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Hon. Delissa A. Ridgeway

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# JUSTICE FOR THE “FORGOTTEN VICTIMS”: U.S. SURVIVORS OF THE HOLOCAUST

*Hon. Delissa A. Ridgway\*\**

In one of the least known chapters of World War II, thousands of Americans found themselves herded into Nazi camps. Civilians stranded in Europe, as well as soldiers taken as prisoners-of-war (“POWs”), Jews and non-Jews alike – citizens of the United States were among the millions who perished at the hands of the Nazis. After the War, many survivors found that their U.S. citizenship – which (theoretically) should have spared at least the civilians among them from the camps but didn’t – now served to disqualify them from the compensation that Germany paid to survivors who were citizens of other countries.<sup>1</sup>

In September 1995, more than fifty years after the liberation of the camps, the governments of the United States and the Federal Republic of Germany reached an historic agreement on the payment of reparations for certain of those U.S. survivors of the Holocaust.<sup>2</sup> The Foreign Claims Settlement Commission of the

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\* The term “forgotten victims” was coined by Mitchell G. Bard in his book, MITCHELL G. BARD, FORGOTTEN VICTIMS: THE ABANDONMENT OF AMERICANS IN HITLER’S CAMPS (1994). Mr. Bard provided invaluable assistance to the Foreign Claims Settlement Commission in its efforts to identify and locate U.S. survivors of the Holocaust.

\*\* Judge, U.S. Court of International Trade, New York, New York, and formerly Chair, Foreign Claims Settlement Commission of the U.S. (1994-98). This article is an adaptation of remarks delivered in a February 2001 address at Brooklyn Law School. The views expressed are those of the author, and do not necessarily reflect those of the U.S. Government.

<sup>1</sup> The Holocaust Survivors Claims Program – and this article – concern only those individuals who were citizens of the United States *at the time of their Nazi persecution*. The vast majority of Holocaust survivors in this country acquired their U.S. citizenship after World War II.

<sup>2</sup> 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 National Socialist

United States ("FCSC" or "Commission") was charged with implementing the agreement.

The U.S.-German Agreement, which eventually brought millions of dollars in reparations to hundreds of Holocaust survivors, is really a lesson about how *one person* can make a difference in the world. The other lesson is about creativity – how being a good lawyer is about much more than good research, dry law and dusty books.

### *The Foreign Claims Settlement Commission*

The FCSC is a quasi-judicial, independent agency within the U.S. Department of Justice. The Commission consists of a three-member tribunal – a full-time Chair and two part-time Commissioners (all appointed by the President and confirmed by the Senate<sup>3</sup>), as well as a small legal and administrative staff. Its mission is to adjudicate claims by U.S. nationals (individuals as well as juridical entities, such as corporations) against foreign governments. Most often, in recent history, these have been claims for expropriation of property. By law,<sup>4</sup> Commission decisions are final and are not reviewable under any standard by any court or other authority anywhere in the world.<sup>5</sup>

The Commission was established in 1954, when it assumed the functions of two predecessor agencies – the War Claims Commission and the International Claims Commission. Together with its predecessor agencies, the FCSC has successfully completed more

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Measures of Persecution (entered into force Sept. 19, 1995), *reprinted in* FCSC 1995 Yearbook, at 11, *available at* <http://www.usdoj.gov/fcsc/foia/htm>. All referenced FCSC Yearbooks (sometimes known as "Annual Reports") are available either in the FCSC's Electronic Reading Room or on the FCSC's homepage on the website of the U.S. Department of Justice. *See* <http://www.usdoj.gov/fcsc> (last visited Apr. 15, 2001).

<sup>3</sup> At the time of the Holocaust Survivors Claims Program, the two Commissioners were John R. Lacey (of Connecticut) and Richard T. White (of Michigan). Mr. Lacey now serves as Chair of the Commission.

<sup>4</sup> *See generally* 22 U.S.C. § 1622g (2000).

