

# Switzerland on Trial

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Every decent person is sympathetic to the suffering and just claims (both moral and financial) of needy surviving victims of totalitarian cruelty and injustice. These claims must be addressed promptly and honestly -- and, in fact, the Swiss today are attempting to show good faith in so doing.

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During World War II, Switzerland, a tiny constitutional federation of 5 million (today 7 million) with a 700-year history, was totally surrounded by the Axis and faced with the prospect of invasion for most of the war. The historic Swiss policy of armed neutrality was rooted in reasonable Swiss aversion to the mindless, bloody sectarian conflicts that had rent Europe for centuries. Contrary to the lurid headlines, Switzerland was not morally neutral in World War II but chose specifically to devote considerable national resources to arm to the teeth to prevent itself from being swallowed up. Although political neutrality is always morally problematic, Switzerland never had a Quisling government and there was no Holocaust on Swiss soil. The Swiss stance was consistent from the beginning of the war to the end.

Other wartime neutrals -- Ireland, Portugal, Spain, Sweden -- were not encircled and could opt for a more inert neutrality with relative ease. The Netherlands, Belgium, Denmark, Norway, and neighboring France collapsed quickly in the face of Nazi power. Austria made the Anschluss into a cakewalk. None was surrounded. Those countries had the potential to mount a strong territorial defense; they did not. Switzerland created a credible defense to the Nazi onslaught that served exactly as intended -- to complicate and forestall an Axis invasion and occupation. (Yet, oddly, the Swiss, having demonstrated for centuries what it means to take territorial defense seriously, are today treated to public lectures about "moral neutrality" by a press which has in recent years made a fetish of moral equivalence and moral relativism.)

In order to protect its democratic way of life and import into the country through Axis-controlled territory the food, fuel and basic raw materials required for survival, Switzerland made regrettable accommodations in the areas of transportation, trade and finance, and, most tragically, in limiting numbers of refugees. These accommodations have not been ignored in modern Switzerland with its long tradition of academic freedom and a lively free press. Most Swiss do not shy from a painful reckoning with the facts of their history. As I recall, U.S. Foreign Service officers assigned to Switzerland in the eighties read Swiss historical material describing the war years in which Swiss adaptations to the Nazi regime were fully discussed.

If the record were reviewed dispassionately, a fair-minded observer might conclude that the vast majority of Swiss despised the Nazis. Through much of the war, they lived with the reality that Hitler intended in his own time to occupy Switzerland and then split it with Mussolini (an intention formalized in Nazi war plans as Operation Tannenbaum). In the face of this, the Swiss fought hard to retain their independence and even took strong action against the Nazis in Switzerland, outlawing both the Nazi party and Swiss pro-Nazi front organizations. Had other European nations summoned the will and the means to similarly defend their territory, imagine how much loss of life and destruction Europe would have been spared.

Before the war, Germany was (and is to the present, largely because of the logic of geography) Switzerland's largest trading partner. However, despite pressure to sever all trading with the Allies during the war, Swiss trade with the Allies was equal to one-third of trade transacted with the Axis. This trade included certain matériel valuable to the

Allied war effort. Exceedingly difficult conditions of transport -- total encirclement -- made the continuation of this trade even more significant. Regarding armament sales to Germany, Swiss sales represented only a tiny fraction of total German munitions and were inconsequential in realistic military terms.

A pro-Allied viewpoint was clearly evident in the Swiss media throughout the war despite censorship. The government rebuffed repeated German demands to fire newspaper editors and radio commentators unsympathetic to the Nazis. Radio broadcasts from Switzerland in both French and German provided a psychological uplift to occupied Europe during the darkest days.

Most importantly, the Swiss permitted large-scale, vital Allied intelligence operations on Swiss soil, which enabled the Allies to prosecute the war with greater speed and effectiveness and arguably served to significantly shorten the war. They provided an oasis of safety for 1,600 downed American airmen and thousands of escapees from German and Italian prison camps despite serious wartime shortages for their own people. The International Committee of the Red Cross, a Swiss institution, helped hundreds of thousands of Allied prisoners of war and refugees in both the European and Pacific theaters.

