



**THE ROLE OF THE UNITED STATES IN
PURSUING COMPENSATION FOR HOLOCAUST
VICTIMS AND HEIRS, AND THE HISTORICAL
BASES FOR U.S. LEADERSHIP**

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1. Introduction

The United States has led the world in keeping alive the memory and lessons of the Holocaust. These efforts began even before World War II ended, and U.S. leadership has been steadfast in the eight decades since that time.

On March 5, 2024, the United States Department of State and the World Jewish Restitution Organization (WJRO) convened a landmark event in Washington, D.C. to commemorate the 25th Anniversary of the Washington Conference Principles on Nazi-Confiscated Art.¹ During the event, U.S. Secretary of State Antony J. Blinken delivered a powerful keynote address via video, welcoming the historic endorsement of *Best Practices for the Washington Conference Principles on Nazi-Confiscated Art*, endorsed by 23 countries so far.² Secretary Blinken acknowledged that today “heirs confront staggering legal and financial barriers as they go up against opponents whose resources vastly outmatch their own”, underscored that these Best Practices are intended to “remedy processes that favor current possessors over rightful owners”, and emphasized that “[t]his Administration and the State Department remain determined to do everything we can to make it easier for [Holocaust victims and heirs] to finally achieve a small measure of justice.”³

Similarly, in 2020, Secretary of State Michael R. Pompeo observed in his Foreword to the Justice for Uncompensated Survivors Today (JUST) Act Report that as “World War II ended in Europe, the United States led the effort to seek a measure of justice in the form of restitution or compensation for individuals whose assets were stolen during the Holocaust. The effort began while Allied troops were liberating Europe and continues to this day.”⁴

As the Secretary recognized, U.S. leadership can be traced back even before the end of the Second World War, when in 1943 the U.S. began to craft a post-War structure to restore property torn from its owners, through the immediate post-War era when the renowned “Monuments Men” sought to restore art and other valuables stolen by the Nazis. Those efforts continued through the modern era, a period notable for U.S. support of restitution from Swiss banks, German and Austrian financial and industrial institutions, and a wide range of European insurers, railroads and other governmental and private entities. The U.S. has led a global movement – embodied by such watershed initiatives as the 1998 Washington Conference on Holocaust-Era Assets, the 2009

¹ The WJRO as well as the Washington Conference of 1998 are described more fully below.

² See [Best Practices for the Washington Conference Principles on Nazi-Confiscated Art](#) (March 5, 2024).

³ See [Secretary of State Antony J. Blinken Video Remarks at the 25th Anniversary of the Washington Principles on Nazi-Confiscated Art and Best Practices Event](#) (March 5, 2024).

⁴ See <https://www.state.gov/wp-content/uploads/2020/02/JUST-Act5.pdf>. The JUST Act Report was released to the public on July 29, 2020.

Terezin Declaration and the 2024 commemoration of the Washington Conference – placing the U.S. firmly on the side of Holocaust knowledge, justice, and victims.

The government of the United States has chosen to shine a bright light upon the singular catastrophe that was the Holocaust by ensuring that young people are educated about what the Nazis did, how they did it, and why. The 2020 *Never Again Education Act*, which had nearly unanimous bipartisan support,⁵ enshrined the principle of Holocaust education as a bulwark against creeping Holocaust denial and distortion, which the statute defines as “discourse and propaganda that deny the historical reality and the extent of the extermination of the Jews by the Nazis and their accomplices during World War II, known as the Holocaust.”⁶

The U.S. government not only has expressed its strong support for Holocaust education, but also for Holocaust victims. Indeed, it is the United States that created the very framework upon which Holocaust reparations and property restitution rest. U.S. leadership has helped Holocaust victims receive some degree of moral recognition of their incalculable losses, as well as significant financial compensation and restitution.

The activities of the United States paved the way for the world’s foremost Holocaust compensation advocates – the Conference on Jewish Material Claims Against Germany (Claims Conference) and the World Jewish Restitution Organization – and have been pivotal to these organizations’ successful efforts on behalf of victims of the Nazis, including the many survivors who have resided – and the over 38,000 who still reside – in the U.S.⁷ For nearly 80 years, Holocaust victims throughout the world have received pensions, one-time payments, food, medicine, medical aid, home health care, fuel, companionship, and restitution of art, real estate and other property. The Claims Conference also is one of the largest global funders and supporters of Holocaust education.

In this context, it is highly significant and crucial that the government of the United States, since even before the end of World War II, has been steadfast in its commitment to Holocaust education, awareness, and support of survivors. As we discuss in this memorandum, in laying the groundwork for and furthering its mission of Holocaust compensation, the U.S. has always recognized that the Nazis’ effort to strip Jewish and other victims of all of their worldly

⁵ <https://www.congress.gov/bill/116th-congress/house-bill/943> (Public Law No: 116-141 (05/29/2020) (“Never Again Education Act”). In the House of Representatives, the vote was 393 to 5 in favor of passage, and in the Senate, the vote was by unanimous consent. The Never Again Education Act provides funding for the United States Holocaust Memorial Museum and “requires the museum to develop and nationally disseminate accurate, relevant, and accessible resources to improve awareness and understanding of the Holocaust.”

⁶ See *Never Again Education Act*, Section 3(5): “Holocaust denial refers specifically to any attempt to claim that the Holocaust did not take place. Holocaust distortion refers to efforts to excuse or minimize the events of the Holocaust or its principal elements, including collaborators and allies of Nazi Germany, to blame the Jews for causing their own genocide, or to portray the Holocaust as a positive historical event.”

⁷ See [Holocaust Survivors Worldwide: A Demographic Overview](#), Claims Conference Center for the Study of Demography, at 19 (2023-2024).

goods was a foundational step along the road toward annihilation, and one that began as soon as Hitler acceded to power in January 1933. The U.S. has long recognized that Nazi expropriation of property from the European Jewish population – whether boots or dishes, whether factories or artwork – was an integral step along the road toward murder. Looting and genocide were intertwined.

We believe it would be helpful to review the long-standing U.S. role in furthering the twin goals that are also at issue decades after World War II: advancing Holocaust restitution and presenting accurate Holocaust history.

2. The Claims Conference and the WJRO

This memorandum has been prepared on behalf of the Conference on Jewish Material Claims Against Germany (“Claims Conference”) and the World Jewish Restitution Organization (“WJRO”).

The Claims Conference has been privileged to work with and for Holocaust survivors for over seven decades. The Claims Conference is honored that one of its founders was the late Benjamin Ferencz, who the United States Congress chose in 2022 to award with the Congressional Gold Medal.⁸ Benjamin Ferencz landed in Normandy, served in General Patton’s Third Army, helped to liberate the concentration camps, at the age of 27 led the Nuremberg Trial of the mobile death squads (the Einsatzgruppen), and spent the rest of his life advocating for human rights and the rule of law.⁹

Guided by Benjamin Ferencz and a team of other storied negotiators – including Nahum Goldmann, who founded such other Jewish organizations as the World Jewish Congress and the Jewish Agency, and Saul Kagan, who survived the Holocaust, returned to the battlefields of Europe as an American soldier, and led the Claims Conference for more than six decades – the mission of the Claims Conference has always been to secure a small measure of justice for Jewish victims of Nazi persecution. The Claims Conference has negotiated with Germany and Austria on behalf of Nazi victims around the world, securing more than \$90 billion in indemnification. Primarily because of its negotiations with the German government, the Claims Conference administers several compensation funds that provide direct payments to survivors in the U.S. and globally, and issues grants to over 300 social service agencies worldwide that provide welfare services and help address the needs of the aging, vulnerable population of survivors. The Claims Conference remains painfully aware that the destruction of Jewish life

⁸ See <https://www.ushmm.org/information/press/in-memoriam/benjamin-ferencz>.

⁹ See <https://encyclopedia.ushmm.org/content/en/gallery/einsatzgruppen-maps>.

during the Holocaust can never be made whole. With that in mind, as noted, the Claims Conference is also one of the largest funders of Holocaust education globally.¹⁰

Because the Claims Conference works so closely with Holocaust survivors, we have learned first-hand of their suffering and re-traumatization as the Holocaust fades from memory, and denial and distortion encroach upon historical fact. Many have been deeply troubled by the results of the Claims Conference's Holocaust Knowledge and Awareness surveys, which have confirmed a disturbing lack of knowledge about many of the most basic elements of the Holocaust.¹¹ In the United States, 48% of U.S. Millennials and "Gen Z" members (ages 18-39) could not name a single one of the more than 40,000 concentration camps or ghettos established during World War II. Nearly two-thirds did not know that six million Jews were killed in the Holocaust. Moreover, nearly half (49%) of young adults in the U.S. have seen Holocaust denial or distortion posts on social media or elsewhere online.

The **WJRO** began its activities in 1993, several decades after the Claims Conference was founded, following the collapse of the Communist regimes in Eastern Europe. The WJRO's central purpose is to address the restitution of Jewish property in those nations. The WJRO consults and negotiates with national and local governments in Eastern and Central Europe (except for Germany and Austria, for which the Claims Conference conducts negotiations). In these efforts, the WJRO seeks and often successfully obtains the return of Jewish communal property and heirless private property, and where restitution is not possible, payment of full compensation. The WJRO also pursues restitution of private property and compensation for Holocaust survivors. Working with local Jewish communities, the WJRO has established local foundations to file restitution claims and uses the proceeds of restitution to support survivors and local Jewish life.¹²

3. The Role of the United States in Establishing and Pursuing the Right to Holocaust Compensation

Even during World War II, and throughout more than eight decades until today, the United States has used its global prestige and international leadership to provide a measure of justice for and compensation to Holocaust victims. In addition to material compensation, the

¹⁰ For more information about the Claims Conference, *see infra*; see also www.claimscon.org.

