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## Restore survivors' rights

BY DAVID SCHAECTER and ESTHER TOPOREK FINDER

For decades, Holocaust survivors and the families of Holocaust victims seeking transparent and accountable restitution of looted assets, such as insurance policies, have struggled against overwhelming odds.

In June, it was reported that Generali, Allianz, AXA and Munich Re are among the top 10 insurance companies in the world. After World War II, these companies, and others, failed to pay tens of thousands of policies bought and paid for by European Jews in good faith. Survivors were subjected to demands for original policies, or death certificates, as if Hitler was issuing those at Auschwitz.

As a result, the companies pocketed billions of dollars of Holocaust victims' money.

The Obama administration, in legal papers filed by the Justice Department, recently stated that it would be "contrary to U.S. foreign policy" for Generali to be held accountable in U.S. courts. This was a different position from the one taken by President Bill Clinton, who refused to support Generali.

The Obama Justice Department stated that a commission financed and controlled by insurers, which paid only 3 percent of the amount owed and ignored congressional disclosure mandates, should be considered to be the exclusive, legally binding, remedy. Generali and Allianz alone failed to pay an estimated \$2 billion each.

Based on the department's position, a federal appellate court held that Holocaust survivors, including many U.S. veterans and war veterans, do not have the same rights as every other American to collect on family insurance policies in American courts. Are Holocaust survivors second-class citizens in the eyes of U.S. law? This is deeply hurtful to survivors and their families.

One of the officials responsible for the administration's bias toward the insurers was Solicitor General Elena Kagan, now President Obama's nominee for the Supreme Court. Shouldn't she be required to give her reasons before being elevated to such a powerful lifetime position? If the decision was made by a lower-level appointee or bureaucrat, did senior officials such as Attorney General Eric Holder, Secretary of State Hillary Clinton, Vice President Joe Biden or President Obama approve the decision? As Americans we are entitled to know.

Most people do not realize that half the Holocaust survivors in the United States live near or below the poverty line. Rather than ask for charity and take away needed resources from other

Americans, survivors and heirs should be able to recover the proceeds of policies they are legitimately entitled to. It is unconscionable that our government is allowing these insurance giants to enjoy such unjust enrichment.

The administration's actions are as ironic as they are painful. Last week, Obama insisted on an independent authority to decide and administer payments to Gulf Coast residents hurt by the BP oil disaster. He opposes bankruptcy for BP to ensure the company will fully pay all damages because of its large profits. Yet the administration says a commission controlled by equally profitable insurers, that paid pennies on the dollar, should be binding on Holocaust survivors. While we applaud the administration's commendable efforts to obtain justice for the Gulf Coast residents, why aren't Holocaust survivors entitled to the same protections?

Far too many Holocaust survivors have died alone, and in misery, giving up hope for justice and dignity. This need not be the case for those who remain, if the president and Congress will exert proper leadership. We ask three things:

- President Obama should support the survivors' and heirs' position, not Generali's, when the issue comes before the Supreme Court this summer.
- The administration should support HR 4596, currently before the U.S. Congress, to restore survivors' and heirs' legal rights, and Congress should pass the bill before adjourning.
- The administration and Congress should require all companies that profited from the Holocaust to pay all claims and disgorge heirless proceeds into a fund managed by trustees respected by the survivor community, with a mandate to secure a dignified standard of living for all Holocaust survivors in need.

We want to believe that if informed of these facts, President Obama would use his vast influence to correct these moral inversions and help those legally deserving and those in need.

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