

Fight for Spoils of Swiss Bank Case Divides Jewish Groups

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yers from the United States have barnstormed across Europe soliciting clients, publicly castigating each other and privately maneuvering to oust their adversaries. And the World Jewish Congress, which helped instigate the Swiss bank case, recently met with political and corporate leaders in Austria and Germany to warn that its claims must be dealt with before peace can be purchased.

But as the disputes widen, a campaign once fired by moral outrage may be dissolving into a battle over power and money. Some now fear that aging survivors with few years left could again be victimized, this time by those claiming to fight in their names. "I don't want an industry to be made on the memory of victims, particularly because there are so few survivors out there who will benefit from it," said Abraham Foxman, national director of the Anti-Defamation League.

Holocaust-related claims are growing rapidly. Michael J. Bazylar, a professor at Whittier Law School in California, said that in the five decades before the Swiss settlement in 1996, fewer than a dozen such suits had been filed. The number has tripled since then, he said.

Lawyers pursuing the suits say their goal is simple: to right historical wrongs and render a final accounting for one of humanity's greatest crimes. Implicit in such a reckoning, they say, are such difficult questions as who speaks for the millions who perished.

"These lawsuits will complete a picture of the Holocaust that has never before been fully developed about the willing accomplices and companies that stood behind the direct participants," said Michael Hausfeld, a class-action lawyer from Washington who reached a landmark \$140 million settlement with Texaco in 1996 over racial discrimination.

The roots of today's tensions go back to 1995, when the World Jewish Congress, a New York-based group led by Edgar M. Bronfman Sr., and Rabbi Israel Singer, the group's secretary general, started the political uproar against the Swiss banks. They argued that the banks had failed to check properly for accounts opened by Jews who perished in the Holocaust, and that the banks might be still holding billions of dollars.

A year later, suits were filed by competing lawyers. One camp was headed by Mr. Hausfeld and two other well-known lawyers, Melvyn I. Weiss of New York and Martin Mendelsohn of Washington, who were aligned with the Simon Wiesenthal Center in Los Angeles and sought backing from other Jewish groups.

The other legal camp was led by Edward D. Fagan, a former personal-injury lawyer from New York with a street fighter's style who has garnered publicity and criticism for holding vigils with Holocaust survivors outside companies that are targets of his suits. That group said it represented the views of individual survivors.

The factions fought furiously. For example, Mr. Weiss and his allies, who have worked on the Swiss case pro bono, asserted that Mr. Fagan's group simply wanted to settle the case cheaply so they could collect their fees.

"The two teams were spending their time denigrating each other, their ability, parentage, ethnic heritage, you name it," said Burt Neu-



Linda Rosier for The New York Times

Estelle Sapir, a Holocaust survivor who lives in Far Rockaway, Queens, said all funds left over after payments to the heirs of Swiss account holders should go directly to survivors, "not the organizations, not the lawyers."

borne, a professor at New York University Law School who originally entered the fray on Mr. Fagan's side but has since become aligned with Mr. Hausfeld's group.

The World Jewish Congress also apparently viewed the lawyers and groups like the Wiesenthal Center as latecomers to its party. Mr. Weiss said that when he asked Elan Steinberg, a World Jewish Congress official, to join a 1996 meeting of Jewish leaders at the offices of his law firm in Manhattan, Mr. Steinberg appeared to give the group the cold

Some Holocaust survivors say money should go directly to those who suffered.

shoulder. "He said he had come only out of respect," said Mr. Weiss. "He stood there with his arms folded and waved us off as though we were intruding on turf that they had already covered."

But before long, those conflicts were temporarily resolved by others. The competing suits were consolidated before Judge Edward Korman of Federal District Court in Brooklyn, and Swiss negotiators eager to resolve the legal and political aspects of their quandary insisted that the World Jewish Congress take part with plaintiffs' lawyers in settlement talks.

A result was the \$1.25 billion settlement in August, twice the sum offered by the Swiss banks just a few months earlier.

