

Forty years since the Frankfurt Auschwitz trial

Part one—a belated inquiry

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27 April 2004

The following is the first in a three-part series of articles.

Judge: Did you see anything of the camp?

2nd witness: Nothing

I was just glad to get out of there

Judge: Did you see the chimneys

At the end of the platform

Or the smoke and glare?

2nd witness: Yes

I saw the smoke

Judge: And what did you think?

2nd witness: I thought those must be the bakeries

I had heard

They baked bread in there day and night

After all it was a big camp

(The Investigation by Peter Weiss, Frankfurt 1965)

An exhibition commemorating the 40th anniversary of the Auschwitz trial opened on March 27 in the House of Gallus in Frankfurt-Main. On display is material from the Fritz-Bauer-Institute documenting the “Trial against Mulka and others”. A DVD edition of the trial protocols has also recently been issued.

The Auschwitz hearings marked the first time some of the individuals responsible for the Nazis’ machinery of extermination were brought before courts in the former German Federal Republic. The court case opened on December 23, 1963, in the Römer, Frankfurt’s town hall, nearly 20 years after the end of World War II and the Nuremberg Trials, and ended on August 19, 1965.

As is well known, the response of German courts to the Nazi regime and its monstrous crimes is one of the most disgraceful episodes in West German justice. Opposition to trials of this kind was widespread in the 1950s and 60s within Germany’s legal and political elite.

None of Auschwitz’s three leading concentration camp commanders were still alive at the start of the trial. Rudolf Höss and Arthur Liebehenschel had been tried and executed in Poland in 1947, in accordance with an agreement made between the Allied forces. Others who bore chief responsibility, like the notorious concentration camp Doctor Mengele, were able to flee and remain in hiding in South America. Richard

Baer, the last camp commandant of Auschwitz, declined to give any testimony during the preliminary investigations to the Frankfurt proceedings. He died in detention while investigations were pending and all legal action against him was dropped. The Frankfurt trials were therefore only concerned with some lower level assistants to these camp commanders.

But it was perhaps precisely because the trial did not deal only with leading members of the SS, but with their underlings, that the case and the detailed media coverage that accompanied it provided West Germans with their first comprehensive picture of the seemingly banal daily routine of the ghastly extermination machinery at Auschwitz. The trial, thereby, played a significant role in politicizing West German youth.

That West Germans began to closely follow the Auschwitz hearings was largely due to the testimony of 359 witnesses from 19 countries, including 211 camp survivors. The trial, which required witnesses to recall the terrible events with the precision that is required in a criminal prosecution, often put excessive demands on the survivors. The accused, flanked by their defenders on benches normally occupied by the town councilors, were, for the most part, indifferent to the proceedings.

Behind them, in front of high windows, hung two large display boards depicting sketches of Auschwitz I (the main concentration camp) and Auschwitz II (the extermination camp at Birkenau). With the magistrates sat the assize court, at that time three professional judges and six magistrates sworn in as jurors. Judge Hans Hofmeyer chaired the proceedings.

The trial was scheduled to last 20 months and commenced in the Römer hall, at the time the only venue in Frankfurt capable of holding those involved in the proceedings. In the spring of 1964, hearings were moved to the Bürgerhaus Gallus, built especially for that purpose, and where they were continued until the trial’s conclusion. Approximately 20,000 visitors attended the proceedings over the ensuing months.

Six of the accused were given life sentences on charges of murder or for being jointly responsible for murder, and eleven received maximum sentences of 14 years imprisonment. Three

were acquitted due to insufficient evidence and two of the accused were not put on trial because of illness or death. The challenge facing the judges was to prove beyond a reasonable doubt that each of the accused was individually complicit in the crimes. This difficult standard was also the reason for the relatively mild sentences, which were considered inadequate by many of the surviving victims of Nazism.

Of the more than 6,000 (other sources say 8,000) former members of the SS who guarded Auschwitz between 1940 to 1945, only 22 came before the Frankfurt court, among them a former “operative prisoner” or so-called “kapo”. In the 20 months of court proceedings, those accused showed no trace of insight or regret.

