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Objektyp: **Article**

Zeitschrift: **Schweizer Monatshefte : Zeitschrift für Politik, Wirtschaft, Kultur**

Band (Jahr): **81 (2001)**

Heft 12-1

PDF erstellt am: **16.08.2024**

Persistenter Link: <https://doi.org/10.5169/seals-166444>

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A DIARY ENTRY AFTER READING A JEWISH ARTICLE ON HOLOCAUST REPARATIONS

In its September 2000 issue, «Commentary» magazine ran a lengthy article by senior editor Gabriel Schoenfeld¹ on the holocaust reparations campaign that broke loose in the nineties and led to substantial transfers of money from European institutions to organisations representing Jewish beneficiaries.

«*Commentary*» is a high-brow conservative journal catering to a highly educated and culturally demanding Jewish audience. It defends traditional western values such as liberty, the dignity of man, and private property which it combines with a pronounced loyalty to the Jewish tradition. In the article, *Mr. Schoenfeld* takes issue, on moral and factual grounds, with the holocaust reparations and moral reeducation campaign that is being aimed at many western countries, particularly Switzerland.

An American-Jewish response long overdue

Gabriel Schoenfeld's article «Holocaust Reparations – A Growing Scandal» constitutes the long awaited response of reason to the ill-begotten reparations campaign unleashed, in the nineties, by a vocal part of American Jewry against European institutions whose bad luck it was to be the legal successors of institutions already in existence during the troubled thirties and forties. Regrettably, this response might well be coming too late. By now, the self-appointed leaders of the Jewish cause such as Rabbi *Israel Singer*, *Edgar Bronfman*, *Avraham Burg*, *Elan Steinberg* and a handful of Jewish lawyers are, for better or worse (in Switzerland definitely for worse), widely perceived as the true and only representatives of the Jewish community. Likewise, the U.S. government and media have successfully conveyed the impression of subscribing to the same biased historiography and the same other-worldly moral standards that have been championed by the Jewish advocates of belated reparations and transnational moral re-education.

One should make no mistake. The facts of the issues had been established long before the recent reparations and restitution campaigns. To anyone interested in, and acquainted with, the postwar literature on the issues, the wave of reports brought a plethora of detail but hardly any sweeping new insights. The facts were there for the asking. Yes, the Swiss authorities did deny entry to thousands of Jewish refugees knocking at the country's doors, and yes, the Swiss government did successfully deter an unknown, presumably not negligible, number of potential refugees from even attempting an escape from their German tormentors. Yes, the Swiss government did play a possibly significant role in the concoction of the J-stamp in passports of Jewish Germans. Yes, the Swiss National Bank did purchase gold looted in central banks of Nazi-occupied countries of Europe and recycled much of it to other neutrals and ultimately also to Allies. Yes, once the war was over, Swiss banks and insurers generally left the burden of proof of entitlement to those strangers who came to their windows and claimed to be the more or less distant relatives and successors of presumably disappeared account holders. Yes, some of the deposits of presumptive Nazi victims have remained on the books of the Swiss financial institutions until the recent campaign. Yes, parts of Swiss industry were producing arms and multiple-use goods for Germany. Yes, Swiss art collectors purchased works of art, confiscated by the Nazis. Yes, Switzerland did greatly benefit from the Allied war effort and death toll in that it was the Allied forces, and not the (comparatively large and costly) Swiss Army, that eventually relieved Switzerland from the stranglehold

¹ The article can be downloaded from the website of *Commentary* magazine:
<http://www.commentarymagazine.com/0009/schoenfeld.html>.

in which it had been held by Nazi-Germany and its allies from 1940 to 1945.

To an armchair moralist and eclectic historian uneducated in the trials facing people in environments of war, conquest, and revolution, all this amounts to a pretty heavy indictment, amply justifying stern calls for restitution, reparation, punishment, and contrition, no matter how belated. But is this case really watertight on factual and moral grounds?

Questions this side of moral utopia

It would take an article several times the length of *Schoenfeld's* essay to sort out whether all this amounts to a sufficient case for reparations and restitution claims more than fifty years after the events. Such an article would have to answer at least nine questions:

1. To what extent was Switzerland's behaviour a breach of national or international legal obligations and duties? What were actual breaches of legal obligations? To what extent did Switzerland violate its legal obligations as a neutral power in light of the extant rules of international law?
2. What was the number (relative to population) of refugees (Jewish and Gentile) *not* repelled that did get shelter in Switzerland and survived the war thanks to authorisation to stay in Switzerland despite the country's defensive policies and defensive official rhetoric? How do the relevant figures compare with the practice of much larger and much less exposed countries such as the United States and Canada?
3. What contribution to the war effort of the Allies (or to the protection of the Jewish population of continental Europe for that matter) beyond self-defense could reasonably be expected of a landlocked nation of less than five million completely surrounded by a hostile and belligerent power?
4. What preventive defense effort did Switzerland make in terms of armament, man-years of active military duty, and defense spending to prepare resistance against a possible German attack?