<sup>5</sup> In that sense, the FCSC is like the U.S. Supreme Court, of which Justice Jackson once said, "We are not final because we are infallible; we are infallible because we are final."

than forty claims programs involving countries ranging from Iran, Yugoslavia, Bulgaria, Romania, Hungary, Czechoslovakia, and the Soviet Union, to Poland, Italy, Cuba, China, East Germany, Vietnam, Ethiopia, Egypt and Panama. More than 660,000 cases have been adjudicated with awards totaling in the billions of dollars.

### *The Holocaust Survivors Claims Program*

The September 1995 treaty between the United States and Germany arose out of the celebrated case of Hugo Princz. A U.S. citizen of Slovak ancestry, Mr. Princz was a teenager living in what is now Slovakia when he was arrested with his family in 1942, turned over to the Nazi SS, and deported to the Majdanek concentration camp. His parents and sister perished in Treblinka, while Mr. Princz and his two younger brothers were sent to Auschwitz-Birkenau. There, the two younger boys were deliberately starved to death.

Mr. Princz was later sent to Warsaw, then marched to Dachau. When he was rescued by U.S. forces in 1945, he was found packed in a railroad cattle car with other concentration camp prisoners, en route to another camp for extermination. After a futile search in Europe, Mr. Princz determined that he was the only one of more than eighty members of his family who had survived the Holocaust. He left the continent and settled in the United States, mounting what would eventually become a forty year battle for reparations from Germany.

After World War II, West Germany enacted laws providing for the payment of reparations to refugees and to German citizens to compensate them for Nazi persecution. In addition, Germany entered into compensation agreements with a number of countries in Western Europe for the benefit of the citizens of those countries who had been interned by the Nazis before and during World War II. But Germany refused to compensate U.S. survivors of the Holocaust, maintaining that those who were U.S. citizens at the time of their persecution were neither German citizens nor "refugees" and thus not entitled to compensation under German law.

After decades of unsuccessful efforts to obtain reparations through other fora, Mr. Princz – through Washington, D.C. attorney, Steven Perles – filed a \$17 million lawsuit against Germany in the U.S. District Court for the District of Columbia. By the luck of the draw, the case was assigned to Judge Stanley Sporkin, who had earned a reputation as a bit of a maverick – a remarkable man, who refused to allow law to get in the way of justice.<sup>6</sup> Predictably, Germany moved to dismiss the case for lack of jurisdiction, invoking foreign sovereign immunity. To the astonishment of the German government, however, the motion was denied.<sup>7</sup> In essence, Judge Sporkin held that the actions of the Third Reich were so far beyond the bounds of the law that Germany had forfeited its right to claim the protection of the law:

[T]he Foreign Sovereign Immunity Act has no role to play where the claims alleged involve undisputed acts of barbarism committed by a one-time outlaw nation which demonstrated callous disrespect for the humanity of an American citizen, simply because he was Jewish. The Court cannot permit such a nation, which at the time these barbaric acts were committed neither recognized nor respected U.S. or international law, to now block the legitimate claims of a U.S. citizen by asserting U.S. law to evade its responsibilities.

A government which stands in the shoes of a rogue nation the likes of Nazi Germany is estopped from asserting U.S. law in this fashion. To allow otherwise would create a severe imbalance in the reciprocity and mutual respect which must exist between nations, and would work an intolerable injustice against the plaintiff and the principles for which this country stands.<sup>8</sup>

Mr. Princz's legal victory was short-lived. Germany immediately appealed the district court's ruling to the U.S. Court of Appeals

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<sup>6</sup> See Richard Lacayo, *The Judge Who Makes Everything His Business*, TIME, Feb. 27, 1994, at 32.

<sup>7</sup> *Princz v. Fed. Republic of Germany*, 813 F. Supp. 22 (D.D.C. 1992), rev'd, 26 F.3d 1166 (D.C. Cir. 1993).

<sup>8</sup> *Princz*, 813 F. Supp. at 22-26.

for the D.C. Circuit, which reversed, in a 2 to 1 decision.<sup>9</sup> But there was an impassioned dissent by Judge Patricia Wald, who concluded that she could not “slam the door in the face of Hugo Princz.”<sup>10</sup> In the meantime, another lawyer had joined Mr. Princz’s team – William R. Marks, a relatively newly-minted lawyer who had worked on Capitol Hill before law school and who was convinced that the *Princz* case was not a case for the courts, but was instead a case for Congress and the court of public opinion.