But the alliances of convenience formed during the settlement talks quickly frayed, setting the stage for the current battle.

One issue was who would control the rising number of claims. Rabbi Singer, who is chief strategist at the

World Jewish Congress, has said a wave of such claims could yield billions in settlement funds. That prospect was not lost on the lawyers.

By last year, the two legal camps were again filing competing suits. And this time, the faction led by Mr. Hausfeld and Mr. Weiss said they would also seek to be paid legal fees, rather than working pro bono.

In recent months, competing lawyers have crisscrossed Europe and Israel to sign up clients. Mr. Fagan has recently traveled to Austria, Germany and Hungary. And late last month, plaintiffs' lawyers aligned with the Wiesenthal Center flew to Paris, where they appeared on a radio program to publicize their suit against French banks.

The increasing invasion by Jewish groups and plaintiffs' lawyers from the United States has made some European Jews uncomfortable. And some European historians who have worked on slave labor issues, for example, have rebuffed efforts by lawyers from the United States seeking alliances with them.

The legal fighting has also reached a fevered pitch. Two law firms that once sided with Mr. Fagan recently broke some of those ties and joined with Mr. Weiss's group. In court papers filed earlier this month, one of the lawyers involved, Robert L. Lief, cited a fax in which Mr. Fagan referred to leaders of the World Jewish Congress as "pigs," adding that the lawyer took an equally "crude and overly competitive" approach to those he perceived "as competing for glory in Holocaust cases."

Mr. Neuborne, the New York University professor, also jumped into the fray. In a filing, he stated that he would oppose a large award of legal fees to Mr. Fagan in the Swiss banks case because he did not believe that Mr. Fagan deserved it. Mr. Neuborne also said in the same papers that Mr. Fagan's "property interest" in Holocaust lawsuits threatened to turn survivors into "chattel to be acquired by entrepreneurial lawyers bent on making a profit."

In his own filing earlier this month, Mr. Fagan accused adversaries like Mr. Lief and Mr. Weiss of scheming, among other things, to steal his clients and undermine his lawsuits, in order to gain control of Holocaust cases and resulting profits for themselves. In an interview, he also said that lawyers like Mr. Lief wanted the backing of major Jewish groups as a means of accomplishing that end.

"This is a fight over dead people's money, that's what it is," Mr. Fagan said. "And I think survivors should be the ones making decisions about where their parents' money should go."

While the lawyers bicker, the World Jewish Congress has also been seeking a central role in the claims.

Mr. Steinberg, the executive director, said the group had taken that position because the World Jewish Restitution Organization, an affiliate, is empowered by the Israeli Government to represent Jewish interests on Holocaust-related matters. That group, like the Congress, is headed by Mr. Bronfman, the former chairman of the Seagram Company, and Rabbi Singer. "Our fundamental principle is that the victimized parties are Holocaust survivors and the Jewish people as a whole," Mr. Steinberg said, "and we have been mandated to represent them."

Recently, for example, Rabbi Singer met with Chancellor Viktor Klima of Austria at the home of a former Chancellor, Franz Vranitzky, to discuss possible restitution by companies in Austria. Rabbi Singer also said that he and a prominent German Jew, Ignatz Bubis, who is an official of the World Jewish Congress, was involved in talks started last month between Chancellor Gerhard Schröder of Germany and top business leaders seeking to develop a unified response to dozens of suits.

Leaders of the World Jewish Restitution Organization also met this month at Mr. Bronfman's office in Manhattan to discuss another issue: How to distribute the Swiss funds.

Under a proposal being developed by the group, about 80 percent of the funds would go to needy survivors, either through direct payments or charitable services by groups like those in the World Jewish Restitution Organization, said Bobby Brown, the adviser for Diaspora affairs to Prime Minister Benjamin Netanyahu of Israel. The remaining 20 percent would be marked for Holocaust-related educational programs and research.