¹¹ See <https://www.claimscon.org/study/>; <https://www.claimscon.org/millennial-study/>; see also, e.g., Maggie Astor, "Holocaust is Fading from Memory, Survey Finds," *New York Times*, April 12, 2018; Kit Ramgopal, "Survey finds 'shocking' lack of Holocaust knowledge among millennials and Gen Z," *NBC News*, Sept. 16, 2020; Ryan W. Miller, "Almost two-thirds of millennials, GenZ don't know that 6 million Jews were killed in the Holocaust, survey finds," *USA Today*, Sept. 16, 2020.

¹² <https://wjro.org.il/about-wjro/about-us-our-mission/>

U.S. has long had a particular interest in restitution of art, as Secretary of State Blinken described as recently as March 5, 2024:

Today, the State Department is proud to announce Best Practices [...] I thank every country that has endorsed the Best Practices. And I encourage every government that has not yet endorsed these principles to join us. These efforts are more important than ever, as Holocaust distortion and denial are again on the rise. We have seen time and again how the individuals, groups, and societies who downplay or refute the Shoah foster antisemitism and violence against Jews. These Best Practices offer a critical tool to counter their efforts to forget, to obfuscate – by memorializing the truth about what the Nazis did, who they hurt, what they took. Restitution cannot right all the wrongs, but it is a clear affirmation of what occurred. And it represents a small step toward giving something back to families and communities who lost everything – much of which can never be replaced.¹³

The Department of State observed in its JUST Act Report that the U.S. “remains a recognized world leader on Holocaust-era restitution” of all types:

Strong U.S. government leadership and advocacy were decisive in the conclusion of many of the major restitution agreements to date. These include, for example, agreements with Switzerland (dormant bank accounts), Germany (slave and forced labor, insurance, property), Austria (slave and forced labor, insurance, private property), France (bank accounts and deportations on the French railway), and restitution agreements and settlements in a number of Central and Eastern European countries.¹⁴

The U.S. has not demurred in the hope that other nations or groups might take the lead; rather, the U.S. has stepped forward – from the very beginning – to acknowledge and restore something of what was lost during the Holocaust.¹⁵

¹³ See [Secretary of State Antony J. Blinken Video Remarks at the 25th Anniversary of the Washington Principles on Nazi-Confiscated Art and Best Practices Event](#) (March 5, 2024).

¹⁴ Executive Summary, JUST Act Report, p. 5, available at <https://www.state.gov/wp-content/uploads/2020/02/JUST-Act5.pdf>.

¹⁵ Portions of the discussion that follows are drawn from, and quote extensively from, a report filed by the Special Masters in the Swiss Banks Holocaust Settlement. See *In re Holocaust Victim Assets Litig.*, Special Masters’ Proposed Plan of Allocation and Distribution of Settlement Proceeds, September 11, 2000, Annex E: Holocaust Compensation, available at https://www.swissbankclaims.com/Documents_New/665994.pdf, approved by the District Court and upheld by the Court of Appeals for the Second Circuit. *In re Holocaust Victim Assets Litig.*, No. 96-4849, 2000 WL 33241660, at *4 (E.D.N.Y. Nov. 22, 2000), *aff’d.*, 14 F. App’x 132 (2d Cir. 2001), reissued as a published opinion, 413 F.3d 183 (2d Cir. 2005). See generally www.swissbankclaims.com.

This discussion also is drawn from the Chronology prepared as part of the Swiss Banks Holocaust Settlement Final Report. See Judah Gribetz and Shari C. Reig, Special Masters’ Final Report on the Swiss Banks Holocaust Settlement Distribution Process, March 28, 2019 (available at <https://www.swissbankclaims.com/New%20docs/Final%20Report.pdf>) (hereinafter “Swiss Banks Holocaust Settlement Final Report/Chronology”).

a. The War Years, the Immediate Post-War Period, and the Creation of the Claims Conference

Even as the Second World War raged, and the outcome was not at all certain, the U.S. led the way in 1943 in anticipating a post-war world in which a decade of Nazi plunder would need to be rectified. The U.S. and its allies issued an **Inter-Allied Declaration Against Acts of Dispossession Committed in Territories Under Enemy Occupation or Control**. The statement was a “formal warning to all concerned, and in particular to persons in neutral countries, that [the Allies] intend[ed] to do their utmost to defeat the methods of dispossession practiced by the governments with which they are at war against the countries and peoples who have been so wantonly assaulted and despoiled.”¹⁶

To that end:

[T]he governments making this declaration and the French National Committee reserve all their rights to declare invalid any transfers of, or dealings with, property, rights and interests of any description whatsoever which are, or have been, situated in the territories which have come under the occupation or control, direct or indirect, of the governments with which they are at war or which belong or have belonged, to persons, including juridical persons, resident in such territories. This warning applies whether such transfers or dealings have taken the form of open looting or plunder, or of transactions apparently legal in form, even when they purport to be voluntarily effected.¹⁷

Then in 1944, on the eve of the allies invading Germany, Military Government Law Number 52 was issued by the Military Governments of the U.S, Britain, and France. This law imposed military government control over property in Germany that “has been the subject of transfer under duress, wrongful acts of confiscation, dispossession or spoliation, whether pursuant to legislation or by procedure purporting to follow forms of law or otherwise.”¹⁸

As early as the summer of 1945, the celebrated “**Monuments Men**” – employees of the **Office of Military Government, U.S. Zone (“OMGUS”)** – began to locate significant items of cultural property. They established collection points that “were run by specialists from the Monuments, Fine Arts, and Archives Section (MFA&A) of the Property Division under the Reparations and Restitution Branch within OMGUS. These officers, familiarly known as Monuments Men, many of whom had accompanied Allied forces in the drive against the Germans across Western Europe, were responsible for locating and rescuing property looted by

¹⁶ See <https://history.state.gov/historicaldocuments/frus1943v01/d456>.

¹⁷ *Id.*

¹⁸ See Jo M. Ferguson, “Military Government Property Laws in Occupied Germany,” 37 Ky. L.J. 45 (1948). Allied Military Law No. 52 was also reprinted (as amended) in 12 Fed. Reg. 2189, 2196 (April 3, 1947).

the Nazis.”¹⁹ As repositories of loot were located, “cultural property was relocated into three central collecting points: Munich for art, Wiesbaden for German property, and Offenbach, near Frankfurt, for books, archives, and Jewish cultural property.”²⁰ By the time OMGUS had completed its operations in 1949, it had “located, inventoried and returned [to foreign governments] over 1.6 million items,” most of which had been located in the U.S. Zone.²¹

Following Germany’s surrender in 1945, the Allies – the United States, the United Kingdom, and the Soviet Union – constructed a reparations formula in the **Potsdam Agreement**. To avoid further weakening the German economy, the Allies did not demand monetary compensation but, rather, sought to satisfy reparation claims through acquisition of specified percentages of German industrial capital equipment and shares of German companies.²²

In post-War Germany, the Allies “found two kinds of assets: remnants of valuables that the Germans had hauled in from the Polish killing centers, and capital investments that had once belonged to Jews deported from the Reich. So far as the valuables were concerned, the Allies promptly decided to sell this haul for non-German currency and to turn over 90 percent of the receipts to Jewish relief organizations for rehabilitation. The sales were accomplished with due dispatch, but it was a small operation that netted only petty cash.”²³ The Allies also agreed, as part of what came to be known as the 1946 **Paris Reparations Agreement**, “that heirless assets in neutral countries be made available to persecutees.”²⁴

¹⁹ Patricia Kennedy Grimsted, “Reconstructing the Record of Nazi Cultural Plunder - A GUIDE TO THE DISPERSED ARCHIVES OF THE EINSATZSTAB REICHSLEITER ROSENBERG (ERR) AND THE POSTWAR RETRIEVAL OF ERR LOOT,” Chapter 10 (United States of America), at USA-1 (available at https://errproject.org/guide/ERR_Guide_USA.pdf). For further information, see “the ... popularized account by Robert Edsel (with Bret Witter), *The Monuments Men: Allied Heroes, Nazi Thieves, and the Greatest Treasure Hunt in History* (New York: Center Street, 2009), and the resulting Hollywood film released in 2014.” *Id.*

²⁰ Michael J. Kurtz, “Inheritance of Jewish Property,” in *The Holocaust – Moral & Legal Issues Unresolved: Looted Art*, 20 *Cardozo L. Rev.* 625 (December 1998) (hereinafter, “Kurtz”) at 631.

²¹ *Id.* at 632.

²² See *U.S. and Allied Efforts to Recover and Restore Gold and Other Assets Stolen or Hidden by Germany During World War II – Preliminary Study* (May 1997), prepared under the leadership of Stuart A. Eizenstat, then serving as Under Secretary of Commerce (hereinafter, “*Eizenstat Report*”), at xxxvi.

²³ Raul Hilberg, *The Destruction of the European Jews* (New York: Holmes & Meier 1985) (revised ed.) (hereinafter, “Hilberg”), at 1160. See also *Eizenstat Report*, at 60 (“[t]he entire package for the non-repatriables thus comprised \$25 million, plus the proceeds of German assets in neutral countries, all non-monetary gold found in Germany, i.e., the boxes of SS loot collected from Nazi crematories and composed primarily of tooth-fillings, rings, and other such objects, as well as the assets of heirless accounts held in the neutral countries”).

²⁴ Hilberg, at 1161 n.20. See also <https://history.state.gov/historicaldocuments/frus1946v04/preface>; Swiss Banks Holocaust Settlement Final Report/Chronology: “January 14, 1946: 18 countries enter into the Paris Reparations Agreement, providing for restitution of monetary gold looted by Nazi Germany; allocation of nonmonetary gold located in Germany; and \$25 million of such assets found in neutral countries, for the relief and resettlement of surviving Nazi persecutees.”

