II. CONTEXT AND BACKGROUND

II. 1. DORMANT ACCOUNTS – DORMANT ISSUES

The question of the wealth position of pre-war European Jewry, the subject of this investigation, was raised in very specific terms in 1996 in the context of the search for dormant accounts in Swiss banks. At that time the Swiss banks and the Jewish Community agreed to look together into the matter of the financial assets of Nazi victims that were still in the hands of Swiss banks. On May 2, 1996, the Swiss Bankers Association, the World Jewish Restitution Organization and the World Jewish Congress, on behalf of allied Jewish organisations, established a Committee, under the chairmanship of Paul A. Volcker, that was mandated to ascertain the fate of the dormant accounts of Nazi victims in Swiss banks and to assess their treatment, to the extent that this was feasible given the passage of time. It was the first time since 1945 that resolution of the dormant account question had been placed into the hands of an internationally recognized group. Obviously, the Committee, the Independent Committee of Eminent Persons (ICEP), came into being only after rather lengthy negotiations. Its gestation period reached back into 1995. What happened between then and August 12, 1998, when class action lawsuits against Swiss banks that ran into more than US$1billion were settled, is a matter of history. Part of this history is how the setting up of the Volcker Committee triggered what would become a virtually worldwide search for the facts of the treatment of Holocaust era assets – assets that, unlike their owners, needed neither visa nor faced "Eintritt für Juden und Hunde verboten" signs.

While the amount of US$18 billion, which recurred in many claims, was understood to be symbolic: the number 18 in Hebrew also spells the word "life" (chai), ICEP still was faced with widely divergent claims and counterclaims regarding the total amount of assets that might actually be involved. This led Paul Volcker to look for a benchmark against which the plausibility of the wide range of numbers that were being bandied about could be tested. He, therefore, asked what the total amount of assets at the disposal of the Jewish populations in Nazi-dominated Europe might have been at the eve of the war and, more specifically, how much of these assets could have been movable.

Clearly, one could have expected that a few weeks of research would provide a reasonably well-founded answer. After all, the questions of the extent of Nazi looting, of what was recovered and what had been lost had been with us for more than fifty years. Almost a quarter of a century had passed since a number of countries, including Germany and the United States, basically closed their official books on the issue. Yet, there were no readily available answers and, in the end, a considerable amount of green field research, reaching into archival and economic records on three Continents, was required.

The underlying question, thus, concerned not only the issue of what accounts of Nazi victims were still lying dormant in Swiss banks, but a much broader one: namely, why had the issue of the incomplete accounting for the spoliation of Nazi victims itself been allowed to lie dormant for more than a full generation? It is not that these questions suddenly sprang, like Athena from Zeus' head, fully blown unto the scene. Much of the facts that eventually led to the setting up of the Volcker Committee (ICEP) had been well known and well researched much before 1995.

The story of the Swiss accounts, the flow of Nazi-looted gold through the neutral countries and the litany of abortive efforts to obtain an accounting of the amounts involved, had been the subject of a considerable body of scholarly and investigative work. Aside from contemporary analyses of the Swiss-American Accords, which dealt with the treatment of German and victims assets in Switzerland, much of what is known about the Reichsbank's gold today was already set out by Stanley Moss in 1956.[1] In the 1980s there was a mini-explosion of research on the subject: among the historians, notably by Werner Rings and Arthur L. Smith, Jr.; among the investigative reporters by Ian Sayer and Douglas Botting and Nicholas Faith; and a little later in fiction, by Paul Erdman in *The Swiss Account*, possibly the only novel of its kind to be festooned with scholarly footnotes.[2] The latter is perhaps less surprising given the fact that Erdman received his doctorate from the University of Basel in 1956 with a dissertation that delved in part into the Swiss-American Accords.[3] In March 1985, the Swiss National Bank itself published an account of its gold transactions with the Reichsbank.[4] While the author was able to draw on documents that, under the Swiss 35 year rule, had not been accessible before the 1980s, the article did not add to the basic facts already set out by other authors. Much, in fact, dated back to testimonies taken from Reichsbank officials immediately after the war and has been in the public domain since the Nuremberg Trials. What was new was that this material was now cited in a Swiss National Bank publication and that the author could depict the Bank as having put a "naive trust in the good faith of the