Fueled by Judge Sporkin’s decision and Judge Wald’s dissent in the court of appeals, legislation was introduced to, in effect, strip Germany of its foreign sovereign immunity for purposes of allowing the *Princz* lawsuit to go forward. The House of Representatives passed the bill unanimously.<sup>11</sup> But the Senate recessed for the year before taking up the matter. Congress’ action nevertheless sent a powerful message to Germany. As Mr. Princz’s attorneys put it, that message was: “[E]ither settle or become a defendant in the first full-fledged Holocaust trial to be conducted in an American courtroom – with Mr. Princz a potential witness.”<sup>12</sup>

Mr. Princz’s attorneys redoubled their efforts on all fronts. The legislative, diplomatic and media campaigns were intensified. And Mr. Princz’s legal team ensured that the German government was kept apprised of all developments, so that it understood the

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<sup>9</sup> *Princz v. Fed. Republic of Germany*, 26 F.3d 1166 (D.C. Cir. 1993). See generally Eva M. Rodriguez, *Survivor Can’t Sue Germany*, LEGAL TIMES, July 11, 1994, at 6.

<sup>10</sup> Judge Wald, now a member of the International Criminal Tribunal for the Former Yugoslavia, reasoned that “Germany’s treatment of Princz violated *jus cogens* norms of the law of nations, and . . . by engaging in such conduct, Germany implicitly waived its immunity from suit” under U.S. law on foreign sovereign immunity. *Princz*, 26 F.3d at 1178.

<sup>11</sup> H.R. 934. “A bill to amend title 28, United States Code, relating to jurisdictional immunities of foreign states, to grant jurisdiction to the courts of the United States in certain cases involving torture, extrajudicial killings, or genocide occurring in that state” (passed by the House of Representatives on Oct. 7, 1994).

<sup>12</sup> No doubt Germany was concerned that such a trial would garner media coverage to rival that of the O.J. Simpson case, which had begun in September 1994 and was ongoing at the time.

escalating consequences of its continued intransigence. Chancellor Helmut Kohl's February 1995 visit to the United States was the turning point. President Clinton raised the matter in a private meeting with the Chancellor and, at a news conference later the same day, a reporter for a German paper raised the *Princz* case. Chancellor Kohl responded that Germany sought "a pragmatic solution" – the first sign that a settlement might be achievable.

Informal discussions between Germany and the State Department began in March and accelerated throughout the summer. The final agreement was inked on September 19, 1995.<sup>13</sup>

The agreement executed by the U.S. and Germany had two parts. First, the agreement settled the cases of Mr. Princz and a number of other similarly situated U.S. survivors of the Holocaust whose cases were known at that time. Pursuant to the agreement, the German government paid three million Deutsche Marks (then approximately \$2.1 million) to the United States for those cases. The State Department then apportioned the funds among Mr. Princz and the handful of other eligible claimants identified to date, based on factors such as the length of their internment and any related damage to body or health.

Under the second part of the September 1995 Agreement, Germany agreed in principle to pay compensation on the same terms for any comparable cases identified by the United States within two years. Under the Agreement, compensation was available to Holocaust survivors who met three criteria: (1) they were U.S. citizens at the time of their Nazi persecution; (2) they were interned in a recognized concentration camp;<sup>14</sup> and (3) they had received no prior compensation from the German government. Compensation was not limited to Jews.

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<sup>13</sup> See generally Toni Locy, *Holocaust Reparations for an American: Germany Agrees to Pay U.S. Survivor of Death Camps*, WASH. POST, Sept. 20, 1995, at A01; Kimberly J. McLarin, *Holocaust Survivor Will Share \$2.1 Million in Reparations*, N.Y. TIMES, Sept. 20, 1995, at B5.

