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Restitution Issues and the Activism of American Jews

An Interview with Stuart Eizenstat

Stuart Eizenstat has influenced American government policy over the years in various areas. He served in several high-level positions under Presidents Jimmy Carter and Bill Clinton, the last of which was deputy secretary of the treasury. Jewish communities abroad will remember his major contributions as special representative of the president and secretary of state for Holocaust-era issues.

Eizenstat's involvement in the battle for justice with the Swiss banks concerning their dormant accounts is the most publicized issue among those relevant to world Jewry. He also helped to successfully negotiate important agreements with the German, French and Austrian governments on slave labor, insurance, property, and Nazi-looted art. His book on these subjects, *Imperfect Justice: Looted Assets, Slave Labor and the Unfinished Business of World War II*, was published by Public Affairs in 2002.

To understand the background of the American government's major intervention on behalf of world Jewry's restitution interests, Eizenstat analyzes how the Jewish community's political status in the American public square has developed: "The Jewish community, considering its small size - only two to three percent of the population depending on who one defines as a Jew - has a remarkable impact on issues relevant to it in the American political system. Various interest groups influence the latter by accessing the Congress, the executive branch, and state and local governments on subjects important to their constituency. Out of the clash of competing interest groups, policy is made."

Roosevelt, the Holocaust, Soviet Jewry

Eizenstat reflects on how this influence has developed and how it began: "During the Second World War there were still many anti-Semitic stereotypes in the United States. The Jewish community therefore felt more threatened. Despite this, it tried to influence President Roosevelt's policy in order to get him more involved in protecting Jews in Europe. Leaders such as Stephen Wise and Rabbi Abba Hillel Silver were addressing rallies in Madison Square Garden with little political impact.

"At that time the Jewish community was not yet organized enough to influence the political system, nor did it have much inclination to do so in view of its problematic position. The Jewish community avoided direct pressure on President Roosevelt and did not effectively lobby the American political system. With the exception of Treasury Secretary Henry Morgenthau, who persuaded Roosevelt to create a War Refugee Board in 1944, Jews in senior positions in the administration and in Congress did nothing to encourage the president to make public statements or take actions to protect Jewish civilians the administration knew were being slaughtered.

"After the war, shocked by the Holocaust, Si Kenen founded the American Israel Public Affairs Committee (AIPAC) in 1950. The year 1967 might be seen as the year the Jewish community politically came of age. The Six-Day War dramatically increased

American Jews' identification with Israel, giving them a cause around which to rally.

“Until then, many Reform Jewish circles had been cool, if not hostile, to Zionism. Thereafter, they became supportive. For several decades, the entire organized Jewish community has been Zionist. The movement on behalf of Soviet Jewry in the 1980s - with its massive grassroots support - served as another catalyst for Jewish unity. Hundreds of thousands of people demonstrated in Washington, pressuring the administration to encourage the Soviet Union to loosen emigration restrictions. For the Jewish community, this was unprecedented.

“Similar pressure was applied when I was in the White House as chief domestic policy advisor to President Jimmy Carter from 1977-1981. In 1977 - the administration's first year - sophisticated aircraft was sold to Saudi Arabia. This led to a radical change in the Jewish community's behavior, which did not limit itself to trying to quietly influence policy, but lobbied actively and openly against the sale, taking on an American president in an unprecedented way.”

An Increasingly Forceful Community

“Since then, the community has gotten increasingly forceful and open. It has used the various levers of power in the U.S. effectively. Realizing the importance of fundraising in the American political system, Jews have become major donors to presidential and congressional candidates, particularly those who depend on the Jewish vote.”

“The pro-Palestinian and anti-Israel bias of the American Muslim community isn't a factor. The percentage of American Muslims who have a radical agenda and are promoting hate, comprises only a small minority of their community. Muslims overall are not a significant political force either in fundraising or organization. Their capacity to influence politics is severely compromised as the U.S. is confronting so many difficulties in the Arab world. Also votes on other issues, like profiling and economic issues indicate this. Their influence may be diminished with the unfortunate anti-

Moslem backlash following 9/11. At present there is not much resonance in the general public with Muslim demands.