[1] Stanley Moss, *Gold Is Where You Hide It: What happened to the Reichsbank Treasure?*, Andre Deutsch Ltd., London, 1956.
[2] Werner Rings, *Raubgold aus Deutschland: Die "Golddrehscheibe" Schweiz im Zweiten Weltkrieg*, Artemis Verlag, Zurich, 1985; Arthur L. Smith, Jr., *Hitler's Gold, The Story of the Nazi War Loot*, Berg, Oxford, Washington, D.C., 1989; Ian Sayer and Douglas Botting, *Nazi Gold*, Congdon and Weed, New York, 1984; Nicholas Faith, *Safety in Numbers, The mysterious world of Swiss banking*, Hamish Hamilton, London, 1982; Paul Erdman, *The Swiss Account*, Andre Deutsch Ltd., London, 1991.
[3] Paul Erdman, *Swiss-American economic relations, 1936-54*, Tübingen, 1959.
[4] Robert Vogler, "Der Goldverkehr der Schweizerischen Nationalbank mit der Deutschen Reichsbank 1939-45", Schweizerische Nationalbank, *Geld, Währung und Konjunktur*, Quartalsheft No. 1, March 1985.

Reichsbank".[5] But none of this knowledge and none of this research led to remedial action until the mid-1990s.

This inaction was not for a lack of attention-focussing opportunities in the intervening years. Indeed, there were several milestones that could have served to trigger action. Foremost was the capture of Adolf Eichmann in 1960 and his subsequent trial by the Israelis in 1961-62. This ignited a virtually worldwide debate around the issues of the treatment of persecutees, of acquiescence and collaboration by victims themselves and by their fellow-countrymen at large, and of historic fact and the truth of personal recollections. While the trial succeeded in its aim of heightening the awareness of the facts of the holocaust, especially among the younger generation in Israel, it may also have been the opening move in a number of countries in the process of confronting their own histories. In Germany, where this process had already been in train for some time, it added impetus. But clearly, the time was not ripe for anything approaching a concerted search for objective facts such as was initiated in the 1990s.

Second, in 1967 the Six Day War, more than anything, established Israel as the focus of Jewish awareness, especially in the United States. And this greater awareness, in turn, also sharpened that with respect to the holocaust. Still, it took until 1993 with the opening of the Holocaust Memorial Museum in Washington for broader interest to be both recognized and generated.[6]

While the arts produced a spate of holocaust related works - from the *Diary of Anne Frank* to the Shoa television series – these were largely personal-history based and tended to treat the subject more from an ethnic/cultural angle rather than as part of recent national history.[7]

II. 2. SEARCH FOR HOLOCAUST ERA ASSETS: WHY THE MID-90'S BOOM?

What then was so special in 1995 that it could break this inertia and set in motion a wholesale questioning of the economic facts of the holocaust ? A questioning that, in the end, would spark virtually worldwide efforts to trace what happened to the assets of victims of the Nazi regime both during its reign and after its defeat.

Obviously, there is no one factor that can explain why over the past five years dozens of entities, including 22 national Commissions, have engaged in documenting

[5] In fact, Reichsbank Vice-President Emil Puhl, the key contact in the Swiss National Bank's gold dealings with Germany, was sentenced mainly because of his involvement in the Reichsbank's handling of gold looted by the SS, including concentration camp gold (the Melmer deliveries). See also Arthur L. Smith, Jr., *Hitler's Gold, The Story of the Nazi War Loot*, p. 42-47.

[6] Although planning for the museum was initiated in 1979.

[7] For this and the foregoing see, for example, Ido de Haan, *Na de ondergang*, Sdu Uitgevers, Den Haag, 1997.

their part of this history. Rather, it is a confluence of circumstances that prepared the ground. A core set of explanatory factors, though different observers will assign different weights to individual components, figures in all accounts.

First, everybody's list includes the fall of the Berlin Wall and the disappearance of the East/West divide, which helped open archives hitherto inaccessible to western researchers. Suddenly masses of valuable material on the Nazi period, especially that held in the archives of the former GDR and in some eastern European countries, became readily available. Although access to important files of the financial/economic institutions of the Nazi regime, which the Soviets had removed from Berlin to Moscow, remained difficult, it no longer was foreclosed. And in this instance supply created its own demand.