<sup>14</sup> There were only two very limited exceptions to this general rule. Under those exceptions, compensation was available both to civilians who were subjected to forced labor while on a forced march, and to those who were interned in certain facilities in Transnistria.

After the agreement was executed, the U.S. Department of State sought legislation authorizing the FCSC to adjudicate the claims under the second part of the Agreement. As soon as the legislation passed,<sup>15</sup> the Commission immediately began an outreach campaign unprecedented in scope.

Significantly, the agreement — by its terms — extinguished all claims within the scope of the agreement, whether or not they were asserted and even if the potential claimant had no knowledge of the Agreement and the opportunity for compensation. Public outreach was therefore critical.

The Commission enlisted Attorney General Janet Reno in its outreach efforts. She first announced the Holocaust Survivors Claims Program in her June 13, 1996 remarks at the Simon Wiesenthal Center in Los Angeles. The national wire services picked up the story, which was published in a number of major papers across the country. ABC World News Tonight and Court TV broadcast stories. In addition, in the months that followed, the FCSC worked closely with major Jewish and Holocaust survivor organizations, with Jewish social services agencies, with the Jewish Telegraphic Agency, and with the Catholic media to publicize the Holocaust Survivors Claims Program in an effort to notify potential claimants of the opportunity for reparations.

By the end of 1996, approximately 250 claims had been filed. But the FCSC was still finding people who should have known about the Holocaust Claims Program, but didn't. So a second major publicity blitz was launched. In late January 1997, the Attorney General and the FCSC held a news conference, announcing that only one month remained to file claims.<sup>16</sup> The deadline, somewhat artificial,<sup>17</sup> was fixed to coincide with NBC's late February

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<sup>15</sup> Holocaust Survivors Claims Act, § 119 (incorporated by reference in § 211 of Pub. L. No. 104-99, 109 Stat. 26, 37-38 (1996)), reprinted in FCSC 1995 Yearbook, at 13.

<sup>16</sup> See generally Peter Eisler, "Validation" for Americans Who Survived Holocaust: Will Have Chance to Seek Reparations from Germany, USA TODAY, Jan. 23, 1997, at 8A; Neil A. Lewis, Time Running Out on Compensation Deal for Americans Held in Nazi Camps, N.Y. TIMES, Jan. 24, 1997, at A12; Nazi Camp Survivors Face Claims Deadline, WASH. POST, Jan. 24, 1997, at A30.

<sup>17</sup> Holding a major news conference to announce a deadline for the filing of



broadcast of Steven Spielberg's Academy Award-winning movie, *Schindler's List*. That "tie in" ensured additional media coverage of the Holocaust Claims Program as the filing deadline – and the broadcast of *Schindler's List* – drew near.

The FCSC's public outreach campaign was a great success by any measure. Commission staffers fielded thousands of phone calls. Ultimately, approximately 1,500 cases were filed. Most of those eventually were found not compensable under the Agreement. But, at the time the Agreement was executed in September 1995, the State Department predicted that there would be, at most, twenty more eligible claimants. The FCSC's aggressive outreach located many times that number of eligible survivors – individuals who would not have been compensated but for the FCSC's unprecedented media campaign.

The Holocaust Survivors Claims Program was unprecedented in other ways as well. In a typical claims program, a potential claimant sends a letter of inquiry to the FCSC, and a claim form is dispatched by return mail. The claimant completes the claim form and sends it back to the Commission together with supporting documentation on all the elements of a claim. When the completed claim form is received by the FCSC, it is reviewed by a member of the Commission's legal staff to determine what additional information or documentation may be needed. The Commission staffer then works with the claimant, by mail or telephone, to "develop" the case until it is fully ripe for presentation to the tribunal.

