

This volume is dedicated to the memory of Simon Wiesenthal, a major driving force preserving the awareness of the need for the prosecution of World War II war criminals in the world's mind, and actually contributing to its materialization.



*Simon Wiesenthal (1908–2005)*

# Holocaust and Justice

## Representation and Historiography of the Holocaust in Post-War Trials

Edited by  
David Bankier and Dan Michman

Jerusalem 2010



Yad Vashem  
Jerusalem



**Berghahn Books**  
NEW YORK • OXFORD

Copyright © 2010 by Yad Vashem, Jerusalem  
Published in association with Berghahn Books

The responsibility for the views expressed in this publication rests solely  
with the authors.

All rights reserved. No part of this publication may be reproduced in any form or any  
means, electronic or mechanical, including photocopy, recording or any information  
storage or retrieval system, without permission in writing from the publisher Yad  
Vashem The Holocaust Martyrs' and Heroes' Remembrance Authority.

This publication and the conference on which it is based  
were made possible through the generous support of  
the **Gertner Center for International Holocaust Conferences**  
endowed by the late **Danek D. and Jadzia B. Gertner**  
and **The Gutwirth Family Fund**

Language Editor: Heather Rockman  
Typesetting: Judith Sternberg  
Printing: Printiv, Jerusalem



Printed in Israel

7A 834897

Library of Congress Cataloging-in-Publication Data

Holocaust and justice : representation and historiography of the Holocaust  
in post-war trials / edited by David Bankier and Dan Michman.  
p. cm.

Includes bibliographical references.  
ISBN 978-965-308-353-0 (alk. paper)

1. War crime trials. 2. World War, 1939-1945 — Law and legislation.  
3. Holocaust, Jewish (1939-1945) — Historiography. I. Bankier, David. II. Michman, Dan.

KZ1174.5.H65 2009  
341.6'9 dc22

2009052490

## Contents

Introduction .....	7
<b>The Nuremberg Trials and Their Long-Range Impact</b>	
The Didactic Trial: Filtering History and Memory into the Courtroom .....	11
<i>Lawrence Douglas</i>	
Prosecuting the Past in the Postwar Decade: Political Strategy and National Myth-Making .....	23
<i>Donald Bloxham</i>	
The Holocaust, Nuremberg and the Birth of Modern International Law .....	45
<i>Michael J. Bazylar</i>	
The Role of the Genocide of European Jewry in the Preparations for the Nuremberg Trials .....	59
<i>Arieh J. Kochavi</i>	
Dr. Jacob Robinson, the Institute of Jewish Affairs and the Elusive Jewish Voice in Nuremberg .....	81
<i>Boaz Cohen</i>	
The Judicial Construction of the Genocide of the Jews at Nuremberg: Witnesses on Stand and on Screen .....	101
<i>Christian Delage</i>	
<b>The Ambivalence of Doing Justice in the German Federal Republic</b>	
Prosecutors and Historians: Holocaust Investigations and Historiography in the Federal Republic 1955-1975 .....	117
<i>Dieter Pohl</i>	

Coverage of the Bergen-Belsen Trial and the Auschwitz Trial in the NWDR/NDR: The Reports of Axel Eggebrecht . . . . .	131
<i>Inge Marszolek</i>	
Hitler's Unwilling Executioners? The Representation of the Holocaust through the Bielefeld Białystok Trial of 1965–1967 . .	159
<i>Katrin Stoll</i>	
Between Demonization and Normalization: Continuity and Change in German Perceptions of the Holocaust as Treated in Post-War Trials . . . . .	195
<i>Annette Weinke</i>	
 <b>Trials and Tribulations in European Countries</b>	
The Belgian Trials (1945–1951) . . . . .	219
<i>Nico Wouters</i>	
The Case of the French Railways and the Deportation of Jews in 1944 . . . . .	245
<i>Michael R. Marrus</i>	
Crime and Comprehension, Punishment and Legal Attitudes: German and Local Perpetrators of the Holocaust in Domachevo, Belarus, in the Records of Soviet, Polish, German, and British War Crimes Investigations . . . . .	265
<i>Martin Dean</i>	
Amon Goeth's Trial in Cracow: Its Impact on Holocaust Awareness in Poland . . . . .	281
<i>Edyta Gawron</i>	
From Kappler to Priebke: Holocaust Trials and the Seasons of Memory in Italy . . . . .	299
<i>Paolo Pezzino and Guri Schwarz</i>	
List of Contributors . . . . .	329
Index of Names and Places . . . . .	335

*Coverage of the Bergen-Belsen Trial  
and the Auschwitz Trial in the German  
Nordwestdeutscher Rundfunk (NWDR/  
NDR):\* The Reports of Axel Eggebrecht*

INGE MARSZOLEK

Before the end of the war, the Western Allies already perceived the trials against German Nazi perpetrators as an instrument to confront German society with the atrocities of the Nazi regime. Thus, challenging the German people with their guilt served as a tool in the longer process of reeducation. Until today, it remains a crucial question as to what kind of impact the trials had, particularly the early trials in Germany.