More directly, the collapse of communism removed the political barriers that had prevented the flow of restitution from West to East. Together with the restoration of private property rights in the former Communist countries this meant that those Nazi victims, or their heirs, who had lived behind the Iron Curtain finally could lodge claims for restitution and compensation. And those who lived in the West, could, together with everyone else, pursue efforts to reclaim property in the East. Still, it took until 1995 for the United States to consider these developments sufficiently important to name Stuart E. Eizenstat, then Ambassador to the European Union in Brussels, also the Government's Special Envoy for Property Claims in Central and Eastern Europe. A portfolio that he took with him when he returned to Washington to hold executive posts in the Departments of Commerce, State and the Treasury and that made him the government's lead in the expanding area of restitution claim activity.

Second, the 50th anniversary of the end of the war triggered both reminiscences and a new flow of information. The release of official documents, sealed for half a century, added further to the stock of newly available archival information.

Third, and crucially important, the passage of half a century had sharpened the awareness that no time was to be lost if living memory was to be passed on, if forgotten or buried truths were to be surfaced and if justice was to be done. Among nations, it renewed the hunt for, and prosecution of, war criminals; among survivors it brought home the realization that the next generations were owed a share in the memory and helped break the barrier of silence that had divided many from their children and grandchildren. Psychologists have attempted to explain why the silence kept until recently by so many Nazi victims, or their heirs, also extended to the recovery of their material possessions. Prominently among the reasons given was the desire to seal off a past too difficult to be dealt with, the need to rebuild their existence and, indeed, to rebuild their devastated families. Survivor guilt alone explained much of the reluctance to pursue, or even raise, matters of property with any vigour.

Fourth, over the past generation there has been broad acceptance of general precepts regarding civil and human rights that made pursuit of individual rights a matter of course. Historians recently have augmented the psychological explanations for the reluctance on the part of many Nazi victims to engage in an active fight for their property rights by pointing out that the post-war environment in which victims, or their heirs, had to pursue their claims was inauspicious, to say the least.[8]

Obviously, when in 1947 the U.S. Military Government in Germany imposed a restitution law in the U.S. Zone of Occupation,[9] claimants could not expect to be welcomed. It is not surprising then, that at the outset many either eschewed engagement with a rigid, and not always fully de-Nazified, German bureaucracy altogether or were discouraged by the cumbersome machinery. Nevertheless, eventually restitution efforts of the German Federal Republic (which until reunification in 1990 covered claims against West Germany only) reached thousands of victims and by January 1997 payments amounted to just over DM 100 billion.[10]

However, it is noteworthy that the overwhelming share – more than 90 percent – of these expenditures was for compensation claims, that is for loss of health, pensions, professional pursuit, schooling, etc., while just under 4 percent, DM 3.94 billion, covered restitution claims proper, that is claims for loss of property.[11] Prof. Walter Schwarz, in his contribution to the monumental analytical documentation of the restitution process in West Germany published by the Federal Ministry of Finance, concludes that "[I]t follows that the value of restituted property, even if

[8] Through the 1970s, the issue of the restitution of property to victims of the Nazi regime hardly figured on the horizon of historians tracing the period of the U.S. occupation of Germany. A perusal of the indexes to a number of studies that have achieved core status in the literature shows that, when restitution is mentioned at all, it generally refers to the return to the relevant governments of property the Nazis looted from countries or territories outside Germany (generally known as "external restitution"), and the topic as such receives a couple of mentions at best. See for example, John Gimbel, *The American Occupation of Germany: Politics and the Military, 1945-1949*, Stanford University Press Stanford, CA, 1968; Earl F. Ziemke, *The U.S. Army in the Occupation of Germany, 1944-1946*, Center of Military History, United States Army, Washington, D.C., 1975; Harold Zink, *American Military Government in Germany*, MacMillan, New York, 1947.

[9] Military Government Law No. 59, which eventually was also adopted in the British and French Zones and thereby became the basis of German Restitution Law.

[10] Statement of German Delegation, "German Restitution for National Socialist Crimes" in Foreign and Commonwealth Office, *Nazi Gold, The London Conference*, The Stationery Office, London, 1998, p. 286-292.