It is always the case that FCSC staffers seem as much social workers as attorneys. But it has never been truer than in the Holocaust Claims Program. Many of the claimants were not represented by counsel; many simply could not afford attorneys. The average Holocaust survivor was nearly eighty years old at the

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claims constituted a news event, ensuring media coverage and thus spreading the word about the claims program to potential claimants and others. Moreover, while the FCSC actually continued to accept claims up to the end of the two-year period specified in the September 1995 Agreement, it would not have been possible for the FCSC staff to handle an avalanche of claims filed at the last minute. Fixing a deadline helped flush out claims, to ensure that the FCSC staff had time to review and document them.

time. Many did not speak English as their first language. Whatever documentation they may have once had was generally long gone. Psychological studies of Holocaust survivors establish that reparations programs generally traumatize claimants.<sup>18</sup> The FCSC was determined that its claims process would not be perceived as a “second victimization.”<sup>19</sup> The Commission therefore went to great lengths – unprecedented lengths – to assist claimants in making their cases, taking a proactive role in obtaining the evidence necessary to prove claims.

For example, while proving U.S. citizenship at the time of internment might seem like a relatively straightforward matter at first blush, the citizenship status of many claimants was far from clear. Many had been born abroad to U.S. parents and had never lived in the U.S. Their parents had perished in the Holocaust and, when the claimants arrived in the U.S. after the War, it was easier for U.S. authorities to naturalize them than to try to ascertain whether they were U.S. citizens by birth. Their birthright to U.S. citizenship had never mattered before; but now, their right to reparations depended on it.

Ordinarily, working through regular U.S. Government channels, it might have taken years for those claimants to navigate the bureaucracy and prove that they were U.S. citizens at the time of their internment. But, with the clock ticking down on the two-year period prescribed in the September 1995 Agreement, they didn’t have years. They didn’t even have months.

Under the U.S. legal system, the burden of proof is on the movant to prove his or her case. Yet, the FCSC decided to shoulder some of that burden, serving as a liaison between claimants on the one hand and the Immigration and Naturalization Service (“INS”)

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<sup>18</sup> See generally Yael Danieli, *Preliminary Reflections from a Psychological Perspective*, in PROCEEDINGS OF 1992 SEMINAR ON THE RIGHT TO RESTITUTION, COMPENSATION AND REHABILITATION FOR VICTIMS OF GROSS VIOLATIONS OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS (Netherlands Inst. of Human Rights, SIM Special No. 2).

<sup>19</sup> See generally Delissa Ridgway, *The Genocide Convention After Fifty Years: Contemporary Strategies for Combating a Crime Against Humanity*, in PROCEEDINGS OF THE 92ND ANNUAL MEETING OF THE AMERICAN SOCIETY OF INTERNATIONAL LAW 13-19 (1998).

and the State Department's Office of Overseas Citizens Services on the other. With the FCSC handling all the paperwork for the claimants, both the INS and the Office of Overseas Citizens Services greatly expedited their review of the Holocaust claimants' cases. As a result, many claimants who otherwise would have had their claims denied because they could not prove their U.S. citizenship instead were found to be eligible for reparations.

Similarly, many claimants had no documentary evidence of their internment. Under normal legal practice and procedure, their claims would have been denied for failure to meet their burden of proof. But, again, the FCSC shouldered some of that burden.

The Nazis were meticulous record keepers and, at the end of the War, there was a herculean effort by the Allied Forces and the Red Cross to save the records at the liberated camps. Millions of those records are now consolidated in Arolsen, Germany, at the archives of the International Red Cross' International Tracing Service ("ITS"). As with the INS, the FCSC established a liaison relationship with ITS, submitting the names and other information of claimants. The ITS, in turn, reviewed its archives and supplied the Commission with any relevant documentation available to help establish where and when claimants were interned.<sup>20</sup>

After a claim was fully developed, the Commission staff presented it to the tribunal for adjudication. The Commission then issued a written decision making determination on all elements of the claim: U.S. citizenship at the time of internment; internment in a camp covered by the agreement; the dates of internment; the absence of prior compensation from Germany; and the nature and extent of any related injuries or disabilities.