Contemporary comments, articulated by those who initially regarded the trials of National Socialist crimes as a sort of public theater that might trigger some purging processes in German post-NS society, are largely sceptical about any political and/or pedagogical effects of the trials. Most scholars confirm those statements, but little work on the media reports has been done. The most recent study by Devin O. Pen-

\* *Nordwestdeutscher Rundfunk-NWDR* (Northwest German Radio) is a public station based in Hamburg. Founded in 1924 it became the radio station of the British occupation zone and it broadcasted, in addition to the city-state of Hamburg, to the states of Lower Saxony, Mecklenburg-Vorpommern and Schleswig-Holstein. In February 1955, North Rhine-Westphalia decided to establish its own broadcaster. To this end, the NWDR was split into two broadcasters, *Westdeutscher Rundfunk-WDR* for North Rhine-Westphalia and *Norddeutscher Rundfunk-NDR* for the rest of north German states.

das on the Auschwitz trial in Frankfurt contains only one chapter on the coverage by the print media. Pendas comes to a rather sober conclusion regarding the public effects of the Auschwitz trial: “the West German public remained deeply ambivalent towards the trial, and all the press coverage not only failed to overcome this ambivalence but even helped to generate it.”<sup>1</sup> A closer look reveals that no research has ever been done on the media coverage of the Auschwitz trial or others. Pendas himself does not differentiate between the various newspapers except for the overtly right-wing publications, ignoring the fact that every newspaper or magazine addresses itself to diverse readerships.

We should bear in mind that, taking into account the complexity of the situation after the Allied victory and the moral implications of the Nazi regime for German society, expectations of the pedagogical effects might have been exaggerated and were not realistic in the first place. Or, to cite Michel Foucault, since “the realm of the speakable” was limited, identification with the victims may not have been possible. As Annette Weinke argues, given the incomparable experiences of Jews and Germans during the Third Reich and after the war, confronting the atrocities did not immediately trigger an acceptance of guilt. Evidently, this acknowledgment required a longer process of expanding public knowledge and the growing up of the generation born at the end of the war.<sup>2</sup> So, when talking about the acceptance of guilt in German society we must extend the time slot. Alan Steinweis suggests in his review on Pendas: “Perhaps it is time to come to a more balanced judgement taking into account the complex transition process of German and European societies.”<sup>3</sup>

In this chapter I will focus on the radio and on the comments of Axel Eggebrecht, an outstanding journalist in postwar Germany. In his reports Eggebrecht considers the possible reactions of his audience. Therefore his reports can be regarded as both media representations of the trials and perceptions of public opinion.

1 Devin O. Pendas, *The Frankfurt Auschwitz Trial 1963–65: Genocide, History and the Limits of the Law* (New York: Cambridge University Press 2006), p. 378.

2 See Annette Weinke’s paper in this volume.

3 Alan Steinweis on Pendas in: H-German, Dec. 13, 2006. For a similar argument see: Florian Huber, “Aus Nazis Demokraten machen? Re-education im NWDR 1945–1948,” *Rundfunk & Geschichte*, 3–4 (2006), pp. 21–34, who claims that the very critical judgment of the British about the effects of the radio as an instrument of reeducation is too short-sighted.

### *Who was Axel Eggebrecht?*

Axel Eggebrecht, born in 1899, was one of the most famous left-wing journalists in West Germany. He joined the Communist Party (*KPD*) in 1920 and started his journalistic career in the party newspaper *Rote Fahne* and the Willy Münzenberg Media Group. After several visits to the Soviet Union and having been disenchanted with the policies of Josef Stalin, he left the *KPD* and worked as a freelancer for the *Weltbühne* and other newspapers of the liberal left. The Nazis arrested him on March 30, 1933. In May of the same year he was interned for three weeks in a concentration camp in Saxony and during the Third Reich years he wrote ‘non-political’ film scripts. After the war the British Military Government commissioned Eggebrecht together with the more conservative journalist Peter von Zahn to rebuild the North West German Radio (*Nordwestdeutsche Rundfunk-NWDR*), as a German radio station under British control. Von Zahn had learned his profession in the propaganda units of the Wehrmacht. Though obviously closely linked to the NWDR, Eggebrecht later denied that he had been fully employed by the NWDR and whenever questioned he emphasized that he had worked as a freelancer only. Eggebrecht, who obviously felt guilty for not having done enough against the Nazis,<sup>4</sup> channelled all his journalistic activities to the issue of dealing with the Nazi past.