One year later, in 1947, the U.S. took the lead in negotiating **peace treaties with non-neutrals including Romania and Hungary**. These treaties included express provisions requiring those nations to return property taken from those who had been “the object of racial, religious or other Fascist measures of persecution”; “heirless and unclaimed property” were to be transferred to Jewish organizations.²⁵ At the same time, the interagency State-War-Navy Coordinating Committee also recognized an ongoing problem of Nazi-looted works of art being smuggled for sale into the U.S. Thus, it was announced that “[t]he introduction of looted objects of art is contrary to the general policy of the United States and to the commitments of the United States under the Hague Convention of 1907 and in case of objects of a value of \$5,000 or more is a contravention of Federal law.”²⁶

In the case of individual Holocaust survivors and heirs, restitution claims were recognized not long after the end of the War, and U.S. leadership paved the way. The initial program began at the initiative of the United States on November 10, 1947, when **United States Military Government] Law 59**, “providing for the reimbursement of concrete wealth illegally confiscated from the Jews by the Nazis, was [introduced] in the American Zone. This decree covered all those possessions expropriated by the Nazis in the course of their Aryanization of the economy. The reparations included, when possible, the return of the goods in question.”²⁷ Following the lead of the U.S., in the British Zone, Law No. 59 of May 12, 1949 was enacted for the same purpose, while Decree No. 120 of November 10, 1947 entered into force in the French Zone.²⁸

As the extent of the destruction of the European Jewish population was revealed, it became clear that entire families had been wiped out. In many cases, no heirs to looted property remained to assert ownership. Again, the United States took decisive action, appointing a new organization to take title to heirless and unclaimed Jewish property. On June 23, 1948, **Regulation 3 to Law No. 59** was issued, recognizing the **Jewish Restitution Successor Organization (“JRSO”)** as the successor body to the heirless property.²⁹ This was a significant departure from customary principles concerning disposition of unclaimed property; “[o]rordinarily, heirless property falls to the state.”³⁰ Following the lead of the U.S., the Military Government in

²⁵ See Treaty of Peace with Romania, Feb. 10, 1947, Art. 25; Treaty of Peace with Hungary, Feb. 10, 1947, Art. 27.

²⁶ See Return of Looted Objects of Art to Countries of Origin (approved Jan. 28, 1947), 16 Dep’t State Bull. 358 (Feb. 23, 1947).

²⁷ Andrei S. Markovits and Beth Simone Noveck, “West Germany,” in The World Reacts to the Holocaust, (David S. Wyman, ed, Baltimore: Johns Hopkins Univ. Press 1996) (hereinafter, “Markovits and Noveck”), at 406-07.

²⁸ Kurt Schwerin, “German Compensation for Victims of Nazi Persecution,” 67 *Northwestern Law Review*. 479, at 489.

²⁹ See Saul Kagan and Ernest H. Weisman, Report on the Operations of the Jewish Restitution Successor Organization, 1947-1972, (hereinafter, “JRSO Report”), at 6-7.

³⁰ Hilberg, at 1160.

the British Zone designated the Jewish Trust Corporation (“JTC”) as successor organization.³¹ Because “French law [did] not provide for the establishment as a legal entity of such a body, it was decided that restitution operations in the French Zone of Germany could best be carried out under the wing of JTC by the creation of a French Branch.”³²

The zonal restitution laws initiated by the United States recognized “the principle that heirless property constituted a collective claim of Nazi victims; that it was to be restituted to successor organizations representing collectively the categories to which the victims, most of whom were Jews, belonged; and that the proceeds of such restituted properties were to be used for the rehabilitation and resettlement of the victims themselves.”³³ This principle has guided Holocaust reparation efforts ever since.

In March 1951, with the support of the United States, a new era in Holocaust compensation began. Germany formally recognized its ongoing obligation to Holocaust victims and their heirs, and at the same time, an international organization was created that has taken the central role in negotiating and distributing Holocaust compensation ever since: the Claims Conference.

In 1951, the government of Israel sent the four allied powers a diplomatic note seeking “German payments of 1.5 billion dollars for the integration of 500,000 Jewish refugees.”³⁴ For Israel, this issue was “finally put on the agenda ... because of Israel’s urgent needs” in the face of a growing influx of refugee Holocaust survivors.³⁵ For Germany, Chancellor Konrad Adenauer favored the concept of recompense both because of “a certain moral urge” and because of “German foreign policy objectives,”³⁶ including the desire to strengthen relations with the U.S. in the face of Soviet expansion. For the U.S., foreign policy goals were significant. The American High Commissioner for Germany, John J. McCloy, decided to “follow a lenient path toward the Nazi war criminals [that] undoubtedly led him to press the Germans even harder for a generous policy of *Wiedergutmachung*, or restitution, toward the Jews and the state of Israel.”³⁷

³¹ Charles I. Kapralik, Reclaiming the Nazi Loot: The History of the Work of the Jewish Trust Corporation for Germany, Vol. II (London: The Corporation 1962-1971) (hereinafter “JTC Report”), at 26.

³² JTC Report, at 3.

³³ Lucy S. Dawidowicz, “German Collective Indemnity to Israel and the Conference on Jewish Material Claims Against Germany,” 54 American Jewish Year Book (1953), at 473.

³⁴ Jeffrey M. Peck, “East Germany,” in The World Reacts to the Holocaust (David S. Wyman, ed, Baltimore: Johns Hopkins Univ. Press 1996) (hereinafter, “Peck”), at 471 n. 39.

³⁵ Shlomo Shafir, Ambiguous Relations: The American Jewish Community and Germany Since 1945 (Detroit: Wayne State University Press 1999) (hereinafter, “Shafir”), at 165.

³⁶ Shafir, at 166.

³⁷ Thomas Alan Schwartz, America’s Germany: John J. McCloy and the Federal Republic of Germany (Cambridge, Massachusetts: Harvard Univ. Press 1991), at 175.

Because the U.S. had been so effective in bringing these divergent interests to the table, in October 1951, 23 major Jewish organizations were able to join together as a central body that would be responsible for representing Holocaust survivors: the Claims Conference. The Claims Conference – which was established and remains based in New York in recognition of the leadership that had been and would be demonstrated by the government of the United States – presented a “collective claim” in the “name of the Jewish people by both the State of Israel and organized Jewry,” with “moneys to be received as reparation” to be “divided by mutual consent.”³⁸

The Claims Conference – whose “name itself stressed the material nature of the approach to Germany, thus underscoring that there could be no atonement for the Nazi crimes”³⁹ – sought to accomplish five objectives in negotiating with the German Federal Republic:

- indemnification for individual injuries;
- restitution of confiscated assets;
- relief, rehabilitation and resettlement of victims;
- rebuilding Jewish communities; and
- Holocaust documentation, education, research and commemoration.⁴⁰

Thus began, because of U.S. leadership, decades of compensation programs for Holocaust victims, leading to billions of dollars in payments and social service assistance to survivors around the world. It was also U.S. leadership that helped to highlight the historical and moral importance of acknowledging and remembering the Nazi horror perpetrated against millions of innocent men, women and children.

b. The Next Era of U.S. Leadership

Although the U.S. was involved with a variety of international activities on many fronts during the decades following the initial discussions leading to the major restitution agreements and institutions described above, the U.S. did not overlook the needs of Holocaust survivors.

³⁸ Nana Sagi, German Reparations: A History of the Negotiations (Jerusalem: The Magnes Press, Hebrew University 1980), at 86.

³⁹ *Id.*, at 77.

⁴⁰ See “Conference on Jewish Material Claims Against Germany – Delegation Statement,” in Proceedings of the Washington Conference on Holocaust-Era Assets (1998) (hereinafter, “Washington Conference on Assets”), at 229.

This vulnerable population remained a priority even as the Cold War and other pressing foreign policy concerns consumed the lion's share of attention.

Thus, in the mid-1970s, after both the German Federal Republic ("West Germany") and the German Democratic Republic ("East Germany", also known as the GDR) had been admitted as members of the United Nations, the U.S. and the **German Democratic Republic** commenced negotiations concerning the possible establishment of diplomatic relations. Recognizing the many Holocaust reparations issues that remained open with respect to victims as well as property with ties to the GDR, the U.S. "obtained a promise from the German Democratic Republic to discuss restitution and compensation issues directly with the Claims Conference."⁴¹

Some 15 years later, in 1990, **with negotiations for German reunification** under way, the U.S. actively encouraged the unified Germany to continue the restitution policies that by then had been long intertwined with Germany's post-War identity. The U.S. also supported the Claims Conference's efforts to obtain a new infusion of funds for victims who, until then, for reasons of geography and geopolitics, had received little or no previous compensation. This strong U.S. advocacy led to an agreement in 1992 by the then-unified German government to pay lifetime pensions to what ultimately proved to be tens of thousands of needy Holocaust survivors.⁴²

c. Mid-1990s to Present

In the mid-1990s, the treatment and compensation of Nazi victims came under renewed public scrutiny. As Ambassador Deborah Lipstadt, Special Envoy to Monitor and Combat Antisemitism (and Holocaust historian) Deborah Lipstadt has explained:

[I]n contrast to previous decades, most of [the] stories concerned the bystanders rather than the perpetrators or victims. Swiss banks, international corporations, insurance companies, leading museums, the Red Cross, and the Vatican all found themselves under unprecedented pressure to account for their record during the Holocaust. Some opened up their archives in response. Most 'discovered' that they had terrible skeletons in their closet, though they may have knowingly kept those skeletons there. Now, however, they could not so easily deny their wartime wrongs and their postwar failings. They had held

⁴¹ Karen Heilig, "From the Luxembourg Agreement to Today: Representing a People," 20 Berkeley J. Int. L. 176, 186 (2002), citing Benjamin Ferencz, Report to Claims Conference Board of Directors (July 3, 1979).