Those decisions were yet another way in which the Holocaust Survivors Claims Program was unique. It is standard practice in the field of international claims to write fairly brief summary decisions,

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<sup>20</sup> Invaluable assistance with research into the nature and organization of the Nazi camp system was provided by the devoted historians at the U.S. Holocaust Research Institute of the U.S. Holocaust Memorial Museum in Washington, D.C., and by Eli Rosenbaum and his dedicated staff in the Office of Special Investigations ("OSI") in the Criminal Division of the Department of Justice. In addition, the extraordinarily knowledgeable staff of the National Archives located the documentation necessary to prove a number of claimants' cases.

basically making bare bones findings sufficient to explain and justify the outcome of a case. But, early in the Holocaust Claims Program, the Commission decided to deviate from that practice, notwithstanding the pressure of time and its skeletal staffing. The Commission issued detailed individual decisions in each of the hundreds of Holocaust cases before it, reframing and setting forth the specific facts of each case, so that in all cases – but particularly in those where the Commission was forced to deny the claims – the claimants would know that they had been heard and would have a piece of paper from the U.S. Government validating and documenting their wartime experiences. It was a monumental undertaking, but one that had an immeasurable impact upon claimants.

Where a claimant was found eligible for compensation under the terms of the September 1995 Agreement, the tribunal's decision specified the amount of compensation to which the claimant was entitled based on the principles applied to the claims of Mr. Princz and the other individuals who were compensated in 1995. Based on the Commission's decisions, the State Department worked with Germany to determine the specific amount of Germany's final payment. The two governments reached agreement on the final payment in December 1998,<sup>21</sup> and the funds were transferred to the United States in June 1999.<sup>22</sup> The U.S. Department of the Treasury then paid out the funds to individual claimants in accordance with the Commission's decisions.

From start to finish, throughout the Holocaust Claims Program, the Commission was keenly aware that the vast majority of claimants were well advanced in years and in frail health. Truly, it was a race against time.

The Holocaust is in the headlines every day now. Countries and institutions around the globe are coming to grips with their roles in

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<sup>21</sup> FCSC 1998 Annual Report, at 7. See generally Peter Eisler, *Concentration Camp Survivors Await Restitution*, USA TODAY, Jan. 15, 1999, at 7A; Peter Eisler, *Germany to Pay U.S. Holocaust Survivors*, USA TODAY, Jan. 15, 1999, at 1A.

<sup>22</sup> See generally Peter Eisler, *Cash Carries Weight of Closure*, USA TODAY, June 21, 1999, at 3A; Peter Eisler, *U.S. Citizens Imprisoned by Nazis Will Be Paid*, USA TODAY, June 21, 1999, at 1A.

this darkest chapter in the history of the modern world. In the United States, most people were surprised to learn that there were U.S. citizens, both Jews and non-Jews, caught up in the Holocaust. And even historians and students of the Holocaust were generally stunned at the numbers of Americans the Commission found. Indeed, most military historians were not aware that some POWs were held in concentration camps like Dachau, Bergen-Belsen and Mauthausen, rather than POW camps. In fact, more than 150 U.S. fliers were interned at the infamous Buchenwald; and 350-plus soldiers were held at the Buchenwald subcamp, Berga.<sup>23</sup>

The FCSC's task was particularly difficult because it was forced to deny the claims of so many deserving claimants. Under the terms of the September 1995 Agreement, Germany essentially agreed to compensate only those who were interned in facilities officially designated as concentration camps. But, as the Commission learned, there were many different kinds of Nazi camps – forced labor camps, police detention camps, labor reformatory camps, ghettos, security camps, POW camps, and civilian internment camps, to name but a few. And the conditions at many of those non-concentration camp facilities were horrific.

For example, tens of thousands of U.S. POWs were interned in Nazi POW camps, known as “stalags.” Those POWs lived in states of severe deprivation: on starvation rations; with inadequate clothing (no winter clothing and, in many cases, no shoes); in horribly overcrowded, unheated, vermin-infested quarters; with very primitive sanitation; and little or no medical care. Many were subjected to forced labor for twelve or more hours a day. As a result, many of the men – often only eighteen or nineteen years old, and in prime physical condition when they enlisted – lost forty or fifty pounds while they were interned. Some lost as much as half their body weight, and weighed only eighty or ninety pounds at liberation. Moreover, while the brutality at some camps was random and infrequent, beatings, bayonettings, dog attacks and torture were routine at others.