He served with Zahn as co-editor of the journal *Nordwestdeutsche Hefte*, publishing the texts of the radio speakers who touched upon the Nazi past. The journal appeared from 1946 to 1947 only, when the publisher Axel Springer turned it into the popular entertainment magazine *Kristall*. Eggebrecht left the NWDR in 1949 for two reasons: With the reorganization of the newly established radio station his position as a

4 Eggebrecht himself was reluctant to talk about his years under the Nazi regime. In his autobiography these twelve years are covered in a few pages only: Axel Eggebrecht, *Der halbe Weg. Zwischenbilanz einer Epoche* (Reinbeck bei Hamburg: Rowohlt, 1975), speaks more about other writers than about himself. In a speech given at the University of Hamburg on Jan. 1, 1990, Eggebrecht, then 90 years old, declared: “I did contribute to the fact that Hitler happened — but I never did anything which made it happen. But I did not say anything against Hitler. So I share the general guilt,” quoted from Thomas Berndt, *Nur das Wort kann die Welt verändern. Der politische Journalist Axel Eggebrecht* (Herzberg: T. Bautz, 1998), p. 79 (SUB HA, mediathek-MK 616/617.)

freelancer inside the station was limited, and in the context of the outbreak of the cold war the influence of an independent left-wing intellectual, such as himself, was restricted.<sup>5</sup> So whereas Eggebrecht covered the first Bergen-Belsen trial from inside the institution, his coverage of the Auschwitz trial nearly twenty years later came from the outside. Nonetheless, his name remained closely linked to the NWDR. Eggebrecht died in Hamburg in 1991.

An early milestone in Eggebrecht's efforts to confront the German listeners with the atrocities of the Nazis were his twenty-one reports from Lüneburg, a small town not far from Hamburg, which from September 17 to November 16, 1945 hosted the trial against several SS guards from Bergen-Belsen. Eggebrecht covered every day of the trial.<sup>6</sup> Presumably, Eggebrecht also reported from the other trials that followed, especially the Neuengamme trials that were held in Hamburg's Curio House in 1946.<sup>7</sup> However, the sources for this case are not yet available. From December 20, 1963, Eggebrecht was the correspondent of the Auschwitz trial for the NDR. The *Deutschlandfunk* - the national broadcasting corporation based in Cologne — aired some of his coverage as well. Until the very end of the trial he produced monthly reports entitled "Travelling to the past," most of them ninety minutes long. He broadcasted weekly reports as well, each fifteen minutes, under the title "The Past in Court." But this was not all. He also reported on the trial in Limburg against the doctors Gerhard Bohne and Hans Hefelmann who were indicted for murders committed within the NS euthanasia program. Concurrent with the Auschwitz trial Eggebrecht also reported

on the trial against Hermann Krumei and Otto Hunsche, close collaborators of Eichmann in Hungary, which took place at the Bürgerhaus Galluswarte from May 10, 1964 to February 7, 1965.

### *Radio and Reeducation*

In 1945 the radio was still the leading media in Germany. Due to a paper shortage the radio was the communicator between the military government and the people as well as between the local administration and the citizens. Moreover, the radio was regarded as the chief tool in the reeducation process, and from the beginning the personnel of the political departments were carefully chosen. However, the content of the program often depended on the personality of the controlling officers. The majority of journalists involved were less than thirty years old and had had their first journalistic experience in the propaganda units.<sup>8</sup> A closer look reveals that the attitudes and agenda of these young men concerning the Nazi past and the democratization process varied considerably and are not reflected in the texts they produced. Until now research on this subject has been inadequate. One could say that since their socialization had taken place mostly in the Third Reich, their role in the transformation process was rather complex.<sup>9</sup>

The Allies believed that confronting the Germans with the atrocities committed would trigger a sort of purging process. The trials, especially the Nuremberg trial, were meant to serve this aim as well. Therefore the radio coverage was thorough, with German journalists from all occupation zones reporting from Nuremberg.<sup>10</sup>

5 1947, Eduard Schnitzler, who later became a famous radio journalist in the GDR, had to leave the station in Cologne because of his communist views, see Christof Schneider, *Nationalsozialismus als Thema im Programm des Nordwestdeutschen Rundfunks (1945–1948)* (Potsdam: Vlg. für Berlin-Brandenburg, 1999), p. 65.