The sentences bore no relation to the crimes for which the perpetrators were individually or jointly guilty. At least three million Jews and a similar number of political prisoners, Sinti, gypsies or homosexuals were sent to be gassed in Auschwitz or died through forced labour, starvation and cold, bestial medical experiments, arbitrary beatings or shootings. The camps were located throughout Germany. Birkenau extermination camp alone could accommodate 100,000 prisoners.

The fact that the trial even occurred was the outcome of two more or less accidental and not immediately connected events. As Werner Renz of the Fritz-Bauer-Institute explained in a recent essay, if circumstances had been only slightly different, “the Auschwitz trial would not have occurred forty years ago”.^[1]

Adolf Roegner, a former Auschwitz inmate and a kapo, was also a Bruchsal prisoner convicted of “perjury and making false statements while not under oath”. In a letter to Stuttgart’s attorney general dated March 1, 1958, he referred to Wilhelm Boger, a former member of the Auschwitz camp Gestapo. In this letter he accused Boger of crimes in Auschwitz, and cited Boger’s home address and workplace.

The authorities hesitated to act, but two months later, after representations from International Auschwitz Committee General Secretary Hermann Langbein, whom Roegner had also contacted, investigations commenced. In his interrogation Roegner named other members of the Auschwitz SS. Finally an arrest warrant was issued against Wilhelm Boger, but it was not until October 8, 1958, seven months later, that he was arrested at his workplace. Those accused by Roegner—Stark, Broad and Dylewski—were taken into investigative custody in April 1959.

Independently, *Frankfurter Rundschau* reporter Thomas Gnielka sent documents to Hessen Attorney General Fritz Bauer in mid-January, 1959. Gnielka received the material from Frankfurt resident Emil Wulkan, another concentration camp survivor. Wulkan had originally taken possession of the documents from a burning SS court at Breslau in May 1945. He showed them to Gnielka in December 1958, while making a reparation application. The journalist identified them as Auschwitz execution files.

The documents, which were from Auschwitz concentration

camp commandants and members of the SS and XV Breslau police courts from 1942, listed prisoners shot during alleged escape attempts. Thirty-seven SS members involved in the shootings, including Stefan Baretzki, were also named. In order to give these killings the appearance of legality, the victims were found guilty according to existing regulations and their SS murderers duly acquitted.

Attorney General Fritz Bauer used the documents to establish Frankfurt-Main county court jurisdiction over the Auschwitz-complex—a move finally accepted by the national court in April 1959. Only then was it possible to systematically initiate preliminary investigations and arrest the Auschwitz criminals.

Bauer, a social democrat who had been forced to flee Germany because of his politics and his Jewish origin, was one of the few jurors of the former Federal Republic who attempted to seriously prosecute those responsible for the Nazi crimes. Having previously encountered a wall of resistance to his endeavours, he now seized the opportunity to get the trial underway.

Bauer wanted to turn the proceedings into an investigation of the “Final solution to the Jewish question” which had been implemented by the Nazis in Auschwitz. He therefore tried to involve experts from the Institute for Contemporary History in Munich. For him the main consideration was not the sentencing of individual perpetrators, but providing a historical clarification of what had taken place. The trial definitively revealed the claims by the extreme right that no one was ever gassed in Auschwitz to be the foulest of historical falsifications.

A young Christian Democratic Union state representative from Mainz by the name of Helmut Kohl, who later acknowledged that “thankfully he was born too late,” opposed Bauer, arguing that the fall of the so-called Third Reich was too recent and therefore prevented an historical judgment being made “of National Socialism”. Kohl, the longtime Federal Republic chancellor and immediate predecessor of Gerhard Schröder, articulated a view that was broadly held in political circles within the Federal Republic.

To be continued

See Also:

Fascism & the Holocaust:

A critical review of Daniel Goldhagen's *Hitler's Willing Executioners*

[17 April 1997]

Notes:

1. *40 Years Auschwitz-Trial: An unwanted proceedings* by Werner Renz,

http://www.fritz-bauer-institut.de/texte/essay/12-03_renz.htm



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