[11] The remainder, about 6 percent, reflects a mixture of compensation and restitution payments under governmental agreements: DM 3.45 billion under the Israel Agreement and DM 2.5 billion under global agreements with 16 nations, idem, p. 291.

confined to West Germany only, represented but *part* (sic) of the assets lost as a consequence of persecution".[12] Although the amounts quoted for restitution payments can only be approximations because of valuation problems and because some restitution was in kind and some bypassed the restitution machinery altogether, there can be little doubt about either the relative shares of compensation vs restitution or the validity of Prof. Schwarz' assessment.

Perhaps most surprising, and therefore more daunting, was the unfriendly environment in which restitution claims had to be pursued in countries where victims could have expected an amicable reception. This was especially so with respect to the United States. After all, the United States was a driving force behind, if not the initiator of the provisions of the London Declaration of 1943, which warned that transfer of property rights under direct or indirect duress might be reversed; of those in the Final Act of the Paris Conference on Reparation in 1945, which began to recognize, at least with respect to the neutral countries, that heirless assets of victims of Nazi policy should not escheat to the State in which they were held; of the Peace Treaties with Hungary and Romania, which explicitly required that property looted from persecutees be restituted to the original owners or their heirs or, in the absence of any heirs, to representatives of the surviving members of the victimized group in question.[13] As noted above, it single-handedly laid the basis for the German Restitution Law when in 1947 it ensured the adoption of such a law in the U.S. Zone of occupied Germany (Military Government Law No. 59). This law put the reversal of the transfer of property under duress on a legal basis; recognized that property left by victims without heirs should not, as normal, escheat to the State, but be assigned to a Successor Organization which represented the group of persecutees in question and which would use the assets for the benefit of the survivors of that group; and, finally, emphasised the need for speedy restitution.[14]

---

[12] Walter Schwarz, *Rückerstattung nach den Gesetzen der Alliierten Mächte, Die Wiedergutmachung nationalsozialistischen Unrechts durch die Bundesrepublik Deutschland*, Band I, published by the Federal Ministry of Finance in cooperation with Walter Schwarz, Verlag C.H. Beck, Munich, 1974. Author's translation.

[13] See Department of State, *Bulletin*, Vol. XIV (1946), January 27, 1946, Paris Conference on Reparation, Final Act, Art. 8, sub C. The actual wording was "governments in neutral countries shall be requested to make available for this purpose (in addition to the sum of 25 million dollars) assets in such countries of victims of Nazi action, who have since died and left no heirs"; and Treaty of Peace with Hungary, Article 27, Treaty of Peace with Rumania, Article 25 (and Article 24.3, for an example of "duress" clause) in Charles Bevans, compiler, *Treaties and Other International Agreements of the United States of America, 1776-1949*, Vol. 4-Multilateral, 1946-1949, pp. 411, 413, 465.

[14] Military Government Law No. 59, Military Government Gazette, Germany, United States Army Area of Control, Issue G, 10 November 1947 established as one of the basic principles "...the speedy restitution of identifiable property ...to persons who were wrongfully deprived of such property within the period from 30 January 1933 to 8 May 1945 for reasons of race, religion, nationality, ideology or political opposition to national Socialism...".

Thus, the intent of U.S. policy with respect to property looted from, or abandoned under duress by, victims of Nazi persecution was clear from the end of hostilities onward: a full and speedy return to the original owners or their heirs or, in the absence of designated heirs, to an officially designated successor organization, which was mandated to utilize these assets for the benefit of the population group to which the original owners had belonged.

However, neither of these principles appeared to govern the treatment of those victims' assets that had come under the control of the U.S. authorities themselves. The United States, early in the war had moved under its Trading with the Enemy Act (TEA) to:

1) prevent the Axis from fuelling its war effort with the external assets of its own nationals or of those held by the populations in the countries and territories they came to control, and
2) divert the use of such assets to the U.S. own war purposes, including the eventual provision of funding to satisfy war claims.

Inevitably, victims' assets were caught in this program. Indeed, the sequestering of victims' assets was seen as a way of "... protecting and preserving the property of our allies and friends, the victims of our enemies...".[15] But, when it came to relinquishing control, many survivors or their heirs may have wondered about the effects of this act of friendship.

Abraham S. Hyman, a former Acting Adviser on Jewish Affairs to General Lucius D. Clay[16], wrote in a draft article in 1953: "As a general rule people are more circumspect about their behaviour at home than about their conduct abroad. However, in dealing with the heirless property of victims of persecution, the Congress of the United States has made it appear that the reverse of this rule appeals to the United States."[17] He might have broadened his dictum to cover survivors, their heirs and the U.S. Executive branch as well.