6 For the Belsen trial see John Cramer, "Farce oder Vorbild? Der erste Belsen-Prozess in Lüneburg 1945," in Ulrich Fritz, Silvija Kavcic and Nicole Warmbold, eds., *Tatort KZ. Neue Beiträge zur Geschichte der Konzentrationslager* (Ulm: Verlag Klemm & Oelschläger, 2003), pp. 201–219. See Schneider, *Nationalsozialismus als Thema*, pp. 157–160.

7 See Alyn Bessmann and Marc Buggeln, "Befehlsgeber und Direkttäter vor dem Militärgericht. Die britische Strafverfolgung der Verbrechen im KZ Neuengamme und seinen Außenlagern," *ZfG*, 5 (2005), pp. 522–542; Donald Bloxham, "British War Crimes. Trial Policy in Germany, 1945–1957. Implementation and Collapse," *Journal of British Studies*, 42 (2003), pp. 91–118.

8 Arnulf Kutsch et al., "Deutsche Rundfunkjournalisten nach dem Krieg. Redaktionelle Mitarbeiter im Besatzungsrundfunk 1945 bis 1949. Eine explorative Studie," *Rundfunk & Geschichte*, 12 (1980), pp. 191–214.

9 Christof Schneider, *Nationalsozialismus als Thema*, p. 53. See also the careers of some of the rank and file of the RSHA, Michael Wildt, *Generation des Unbedingten. Das Führungskorps des Reichssicherheitshauptamtes* (Hamburg: Hamburger Edition, 2002), p. 767.

10 Ansgar Diller and Wolfgang Mühl-Benninghaus, eds., *Berichterstattung über den Nürnberger Prozeß gegen die Hauptkriegsverbrecher 1945/46. Edition und Dokumentation ausgewählter Rundfunkquellen* (Potsdam: Vlg. für Berlin-Brandenburg, 1998).

The Belsen trial, which has been neglected by researchers — like many of the early trials concerning the concentration camps located in the former Reich — was long regarded as the prologue to the Nuremberg trial and the judicial persecution of Nazi crimes in general.<sup>11</sup> Nevertheless, public interest in the trial was enormous: the local press reported on every session and the NWDR broadcasted the trial to the entire British zone. But whereas the Nuremberg Trial was broadcasted throughout Germany, the Belsen trial and those that followed did not find a large public resonance. This is also true for all the other trials apart from the Auschwitz trial and later the Majdanek trial.

Although an investigation of the different media is necessary to answer the question regarding the effects of the coverage and of the trials themselves on the German public, this would go beyond the limits of this chapter: I will mainly concentrate on a discursive analysis of the texts written by Eggebrecht, using Foucault's concept of the *dispositif* in a very pragmatic way as a sort of orientation to understand the "realm of the speakable." I suggest that the trials be contextualized in the societal and political situation of Lüneburg and Frankfurt in those years and that the discursive lines found in the texts and public discourses alike be linked.<sup>12</sup> Eggebrecht took into account the multifaceted reactions of his audience; thus his reports illustrate media representation of the trials as well as public opinion.<sup>13</sup>

11 Cramer, "Farce oder Vorbild?," p. 201.

12 Knut Hickethier, "Kommunikationsgeschichte: Geschichte der Mediendispositiv. Ein Beitrag zur Rundfrage Neue Positionen zur Kommunikationsgeschichte," *Medien & Zeit*, 2 (1992), p. 27. Carsten Lenk, „Das Dispositiv als theoretisches Paradigma der Medienforschung. Überlegungen zu einer integrativen Nutzungsgeschichte des Rundfunks,“ *Mitteilungen des Studienkreises Rundfunk und Geschichte*, 22 (1996), pp. 5–17. See Gilles Deleuze, "Was ist ein Dispositiv?," in Francois Ewald and Bernhard Waldenfels, eds., *Spiele der Wahrheit. Michel Foucaults Denken* (Frankfurt: Suhrkamp, 1991), pp. 153–162. The notion of the 'dispositive' allows to combine the analysis of the texts with the notion of the cultural memory.

13 Media researchers like Stuart Hall and others in the field of Cultural Studies claim that media consumption is based on the principle of de- and encoding of media production.