Nor was Swiss neutrality purely formal and passive, springing from a desire merely not to cause trouble. Throughout the war, Switzerland's 600,000- to 800,000-strong militia army was mobilized and the country heavily fortified. In one of the Swiss-German air-to-air fights over violation of Swiss air space, the Swiss lost one plane, the Luftwaffe lost several. Had the Axis invaded, the Swiss planned to blow up their most important roads, bridges, tunnels and railroads and to engage in a ferocious resistance from their mountain fortresses. The Swiss Parliament specifically elected a French-Swiss General, intensely disliked by the Germans, to command their army. Seventeen Swiss soldiers, including one major, were executed for spying for the Nazis. Compare Swiss resistance, for example, to the Nazis' occupation of Paris without even a shot being fired.

But should not the Swiss have abandoned their historic neutrality in the midst of the war and taken up arms against the Axis? If so, how? The Swiss military was designed and trained as a formidable force for territorial defense, utterly without mobility for operations beyond Swiss borders. To suggest that the militia could have been reconfigured in the midst of war-engulfed Axis-dominated Europe is totally unrealistic. And although the Allies never asked Switzerland to remain neutral, Swiss neutrality benefited the Allies in numerous ways.

Should not the Swiss have admitted more Jewish refugees? The real question is: should not every non-Axis country, including the United States, have admitted more? Clearly so. Little Switzerland, with a surface area slightly larger than Maryland, and experiencing serious food scarcity for its own people (rationing of foodstuffs was universal except for potatoes), admitted more Jewish refugees than the United States during the war and also, by not entering the war, kept in safety the 20,000 Jews who were Swiss nationals. Had the U.S. admitted as many war refugees of all kinds as the Swiss did, in proportion to population, we would have had to take in 7-1/2 million! In other words, Switzerland's behavior was not that of a cynical war profiteer and was more in keeping with its long-standing humanitarian traditions.

At least partially as a result of conditions imposed by Swiss bank secrecy laws, which incidentally were instituted to protect the identity of individuals such as the Jewish account holders who later fell victim to the Holocaust, some Swiss bankers clearly were not as sensitive to the plight of Holocaust families as they should have been following the war. They probably behaved like bankers the world over, the kind caricatured in the movie Mary Poppins. Some Swiss fiduciaries and other individuals may even have taken advantage of the fact that the rightful owners of funds entrusted to them, or to Swiss banks through them, later perished in the Holocaust. But no evidence has surfaced or been cited for the frequent charge of systemic malfeasance implied in many press reports.

We have no way of knowing, because of Swiss banking secrecy laws, how much of the private deposits has been paid out to legal heirs since 1945. In estimating the amounts, it is also possible that many Holocaust victims believed that Switzerland, given its proximity to Germany, was not safe enough and transferred their money to the U.S., Britain, and Latin American countries. To further reduce the likelihood of money transfers, Hitler made it a capital crime to move assets out of the country.

In 1962, the Swiss government instructed all financial institutions to search for dormant accounts from the war years opened by non-Swiss who were believed to have been persecuted for reason of race, religion or political views. Not all complied. One of the outcomes of this governmental intervention was the distribution of 1.4 million Swiss francs to claimants; a further 3 million Swiss francs (from accounts for which claimants could not be identified) were given to Jewish charities (about two-thirds of the amount) and refugee organizations (one-third).

As a result of a recent and more comprehensive directive -- issued in 1995, partially in response to press reports, and much broader than the 1962 mandate in that it encompassed all foreign and domestic dormant relationships -- the total of all accounts in Swiss banks dormant from the war years was found not to exceed 40 million Swiss francs (\$27 million) in 1995 valuation. This sum includes all accounts opened before 1945 (conceivably from Australia, Ireland, Venezuela or any other country!), not only those possibly belonging to Holocaust victims and their heirs as reported and identified in 1962. Somehow these 40 million Swiss francs (\$27 million, in 1995 terms) have been wildly exaggerated, becoming billions in media reports.