⁴² Heilig at 187, citing Letter from Israel Miller, Claims Conference President, to U.S. Secretary of State James A. Baker III (Oct. 10, 1990) and Letter from Israel Miller, Claims Conference President, to U.S. Ambassador to Germany Robert M. Kimmitt (Nov. 17, 1992).

on to financial assets that rightfully belonged to survivors. These funds sat in their coffers while survivors were rebuffed, often in the most glib and callous fashion.⁴³

The U.S. State Department has pointed out that “[m]uch of the interest in providing belated justice for victims of the Holocaust and other victims of Nazi tyranny during World War II” can be attributed to Ambassador Stuart E. Eizenstat’s leadership. In the 1990s, Ambassador Eizenstat was “Special Representative of the President and Secretary of State on Holocaust-Era Issues. He successfully negotiated major agreements with the Swiss, Germans, Austrian and French, and other European countries, covering restitution of property, payment for slave and forced laborers, recovery of looted art, bank accounts, and payment of insurance policies.”⁴⁴

Indeed, virtually every Holocaust restitution program in the modern era has been initiated by the United States government.⁴⁵ Nations throughout Europe (including Germany), as well as the Claims Conference and WJRO, and most importantly, Holocaust survivors around the world, have been fortunate that the U.S. has continued to prioritize issues of restitution and justice.

i. Princz Case

One of the first of the renewed claims to Holocaust compensation involved U.S. service members, who – once again – were supported in their efforts by the government of the United States. **Hugo Princz**, a Jewish U.S. soldier, had been captured by the Nazis during World War II and imprisoned in a concentration camp. After the war, Princz sought compensation from Germany, but was ineligible. On several occasions, from 1984 through 1991, Princz, joined by the United States Department of State and members of Congress, unsuccessfully sought payment from the German government.⁴⁶ Because of the continuing involvement of the U.S. government, Germany ultimately agreed on September 19, 1995 to pay \$2.1 million to Princz and ten other American Holocaust survivors.⁴⁷

⁴³ DEBORAH E. LIPSTADT, HOLOCAUST: AN AMERICAN UNDERSTANDING 126 (Rutgers Univ. Press 2016).

⁴⁴ <https://2009-2017.state.gov/r/pa/ei/biog/218946.htm>.

⁴⁵ See <https://2009-2017.state.gov/r/pa/ei/biog/218946.htm>, referencing Ambassador Stuart Eizenstat’s 2003 “book on these events, *Imperfect Justice: Looted Assets, Slave Labor, and the Unfinished Business of World War II*.”

⁴⁶ See *Princz v. Federal Republic of Germany*, 813 F. Supp. 22, 22-25 (D.D.C. 1992), *rev’d.*, 26 F.3d 1168, 1168-69 (D.C. Cir. 1994).

⁴⁷ See Kimberly J. McLain, *Holocaust Survivors Will Share \$2.1 Million in Reparations*, *New York Times*, Sec. B., p. 5, col. 1, September 20, 1995. See also Agreement between the Government of the United States of America and the Government of the Federal Republic of Germany Concerning Final Benefits to Certain United States Nationals Who Were Victims of Nationalist Measures of Persecution (discussed in the Swiss Banks Holocaust Settlement Special Masters’ Distribution Plan at E-56-57).

Legislation passed by Congress in early 1996 authorized the **Foreign Claims Settlement Commission** (“FCSC”), an agency within the Department of Justice, to establish a program to adjudicate the claims of potential claimants under a second stage of the agreement. Over 1000 people filed claims by the February 23, 1997 deadline, of which 235 were verified. On this basis, the State Department then negotiated a settlement with the German government in January of 1999, which the Bundestag approved in June 1999.⁴⁸

ii. Class Action Lawsuits

The U.S. government played an important role in class action claims leading to billions of dollars in compensation for Holocaust victims and their heirs. In 1994, Stuart Eizenstat, who was then serving as U.S. Ambassador to the European Union, initiated an inquiry into the Holocaust-era activities of **Swiss banks**. On May 2, 1996, the President of the United States stated in a letter to the WJRO and the World Jewish Congress: “I would like to express my continuing support in the area of restitution of Jewish property... the return of Jewish assets in Swiss banks enjoys the support of this Administration ... it is a moral issue.”⁴⁹

In late 1996, the President commissioned a special inter-agency task force under the supervision of Ambassador Eizenstat to investigate and prepare a report describing the Allied efforts to recover and restore Nazi looted gold and other assets after World War II. The report (known as the “**Eizenstat Report**”), released in May 1997, detailed Switzerland’s relationship with Nazi Germany and highlighted Switzerland’s handling of looted gold and other assets.⁵⁰ Ambassador Eizenstat issued another report in June 1998, analyzing the role played by other neutral nations during World War II with regard to looted gold and other assets.

In 1996 and 1997, the U.S. Congress began to take a more visible role in Holocaust restitution matters, holding several hearings in the Senate as well as in the House of Representatives.⁵¹ Among the witnesses was Paul Volcker, who had served as Chairman of the U.S. Federal Reserve System, and who was tasked with overseeing an independent audit of the Swiss accounts.

The State of New York also became actively involved in Holocaust restitution matters at that time. On September 15, 1997, then-Governor George Pataki opened the **Holocaust Claims**

⁴⁸ Marilyn Henry, *US Citizens win right to Holocaust reparations*, Jerusalem Post, News, p. 3, January 17, 1999.

⁴⁹ See Swiss Banks Holocaust Settlement Final Report/Chronology.

⁵⁰ See Swiss Banks Holocaust Settlement Final Report, at 79.

⁵¹ Hearings were held on April 23, 1996, October 16, 1996 and May 15, 1997 before the U.S. Senate Banking Committee, and on December 11, 1996, June 25, 1997 and August 14, 1997 before the U.S. House Committee on Banking and Financial Services;

Processing Office (HCPO), which continues its activities to this day, assisting Holocaust victims and heirs, wherever they may live, in their efforts to recover their looted assets.⁵²

In 1996 and 1997, Holocaust survivors filed several class action lawsuits against the Swiss government, that nation's leading banks, and other Swiss entities. The plaintiffs alleged that the Swiss banks had engaged in a decades-long failure to return accounts to Holocaust victims and their heirs. Plaintiffs asserted claims relating to their unreturned bank accounts, as well as losses relating to slave labor and looting. The class action lawsuits were consolidated before **United States District Judge Edward R. Korman** and were settled under the name *In re Holocaust Victim Assets Litigation (Swiss Banks Holocaust Settlement)*.

In his July 2000 decision approving the parties' \$1.25 billion class action settlement, Judge Korman took note of the crucial role of the United States government in bringing the matter to successful resolution. Judge Korman specifically praised the efforts of the then-Deputy Treasury Secretary, Ambassador Stuart Eizenstat. Judge Korman also noted that the Department of Justice had expressed support for the settlement of Holocaust-related claims in the courts of the United States:

The settlement discussions were facilitated, initially, by former United States Under Secretary of State, now Deputy Secretary of Treasury, Stuart Eizenstat. Subsequently, I became intimately involved in the settlement discussions that led to an agreement in principle in August 1998....

The United States, which participated actively in settlement discussions over a period of many months, through Deputy Treasury Secretary Eizenstat, has expressed its "unqualified support for the parties' class action settlement" and endorsed it "as fair, reasonable and adequate and unquestionably in the public interest." Transcript of Fairness Hearing (Nov. 29, 1999) at 27 (comments of James Gilligan, U.S. Department of Justice, on behalf of the United States). Mr. Gilligan continued as follows:

The United States supports approval of the settlement the parties have reached. It is fair and just and promotes the public interest, as expressed in the policy that the United States government has pursued for the past four years. Because the parties reached for common ground rather than prolong their difference[s], the elderly victims of the Holocaust will receive the benefits of this settlement in their lifetime and much more quickly than would have been possible had the litigation continued. But of equal importance, the United States regards this settlement as an excellent example of how cooperation and the will to fulfil[I] a moral obligation can lead to voluntary resolution of disputes over Holocaust-era claims. **The government anticipates that the settlement here, by force of its example, will promote the U.S. policy of negotiated settlement in other cases and countries where Holocaust victims' claims for restitution have not yet been resolved. In particular, the United States is hopeful that this settlement will add a sense of**

⁵² See https://www.dfs.ny.gov/consumers/holocaust_claims.

urgency and possibility to resolving the pending class action claims of slave and forced laborers who can no longer wait for years for justice to be done. Id. at 31-32.⁵³

Judge Korman further observed:

Mr. Gilligan's prediction that the present settlement would serve as a catalyst for a negotiated agreement of the claims of slave and forced laborers has proven accurate. On March 23, 2000, a final agreement was reached concerning the allocation of an even more substantial settlement fund – approximately \$5 billion – in a related litigation on behalf of victims of Nazi slave and forced labor policies, some of whom are also members of the slave labor classes here.⁵⁴

The approximately \$5 billion slave and forced labor agreement (cited by Judge Korman and by the Department of Justice) represents another example of a Holocaust compensation program that could not have been created without the active engagement of the United States. Following class action litigation initiated in the U.S. courts (beginning with a March 8, 1998 lawsuit against the German-based Ford Motor Company) arising from Holocaust-era slave labor claims, in July 2000, the **German Foundation “Remembrance, Responsibility and Future”** was created to compensate the claims of slave and forced laborers, as well as those who had suffered from medical experiments or had property losses.⁵⁵

The United States determined during those proceedings that the issue of Holocaust compensation was important enough to warrant creation of a new State Department office, as well as a formal advisory role for Ambassador Eizenstat. Thus, Ambassador Eizenstat in 1999 was named the **Special Representative of the President and the Secretary of State on Holocaust Issues**. In addition, the State Department created a new office to be headed up by a **Special Envoy for Holocaust Issues**. That position was held initially by J.D. Bindenagel, who was followed by many other dedicated public servants: Edward O’Donnell, J. Christian Kennedy, Douglas Davidson, Nicholas Dean, Thomas Yazdgerdi, Cherrie Daniels, and currently Ellen Germain.

As has been described by former Special Envoy Douglas Davidson, the German Foundation was

the product of an executive agreement concluded in the summer of 2000 [July 17, 2000] between the United States and Germany. Following the signing of this agreement, the German Bundestag enacted [the law establishing] the foundation as the vehicle to make

⁵³ *In re Holocaust Victim Assets Litig.*, 109 F.Supp.2d 139, 142, 147-48 (E.D.N.Y. 2000) (emphasis added).