### *The Belsen Trial*

As Foucault says, the notion of the dispositive is vague. In his writings the dispositive, refers to the institutional, physical and administrative mechanisms and knowledge structures which maintain the exercise of power within a social system. In discussing the Belsen trial I wish to concentrate on some elements of the issue that I think are important. These parts do not represent the whole, but from the discourses broadcast on the radio dealing with the NS past I will focus on the historical location, namely the site of the concentration camp Belsen, the legal framework and the role of the British military occupation, the reeducation program, the time window, the trial, the town of Lüneburg, the link to Auschwitz, and the NWDR as the radio station for the British zone and under British control.

The Belsen trial was not only the first Nazi trial in postwar Germany but also the first Auschwitz-related trial since most of the defendants were part of the SS system in Auschwitz before they arrived in Belsen. In 1945, however, Belsen became nearly as well known an epitome for the Nazi atrocities as Auschwitz already was at that time. This was due to the information campaign of the PWD/SHAEP (Psychological Warfare Division of the Supreme Headquarters Allied Expeditionary Force) and to the documentary *Death Mills* which since 1946 was touring the towns in the Anglo-American occupation zones. The PWD/SHAEP showed the film to the local elites, mayors, etc., and some of the material, on which the film was based, was used as evidence in the trial. The legal framework as well as the British military legal system, the history of the camp in the concentration camp system itself, and the trial were described by John Cramer and Alexandra-Eileen Wenck.<sup>14</sup> I will mention just a few points:

The camp of Bergen-Belsen had a special position in the concentra-

14 Cramer, "Farce oder Vorbild?"; Alexandra-Eileen Wenck, "Verbrechen als 'Pflichterfüllung'. Die Strafverfolgung nationalsozialistischer Gewaltverbrechen am Beispiel des Konzentrationslagers Bergen-Belsen," in KZ-Gedenkstätte Neuengamme, ed., *Die frühen Nachkriegsprozesse* (Bremen: Temmen, 1997), pp. 38–55. For the legal grounds see Bloxham "British War Crimes." For the history of the Belsen camp see Eberhard Kolb, *Bergen-Belsen. Vom 'Aufenthaltslager' zum Konzentrationslager 1943–1945* (Göttingen: Vandenhoeck & Ruprecht, 2002). A good summary is given in Berndt, *Nur das Wort kann die Welt verändern*, pp. 98–118.

tion camps system: Here Jewish prisoners with British, USA and Latin American citizenship were interned for the purpose of exchange with German citizens living abroad. In general, there were three camps in the Belsen system, each with starkly different conditions for the prisoners (*Sternlager* for Jews, *Häftlingslager* for POWs and *Neutralenlager* for Jewish citizens of neutral countries). In 1944, when Josef Kramer took over the camp he turned it into an ordinary concentration camp. When British army troops liberated the camp, 60,000 people were crammed on a site that was planned for 2000. Typhus, starvation and other disasters led to massive numbers of dead. In April 1945, only a few of the 450 SS members who had been in charge of Belsen were still there, which explains why most of the SS of Belsen could not be charged in the early trials.

“Regulations for the Trial of War Criminals made under Royal Warrant of June 14, 1945” constituted the legal framework of the trial. Unlike Nuremberg, these regulations referred to war crimes, which meant that the principle of forbidding retroactive punishment (*nullum crimen, nulla poena sine lege*) was not touched upon. Taking into account the fact that most of the witnesses were murdered and evidence was difficult to find, the charge was biased: the individual responsibility for murder or brutal actions and the general responsibility for the suffering or death of the prisoners was considered conspiracy. Thus membership in the SS or in the camp sentry could be indicated by the sentence.

The town of Lüneburg, not far from Hamburg, was part of the Protestant conservative agrarian regions where the Nazi party became a mass party before 1933 and won more than 50 percent of the votes.<sup>15</sup> The state psychiatric hospital, was deeply involved in the euthanasia program. Between 200 and 300 children were murdered in its children ward. The town’s railway station was large enough to serve the railway transports of prisoners that passed, stopped or were rerouted on the way to or from Belsen.

Very close to Lüneburg the British countersigned the capitulation announcement of the German Army for northwestern Germany. In the autumn of 1945, the German people were still preoccupied with adjust-

15 Dirk Stegmann, *Politische Radikalisierung in der Provinz. Lageberichte und Stärkemeldungen der Politischen Polizei und der Regierungspräsidenten für Ost-hannover 1922-1933* (Hanover: Hahnsche Buchhandlung, 1999), pp. 72ff.

ing to the defeat, the loss of the Führer and the collapse of the Nazi system; they had to readapt to democratic institutions and had to get accustomed to the occupation. Beyond those problems the daily routine demanded all their energy. Though Lüneburg was largely spared from air raids, the housing shortage was acute because the small town was swamped with refugees from the eastern parts of Germany.<sup>16</sup>