“As far as Jewish organizations go, AIPAC has had a major impact on American foreign policy. It played an important role in America's increased financial aid to Israel as well as in raising antipathy in the administration and Congress toward Yasser Arafat and the PLO. The willingness to make nine billion dollars in loan guarantees available for Israel, despite the large budget deficit in the U.S., is also a major achievement. Howard Kohr, AIPAC's executive director, deserves much credit for that.

“Similarly, the Presidents Conference and its executive vice-chairman, Malcolm Hoenlein, have had important achievements; it isn't easy to coordinate the positions of more than 50 organizations on Israel and other Jewish causes.”

Restitution: Probability Zero

“It is only against this background that one can, at least to some extent, understand how U.S. government involvement in the new restitution round of the 1990s evolved. The probability of this happening after 50 years was close to zero. Many factors came together to make the additional restitution payments possible.

“A major one was that the president of the World Jewish Congress (WJC), Edgar Bronfman, was close to President Clinton and an important member of the New York constituency of Republican senator Alfonse D'Amato, the chair of the senate banking committee. Clinton's interest in the matter developed far beyond the fact that Jews are a key constituency for a Democratic president.” Yet Eizenstat doesn't think the successes would have been possible under any other administration. Clinton had strong personal feelings on the restitution issue and although D'Amato was his bitter adversary in the Whitewater affair, he was willing to work with him.

“Clinton formalized his support for the WJC's positions in a letter he sent to Bronfman on May 2, 1996. In it he said that he viewed the return of Jewish assets both as a question of justice and a moral matter. He also expressed his ongoing support for the fight

to return the Jewish assets in Swiss banks.

“This political support was enhanced by the energies of the Holocaust survivor community, which had become a political force. Bronfman and his top aid, Israel Singer, were also leaders of the Claims Conference, through which Germany funneled its Holocaust payments. Survivors like Ben Meed and Roman Kent, founded the American Gathering of Holocaust Survivors in the early 1980s. The survivors were coming to the end of their lives and wanted to tell their stories, to come to terms with the past, and finally, to obtain justice.

“This played in the broader political framework of the end of the Cold War when more people started reflecting on the unfinished business of World War II. There were many opportunities for doing that, among them the 50th anniversary celebrations of D-Day, the Battle of the Bulge, and the end of World War II. These led to retrospectives by journalists. Peter Gumbel, for example, wrote an article in the *Wall Street Journal* about ownerless bank accounts. To an outside observer it may seem that all these things came together under a unique constellation of stars to make the restitution possible.”

Property Restitution in Eastern Europe

“My involvement in the restitution process started in 1995 when I was the American ambassador to the European Union, in Brussels. At that time, Edgar Bronfman, Israel Singer, the WJC and the World Jewish Restitution Organization (WJRO) had already been trying to obtain Eastern European property restitution for a number of years.

“In January 1995 I was asked to be the government's special envoy for property restitution in Eastern Europe. The WJC was pressuring the administration to support it in the restoration of confiscated Jewish property there. This led to my appointment. Bronfman and Singer deserve a lot of credit as they brought the restitution issue into the world's focus. They had the critically important wisdom and knowledge to use the media and political system.”

Eizenstat reflects on Jewish political clout, which influenced the administration in a major way. "A Jewish non-governmental organization used its levers of power to influence government policy. The WJC and the WJRO knew that only American intervention in the former communist countries could lead to achievements. Bronfman had already obtained Israeli Prime Minister Yitzhak Rabin's support.

"Later Israeli governments did not give us much help, despite my efforts to involve Prime Ministers Benjamin Netanyahu and Ehud Barak. I can only speculate that they did not want to rock the boat on Israel's bi-lateral relationship with the new post-communist countries. Perhaps in their hearts they also wanted their Jewish communities to come to Israel rather than spend their lives in Eastern Europe.