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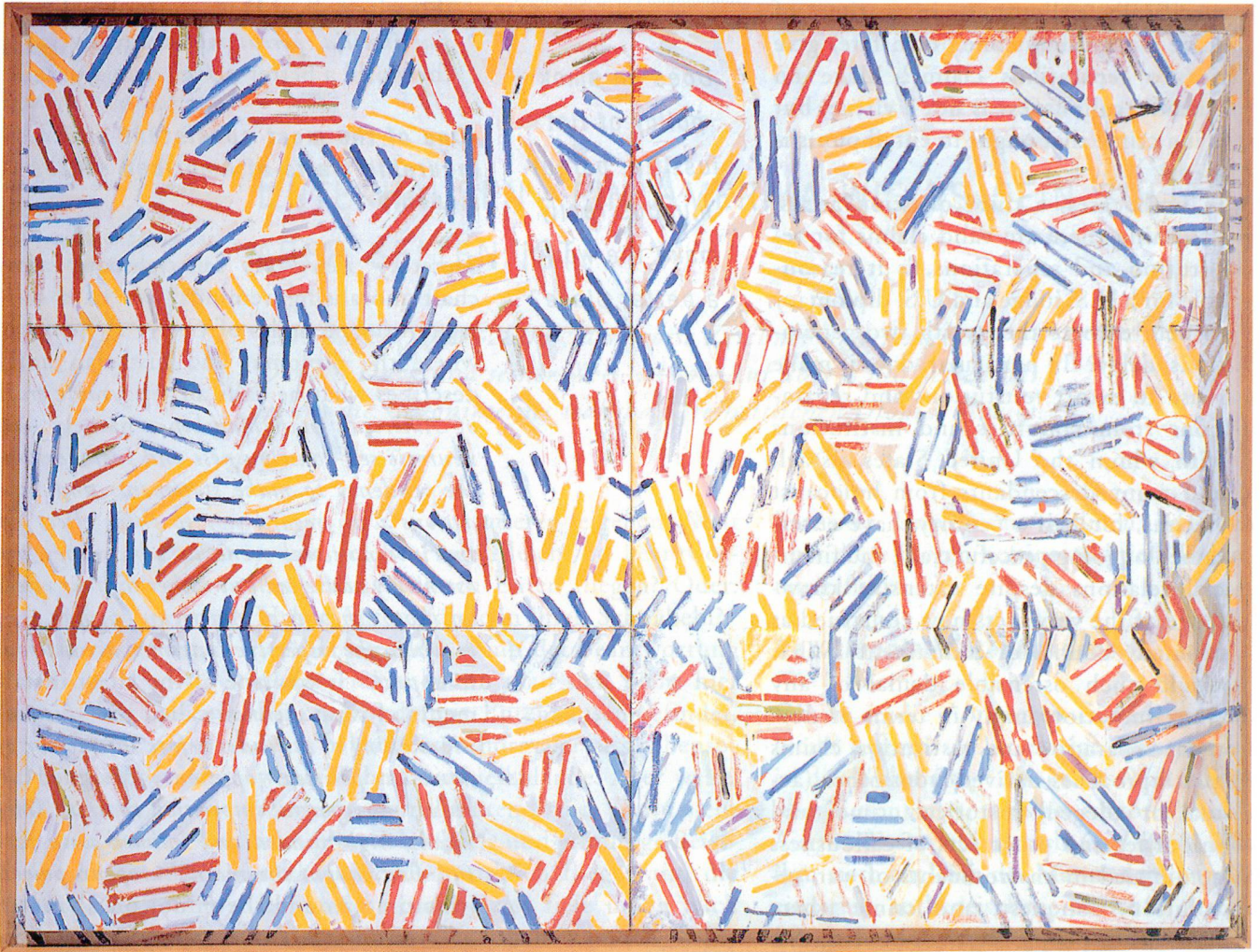
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5. What was the role of Switzerland in the Allied war effort? Did it provide valuable (though limited) services to the Allies despite its extreme exposure to German pressures and reprisals?
6. How could Switzerland possibly get hold of much needed gold to maintain convertibility of its currency after the Swiss gold stock stored in the United States had been unilaterally frozen by the U.S. authorities in 1941? Is this very freezing of Swiss gold deposits in the U.S. not evidence that even the United States regarded Switzerland as being acutely threatened by Germany?
7. How was besieged Switzerland to get from German-occupied Europe much needed commodities other than by trading with the devil, i.e. other than by supplying goods and credits requested by Germany? How would Switzerland have kept its industry running had it imposed a trade and finance boycott (or, for that matter, a near-boycott) on Germany, thereby inevitably eliciting a counter-boycott (if not outright attack) by the Axis powers?
8. How should Swiss financial institutions have handled the dormant accounts after the war? No doubt, the money was not theirs, but given the uncertain fate and unknown genealogy of the original depositors, do dormant accounts of people with Jewish-sounding names automatically fall to Jews in general, to Jewish organisations, to the state of Israel or just to whomever claims to be the legal successor? Given that accounts have no ethnic tags, how about accounts of non-Jewish clients? Is there, or should there be, such a thing as an ethnic claim of last resort on the assets of members of an ethnic group? Would that be a good idea? Did the Swiss banks expropriate the accounts?
9. Were there any post-war international agreements between Switzerland and the Allied powers that settled controversial issues and claims?