It seemed ironic to him that the U.S. government, which had been the driving force in wresting recognition of both the rights and the plight of the victims of Naziism from its sometimes unwilling allies and from a generally unwilling Germany, should turn out to be lagging in acting on their behalf at home. The slowness with which victims'

---

[15] Paul V. Myron, "The Work of the Alien Property Custodian", Enemy Property, Law and Contemporary Problems, Vol. XI, Winter-Spring, 1945, School of Law, Duke University, p.91.
[16] General Clay served from end-March 1945 to May 16, 1949 first as Deputy and later as Military Governor of the U.S. Zone of Occupation of Germany.
[17] Abraham S. Hyman, "The Heirless Paradox" draft article, 5/25/53, Central Archives for the History of the Jewish People, Jerusalem, JRSO, NY, 916B.

assets were released after the war clearly was at extreme odds with the precepts the U.S. authorities had pushed in international fora. Thus, it took victims on average 3.5 years to get the Office of Alien Property to return title to their assets. It took 18 years -that is the time period for a post-war child to reach its majority - and many attempts for Congress to pass legislation that allowed victims' heirless assets to be released to the designated successor organization. Even then only after estimates had been reduced to the paltry sum of US$500,000.

Worse, in 1954 Congress passed a law, introduced by Senators Dirksen of Illinois and Langer of North Dakota and supported by Secretary of State John Foster "Dulles" that would have returned all German private property taken under the TEA to the Federal Republic of Germany. As in confiscating these assets no distinction had been drawn between friend or foe, this action, but for President Eisenhower's veto of the bill, would have allowed the German State to fall heir to the assets of Nazi victims!

At State level, several attempts were made, notably in New York State, to pass legislation to assign unclaimed property of Nazi victims, that under law had escheated to the State, to designated successor organizations. However, all these attempts died in the Legislature. And even when victims' or successor organizations' quests for restoration of property rights met with a sympathetic response, these concerns figured low on the agenda of a world focused on Cold War and economic reconstruction issues. The scope for victims, their heirs and their successor organizations to pursue material property claims forcefully and successfully clearly was limited within the United States as well as abroad.

The elements that flowed from the four factors enumerated above, to wit

1) the revival of the issue of property claims as the implosion of the Communist regimes enabled Nazi victims, or their heirs, who had lived behind the Iron curtain to lodge such claims;

2) the release of information and documentation following the fall of the Berlin Wall and the 50th anniversary of the end of the war;

3) the sense of urgency to deal with the unfinished business of the war, two score and ten years after its end, and the realization that this was the last call to transmit living memory and right individual wrongs; and

4) the greater predisposition toward activism that came with the passage of generations and the change in the general climate toward support of individual rights;

all helped prepare the ground for the snowballing demands for the facts regarding the treatment of Holocaust era assets worldwide.

But was this enough to explain the precipitate ending of the Swiss banks' 50 year record of successfully fending off private and official pressures for the release of more than a token amount of information on the dormant accounts still on their books, let alone that of the unclaimed funds themselves? This record of non-compliance, obfuscation and de minimis action throughout the period is well documented. So it was not surprising that the banks believed that another token effort to ascertain the volume of dormant accounts, which in the spring of 1995 surfaced 775 accounts with a value of SF 38.7 million (roughly US$32 million at the then prevailing exchange rate), would put the matter to rest, as two earlier searches had done in the past.[18]

However, 1995 turned out not to be business as usual. For one, the business situation had shifted dramatically since 1962, when the last such search of the banks' accounts took place. With globalisation, any would-be player on the international scene had to become global himself. Growth-oriented financial institutions could no longer be satisfied with a branch or agency in the United States. Network building, mergers and acquisitions were de rigueur, in all of which the large Swiss banks were set to participate and all of which required the fiat of the U.S. Federal and State regulators. This meant that for the first time in the post-war period the weight of leverage lay with those outside Switzerland.

Second, the growing acceptance that it was more than proper that individual rights should be asserted and defended together with the litigiousness of American society had made the class action suit a typical and favoured avenue for seeking remedies in that respect.