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<sup>23</sup> The moving stories of these and other Americans held in Nazi camps are recounted in BARD, *supra* note \*.

Conditions at some other types of non-concentration camp institutions were just as bad and often worse. In short, there was no “bright line” between the conditions at concentration camps and the conditions at many other Nazi facilities. But, because the treaty basically covered only concentration camp cases, claims for persecution at other types of Nazi camps were not compensable. In that sense, the Holocaust Survivors Claims Program presented an unfortunate situation in which application of the law did not render justice in all cases.

On the other hand, as a result of the September 1995 Agreement and the Holocaust Claims Program, scores of Holocaust survivors who never thought that they would see justice finally received some compensation for their persecution.

One memory in particular stands out. It was early one afternoon in the summer of 1997 – noteworthy because it was the day after the Commission issued its first group of awards (favorable decisions, granting compensation to claimants determined to be eligible for reparations). One of the FCSC attorneys received a phone call. But when she first picked up the phone and answered, giving her name, she heard no response. Assuming that it was a wrong number or a crank call, she almost hung up. But then she heard someone on the other end of the line choke back a sob. She repeated her name, and the caller struggled to compose himself. “You don’t know me,” he said, “but I am Joe X, the son of Max X.” He continued, overwrought with emotion, “My father wanted to call you himself, but he couldn’t.” Even as the son spoke the words, the FCSC staffer heard the father’s sobs in the background. “My father called me at work this morning, and asked me to come home at lunch to read the papers you sent him – to see if they said what he thought they said.” By now, the FCSC attorney too was overcome with emotion. “My father will never live to see the money,” the son said. “He has cancer, and has only a few months to live. But he has waited a lifetime for justice. And today you gave him justice.”

The goal of the Holocaust Survivors Claims Program was to bring some measure of closure to U.S. survivors of the Holocaust, and, where possible, to provide compensation, to help them live out the remainder of their lives in comfort and dignity. In scores of cases, the program was at least a partial success. For others, it was

too little, too late. And, for far too many, it brought no justice at all.

The Commission's mixed emotions are evident in its Final Decision on the Scope of the Holocaust Survivors Claims Program:

The Commission has before it a difficult task. Under this [decision] . . . only a fraction of the claimants will be eligible for compensation, although all were subjected in varying degrees to the brutality of the murderous Nazi regime. We therefore cannot render this decision without acknowledging that the experiences of the many hundreds of claimants have shocked us to the core. The determination that many of them are not covered by this claims program in no way signals that the Commission is indifferent to their suffering. Indeed, all we have learned in recent months makes us acutely aware that the experiences of these Holocaust survivors haunt them to this day. We are also certain that the vast majority of Americans have no conception of the horrors our fellow citizens experienced, and the atrocities they witnessed, at the hands of the Nazi regime.

Of the American civilians who found themselves in war-torn Europe, some attempted (unsuccessfully) to flee the Nazi juggernaut, while others were snatched from their families and forced into slave labor to fuel the Nazi war machine. A number were herded into overcrowded, disease-ridden ghettos. Some were forced into hiding, and lived with the constant fear of discovery and the anguish of doubt as to the well-being of their families. Even those in civilian internment camps were treated callously and cruelly, and deprived of their liberty for months (and, in some cases, years). U.S. Citizens, Jews and non-Jews alike – some mere children or teenagers at the time, who were forever stripped of their innocence – were exiled from their homes, systematically starved, deprived of educational opportunity and the love of their families, and denied medical care. Some were subjected to beatings, torture or other physical abuse. Many did not survive. Of those who did, most are plagued even now by the health effects of the

severe malnutrition and other deprivations they suffered more than 50 years ago. Most lost relatives or friends who perished in the Holocaust. All bear the emotional scars of their experiences. None will ever be the same.