But some survivors and others say all funds left after payments to the heirs of Swiss account holders should go directly to survivors.

"This is for the survivors," said Estelle Sapir, a Holocaust survivor from Far Rockaway, Queens, who sued Swiss banks on behalf of her father, who died in a Polish camp. "Not the organizations, not the lawyers."

Mr. Weiss said using criteria like financial need may create legal problems because the Swiss suits were filed as class actions without regard to financial status. Others, like Mr. Neuborne, say they worry that creating bureaucracies might delay payments to survivors in their last years. Estimates on the number of Holocaust survivors vary, but it may be at least 350,000, with an average age of 80.

Other Jewish groups, like one representing the Orthodox Satmar sect in Brooklyn, also expect to make proposals on how the money should be spent. In an effort to prevent a long legal clash over the issue, those involved in the Swiss bank case asked Judge Korman earlier this month to appoint an outside lawyer to review the competing proposals when they are submitted to the court in several months and to make a recommendation.

Survivor Aid by 2 Groups Called Slow

By BARRY MEIER

Two of the Jewish groups that may play a major role in distributing money from the Swiss banks' settlement have had problems in the past getting aid quickly to aging Holocaust survivors.

In early 1997 one group, the World Jewish Restitution Organization, the umbrella organization led by Edgar Bronfman Sr., agreed to help distribute a \$200 million fund set up by Swiss banks and companies. That fund is separate from the \$1.25 billion settlement reached in August and was intended to get money to needy survivors quickly.

But 18 months later, survivors in the United States are only now about to see money. Those in Israel, the country with the largest number of survivors, will wait many months more.

Officials of the organization and the Israeli Government hold each other responsible for the delay. Noah Flug, secretary general of the group, which is based in Jerusalem, said the delay arose over who should oversee the distribution. He blames the Israeli Government.

But Bobby Brown, Prime Minister Benjamin Netanyahu's adviser for Diaspora affairs, disputed that view, saying the Government insisted on being involved because it could safeguard the money far better than private groups.

A few weeks ago, the two sides settled their differences, but Mr. Flug estimated that it could still take up to 10 months for qualified applicants in Israel to receive money.

The second group, the Conference on Jewish Material Claims Against Germany, part of the World Jewish Restitution Organization, has also faced criticism from survivors and others. The group, based in New York, was set up in 1952 to deal with postwar reparations by the Germans and has also reclaimed Jewish-owned property in the former East Germany.

Among other things, it sells property for which heirs cannot be

Clients assert they are treated with cool disdain.

traced and uses the money to underwrite activities like home care and food packages for aging survivors throughout the world. Saul Kagan, its executive director, said he believed that the organization could easily incorporate the Swiss funds in its programs.

"The claims conference has the most direct experience in the allocation of funds," said Mr. Kagan, who has led the group since its founding. "That is our mandate. We have no other mandate."

But others have complained that the group is a slowing-moving bureaucracy that often deals with survivors with cool disdain. David A. Lash, executive director of Bet Tzedek Legal Services in Los Angeles, which aids survivors, said

applicants can wait three years before Claims Conference rules on whether they are eligible for pensions.

"My concern is that my clients are dying during that waiting period," Mr. Lash said.

Holocaust survivors or their heirs have also asserted that the claims organization, rather than helping them reclaim family-owned property in the former East Germany, have tied them up in costly court challenges. And during the last year, the group has also been the subject of critical articles in The Washington Post and The Jerusalem Report, an Israeli magazine.

Mr. Kagan said he believed that such criticisms were vastly overstated, adding that the typical pension request takes 12 to 18 months to review. And he said that, whether he likes it or not, his group must follow eligibility guidelines that it negotiates with the German Government.

He said he had worked hard to liberalize those restrictions so that more survivors can collect. "A bed of roses was not built into this job from Day 1," Mr. Kagan said.