Last, but not least, at the same time that all these factors combined to create a propitious environment for victims and their spokesmen to be heard, a formidable combination of personalities was in place to make it happen. The World Jewish Congress, under Edgar Bronfman, Sr. with Israel Singer and Elan Steinberg set off the avalanche. They looked to Congressional support from the Senator from New York and Chairman of the Senate Banking Committee, Alfonse M. D'Amato. And from there on matters took a dramatically different turn as compared with a quarter of a century earlier. Then, in December 1969, Liba Weingarten, Vice President of the Jewish Nazi Victims Congregation of New York raised the question of the dormant bank accounts in Switzerland with Senator Jacob Javits of New York. She wrote: "You must be aware

[18] These surveys, conducted by the banks themselves, sought to identify possible victims' accounts. The one conducted shortly after the war yielded a total value of less than SF 1 million; the 1962 search, ordered by the Swiss government, came up with 739 accounts valued at SF 6.2 million. Source: Independent Committee of Eminent Persons, *Report on Dormant Accounts of Victims of Nazi Persecution in Swiss Banks*, December 1999.

of the fact that Switzerland is still holding on to all the property incl. money in banks – left by Jews, who perished during World War Two thru the Nazis and their helpers.....and this heirless property has not been released yet by Switzerland almost 25 years after the end of the terrible war. Does the American Government also intend to do something about it?" Senator Javits' office passed the letter routinely to the Department of State.[19] Clearly, the short answer to her question was "no".

On December 7, 1995, faced with essentially the same question, Senator D'Amato, who coincidentally had succeeded Javits to his Senate seat, replied "We'll hold hearings. We'll research it and we'll look into the problem".[20] And this time the Executive branch was poised to act as well with then Undersecretary of Commerce, Stuart E. Eizenstat, already appointed Special Envoy for Property Claims in Central and Eastern Europe. Finally, State banking regulators, to name but one, Alan Hevesi in the for the Swiss banks most important State of New York, were fully engaged. The latter was the more important because the decentralisation of the American regulatory system meant that on the State side there were 50 potential pressure points.

From this point the avalanche of research focused on the treatment of Holocaust era assets gathered breadth and speed: it spread to Britain, where Greville Janner, a Member of Parliament and Vice President of the World Jewish Congress in Britain, asked Foreign Secretary Malcolm Rifkind for a review of intelligence material on World War II-related Swiss financial activities. This request led to the publication, in September 1996, of the Foreign and Commonwealth Office's (FCO) History Note entitled *Nazi Gold: Information from the British Archives*.[21] This report proved crucial in three respects:

1) it drew attention to the fact that the Reichsbank's monetary gold, much of which was sold to and through Switzerland, contained not only resmelted gold looted from the central banks of occupied countries, but also "tainted" gold, that is gold taken from Nazi victims;[22]

---

[19] Gregg J. Rickman, *Swiss Banks and Jewish Souls*, Transaction Publishers, New Brunswick (U.S.A.) and London (U.K.), 1999, p. 39.
[20] Idem, p. 41.
[21] Foreign and Commonwealth Office, *Nazi Gold: Information from the British Archives*, Historians, Library and Research Department, History Notes No. 11, September 9, 1996.
[22] It also through an error, by reading $ for SF, magnified the issue by indicating that in negotiations with the Allies in March 1946 an official of the Swiss National Bank had let slip that the Swiss banks still held $500 million equivalent of German gold, an amount more than twice the $200 million estimated by the Americans. The correct figure should have been SF500 million, which in fact at the exchange rate of the day, at $118 million would have been below the U.S. estimate. This error was corrected in the second edition of the report.

2) it helped set off a massive research effort with "the British, US and Swiss governments...all engaged in further activity to investigate the question of Nazi gold";[23] and

3) it led the Jewish organizations to request that the residual gold still on the books of the Tripartite Gold Commission (TGC) in the words of the FCO "be used to compensate individual victims of Nazism".[24] The FCO went on to say: "We are concerned to ensure that the outcome of these discussions should fulfil not only our legal obligations in connection with the Commission gold, but also our moral obligations: the question of compensation for survivors of the Holocaust is an important one, which it is right for us to review regularly".[25]

All this constituted a sea change from the earlier period of at best "benign neglect". A period summed up bluntly in 1998 by the French Commission, la Mission d'Étude sur la Spoliation des Juifs de France (the Matteoli Commission). In describing their task, they wrote: "The field of enquiry was vast and largely unexplored. This was so because during the Occupation, the entire category of individuals defined as Jewish by the German occupation authorities and by the French state fell victim to looting and pillage of their property, which took many forms. After the Liberation, the French Republic...arranged for the restitution of the stolen assets. However, the genuine endeavours made to return to the rightful owners what could be returned...**peter out at the beginning of the 1950s in a climate of general indifference .**"[26] (Emphasis provided by author).