"Initially we focused on communal assets such as synagogues and other buildings. In Poland, a process has begun which will eventually lead to the return of thousands of pieces of communal property. This process has been slowed by a lengthy dispute we helped mediate - between the small Polish Jewish community and the WJRO - which questioned the local community's capacity to manage the restituted property. The international and local Jewish community will share control. The Czech Republic, Hungary and Slovakia created funds for survivors.

"It has been a tough struggle in each of these countries, but progress has been made. Major problems with restitution of property remain, as far as private properties are concerned. Indeed, here there is no progress. Today, more than a decade after the fall of Communism, Poland, for example, does not even have private property claim legislation out of fear it will be taken back by heirs of Polish Jews and Polish-Americans."

Swiss Antagonism

"The Eastern European negotiations were only the prelude for what followed in Western Europe. There were major conflicts - both with government and private actors - in confrontations with Swiss, German, French and Austrian counterparts."

Eizenstat also coordinated the 1997 U.S. State Department's report on Nazi gold and a 1998 report on the role of neutral nations during the war. In 1996 President Clinton had ordered him to oversee reports examining the behavior of the neutral countries during World War Two. Besides Switzerland they dealt with Argentina, Portugal, Spain, Sweden and Turkey. Says Eizenstat: "In the course of this research, 11 U.S. government agencies cooperated wholeheartedly and we declassified one million pages of documents. It was only thanks to President Clinton's backing that this could be accomplished.

"A very troubling finding in this research was that only Switzerland, among the neutrals, continued trade in what it knew to be looted Nazi gold with the Germans almost to the war's bitter end." Eizenstat argues that Swiss conduct after the war was even worse when it fought with great determination to hold on to its gains from having helped the Nazi government. He tells how he asked one of the negotiators in the post-war period - Seymour Rubin - why the U.S. settled with the Swiss on such favorable terms for the latter. Rubin replied that they simply wore the Americans down, after six years of negotiations.

When asked whether he thinks the restitution issue created antagonism in Europe against Israel or the Jewish community, Eizenstat answers, "I think Switzerland is the exception, where this is the case. The anti-Semitism elsewhere in Europe is different. In France the violence is mainly caused by pro-Palestinian and anti-Israeli Muslim youth dissatisfied with society. In many European countries you have significant anti-Israel feelings tinged by the anti-Semitism of some elites."

Pioneering Efforts Benefit Others

Eizenstat points out that, as has so often been the case, Jews have been the pioneers in a battle from which others also benefited. Most beneficiaries of slave and forced labor payments were non-Jews from Eastern Europe, who had gotten little or no previous payments from the German government.

He adds: "The restitution process has provided a platform for

many other subjects. There have been discussions on the consequences of post-conflict resolution in places like Iraq and how to deal in general with reparations and victimization. It has spawned many lawsuits like American war prisoners against the Japanese, anti-apartheid victims against U.S. companies operating in South Africa, as well as suits against the Saudi royal family for their alleged alliance with terrorism. The historical role of this process has gone far beyond the Jewish community.

“The restitution process has also had an impact on the American Jewish community. It has made people feel good that some justice was done, even if it was 50 years after the event. I attract large audiences wherever I lecture on my book *Imperfect Justice*.

“The book provides substantial details on how the Holocaust justice issue came back on the world scene, the inside story of the major negotiations, conflicts between American and Jewish interests and our foreign allies, as well as internal strife on the Jewish side. The second half of the book deals with various other issues, including the looting of art - an unfinished matter which will remain with us for many years to come.

“This book adds many important elements to a story of which only the rough contours are publicly known. Other significant actors could add many additional perspectives by publishing their views. A more detailed analysis of the restitution process would also contribute to a better understanding of how Jews are seen in European society today.”