The people of Lüneburg did not seem much interested in the trial; of the 400 seats in the courtroom fewer than 200 were occupied most of the time. The rural area around Lüneburg was cut off from news, most of the farmers did not have a radio, and the *Lüneburger Post* was not widely distributed. The fragility of the situation is demonstrated by an incident that occurred during the trial. At the end of September a mass grave with 300 corpses was discovered by the British. These were the remains of prisoners who were shot by the guards after their transport from other camps to Bergen-Belsen. Of course the existence of the grave must have been known. The British forced former Nazis to bury the corpses. Some of the forced laborers or former camp prisoners wanted to retaliate against these Nazi Party members, one of whom suffered a heart attack. One of the former Nazis wrote a letter of complaint to the military government, condemning the former prisoners of being violent against them.<sup>17</sup> Clearly the past was still all too present.

### *Eggebrecht's reports*

Eggebrecht’s texts, reporting on every day of the trial, seemed to mirror and influence this dispositive. Clearly he saw himself as part of the re-education task of the NWDR. The special quality of his coverage is that it triggered a visualization of the Belsen reality. From his experience as a scriptwriter he composed every report dramatically, sometimes with an underlying irony. Let me give an example from the first day of the trial: After referring to the courtroom hall and the ideals of the 1848 revolu-

16 The movie *Grün ist die Heide*, one of the ‘Heimatfilme’ (kitchy sentimental films with rural settings and simplistic morality, popular in the late 1950s) was set in Lüneburg and dealt in a questionable manner with the problem of integration of refugees.

17 SUUB Hamburg 1/10 and 8/10/45.



tion — “The year brings to mind a distant reproachful warning”<sup>18</sup> — he gives a detailed description of the spatial arrangement of the courtroom followed by a description of the judge, other court officials and the defendants: “beside him (Kramer) are sitting several men who, if I use the so-called scientific technical terms of the Third Reich, belong to the ‘*ostisch*’ or East Baltic (*ostbaltisch*) type.... All these men and women — some with very striking faces among them — resemble today, how shall I say, photographs, the contours of which are just emerging. Soon we are going to see them more clearly.”<sup>19</sup> The text closes with a remark about the 150–200 German spectators sitting in the gallery. They will confirm his impression: The atmosphere is “dominated by an unswerving, severe and impartial objectivity. There is no feeling of sensationalism in the air. Maybe that will change within the next days.”<sup>20</sup>

### *‘Victors’ justice’ or ‘democratic law’*

Eggebrecht did not lose time — his reports were not longer than ten to fifteen minutes, scheduled at prime time, 20:15 in the evening — in explaining the complicated legal intricacies of British law. At the same time he claimed that some elements that the audience might find disturbing were due to the fact that the trial was based on democratic law. Even the role of the defense counselors and especially of the legal advisors (*zivile Rechtsberater*) was highlighted. They were trying, he argued, to undermine the testimonies of the witnesses who were prisoners partly of Auschwitz and partly of Bergen-Belsen. Eggebrecht did not focus his reports on the affidavits<sup>21</sup> that were read out, but on the few witnesses who were present. But he insisted and repeated: “We live, even under occupation, within a legal system which deserves to be called so.”<sup>22</sup> This course must have been a very difficult one for Eggebrecht to

18 SUUB Hamburg NE Ai 1-21, 17/9/45.

19 SUUB Hamburg Ai 1-21, 17/9/45.

20 Ibid.

21 These affidavits were based on testimonies given by prisoners before a commission shortly after the liberation of the camps. The fact that they were highly problematic as legal evidence (language, the whole situation, etc.) was considered in the sentence.

22 SUUB Hamburg NE 1-21, 24/9/45.

follow. Whether he feared that the censor officer of the NWDR would delete any critique of the legal procedure in his texts or whether he was anxious not to endanger the possible pedagogical effects of the trial on his audience, I cannot say. In any case, Eggebrecht later accused the British of having chosen supporters of the British fascist Oswald Mosley as members of the defense, supporting a long-standing rumor that could not be confirmed.<sup>23</sup>

But Eggebrecht knew about the prejudices and hostility that part of his audience bore against this trial, because the British officers dealt with the atrocities of the camps, which reminded the Germans of the defeat and of their own support of the Nazi regime. The station received letters from listeners accusing the British of spreading *Greuelpropaganda* (atrocities propaganda) and Eggebrecht of being the voice of this sort of fabrication. Eggebrecht’s answer to these accusations was that the trial was fair, in his view astonishingly fair. “We are a German radio station. Albeit under English control. But this control is limited to knowledge of what I want to report. Every evening I come from Lüneburg and talk about what I have seen and heard. There is no time to fake or model this report as some people may suspect. No, there is no need to make something up. The facts which emerge in this trial speak their own tremendous unmistakable language. And I think it is necessary for everybody to know.”<sup>24</sup>