But perhaps it was most striking, after two and a half generations of pragmatism, that the question of justice - and justice to the individual - moved centre stage. Robin Cook, Britain's Foreign Secretary, in opening the Conference on Nazi Gold held in London in December 1997, and speaking of "the distribution of gold immediately following the Allied victory" said "The records tell a story of genuine efforts by the Allies to do the right thing in the midst of post-war chaos. The needs of the survivors were urgent, and decisions were taken that allowed those needs to be met. Those

---

23 Foreign and Commonwealth Office, *Nazi Gold: Information from the British Archives*, Historians, Library and Research Department, History Notes No. 11, second edition, January 1997, Foreword.
24 Idem.
25 Idem.
26 Mission d'Étude sur la Spoliation des Juifs de France, *Extracts from the second progress report of the study Mission into the looting of jewish assets in France*, Introduction.

decisions were not perfect, or exact. With the 20/20 vision of hindsight we might have done things differently".[27]

Indeed, not only were the needs desperate, but they competed with many other concerns, which were accorded at least an equal and often a higher priority. Both the wholesale plunder of the occupied countries as well as the breadth of the war the Nazis waged against European Jewry and others they considered undesirable, were well known before the war ended. The figure of 10 million people in concentration camps and of 21 million displaced persons, i.e. those in the camps plus those conscripted into supporting Germany's war work, had been variously cited,[28] as had the systematic spoliation of victims' assets. However, no planning could fathom the full extent of the consequences: theoretical knowledge was one thing, grasping the enormity of the practical implications quite another. Not surprisingly, the result was a pragmatic approach that subordinated, for very good practical reasons, making good to individuals - who throughout the Hitler years had been stripped not only of their assets, and too often their lives, but also of their individuality - to making good to the community of victims. The choice of what was practical in favour of what were the rights of individuals is the thread that runs through the formulation and implementation of post-war restitution policy during the entire twenty year period from its inception through the sixties, when it was thought the chapter could be closed, at least as far as the official community was concerned.

How different then, in 1997, to hear Robin Cook continuing his opening remarks at the London Conference "...the real victims of the Nazis were not the Central Banks. They were individuals. Countless individuals, who died because of their religion, their race, their beliefs. And we must always remember that they were individuals, because the Nazis tried so hard to reduce them to numbers, to remove their humanity."[29] At the same time that Robin Cook stressed the individuality of victims, Stuart Eizenstat, then Undersecretary of State, speaking for the United States rang the parallel theme of justice.[30]

It was the questions raised by the Swiss dormant bank accounts issue that gave the immediate impetus to a focused search for what had remained unknown about the treatment of Hitler's victims and their possessions. ICEP's work itself, in filling

---

[27] Foreign and Commonwealth Office, *Nazi Gold, The London Conference*, The Stationery Office, London, 1998, p .6.
[28] See for example Earl F. Ziemke, *The U.S. Army in the Occupation of Germany, 1944-1946*, Center of Military History, United States Army, Washington, D.C., 1975.
[29] Foreign and Commonwealth Office, *Nazi Gold, The London Conference*, The Stationery Office, London, 1998, p. 7.
[30] Idem, p. 10.

in the gaps in knowledge about these accounts, centred on the two core points of the current huge effort in historical research and moral self-assessment – justice and recognition of individual rights - reiterated at the London Conference. The Committee thus saw its work though "...focused on a specific banking issue: the fate of funds entrusted to Swiss banks by victims of Nazi persecution." as having "[M]ost directly, the objective [was] to provide for simple justice for those victims (and their heirs) with unsatisfied claims on accounts in Swiss banks. It is also a matter of great importance for those banks themselves and their reputation. But it has significance beyond the people and the institutions directly involved."[31]

[31] Independent Committee of Eminent Persons, *Report on Dormant Accounts of Victims of Nazi Persecution in Swiss Banks*, December 1999, p. 2.