⁵⁴ *Id.*

⁵⁵ See Swiss Banks Holocaust Settlement Final Report/Chronology; see also *Gesetz zur Errichtung einer Stiftung “Erinnerung, Verantwortung und Zukunft”* [Law on the Creation of a Foundation “Remembrance, Responsibility and Future”], Aug. 12, 2000, BGBl. I at 1263, last amended by *Gesetz*, Sept. 9, 2008, BGBl. I at 1797.

humanitarian payments to former slave and forced laborers and other victims of National Socialism. It was jointly funded by the German government and German industry. Between 2001 and 2007, the Foundation paid roughly 4.5 billion euros to nearly two million forced and slave laborers in almost one hundred countries. Once these payments were completed, the foundation became a grant-making institution through the establishment of a “Remembrance and Future” fund. This fund, as the law puts it, . . . “foster[s] projects that serve the purposes of better understanding among peoples, the interests of survivors of the National Socialist régime, youth exchange, social justice, remembrance of the threat posed by totalitarian systems and despotism, and international cooperation in humanitarian endeavors.”⁵⁶

The German slave labor settlement was followed by additional Holocaust-era compensation programs, likewise facilitated by the government of the United States. In **March 1997**, a class action lawsuit was filed in a New York federal court against European insurers seeking recovery of Holocaust-era insurance policies. With U.S. assistance, that lawsuit eventually resulted in an international agreement on August 25, 1998, establishing the **International Commission on Holocaust Era Insurance Claims (ICHEIC)**.⁵⁷

iii. Looted Art and Cultural Property

The U.S. has played a critical role in creating a framework for restitution of cultural property looted from Nazi victims, particularly art. On November 30, 1998, the United States convened the **Washington Conference on Holocaust-Era Assets**. The Conference was attended by 44 nations, and focused particularly upon art, real property and insurance. On December 3, 1998, participants endorsed the “**Washington Conference Principles on Nazi-Confiscated Art**,” intended to develop a consensus on non-binding guidelines to assist in resolving issues relating to art expropriated by the Nazis. The U.S. took additional decisive action, in 1998 establishing the **Presidential Advisory Commission on Holocaust Assets in the United States** (and submitting its report in 2000).⁵⁸

⁵⁶ Swiss Banks Holocaust Settlement Final Report, at 93-94 (citing Amb. Douglas Davidson) (available at <https://www.swissbankclaims.com/New%20docs/Final%20Report.pdf>). From its inception and through the present day, the United States holds a designated seat as one of the Trustees on the Foundation Board. The United States Department of State also is authorized, under the German law establishing the Foundation, to appoint an American attorney to hold a second U.S. seat on the board.

⁵⁷ The parameters and compensation principles governing ICHEIC were established pursuant to a Memorandum of Understanding among the National Association of Insurance Commissioners in the U.S., insurance regulators, European insurance companies, representatives of Jewish organizations, and the State of Israel.

⁵⁸ <https://govinfo.library.unt.edu/pcha/>. The Commission reached agreement with the Association of Art Museum Directors, resulting in a commitment from the “American museum community” to investigate and disclose the provenance of possibly Nazi-looted art.

That same year, in 1998, Congress – indicating that interest in Holocaust restitution was not confined to the executive and judicial branches, but also was shared by the legislative branch – enacted the **Holocaust Victims Redress Act**, which encouraged nations to return assets seized by the Nazis, including works of art.⁵⁹

In 2016, Congress enacted the **Holocaust Expropriated Art Recovery Act (HEAR Act)**, which extended statutes of limitation for Nazi art-looting claims.⁶⁰ A direct line can be drawn to the HEAR Act from the Washington Principles, which “continue to exert a moral force. With bipartisan support, Congress in 2016 created a unique federal statute of limitations preempting other defenses related to the passage of time and providing six years to file a claim only after a claimant has discovered the identity and location of the artwork.”⁶¹

On March 5, 2024, the United States and WJRO convened a special event for the **25th Anniversary of the Washington Principles on Nazi Confiscated Art: Best Practices & The Way Forward**. The event unveiled “**Best Practices for the Washington Conference Principles on Nazi-Confiscated Art**,” intended to advance the implementation of the 1998 Washington Conference Principles. The Best Practices have already been endorsed by 23 countries, marking the first governmental document on Holocaust restitution to be endorsed in nearly 15 years.

iv. Other Holocaust Restitution Efforts Encouraged by the U.S.

The U.S. government has taken a leading role in investigating, and in many instances, seeking resolution of, claims arising from a variety of other Holocaust-era losses. The U.S. also has expressed ongoing interest in providing services and support to Holocaust survivors, especially those who are financially needy. Thus, for example:

- In September 1999, the **U.S. House of Representatives Banking Committee** held hearings on **French financial institutions’** treatment of Holocaust-related claims.
- In October 1999, the **U.S. Presidential Advisory Committee on Holocaust Assets** indicated that U.S. forces responsible for safeguarding the assets of Hungarian Jews that had been looted by the Nazis and loaded onto a freight train (the so-called “**Gold Train**”), had been “neither careful nor selfless custodians” of these assets. Subsequently, in January 2001, this commission reported that 2,200 books and other

⁵⁹ Holocaust Victims Recovery Act, Pub. L. No. 105- 158, § 201, 112 Stat. 15, 15 (1998).

⁶⁰ Holocaust Expropriated Art Recovery Act of 2016, Pub. L. No. 114-308, § 2, 130 Stat. 1524, 1524.

⁶¹ Stuart E. Eizenstat, “Art Stolen by the Nazis is Still Missing. Here’s How We Can Recover It.,” Washington Post, Jan. 2, 2019 (available at https://www.washingtonpost.com/opinions/no-one-should-trade-in-or-possess-art-stolen-by-the-nazis/2019/01/02/01990232-0ed3-11e9-831f-3aa2c2be4cbd_story.html).

looted objects had been brought back to the U.S. and were in collections at the Library of Congress, universities and museums.

- In October 2000, the U.S. helped to arrange and participated in the **Vilnius International Forum on Holocaust-Era Cultural Assets**. This was a follow-up to the Washington Conference of 1998 and resulted in the Vilnius Forum Declaration.⁶²
- In January 2001, the U.S. entered into separate agreements with Austria and with France providing for restitution and compensation for looted bank accounts and other assets, as well as funding social welfare programs benefitting survivors.
- In June 2009, the U.S. helped to arrange and participated in a conference in Prague, attended by representatives of 48 other nations and more than 20 non-governmental organizations. The Prague Conference focused on looted real estate, art and Judaica, Holocaust education and remembrance, archival access and survivors' social welfare needs, and issued the "**Terezin Declaration**" setting forth restitution goals. The Terezin Declaration reaffirmed the Washington Conference Principles on Nazi-Looted Art and specified the ways by which "...art and cultural property of victims of the Holocaust (Shoah) and other victims of Nazi persecution was confiscated, sequestered and spoliated, by the Nazis, the Fascists and their collaborators through various means including theft, coercion and confiscation, and on grounds of relinquishment as well as forced sales and sales under duress, during the Holocaust era between 1933-45 and as an immediate consequence..."⁶³
- In October 2009, the U.S. government filed a "Statement of Interest" with the U.S. District Court overseeing the **Swiss Banks Holocaust Settlement**, expressing the government's interest in and recommendations for the distribution of any residual funds that might remain. The Statement of Interest observed that the "foreign policy interests of the United States, which favor providing crucial resources to the neediest Holocaust survivors both here and around the world, may be considered by the Court as it determines how best to allocate the remaining Settlement fund."⁶⁴
- In November 2011, the U.S. House of Representatives Foreign Affairs Committee heard testimony on a bill that would allow survivors to bring suit in U.S. courts based upon Holocaust-era **insurance** claims; other hearings were subsequently held.⁶⁵

⁶² <https://www.lootedart.com/MFV7EE39608>

⁶³ http://holocausteraassets.eu/files/200000215-35d8ef1a36/TEREZIN_DECLARATION_FINAL.pdf

⁶⁴ Statement of Interest of the United States, October 27, 2009, filed in *In re Holocaust Victim Assets Litig.*, available at https://www.swissbankclaims.com/Documents_New/Oct272009.pdf (emphasis added).

⁶⁵ While there have been different viewpoints concerning the proposal, centered mainly upon whether litigation in the U.S. would be precluded by or otherwise run afoul of the ICHEIC insurance agreement, the congressional hearings indicate the U.S. government's ongoing interest in matters relating to Holocaust compensation, including the consideration of legal remedies in the U.S. courts.

- In June 2015, the U.S. State Department completed negotiations and agreed to oversee distribution of a \$60 million fund established by the French National Assembly to compensate Holocaust survivors who were transported to ghettos and concentration camps via the **French national railroad**.
- In October 2015, the U.S. government earmarked \$12 million over 5 years specifically for **assistance to U.S. Holocaust survivors**.
- In May 2018, the President signed the **Justice for Uncompensated Survivors Today (JUST) Act** into law following unanimous passage by the Senate and the House of Representatives. The JUST Act required the State Department to report on the progress European countries have made on Holocaust-era property restitution issues. The State Department’s JUST Act Report, which includes information on art and cultural property, was publicly released on July 29, 2020.
- In August 2019, 88 Senators signed a bipartisan letter urging the Secretary of State “to act boldly and with urgency” to encourage Poland to resolve the issue of private property restitution.
- The U.S. government helped to facilitate a January 2021 agreement in which the government of Luxembourg committed to compensating Holocaust survivors, research and memorialization projects.
- In June 2021, United States leaders at the highest levels, including the Secretary of State, U.S. Speaker of the House, Senators and Members of Congress, expressed their deep concern and opposition regarding legislative amendments in Poland that would make it virtually impossible for all former Polish property owners – including Holocaust survivors and their descendants – to obtain restitution or compensation for property wrongfully confiscated during the Communist era.
- On March 17, 2022, the United States and Croatia had a Strategic Dialogue in Washington, D.C., in which the issue of restitution featured prominently. In a joint statement, “The United States welcomed Croatia’s commitment to fully empower a Holocaust envoy with a view to intensifying dialogue on all related issues, including property wrongfully seized during the Holocaust.”
- In November 2022, the Terezin II Conference was held in the Czech Republic to address Holocaust-era issues including, survivor welfare, property restitution, looted art and cultural property, the preservation of Jewish cemeteries, research, and education. In a video message at the Conference, Secretary of State Blinken made clear that “the need to provide some measure of justice for survivors is more urgent than ever,” noted that “restitution and compensation are ways of memorializing the

truth about the Nazi’s crimes,” and urged countries to “recommit ourselves today to meeting the righteous, just, and urgent goals set out in the Terezin Declaration – which are sacred not only to generations past and present, but to future ones as well.”