To the many ex-POWs who came forward . . . with their gripping sagas of courage, perseverance, and patriotism in the face of Nazi brutality, we owe an extraordinary debt of gratitude. They paid for our liberty with their youth. Many of these . . . POWs – who were entitled to the protections of the Geneva Convention – were instead treated like the prisoners at the harshest concentration camps. And, as bad as the [POW] camps were, many of the POWs count as their worst experiences the days on end spent in transport, packed like sardines in locked, overcrowded boxcars (with little or no food, no water, and no sanitary facilities), or on forced marches for weeks, covering hundreds of miles, in one of Europe's coldest winters ever. In a number of cases, American POWs who were Jewish were segregated from, and treated more harshly than, their non-Jewish comrades. Each and every one of these men helped to save Europe from fascism and to preserve the freedoms that we hold so dear.

We have been moved by those claimants who count themselves “lucky,” because they returned when family members, friends, and brother-in-arms did not. We have been moved by those who have come forward to speak for those who cannot, and by those who have valiantly pursued claims to honor the memories of loved ones no longer living. And we have been moved by those who have spoken of the “ripple effect” surrounding those who lived through the Holocaust – civilians and ex-POWs alike – whose emotional scars have strained relationships with families and friends.

Some claimants, both civilians and ex-soldiers, have told us that recounting their experiences here has been cathartic. (For example, military authorities admonished some



returning POWs not to discuss their experiences with others; many of those men kept their secrets for decades, until now. Others who did speak up were not believed – except by other POWs, who knew the truth of what they said. And some civilians had family members who told them never to discuss their experiences again – to “forget about it.”) For most claimants, however, reliving the nightmare of their war-time experiences has been a painful exercise. We hope that all claimants – the innocent civilians who were swept up in the Holocaust, as well as the brave soldiers who delivered the world from it – will find some solace in the fact that their stories have been heard, and are now part of the annals of history: hundreds of stories, each one unique, but all . . . compelling tributes to the indomitable human spirit. No longer can this chapter of World War II history be ignored. No longer can it be said that Americans are the “forgotten victims” of the Holocaust.

. . . Those who read between the lines [of the decision that follows] will recognize that the Commission has struggled (with mixed success) to reconcile the horrific facts of the cases before it with its limited authority under the applicable legislation and the underlying U.S.-German agreement. While we have been honored to play a part in bringing a measure of justice to certain U.S. survivors of the Holocaust, we deeply regret that – more than a half century after the fact – justice continues to elude others who are also deserving.<sup>24</sup>

It is a great honor to have served in the Clinton Administration — with the President, the Attorney General, and Deputy Treasury Secretary Stuart Eizenstat, among others — all of whom were deeply committed to the cause of justice for survivors of the Holocaust. And it is a great honor to have had the opportunity to work with the remarkable staff of the FCSC, as they toiled every

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<sup>24</sup> Final Decision on Scope of Holocaust Survivors Claims Program (Aug. 14, 1997), *reprinted in* FCSC 1997 Yearbook, at 25.

day to deliver justice to Holocaust survivors, and to make history. But the true hero in this story is Hugo Princz – the man without whose courage and perseverance there would have been no Holocaust Survivors Claims Program.

In the end, the story of Hugo Princz and the Holocaust Claims Program is a tribute to how one person really *can* make a difference: Hugo Princz himself; his attorneys – Steve Perles and, later, Bill Marks; Judge Stanley Sporkin; Judge Patricia Wald; President Clinton; Attorney General Janet Reno; and Deputy Secretary Stu Eizenstat, who valiantly continued to press the cause of justice for Holocaust survivors — not only in this country, but around the world — on matters ranging from bank accounts, real property and insurance, to art and slave and forced labor.<sup>25</sup> Each of those individuals, in turn, picked up the ball and carried it a little further toward the goal line.

Famed anthropologist Margaret Mead got it exactly right: “Never doubt the power of one individual to change the world. It is the only way it ever happens.”<sup>26</sup>

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<sup>25</sup> See, e.g., Stuart E. Eizenstat, *Justice for the Survivors*, WASH. POST, Jan. 16, 2001, at A21 (pleading with the incoming Bush Administration to continue the unfinished, urgent business of delivering justice to Holocaust survivors worldwide).

<sup>26</sup> CASSELL COMPANION TO QUOTATIONS 388 (Nigel Rees ed. 1997).