But Mr. Kagan, who plans to retire next month, said a few changes had been made recently at the group's Manhattan headquarters where workers, rather than using computers, sort through files in boxes and battered green cabinets. Employees have also begun taking part in sensitivity training sessions so they can deal more responsively with the survivors they were hired to serve.

particular case. I also said we wanted to soften a provision requiring illegals awaiting legalization to wait in their home countries.

These things are worth doing to soften the hard edges of the law. But the law must be respected. America must stop illegal immigration, Mr. Clinton fairly said, if only to maintain popular support for legal immigration.

No other country faces the sort of immigration pressures that confront the United States. The forced geographical encounter of a developed country and a less developed region — across, over and around the essentially unsealable 2,000-mile (3,200-kilometer) land border between the United States and Mexico — has no real parallel anywhere in the world. That does not mean that Americans must surrender control of their borders. But it does impose a set of policy mandates. One is to facilitate development and trade in order to keep would-be immigrants at home. Another is to be as open to legal immigrants as American society permits. A third is to administer immigration with full respect for national and individual Latin sensibilities.

— THE WASHINGTON POST.

her Comment

bercops

fortyish Lowry is a "cybercop." One of only a few hundred in America, he is fighting a worldwide technology crime wave that has been nowhere more intense than in Silicon Valley, the area around San Jose, where there are more than 5,000 computer-related companies. The area loses an estimated \$1 million worth of components a week to theft. The total cost of technology-related crime, which can include everything from stolen laptops to data illegally obtained over the Internet, is high. Software piracy and component theft are estimated to cost more than \$24 billion per year worldwide.

— Mark Stuart Gill, writing in the May issue of Smithsonian magazine.

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WINDSOR, England — In the latest in a valuable series of conferences on the sources of national vitality, the Luxembourg Institute for European and International Studies recently brought senior American and European political and economic historians together to consider the rise and fall (if any) of modern British and American "hegemonies."

The very identification of the subject as worthy of such attention confirms the new tendency in American academic and policy circles to frame discussion of America's policy choices in terms of the acceptance, rejection, safeguard or grandization of American international hegemony.

The modern understanding of "hegemony" usually reflects the Italian Marxist Antonio Gramsci's contention that

hegemony involves the imposition not only of the power of a dominant class or nation, but of its own way of seeing society and human relationships — of its own form of consciousness.

Thus the hegemonic global position held by the British in the 19th and 20th centuries and by America today succeeds by inducing in others the British imperial or American view of the world, convincing the subjects of hegemony of the "rightness" of their subordination.

They are influenced to see their own situation as the result not of the hegemonic nation's superior military or economic power but of its cultural or institutional superiority over them. The hegemon's power disappears when the subject states or societies start to think

By William Pfaff

its influence oppressive rather than elevating or enlightening.

So the position of America today is not simply that of "the sole superpower" in military or economic terms, as George Bush would have said, but of a certain cultural domination.

A great deal is made in the United States and abroad, of the global influence of American popular entertainment and popular fashions. Disney, Hollywood and Nike in this respect are political phenomena. The fact that teenagers the world over wear American ghetto styles and reversed baseball caps, listen to rap records and eat American fast foods is seen as a cultural conquest — a conquest willed by those who submit. They want to do this.

We are talking here of an

Reparations for Nazis' Victims

By Stuart E. Eizenstat

The writer, undersecretary of commerce for international trade, led the U.S. government study of Allied efforts to recover gold and other assets looted by Nazi Germany.

WASHINGTON — The U.S. government report released last week on gold and other assets looted by Nazi Germany shines a harsh spotlight on the role of the neutral countries, particularly Switzerland, and on the Allies themselves. Because of indifference by the neutral nations and inaction by the United States and its allies, the horrors of the war were compounded by the injustices of the postwar period.

The countries occupied by the Nazis received only partial compensation for gold looted from their central banks. Even worse was the plight of Holocaust survivors and other victims of Nazi persecution.

The fate of individual victims varied greatly according to their ability to turn to a government for assistance.