By contrast the President of the Swiss Federation of Jewish Communities recently described the Swiss bankers' efforts as that of "honest partners" and the remaining sums in question as "relatively modest." Last year, the Swiss banks also established an international commission of persons of impeccable integrity led by former U.S. Federal Reserve Chairman Paul Volcker to thoroughly search for any funds which might still be owing to Holocaust survivors and their heirs. In Switzerland unclaimed deposits do not pass to the state through the escheat process, as occurs in the U.S. The bank remains responsible forever.

As these more thoroughgoing searches proceed -- and aside from the fact that indications are that actual recoveries from accounts dormant since the war may be "relatively modest" -- Swiss banks and industry established a fund in February, 1997, now over \$188 million, to be administered by the Swiss government -- to provide immediate assistance to Holocaust survivors in dire straits. Reacting to relentlessly

accusatory coverage, the Swiss President also announced in March, 1997, the establishment of a humanitarian fund of \$4.7 billion, the interest from which will be used to aid "people in need, victims of catastrophes in Switzerland and abroad, victims of genocide, torture and other violations of human rights (including victims of the Holocaust and needy descendants)," both inside and outside of Switzerland.

It would be unsound banking practice for a bank anywhere to release funds based on substantially incomplete or unverifiable information. Determining the legitimacy of claims is an admittedly difficult project in the aftermath of a tragedy of the magnitude of the Holocaust, which stresses all systems. When whole families of possible claimants are wiped out and documentation destroyed, how are banks to identify rightful claimants and settle disputes between rival claimants? Did American and British bankers behave differently or adjust their standard procedures after the war? Press accounts are strangely silent about treatment of Holocaust survivors elsewhere. Swiss banking law provides for high levels of discretion and security. Adherence to rules in dealing with other people's money is a virtue, not a vice, in normal circumstances. To charge the Swiss with wholesale plunder of assets of murdered people is simply false.

The issue of specific claims to specific dormant accounts made by individuals is frequently unaccountably blurred in media accounts with the entirely different subject of trading in monetary gold by central banks. Monetary gold was the principal issue which concerned the U.S. government vis-a-vis Switzerland after the war. During the war, the German central bank sold large amounts of gold (some of it looted from the central banks of occupied nations) to the Swiss central bank in exchange for Swiss francs, then the world's most convertible currency. The Germans used the francs to finance their foreign trade and to purchase needed war matériel. The US Department of State report just released acknowledges there is no basis to assert that the Swiss had knowledge that any of the gold trades included gold stripped from concentration camp victims. This issue was not addressed by U.S. diplomats in negotiations after the war, perhaps because it is exceedingly difficult, if not impossible, to trace the origin of gold in an ingot.

In hindsight, it is, of course, convenient to assert that the Swiss central bank should have refused German gold bars. However, during most of the time, Switzerland was an island in a Nazi sea, putting considerable pressure on its freedom of action. Many Swiss officials believed that a lack of cooperation in gold trading might provoke a strong Nazi reaction. Others, recalling the runaway inflation that had followed World War I, believed that gold purchases were necessary to anticipate and control inflation, arising from demand for Swiss francs, which increased as the war progressed.

Commercial trading by a declared neutral during wartime has recognized standing in international law, and the United States has respected the practice historically. Is it appropriate, then, for a high-level US Government representative (as in the Report) to publicly, and disdainfully, characterize the position of a friendly sovereign nation, which position was based on well-established precepts of international law, as "legalistic" and, thereby, morally deficient!? No one seems to be alleging that Swiss political neutrality "collided with morality" during the entire length of the Cold War against murderous Soviet tyrants (but the Report does so describe Swiss neutrality in World War II) -- no doubt because most know that Swiss guns pointed east in the direction of the real threat, just as they pointed north in World War II, a fact being obscured in the present controversy.

After the war, the Swiss acknowledged that they purchased 1.2 billion Swiss francs in gold (about 280 million wartime dollars) from the Reichsbank on which they made a profit of \$4 million, but noted that the Allies made more currency trades with Switzerland than the Axis (the purchases of U.S. gold alone in exchange for Swiss francs were 1.2 billion Swiss francs, roughly equal to the amount purchased from the Germans).