Reparations and restitutions to whom?

Although some details remain obscure, the broad answers to these questions have



Jasper Johns, *Corpse and Mirror II*, 1974/75, *Leichnam und Spiegel II*. Öl auf Leinwand (vier Teile), Masse mit bemaltem Rahmen: 146,4 x 191,1 cm. Besitz des Künstlers.

been known for a long time, and they confirm that the Swiss were less than shining heroes, but that their behaviour was of a nature justifying hesitation in moral judgment. In particular, serious research confirms that, all in all, Swiss behaviour compares rather favourably with that of countries less exposed. This does not mean that research ought to stop. The history of this tragic era must be written anew for every generation. Human behaviour of perpetrators, victims, and spectators in the face of, and amid, conquest, revolution, and war should be meticulously documented, analysed, and commented. Historiography, however, is one thing, and investigation in view of reparations and restitutions is quite another. In the latter context, at least three further questions arise:

1. Are there really valid claims for restitution? Whom are they owed, and what do they amount to? A valid claim for resti-

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tution presupposes not just proof that the current possessor of an asset is not the rightful owner, but in addition it requires plausible evidence about the identity of the rightful owner. There is so far no rule requiring that dormant claims be restituted to the members of the depositor's ethnic group, to ethnically-defined NGOs, some ethnically-defined home-country, or to some otherwise ethnically deserving individuals.

2. Are there valid claims for reparation, and what do they amount to? Are there valid charges justifying the imposition of reparations from countries such as Switzerland (and the Netherlands, for that matter)? Reparations can be considered part compensation for harm, part punishment. Can a valid case for reparations be made against Switzerland or the Swiss banks? Does callousness (more

specifically callousness in a time of acute worry about one's own fate) give rise to reparations claims? Make no mistake, callousness is not a virtue, but is it a crime that ought to entail punishment?

3. In both cases, a third question arises: Assuming there are valid claims for restitution and reparations, is it reasonable for a U.S. judge and U.S. diplomacy to help enforce them with two generations' delay? In particular, does it make sense to extort restitutions and reparations from countries and institutions with whom the United States, Israel, and many descendants from holocaust victims, for half a century, have entertained ongoing peaceful trade and financial relations despite extensive knowledge of the very facts now construed as so many counts of indictment? What would such ostensible denial of any time limitation imply in terms of dormant reparation and restitution claims and reproaches derived from other (actual or alleged) historical crimes and iniquities and other acts of callousness committed in environments of war, revolution, conquest, and crime where millions of people were tormented, displaced and killed, and where many more millions not directly harmed were nevertheless scared to death? What new injustices and resentments could such unchecked rigorism, combined with recognition of claims of ethnic groups, possibly spell for Israel with respect to Palestinian claims, for the United States with respect to American-Indian and African-American claims, for formerly communist societies with respect to the victims and successors of victims of communist revolutions, annexations, expropriations, and purges? Note that the issue is not whether crime should go unpunished or theft unrestituted. It is about *how long* claims of restitution and repair should be allowed to survive in the midst of an ever-changing world. One is tempted to say, forever, but is

Does an amok policy of fiat iustitia, pereat mundus really make the world a better place?

² George F. Kennan, *Memoirs 1925-1950*, Bantam Books.

this wise policy? Does an amok policy of *fiat iustitia, pereat mundus* really make the world a better place?

«One of the most consistent and incurable traits of American statesmanship»

Secretary *Eizenstat's* self-righteous arm-chair moralising reminds one of a passage in the memoirs of *George F. Kennan*² where the diplomat and historian aptly describes what he calls an «*incurable trait of American statesmanship*», namely «*its neurotic self-consciousness and introversion, the tendency to make statements and take actions with regard not to their effect on the international scene to which they are ostensibly addressed but rather to their effect on those echelons of American opinion, ..., to which the respective statesmen are anxious to appeal.*» It was one of the latest instalments of what *Kennan* called the «*histrionic striking of attitudes before the mirror of domestic political opinion*», designed to create «*the general impression that we Americans, high-minded and imbued with virtue, had caught the main European powers [this time around the minor ones] in acts of wickedness and were sternly calling them to account.*» The United States, no doubt, is the most benign imperial power the world has seen so far, and the world has reason to be grateful that power is wielded by such a by and large generous and benevolent nation. Still, it has not yet shed all the bad habits generally associated with great power status. It could do better, thereby becoming not just a big, but a truly great power. And the Jewish organisations could also play a more beneficial role for their co-religionists if they abstained from what not just appears as, but actually is, aggressive rent-seeking activity. Remembrance is a worthy endeavour, but a policy of aggressive remembrance is a recipe for on-going resentment and renewal of injustice. There is also such a thing as justice in remembering, and *Schoenfeld's* article does an excellent job in promoting this virtue. ♦

Das «Dossier» dieses Heftes wurde vom «Verein Zivilgesellschaft» unterstützt.

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