It is the plight of the uncompensated victims, especially those who survived both Nazism and four decades of communism, that most urgently demands action.

There are some who say that the best way to move forward, especially in light of the report's revelations, is simply to renegotiate the 1946 Washington Accord, which established Switzerland's obligations to those who suffered under the Nazis. While we ex-

broader approach to resolve the remaining issues.

Three steps should be considered in the coming months.

First, \$70 million remains in a gold pool established by the Tripartite Gold Commission, which after the war held gold looted from the central banks. Yet, as our report documents, the pool also included some gold taken from individuals.

The remaining gold is supposed to be divided among the claimant countries. But on moral grounds, and because we now know that personal gold was mixed with central bank gold, we believe a substantial portion of this remaining pool should be offered to the surviving victims of the Holocaust and Nazi persecution.

If countries were to offer this gold voluntarily, that would avoid the difficult task of renegotiating agreements from the war.

Second, other neutral countries such as Turkey, Portugal, Spain and Sweden that returned far less — in some cases virtually none — of the looted gold and assets they held might well consider following the lead of Switzerland in establishing funds for victims.

Major Swiss banks and companies, along with the Swiss National Bank, have established a fund for needy

Holocaust victims and their heirs. The government has also proposed establishing an endowment, based on a portion of its gold reserve, to generate income for survivors and other humanitarian causes.

Third, we must work toward the return of communal property such as schools, churches and synagogues, in countries such as Poland, Romania and the states of the former Soviet Union. This includes income-producing property that could be used to support funds for victims.

Emphasis should be given to survivors in Central and Eastern Europe and the former Soviet Union who survived both Nazism and communism. These "double victims" have received little or no compensation from Germany, unlike those survivors who live in the West, some of whom have received monthly pensions.

The Hungarian government has begun paying lifetime compensation, \$20 to \$40 month, to more than 20,000 Holocaust survivors living there. We hope other countries will follow this example.

Apart from these important financial steps, each nation involved must fully come to terms with its own past. Switzerland has established a commission to examine its entire historical relationship with Nazi Germany. Other countries, including Portugal and Sweden, have announced that they will follow suit.

The New York Times.

Hungary acts on Holocaust victims' confiscated property

By Tim Smart in Budapest

Hungary this week established the procedure for restoring to the Jewish community property seized during the Holocaust from individuals and communities with no legal successors. This will be the first such settlement in central and eastern Europe.

In an agreement negotiated by the World Jewish Restitution Organisation, Hungarian Jewish groups and the government, two committees will be set up to establish the framework for compensation and to verify claims.

The committees will establish the procedure "to settle the claims against the government of Hungary on Jewish communal properties", according to the signed agreement.

Once the properties are identified by the committees, a fund will allo-

cate the assets to Jewish community organisations.

Representatives of the Jewish community gave the news a cautious welcome. "Hopefully things will happen now," said one community leader. "The whole process has been dragging on since the March 1993 constitutional court decision; practically nothing has happened."

The Hungarian constitutional court ruled that the government had acted unconstitutionally by not settling the claims.

The basis of this week's agreement is the Treaty of Paris of 1947 which ended Hungary's involvement in the second world war. At that time the principle was established that property confiscated from Jews who had no heirs would not pass into state ownership but would be made over to the Jewish community.

Government officials are remain-

ing tight-lipped over the sums involved. One official suggested the claims could total hundreds of billions of forints. This could pose problems for the government, which is implementing an austerity programme to cut the budget deficit by 3-4 per cent of GDP.

Under the settlement the committees will report their findings by the end of September. Their task will be hindered by poor public records and an antiquated land registry system with unclear and missing records.

Hungary's Jewish population numbered 800,000 before 1940, according to estimates by Jewish organisations. Today the figure is believed to be 80,000-120,000.

According to one Jewish leader the synagogue designed by the Austrian art nouveau architect Otto Wagner may be one of the properties handed back.

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