- In November 2023, the United States hosted the second Holocaust Envoys Network meeting in Washington D.C, and played a leadership role in developing the Best Practices for the Washington Conference Principles on Nazi-Confiscated Art.

It is clear from these many examples that the United States has never shied away from its support of Holocaust survivors, including their right to recognition and compensation. Rather, since 1945, the U.S. has played an integral role in pursuing and implementing some measure of material justice on behalf of Nazi victims. This nation has not deferred to other countries, nor has the U.S. based its interests on the citizenship of the victims, whether during the Holocaust or thereafter. Quite the opposite: the U.S. has considered it a moral imperative to stand for restitution, compensation, recognition, and remembrance of the Holocaust – those who survived and those who perished.

4. The Inextricable Relationship Between Nazi Looting and Genocide

The scope of Nazi looting is nearly incomprehensible. In the JUST Act Report, the U.S. Department of State observed that the Holocaust was an era of not only mass genocide, but mass looting too. The Holocaust was “one of the most horrific atrocities in world history, resulting in the genocide of six million Jews – including one and a half million children – and the targeted killing of millions of other Europeans by the Nazis and their collaborators for ethnic and political reasons.”⁶⁶ At the same time, it was also “one of the greatest organized thefts in history, providing a source of revenue to the Third Reich and the Axis Powers while attempting to wipe out all vestiges of Jewish life and culture in Europe. The efficiency, brutality, and scale of the looting remains unprecedented, encompassing businesses, land, residences, and cultural/religious properties such as synagogues, sacred religious items, cemeteries, schools, and community centers.”⁶⁷

The JUST Act Report noted that “Holocaust survivor and Nobel laureate Elie Wiesel put this shameful history into perspective at the June 2009 Prague Holocaust Era Assets Conference that produced the Terezin Declaration”:

Just measure the added ugliness of their hideous crimes: they stole not only the wealth of the wealthy but also the poverty of the poor. . . Only later did I realize that what we so poorly call the Holocaust deals not only with political

⁶⁶ Executive Summary, JUST Act Report, p. 3, available at <https://www.state.gov/wp-content/uploads/2020/02/JUST-Act5.pdf>.

⁶⁷ *Id.*

dictatorship, racist ideology and military conquest; but also with... financial gain, state-organized robbery. . .⁶⁸

The JUST Act Report reflects the long-standing recognition of the U.S. government that during the Nazi era, genocide and looting were intertwined:

The Holocaust was not only the greatest genocide in world history but also the greatest theft in history of a people's entire possessions and cultural and religious heritage – a theft of Jewish movable and immovable property, financial assets, insurance benefits, art, Judaica, and Jewish cultural property.⁶⁹

In proceedings before the International Military Tribunal at Nuremberg, American prosecutors emphasized that property theft was part of the broader Nazi scheme of genocide:

I now turn to another phase of the program that I mentioned earlier, that is the **conspirators' plan to confiscate the property of Poles, Jews, and dissident elements**. As I previously mentioned, the evidence will show that **these plans were designed to accomplish a number of objectives. Insofar as the Jews were concerned, they were part and parcel of the conspirators' overall program of extermination**. Confiscation was also a means of providing property for German settlers and of rewarding those who had rendered faithful service to the Nazi State. This phase of their program likewise made available dispossessed Polish farmers for slave labor in Germany and operated to further the conspirators' objective of preventing the growth of another generation of Poles.⁷⁰

The U.S. has long understood the true meaning of the Nazi looting of the Jews of Europe. This unrestrained thievery was not akin to a “taking” of property, nor was it incidental. To the contrary, the U.S. – along with the world's leading Holocaust scholars – have made it clear that the Nazis carried out their attempted extermination of the world's Jewish population through a series of calculated steps, including rampant and inexhaustible looting. These measures began as soon as Hitler acceded to power as German Chancellor in January 1933, and the first targets were the Jews of Germany. From that date, until the Allied victory in 1945, the Nazis embarked upon their hideous mission to deliberately strip Jews of all that they had: their right to fully participate in society and practice their professions; their citizenship; their assets; their communities; and ultimately, their lives.

⁶⁸ *Id.*

⁶⁹ Stuart E. Eizenstat, Former Deputy Treasury Secretary and Under Secretary of State, USA, Holocaust Era Assets: Conference Proceedings Prague, June 26—30, 2009, at 69.

⁷⁰ <http://www.vozmezdie.su/pro/np/full/days/1945-12-14/eng/2/> (emphasis added).

These fundamental historical facts have guided the United States in its decades-long mission to right at least some of the material wrongs of the Nazis' all-out effort to eradicate Jews from the face of the earth.

a. Nazi Looting of Jews Was a Deliberate Step Along the Path Toward Annihilation

The eminent Holocaust historian Raul Hilberg, in his seminal work, *The Destruction of the European Jews*, provided a framework to explain the Nazis' deliberate steps ultimately leading to the Jews' extermination. Hilberg demonstrated that the genocide of the Jews began with political and legal discrimination, and then progressed to expropriation, isolation, ghettoization, and finally annihilation.⁷¹

The Jews were deprived of their professions, their enterprises, their financial reserves, their wages, their claims upon food and shelter, and, finally, their last personal belongings, down to underwear, gold teeth, and women's hair.⁷²

The British barrister and legal scholar Norman Bentwich similarly described the Nazis' carefully staged process of dehumanization, with the theft of Jewish property interwoven with the singular goal of eradicating the Jewish people:

The robbery by the Nazis of the Jewish population in Germany, Austria, and Czechoslovakia, and in the countries occupied by the German army during World War II, is unparalleled in history.... [T]he principle was simply to take from the Jews every scrap of material possessions and the means of subsistence; and it was executed with German thoroughness and with a macabre show of legality. Stage by stage their immovable and immovable property was confiscated, and they were excluded from all professional and economic life, used as slave labour in the war till they dropped, and then done to death. When the extermination culminated in the gas chambers of Auschwitz, the dentures, and the hair of the victims were duly collected and listed.⁷³

Renowned German Holocaust historian Götz Aly, who has emphasized the economic aspects of the Nazi genocide, has pointed out that Hitler very deliberately ensured the allegiance of the German people by plundering and then distributing the assets of Jewish and other victims.

⁷¹ Raul Hilberg, *The Destruction of the European Jews* (Revised ed. New York: Holmes & Meier 1985).

⁷² *Id.*, at 83.

⁷³ Norman Bentwich, *Nazi Spoliation and German Restitution*, 10 *Leo Baeck Institute Yearbook* 205-07 (1965). *See also, e.g.*, Avraham Barkai, *From Boycott to Annihilation: The Economic Struggle of German Jews, 1933-1945* (William Templer, trans., London: University Press of New England 1989).

While anti-Semitism was a necessary precondition for the Nazi attack on European Jews, it was not a sufficient one. The material interests of millions of individuals first had to be brought together with anti-Semitic ideology before the great crime we now know as the Holocaust could take on its genocidal momentum.⁷⁴

The U.S. likewise has recognized that Nazi plunder was a predicate to genocide, not run-of-the-mill property disputes best left to the immediate parties to work out the details. Rather, it was a critical component of the Nazis' effort to obliterate Jews – and their memory.

Thus, leaving no question as to where the U.S. government has stood, in 1998, as noted previously, Congress enacted the Holocaust Victims Redress Act. That statute, which “encouraged nations to return Nazi seized assets,” is particularly notable in that “Congress ‘f[ound]’ that “[t]he Nazis’ policy of looting art was a critical element and incentive in their campaign of genocide against individuals of Jewish . . . heritage.”⁷⁵ Similarly, in the 2016 Holocaust Expropriated Art Recovery Act (HEAR Act), which extended statutes of limitation for Nazi art-looting claims,” Congress determined that “the Nazis confiscated or otherwise misappropriated hundreds of thousands of works of art and other property throughout Europe as part of their genocidal campaign against the Jewish people and other persecuted groups.”⁷⁶

In addition to recognizing the significance of Nazi looting for purposes of understanding the scope of the Holocaust, the U.S. government also has made clear that the Holocaust began to unfold in January 1933, as soon as Hitler came to power. From that point on, Jews living in Nazi Germany and elsewhere in Europe were the “other,” deemed separate and apart from the German bloodline and the German people.

b. The Starting Date of the Holocaust Was January 1933, When the Nazis took the First Steps Ultimately Leading to Genocide

Nazi confiscations as one of the first steps toward the genocide of the Jewish people began from the earliest days of the fascist regime. The U.S. government has long recognized that Jews began to suffer from ever more restrictive measures set in motion immediately upon

⁷⁴ Götz Aly, *Hitler's Beneficiaries: Plunder, Racial War, and the Nazi Welfare State*, originally published as *Hitlers Volkstaat* by S. Fischer Verlage, Frankfurt, in 2005, translation published 2006 by Henry Holt and Company, at 6.

⁷⁵ *Philipp v. Fed. Republic of Germany*, 894 F.3d 406, 412 (D.C. Cir. 2018) (emphasis added), citing Holocaust Victims Recovery Act, Pub. L. No. 105- 158, § 201, 112 Stat. 15, 15 (1998).

⁷⁶ *Philipp*, 894 F.3d at 413 (emphasis added), citing Holocaust Expropriated Art Recovery Act of 2016, Pub. L. No. 114-308, § 2, 130 Stat. 1524, 1524 (“HEAR Act”).