### *The system or individual perpetrators*

This early trial was significant because it was the first time that the microcosm of the camps was represented in public as part of a criminal system. From the beginning Eggebrecht insisted on the existence of a system in and beyond the camps, especially when referring to the testimonies of members of the British army. Eggebrecht cited for example

23 Eggebrecht, “Erinnerung. Der Bergen-Belsen-Prozess in Lueneburg,” in: Werner Holtfort et al., eds., *Hinter den Fassaden. Geschichten aus einer deutschen Stadt* (Göttingen: Steidl, 1982), pp. 53–57. Eggebrecht wrote that during the interrogation these officers said: „these men had to deal with the scum of the ghettos of Eastern Europe.“ Berndt repeats the rumors without any research, idem, *Nur das Wort kann die Welt verändern*, p. 54.

24 SUUB Hamburg NE Ai 1-21, 25/9/45.

the statement of Major A. L. Berney that there would have been enough food and other necessities for the starving prisoners had the commander distributed the stocks from the Wehrmacht's Tanks Troop School about three kilometres from the camp.<sup>25</sup> On a different occasion Eggebrecht was stunned to learn that the SS men, kapos and other Nazi camp officials were reintegrated in German society.<sup>26</sup> He put it very clearly when he again answered listeners complaining about their own misery and blaming the station for inaccuracies in the reports: "This was the system of Auschwitz. That it was a system, this makes the cruelty of it. And reporting about Auschwitz and Belsen, is not telling a horror story, no propaganda, but how the system was. We don't want to divert from the present misery, but in describing the system we are going back to the roots of our suffering, too."<sup>27</sup> Eggebrecht was very anxious not to depict Josef Kramer or the notorious female SS guard Irma Grese as beasts — as did the *Lüneburger Post* and other newspapers. Commenting on a statement by Kramer, he said: "One had expected a brutal severe oppressor. But the one who spoke was an administrator in the office — a bureaucrat of the SS."<sup>28</sup> Eggebrecht is clearly bewildered by the coolness of Kramer and the others, and that they did not acknowledge their responsibility. Again he links this with the system and with the mentality of most Germans, without mentioning it directly, when he speaks of how the camp functioned. As he heads his report of October 12, 1945: "They tortured them because the regulations and the orders demanded it." Eggebrecht ends with "The SS order; the camp order. This order quoted a dozen times today is the real defendant in Lüneburg."<sup>29</sup>

His observations on Irma Grese were on her youthfulness more than on her age. Again Eggebrecht was stunned that even now she justified the concentration camps system in its entirety. But in this comment Eggebrecht referred to the system as being responsible for stealing this young guard's life, a life that should have just begun.<sup>30</sup> This remark is very interesting when read from a gender perspective: it is the only time

25 Ibid., 20/9/45.

26 Ibid., 21/9/45.

27 Ibid., 3/10/45.

28 Ibid., 8/10/45.

29 Ibid., 12/10/45.

30 Ibid., 17/10/45.

that Eggebrecht offered the option to defer guilt to an abstract system, coming close to the dominant narrative of the Germans being the real victims of an inhuman regime.

Quite often Eggebrecht reported that in the trial judgments were passed on crimes committed against non-Germans only. He unmistakably maintained the responsibility of Germany for these crimes and insisted at the same time on the future option of establishing a German trial to judge German victims of the camp. Here again we have to ask why Eggebrecht asserted that Germans were murdered in the camps, as were people of other nationalities. I assume that, first of all, he argued in the tradition of the socialist resistance against the Nazis. He referred explicitly to British publisher Victor Gollancz who had argued against the thesis of collective guilt, referring to the German victims. Secondly he wished to make clear to his audience that their argument, that the crimes of the Nazis were directed against Germany's enemies in wartime, was invalid.<sup>31</sup>

### *Survivors as Witnesses*

Apart from the affidavits, there were only a few survivors of the camps who gave testimony in the trial. One of them was a young Jewish Polish doctor, Ada Birnko (Ada Hadassah Bimko).<sup>32</sup> She was arrested with her whole family and deported to Auschwitz. Eggebrecht again described

