

HOLOCAUST JUSTICE AND FINANCIAL ACCOUNTABILITY

By: Michael J. Bazylar and William Elperin

The Holocaust was not only the greatest murder, but also the greatest theft in the history of mankind. It is estimated that Jewish losses (in present value) exceeded \$230 billion dollars. Now that the Swiss banks have agreed to pay \$1.25 billion to Holocaust victims, the largest settlement of a human rights case in the United States, attention has turned to obtaining restitution for other atrocities and economic crimes committed during World War II.

Lawsuits have recently been filed against insurance companies, museums, and German and Austrian industrial corporations for using slave labor, including BMW, Volkswagen, Daimler-Benz and Siemens. Even American car giants Ford and General Motors now stand accused of profiting from the Holocaust.

But harsh criticism has been leveled at Holocaust survivors and their lawyers for demanding compensation for Holocaust-era crimes. Prominent members of the Jewish community have expressed concern that the horror of the Holocaust may be overshadowed by the new focus on money. Some worry these claims have created an "industry to be made on the Holocaust victim," while others predict an anti-Semitic backlash. Still others believe the dignity of Jews is paramount to any claim for restitution and are afraid of Jews appearing greedy if they seek any money. And, of course, they blame the lawyers, calling them ambulance chasers or worse.

Permit us, as children of Holocaust survivors deeply involved in these issues, to present a contrary point of view.

Swiss banks profited handsomely during World War II at the expense of Holocaust victims. Allowing the Swiss banks to keep funds deposited with them by European Jews and proceeds earned from their dealings with the Nazis amounts to unjust enrichment. Similarly, the still - uncompensated slave laborers who kept alive German and Austrian industry during the War should be paid for their labor by companies who exploited them. Allowing such companies to escape financial liability for benefits earned on the backs of the slave laborers is both immoral and unjust.

The charge of greed made against the survivors is absurd when examined closely. Although \$1.25 billion sounds like a lot of money, it must be measured against real financial losses and viewed in perspective: if distributed equally, each living Holocaust survivor would receive less than \$2,500. Just who is being greedy, the perpetrators, who held onto funds belonging to others until forced to disgorge it, or the aging victims who for over 50 years attempted to retrieve what was rightfully theirs?

Jews can no longer let fear of an anti-Semitic backlash govern their conduct. The important lesson from the Holocaust is that failure to stand up for one's rights encourages the flames of anti-Semitism.

Significantly, Jewish Holocaust survivors (and their lawyers) are leading the battle for compensation not only for themselves, but also for gypsies, other minorities persecuted by the Nazis and the non-Jewish Eastern European population forcibly shipped as slaves to Nazi Germany. German industry "employed" between 8 to 10 million people as slave laborers during the War.

Failure to pursue restitution and to hold the wrongdoers accountable also sends a dangerous message both to existing and future dictatorships throughout the world. In contrast, obtaining compensation for survivors of the Nazi horrors sends a clear and unequivocal signal to despots that human rights abuses, even economic ones, will not remain unpunished.

Equally important, obtaining compensation from bankers and industrialists who profited from human rights abuses warns those who become business partners with dictatorial regimes that they cannot escape accountability. The argument by the world's industrial giants that they had no choice but to participate with the Nazis in economic crimes should be rejected on the same basis as the argument by the ordinary foot soldier that he was merely following orders - and even more so, since the soldier, in contrast to the industrialist, does not profit from his acts.

Finally, the lawyer-bashing is not justified. (Neither of us are participating as lawyers, or otherwise, in these lawsuits.) We do a disservice to the many lawyers who devoted countless hours of their time, many *pro bono*, to achieve this victory for Holocaust survivors throughout the world. As for those lawyers seeking a fee, their fee applications must be approved by the court, providing a safeguard for excessive and unreasonable fees.

Proceeds from the Holocaust lawsuits belong to survivors and only to survivors. Although justice can never be done, financial accountability must be attempted. Individual survivors, whose average age is 81, are the only ones who can decide what to do with recovered funds. It is their decision, and theirs alone, whether to deposit the check, send it back, rip it up or donate it to charity.

It is an honor and a tribute, not a disgrace, to begin the new century by finally reconciling the financial books for the most heinous atrocities committed during the 20th century.

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