Hitler's accession in January 1933. Jews were not considered "citizens" of Germany; they were *persona non grata* from that point on – until their near-extermination. As recognized in the Final Judgment of the International Military Tribunal against Major War Criminals (following the U.S.-led Nuremberg Trials), Hitler made no secret of his belief that only members of the German "race" were "citizens" – a definition that most assuredly did not include Jews:

On 12 September 1919 Adolf Hitler became a member of this Party, and at the first public meeting held in Munich, on 24 February 1920, he announced the Party's program. That program, which remained unaltered until the Party was dissolved in 1945, consisted of 25 points, of which the following five are of particular interest on account of the light they throw on the matters with which the Tribunal is concerned:... "Point 4. Only a member of the race can be a citizen. A member of the race can only be one who is of German blood, without consideration of creed. Consequently no Jew can be a member of the race"⁷⁷

The International Military Tribunal also understood that from the very first days of Nazi rule, antisemitism "occupied a prominent place in National Socialist thought and propaganda. **The Jews, who were considered to have no right to German citizenship**, were held to have been largely responsible for the troubles with which the Nation was afflicted following on the war of 1914-18. Furthermore, the antipathy to the Jews was intensified by the insistence which was laid upon the superiority of the Germanic race and blood.... **With the coming of the Nazis into power in 1933, persecution of the Jews became official state policy.**"⁷⁸

This understanding of the Nazi Party's immediate impact – in 1933 – upon the rights (or, rather, the lack thereof) of the Jewish population has not wavered; indeed, it has continued through the modern era. It is for that reason that Holocaust restitution programs and policies utilize a "starting date" of no later than 1933. To take just a few examples, following the 1998 creation of the Presidential Advisory Commission on Holocaust Assets in the United States, in a 2000 report and 2001 addendum based upon the Commission's work, the U.S. and the "American museum community" explicitly agreed that "works created before 1946, transferred after 1932 and before 1946, and which were or could have been in continental Europe during that period will be identified and disclosed and all provenance information in the possession of museums regarding those works be disclosed."⁷⁹

Subsequently, the American Association of Museums (now the American Alliance of Museums) established the **Nazi-Era Provenance Internet Portal**, a central registry of objects in

⁷⁷ See https://www.loc.gov/rr/frd/Military_Law/pdf/NT_Vol-I.pdf (at 174-75).

⁷⁸ *Id.* (at 180-81) (emphasis added).

⁷⁹ Report of the AAMD Task Force on the Spoliation of Art during the Nazi/World War II Era (1933-1945), at 5 (available at <https://aamd.org/sites/default/files/document/Report%20on%20the%20Spoliation%20of%20Nazi%20Era%20Art.pdf>).

U.S. museums that could have changed hands in Europe during the Nazi era, expressly deemed to be the period from 1933 through 1945.⁸⁰

In considering various compensation and restitution measures, Congress, too, has determined that the Holocaust began in 1933. For example, in the HEAR Act, Congress defined the “covered period” as “beginning on January 1, 1933.”⁸¹ Under an exception to the Foreign Sovereign Immunity Act, Congress similarly defined the Holocaust as beginning in January 1933.⁸²

The federal court overseeing the Swiss Banks Holocaust Settlement earlier had reached a similar conclusion. In a 2003 order, Judge Edward R. Korman of the United States District Court for the Eastern District of New York authorized claims administrators to presume that “German account owners and their heirs did not receive the benefit of any of their Swiss accounts closed on or after January 30, 1933,” as that was the date upon which it was historically appropriate to presume that German owners of Swiss bank accounts were acting under Nazi duress, absent evidence to the contrary.⁸³ This decision “at the outset of the claims process – to recognize that in Germany, the Holocaust began as soon as Hitler took power in 1933 – essentially anticipated later Congressional statutes concerning the date upon which Holocaust confiscations in Germany began.”⁸⁴

Several Holocaust-related proceedings initially commenced as litigation in the U.S., and subsequently resolved either through class action settlements or by international agreement, similarly recognized (and accepted for compensation) claims arising on or after Hitler’s accession to power in 1933.

- The Settlement Agreement in the Swiss Banks Holocaust Settlement provided for compensation for various types of losses (including claims for bank accounts, slave labor, looting and mistreatment as refugees), all arising during the period “between 1933 and 1946.”⁸⁵
- The German Slave Labor Settlement resulting in an international foundation recognized that “German enterprises” included those either within the 1937

⁸⁰ See <http://www.nepip.org/>.

⁸¹ See HEAR Act § 4.

⁸² *Philipp*, 894 F.3d at 413, citing 28 U.S.C. § 1605(h)(2)(A). The statute defines “covered period” as the term “covered period” means “the period beginning on January 30, 1933 and ending on May 8, 1945.” § 1605(h)(3).

⁸³ See Order of April 25, 2003, *In re Holocaust Victims Assets Litigation*, available at https://www.swissbankclaims.com/Documents/DOC_47_appendix.pdf

⁸⁴ See Swiss Banks Holocaust Settlement Final Report, Executive Summary, at 37 (referencing *Philipp v. Federal Republic of Germany* and the two statutes cited by that court – the FSIA and the HEAR Act).

⁸⁵ https://www.swissbankclaims.com/Documents/Doc_9_Settlement.pdf (“Definitions: Releasees”) (emphasis added).

borders of the German Reich, or those outside those borders but with at least 25% German ownership beginning January 30, 1933.⁸⁶

- The ICHEIC agreement established a claims process for Holocaust-era insurance claims, under the leadership of former Secretary of State Lawrence Eagleburger. ICHEIC's guidelines, which benefited from the input of the interested parties including representatives of the German insurance industry, calculated the valuation of insurance policies based upon the presumption that for those in Germany, the Holocaust began in 1933.⁸⁷

Most recently, in the “Best Practices” for the Washington Conference Principles on Nazi-Confiscated Art organized by the State Department’s Office of the Special Envoy on Holocaust Issues and endorsed so far as of March 2024 by 23 countries, the 1933 date is strengthened even further:

“C. Taking into account the specific historical and legal circumstances in each case, the sale of art and cultural property by a persecuted person during the Holocaust era between 1933-45 can be considered equivalent to an involuntary transfer of property based on the circumstances of the sale.”⁸⁸

German law, too, has incorporated the Allied and U.S. principles recognizing that the persecution of Jews and the stripping of their rights began in 1933. German courts have adopted the rulings of the U.S. Courts of Restitution Appeals, which were charged with analyzing the earliest restitution laws enacted in the U.S. Military Zone of Germany. These early decisions were subsequently followed by the Federal Republic of Germany, when its own courts were considering restitution cases in the 1950s and 1960s. These precedents also later were applied by post-unification German courts deciding cases under the Law Concerning Regulation of Open Property Questions 1990 (*Vermögensgesetz 1990*) – the statute addressing restitution of property of persecutees located in the territory of the former German Democratic Republic.

In a 1998 case at the highest level of review, Germany’s Federal Administrative Court observed:

As early as 30 January 1933 (and not only after decreeing the Nuremberg Laws on 15 September 1935 - cf. Article 3 (3) REAO), all Jewish fellow citizens belonged to a category of persons whom the German government and the NSDAP

⁸⁶ <https://www.stiftung-evz.de/eng/the-foundation/law.html> (“German enterprises referred to in Sections 11 and 16 are those that had their headquarters within the 1937 borders of the German Reich or have their headquarters in the Federal Republic of Germany, as well as their parent companies, even when the latter had or have their headquarters abroad. Enterprises situated outside the 1937 borders of the German Reich in which during the period **between January 30, 1933, and the entry into force of this Law**, German enterprises as described in Sentence 1 had a direct or indirect financial participation of at least 25 percent are also considered German enterprises.”) (emphasis added).

⁸⁷ https://icheic.ushmm.org/pdf/ICHEIC_VG.pdf. (see Schedule 1).

⁸⁸ <https://www.state.gov/best-practices-for-the-washington-conference-principles-on-nazi-confiscated-art/>.

in its entirety intended to eliminate from cultural and economic life in Germany for the above-cited reasons. This historic event is a universally known fact, which the Federal Administrative Court must take into account without delay in the existing appeal proceedings. It is with good reason that the judgement under appeal refers to the following: **The NSDAP had made no secret of their intention to persecute Jews even prior to the so-called “seizure of power” in January 1933.** The German government and the NSDAP had already in 1933 proven the seriousness of their intention to exclude Jews from public life e.g. with the “Boycott Day” that took place on 1 April 1933. This was aimed at professors, teachers, physicians and others or at the dismissal of Jewish civil servants owing to the Law for the Restoration of the Professional Civil Service dated 7 April 1933. This event also reflects the established case-law of the Supreme Restitution Courts in Berlin, Nuremberg and Herford) (cf ORG Berlin, inter alia judgement dated 20 July 1956, RzW 1956; ORG Nuremberg, judgment dated 28 May 1956, RzW 1957, 58; ORG Herford, judgment dated 27 July 1959, RzW 1959, 496).⁸⁹

It is clear, then, that Jews in Germany were recognized to have been under crushing pressure as soon as Hitler came to power in January 1933. These historical facts can be readily discerned, because the Nazis were so careful to “legitimize” their actions. The Nazi regime sought the cover of law at every step of the way.

The following timeline demonstrates how, beginning in 1933, the Nazis excluded Jews from the rest of German society, moving meticulously from **boycott**, to **discrimination**, to **expropriation**, to the first **exterminations at Auschwitz**.⁹⁰

- **January 30, 1933:** Adolf Hitler became Reich Chancellor.
- **March 22, 1933:** Outside the town of Dachau, Germany, the SS (Protection Squads) established the first concentration camp.
- **April 1, 1933:** The Nazis organized a nationwide one-day boycott of Jewish-owned businesses in Germany.
- **April 7, 1933:** The Law for the Reestablishment of the Professional Civil Service banned Jews and political opponents (other than World War I veterans) from the civil service. The Law Concerning Admission to the Legal Profession mandated disbarment of non-"Aryan" lawyers (other than veterans) by September 30, 1933.

