I talked to a young lady over there, and I gave her my claim number and all the other information that she needed. And I said, "Is there any information about my uncle, my father and me, about having policies?" She said, "We don't have any information about that." I said, "Well, why is it on your Web site? Because you said that, from now on, you are going to be publishing the names of policy holders on the Web site." So she said, "I don't know." So I said, "Why don't we go to the Web site together and let's see?"

So we went through their Web site. Sure enough, those three names appeared. Then she said, "Yeah, but I don't have it on my records." So I said, "Look, why don't you put it on my record and let's see what happens." So she did, and lo and behold.

Then about a year or so passed, and I received the mail from them that I am entitled to \$1,000 from the humanitarian fund, for which they sent me a check and also said that they are going to keep an eye on the records and see if anyone in my family has a policy. That was the last time I heard from ICHEIC.

Mr. WEXLER. Did they ever share with you why the names were there to begin with?

Mr. MOSKOVIC. No.

Mr. WEXLER. Well, you gentlemen have proven the point that Congresswoman Ros-Lehtinen and I could never prove as well as you: All of these issues deserve their day in court. I think that, to me, is the only acceptable answer, and that is the only way people like yourself and others will have even the opportunity of a semblance of justice. And that is the compelling reason why we filed the legislation in the first place. I cannot thank you all enough.

If I may just close with what I think is the all-encompassing nature of much of what has been said in terms of what needs to be done. We have talked about the legislation, but what is also brought home to me, if I understand it correctly, is that a substantial portion of the monies that are used for the benefits directly paid to survivors come from the restitution that has been provided from property programs and the like. And that makes the urgency of dealing with Poland even more central to the critical goal of

quality-of-life issues, whether it be home care, drugs, food, or other quality-of-life issues.

It seems to me that, only with a satisfactory result of the restitution issue in Poland—Mr. Evron, I am very pleased that you provided the estimate that the Polish Government provided \$40 billion worth of Jewish assets in Poland—that if a portion of those assets were realized and then devoted to the acute needs of the survivor communities, that we would again begin to have some level of decency in terms of the provisions and the resources available.

Mr. Taylor, I think you have made that case extremely well, and I thank you very much for your testimony.

For anyone who our schedule has impeded on the holiday this evening, I do apologize. I really do. I was reluctant to have this hearing today, but this was about the only time we could do it.

Gentlemen, thank you so much for being here. Mr. Gallegly was correct in saying that you provide a level of compelling testimony that cannot in any way be duplicated. And myself and the other members of the subcommittee will follow up on each and every one of these ideas.

Thank you very much.

The subcommittee is adjourned.

Mr. RUBIN. And we want to thank you and your committee for doing this for us, for the Holocaust survivors. Thank you very much.

[Whereupon, at 3:50 p.m., the subcommittee was adjourned.]