As a result of exhaustive negotiations after the war on the matter of the "Nazi gold," the Swiss government, thankful that Switzerland had been spared the ravages of war (they did not regard the agreed sum as a penalty), paid 250 million Swiss francs (then about \$60 million) in gold into a fund for European reconstruction -- a settlement of which President Truman approved (and which ever after was referred to as the "1946 agreement"). At the time, 250 million Swiss francs were an enormous sum, representing about 8 percent of the Swiss federal budget. It was also 15 times as much as the profit made from central bank transactions with the Nazis!

Most of the salient facts now receiving media attention were well known at the signing of the 1946 Agreement resolving the "Nazi gold" issues. The only genuinely new information is the claim that a small "but significant" amount of victims' gold, i.e., gold taken directly from victims of the Holocaust, found its way into the monetary gold that was traded. Nowhere in the State Department Report is it argued that the Swiss knew of this. So what new facts today could possibly justify an official review of diplomatic undertakings 50 years old made with a long-time friend and reliable partner?

In terms of international law, seeking to revisit agreements executed five decades ago, signed by the State Department's authorized representative, with a sovereign state and friendly trading partner is diplomatic double-jeopardy and a dangerous precedent. It is deeply unsettling that the US government -- represented by an Under Secretary of Commerce for International Affairs -- publicly and explicitly (again, on the basis of a "preliminary and therefore incomplete" report) denounces the actions of a small, stable democracy with whom the United States has had excellent relations during the entire postwar period. It is particularly disturbing because Swiss wartime actions were addressed and presumably settled in binding documents negotiated by American diplomats. We are failing, in other words, to keep our word.

Regarding the charge made in the Report that Swiss policies lengthened the war, thus costing additional American blood and treasure, by the same stretched reasoning we might as well publicly and officially charge the British of culpability for the actions of Chamberlain or the French for the massive, active collaboration of Vichy! Perhaps, however, the State Department only wishes to single out small nations, inexperienced in the ways of American media hardball, who also believe it is unseemly and a violation of diplomatic protocol to fight back inside the US with the same unrelenting fury being visited upon them.

The subject of aged Holocaust survivors who are needy should be a vital concern to all of us. However, Switzerland -- a model multicultural, multilingual democracy for hundreds of years -- whatever its shortcomings in retrospect, was not a white-collar war criminal. Indeed, no other country has gone quite as far as Switzerland in opening up its public and, in particular, private records for scrutiny by independent experts. Who can blame the Swiss, in the past solid and reliable friends of the US, for being stunned and

heartsick at being singled out for a media mugging in a country they have long regarded as a model of due process of law.

The American way used to be facts first, judgment later. For the Swiss these past months, it's been much the opposite. A statesman of perhaps a more forgiving generation judged the Swiss less harshly, near the end of World War II, when he said:

*"Of all the neutrals Switzerland has the greatest right to distinction. She has been the sole international force linking the hideously sundered nations and ourselves. What does it matter whether she has been able to give us the commercial advantages we desire or has given too many to the Germans, to keep herself alive? She has been a democratic state, standing for freedom in self-defence among her mountains, and in thought, in spite of race, largely on our side."*

*Winston Churchill, December 3, 1944*

History, I believe, may accord this judgment greater credence than the careless and superficial outpourings of contemporary commentators. America understood after World War II why reparations from combatants were folly. We rebuilt Germany and Japan. We do not hold contemporary Germans and Japanese collectively responsible for the sins of their fathers even as we continue to hold individuals accountable for their dreadful war crimes. Meticulous review of history is the work of historians and fulfills a noble purpose. The current frenzied focus on Swiss actions, good and bad, all of which we have known about for many years, is bad scholarship because it distorts and diminishes the real Swiss wartime record. It is also bad foreign policy that should make our friends nervous about our reliability and our word. Most significantly, it is a curious and, I believe, misguided departure from the deeper wisdom of the postwar period -- a time in which we, in the spirit of reconciliation, foreswore the wrath and recriminations of the kind that followed World War I, in order to rebuild societies that would not replicate Axis aggression and would uphold the respect for human life upon which our Western democratic traditions, like those of Switzerland, are based.