⁸⁹ https://www.judicialis.de/Bundesverwaltungsgericht_BVerwG-8-B-56-98_Beschluss_18.06.1998.html (emphasis added). See also <https://www.bverwg.de/de/230206U7C4.05.0>.

⁹⁰ All of these entries are set forth in the Chronology appended to the *Swiss Banks Holocaust Settlement Final Report* (<https://www.swissbankclaims.com/New%20docs/Final%20Report.pdf>).

- **April 22, 1933:** Aryans who consulted Jewish doctors could not have their medical bills paid, under the terms of the new Decree Regarding Physicians' Services with the National Health Service.
- **April 25, 1933:** Quotas were placed on Jewish students in institutions of higher education, under the Law against the Overcrowding of German Schools.
- **May 10, 1933:** German student organizations supported by the Nazis burned books written by Jews and others.
- **June 12, 1933:** Germany enacted the Law on Treason Against the German Economy, requiring assets held outside of Germany to be repatriated.
- **July 14, 1933:** Germany enacted the Denaturalization Law, allowing the Reich to revoke the citizenship of anyone who settled in Germany after November 9, 1918; the law was used to deprive mostly Eastern European Jews and Romani of German citizenship.
- **September 22, 1933:** The newly founded German Chambers of Literature, Press, Broadcasting, Theater, Film, Music, and Fine Arts denied membership to Jews, effectively excluding Jews from employment in the cultural sector.
- **September 29, 1933:** The German government stipulated that hereditary farms could only be inherited by German farmers who documented that they had no Jewish or "colored" ancestors.
- **October 4, 1933:** The Editor's Law forbid non-"Aryans" from working in journalism.
- **January 24, 1934:** The German government banned Jews from membership in the German Labor Front, effectively depriving Jews of the opportunity to find positions in the private sector.
- **May 1934:** The Nazi newspaper, *Der Sturmer*, released a special edition (printing and selling 130,000 copies) devoted to blood libel accusations against the Jews, including infamous medieval cartoons showing Jews using human blood in the observance of religious customs.
- **May 31, 1935:** Germany banned Jews from the armed forces.
- **September 15, 1935:** At the Nazi party rally in Nuremberg, Germany adopted the "Law for the Protection of German Blood and Honor" (Nuremberg laws), which

officially disenfranchised and classified Jews as noncitizens. The population was divided into two classes - Reich citizens, of Aryan ancestry; and state subjects, Jews. Jews could no longer hold government jobs, serve in the army, vote, marry non-Jews, engage in extramarital sexual relations with Aryans, or hire female non-Jewish domestic workers.

- **November 14, 1935:** The first supplementary decree to the Nuremberg laws was issued, defining a Jew as anyone with two Jewish grandparents who was married to a Jew or an adherent of Judaism, or anyone with at least three Jewish grandparents. Persons of “mixed blood” were characterized as “Mischling.” The “Regulation to the Blood Protection Act” banned marriages between Jews and designated persons of “mixed blood.”
- **December 31, 1935:** All Jews remaining in the German civil service were dismissed.
- **November 19, 1936:** Germany enacted the Seventh Implementation Order to the Law of Foreign Exchange Control, which required German owners of foreign securities to deposit their securities with a German bank.
- **October 20, 1937:** Anti-Jewish riots inspired by local Nazis broke out in the free city of Danzig. Half of the city’s Jews left within one year.
- **November 8, 1937:** *Der Ewige Jude* (The Eternal Jew), a Nazi propaganda exhibition, opened in Munich.
- **March 11-13, 1938:** German troops invaded Austria and incorporated Austria into the German Reich (the *Anschluss*).
- **April 26, 1938:** The “Decree Regarding Registration of Jewish Property” (1938 Census) required all Jews in Germany and Austria to register all assets in excess of 5,000 Reichsmarks. Beginning in June, police stations and tax offices compiled lists of wealthy Jews.
- **June 14, 1938:** Jewish-owned commercial enterprises were identified and registered under the “Third Regulation to the Reich Citizenship Law.”
- **June 25, 1938:** German Jewish doctors were forbidden from treating non-Jewish patients.
- **August 17, 1938:** All Jewish men residing in Germany were required to adopt the middle name "Israel." Jewish women were required to take the middle name "Sarah.”

- **September 30, 1938:** All licenses for Jewish doctors, except those treating Jewish patients, were revoked.
- **October 4, 1938:** Germany agreed to Switzerland's demand to stamp passports of Jews with a "J" ("Jude").
- **October 5, 1938:** All German passports held by Jews were invalidated by the Reich Ministry of the Interior; Jews were required to surrender their old passports to be marked with a "J."
- **November 9-10, 1938:** *Kristallnacht* ("Night of the Broken Glass") riots occurred in Germany and Austria, marked by murders, looting, riots and synagogue burnings. More than 30,000, or more than 10%, of Germany's remaining Jews were arrested and sent to concentration camps.
- **November 12, 1938:** The German government issued the Decree on the Elimination of the Jews from Economic Life, barring Jews from operating retail stores, sales agencies, and from carrying on a trade. The law also barred Jews from selling goods or services at an establishment of any kind. Cultural events for Jews were banned. Additionally, a fine of 1 billion marks was imposed upon all German Jewry for the Kristallnacht damage (the "*Sühneleistung*" or "atonement fine"); Jews were banned from receiving insurance payments. *Reichsfluchtsteuer* (emigration taxes), enacted in 1931 and levied on people likely to emigrate, were extended.
- **November 30, 1938:** The licenses of all Jewish attorneys were revoked.
- **December 3, 1938:** The German government issued the Decree on the Utilization of Jewish Property, now making compulsory the "aryanization" of all Jewish businesses. German authorities formalized the practice of forcing Jews to sell immovable property, businesses, and stocks to non-Jews, usually at prices far below market value.
- **January 1, 1939:** Jewish businesses were forced to close under the Law Excluding Jews from Commercial Enterprises.
- **January 17, 1939:** The German government prohibited Jews from working as nurses, veterinarians, holistic practitioners, dentists and pharmacists.
- **January 30, 1939:** In a Reichstag speech, Hitler threatened "the annihilation of the Jewish race in Europe" if war were to break out.

- **September 1, 1939:** Germany invaded Poland, marking the beginning of World War II.
- **October 26, 1939:** German authorities placed areas of occupied Poland not annexed directly by Germany or by the Soviet Union under a German civilian administration, the *Generalgouvernement*, and forced Jews into compulsory labor.
- **December 5-6, 1939:** All Jewish-owned property in Poland was confiscated by the Nazis.
- **February 8, 1940:** The Nazis created the Lodz ghetto. Deportations began on February 12, 1940.
- **May 20, 1940:** The Nazis established the Auschwitz concentration camp.
- **October 12, 1940:** The Nazis established the Warsaw ghetto.
- **October 18, 1940:** Registration of Jewish property and businesses began in occupied France.
- **October 22, 1940:** Registration of Jewish businesses began in the occupied Netherlands. Jews were deported to the Gurs transit camp in Vichy, France.
- **February 15, 1941:** Deportations of Viennese Jews to Nazi ghettos in Poland began.
- **June 22, 1941:** Germany invaded the Soviet Union in "Operation Barbarossa." *Einsatzgruppen* squads began to carry out mass shootings during the last week of June 1941.
- **July 31, 1941:** Reich Marshall Hermann Göring spoke of the "final solution of the Jewish question."
- **September 1, 1941:** Jews over the age of six in the Greater German Reich were forced to wear a yellow Star of David on their outer clothing in public at all times.
- **October 23, 1941:** All Jewish emigration from Germany was prohibited.
- **January 20, 1942:** Nazi officials held a conference at Wannsee, at which they discussed the intended murder of Europe's 11 million Jews.

- **February 15, 1942:** The first mass gassing of Jews began at Auschwitz.⁹¹

#

The United States has long recognized that this timeline serves as the historical backdrop to all matters of Holocaust restitution. From 1933 on, the Jewish people were viewed as the “other,” apart from the German nation. Each humiliation, each theft of property, each forced relocation, and each deprivation of liberty, was an intentional and inevitable step toward the attempted extermination of Europe’s Jewish population. The United States not only brought about an end to that unspeakable time, but also took the central role in ensuring that the victims of that era would be recognized, compensated and cared for throughout their lives, and to this day.

5. Conclusion

The “Best Practices” recently endorsed by so many countries (with more to follow) include the importance of making exceptions to ordinary property laws when it comes to cultural property plundered in the Holocaust:

“K. To make restitution of art and cultural property that remains in state-owned collections and private hands possible, countries should consider making exceptions to barriers such as regulations against deaccessioning from state collections, statutes of limitations, market overt, usucapion (mode of acquiring title to property by uninterrupted possession of it for a definite period), good faith acquisition, and export bans.”⁹²

The leading example of a government doing so is the HEAR Act of the United States.

The “Best Practices” also make it clear that “D. Just and fair solutions” means “just and fair solutions first and foremost for the victims of the Holocaust (Shoah) and other victims of Nazi persecution and for their heirs. In principle, as set out in the Terezin Declaration, the primary just and fair solution is restitution, among other just and fair solutions.”⁹³ Notably, the discussion during the event held on the 25th anniversary of the Washington Principles returned to the characterization of the

⁹¹ This timeline, of course, continued for several more years until the Nazis’ defeat at the hands of the Allies.

⁹² Ibid.

⁹³ Ibid.

plunder by the Nazis, their allies, and collaborators as something for criminal law and not only civil law.

These Best Practices are but the most recent recognition of the well-settled historical fact that the Nazis' theft of property from the Jews who fell within the reach of the Third Reich and its allies was a core component of the Nazis' plan to eradicate the Jewish people. For eight decades, the United States has strenuously advocated on behalf of Nazi victims and has shown an unwavering commitment to accurately presenting the facts of the Holocaust and furthering the ability of victims and heirs to reclaim at least some measure of what was stolen. It is the United States, through its constant and strong interest at every level of government – executive, legislative and judicial – that has helped to keep at bay the deniers and distorters who continually threaten to rewrite the history of the Nazi era.