Impacting Many Fields

Eizenstat mentions that he finds great interest in the restitution story not only from Jewish audiences, but also from strong student audiences at Columbia Law School, Harvard, Yale and Stanford. The book impacts many fields. “Mediation societies invite me to lecture from the point of view that the restitution process was a major mediation process. Business schools also are interested, as other suits - such as those concerning apartheid claims - target American businesses.

“The process also draws interest as far as post-conflict resolution

is concerned. There is, furthermore, a foreign policy audience for the subject. One should not exaggerate, however, as the discussion on the restitution process is not shaking the foundations of Western civilization.

“There are still outstanding issues. We are trying to create a charitable foundation. For this we want American parent companies whose subsidiaries were involved with employing slave labor, to contribute on a discretionary, voluntary basis. We got a two million dollar donation from Ford already.

“Yet another impact concerns the 21 national historical commissions which were created to investigate their nations' roles in the Second World War as well as restitution issues. We obtained public apologies from the presidents of Germany and Austria. There is a 16-country Holocaust Education Task Force, which promotes Holocaust education programs in schools. One still sees articles about new issues, such as formerly unknown massacres during the War or an art piece being returned to a family. The multiplier effect of the restitution process has thus been major.”

African American Slave Labor

Eizenstat points to another possibly major area where the Jews have carried the burden for others: “Lawyers have brought class action suits against 15 companies on behalf of the country's 35 million African Americans. These businesses are alleged to have benefited in the 17th, 18th and 19th centuries from the slave trade and the use of unpaid slave labor. The approach of the claimants is inspired by our work on Holocaust reparations. The lawyers involved are often the same ones.”

The cases are not strictly analogous, however. In an article in the *Los Angeles Times* (March 31, 2003) Eizenstat wrote: “Because slavery took place so long ago, the nexus of injury is too distant to hold later generations responsible for individual reparations. It is both impractical to try to match descendants with millions of deceased slave laborers, and it greatly complicates the ability to sustain public support. But though there may be a legal statute of

limitations on individual reparations, there is nonetheless a permanent responsibility for each generation to understand how those sins occurred and to recognize their continuing legacy.”

He added: “The federal government could promote curricula about American slavery and its continuing effects on black families. And there is no reason why those companies that participated in the slave trade could not establish minority scholarship funds as a moral gesture, apart from any legal obligation.”

Eizenstat says that he wants the U.S. President to make a public apology for slavery and appoint a presidential commission to investigate its history. He would like to see more emphasis on the study of slavery in U.S. schools. He believes that by recognizing its mistakes of the past, the U.S. will become stronger.

Much Work Remains

“The Office of Holocaust Issues still exists - and employs three people - even if today restitution is not attracting the major attention it did in the Clinton administration. Colin Powell abolished almost all other offices the latter created in the State Department.

“Much work remains to be done. In Eastern European countries restitution is largely incomplete. Much art still has to be restituted in many places. Additional archives have to be opened. The Vatican is one of those which still owes the world much on this in order to be able to examine the role of the Church and Pope Pius XII during the war.”

In conclusion, Eizenstat refers to his book where he wrote about the achievements of the restitution process: “None of this would have been possible without bipartisan support from the greatest nation in the world. Only the United States, of all the nations on the globe, cared enough to try to repair the damage done to so many people, even if so late in the day.”

Interview by Manfred Gerstenfeld

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Stuart E. Eizenstat was born in Atlanta, Georgia, in 1943. He graduated cum laude, Phi Beta Kappa in political science from the University of North Carolina, and has a law degree from Harvard Law School. In the Carter administration he was chief domestic policy adviser and executive director of the White House. During the Clinton administration he was, respectively, ambassador to the European Union, undersecretary of commerce for international trade, undersecretary of state for economic, business and agricultural affairs and deputy secretary of the treasury. He was simultaneously special representative of the president and secretary of state on Holocaust-era issues. At present he is in charge of the international practice of the law firm, Covington & Burling and based in its Washington Office. He is chairman of the International Board of Governors of the Weizmann Institute of Science in Israel.

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