31 Ibid., 18/11/45.

32 The name in the manuscript is in the handwriting of Eggebrecht and he obviously made a mistake. The witness was Dr. Ada (Hadassa) Bimko. She and her family were deported to Auschwitz in August 1943. She came to Bergen-Belsen as a member of a medical team of inmates. After the liberation she organized a group of physicians and medical workers among the survivors, helping the British military to rescue the sick and weak survivors. She lost her entire family during the Holocaust and married the leader of the liberated Jews in Bergen-Belsen, Yossel Rosensaft and gave birth to their only child, Menachem. Later the family emigrated to the United States, and she was active in Holocaust commemoration activities and became a member of the U.S. Holocaust Memorial Council and of the board of the U.S. Holocaust Memorial Museum. She died in New York in 1997; she left her autobiography *Yesterday, my Story*; see Hagit Lavsky, *New Beginnings. Holocaust Survivors in Bergen-Belsen and the British Zone in Germany 1945-1950* (Detroit: Wayne State University Press, 2002), p. 68.

her as if she was appearing on the stage. After mentioning that 25,000 men and women had been deported from the small Polish town of Sosnowiec within five days, he again addressed his audience, informing them that even if there were some criminal elements in these camps the majority of the prisoners were innocent people who had been deported not for political reasons but for the sole reason that they were Jewish. Ada Bimko described her arrival in Auschwitz, and the selection, where 4500 individuals were dispatched to the gas chambers, among them her six year old son and her parents. Then she named one of the defendants, Dr. Fritz Klein, who had worked in the same hospital as she did.

At this point the questioning of the witness was interrupted. All spotlights in the hall were flashing — I did mention already that these are the same spotlights which lit up the shacks [Eggebrecht wrote “prisoners,” but crossed this word out] in Belsen some months ago. There she was standing, some months ago one of their countless defenceless victims. Very calmly she looked into the eyes of one after the other. Then she testified. Yes she recognized them, the camp commander Kramer, later commander in Belsen. The MD Dr. Klein, the commander of Auschwitz, Franz Hössler, again later in Belsen. Then the SS women, Grese, Elisabeth Volkenrath, Herta Ehlert. Juana Bormann, who was always accompanied by a huge dog.<sup>33</sup>

In this report to his German audience Eggebrecht depicted her as a woman acting courageously, and in this way expressed his respect for her.

One of the peculiarities of the trial was that only thirty-four witnesses were summoned, most of them officers of the British Army. But two films were shown: Besides a clip from Bergen-Belsen a documentary made by Russian cameramen in Auschwitz was presented. Eggebrecht does not spare his audience a detailed synopsis of the films: “I do wish we already had a TV station... because words can only give a vague impression of what can be seen here of this hard reality.”<sup>34</sup>

33 SUUB Hamburg 21/9/45.

34 Ibid., 15/10/45.

### *The Sentence*

Eleven of the 49 defendants were sentenced to death, one-third was acquitted. Once again Eggebrecht stressed that this demonstrates the fairness and objectivity of the trial. Except for two of the accused who really had nothing to do with the camps, the others were former guards whose participation in inhuman activities could not be proved. “This was no show trial,” said Eggebrecht.<sup>35</sup>

Concerning the death penalty Eggebrecht made an interesting point. He asked whether the death penalty was justified, even in the light of the atrocities these people were responsible for. “The annihilation of the culprit is not enough. To make him conscious of his guilt might be the final sense of punishment... It is only a question. A question which was not allowed in the Third Reich. But our hearts should not be so hardened that we cannot feel: a question remains.”<sup>36</sup> With these words Eggebrecht ends his coverage of the trial in Lüneburg.

### *The trial against Mulka and others in Frankfurt, December 20, 1963 to August 20, 1965*

When the Auschwitz trial began in Frankfurt in 1964, the situation was of course very much different to that in 1945. The shadows of the past might still have been distressing but they were no longer overwhelming. And whereas in 1945 the Nazi regime, the war and the defeat were visible and present in daily life, nearly twenty years later the former occupation forces had become allies and the Soviet Union and the German Democratic Republic were the common enemies in the Cold War. The judgments of the Allies were important, of course, so the trial in Frankfurt was closely observed by foreign correspondents. And there was a new generation, born after the war and starting to ask their own questions about the involvement of their parents. Furthermore, the *Einsatzgruppen* trial in Ulm and especially the Eichmann trial in Jerusalem had greatly increased public knowledge. The memories as well as the testimonies and images produced in the trial remained shocking but

35 Ibid., 18/11/45.

36 Ibid.

clearly detached from the present time. What distinctly marked the difference between these periods was the generation born after the war, which now started to ask disturbing and painful questions, questions that were partly triggered by the Eichmann trial and strengthened by the Auschwitz trial. Some of the students attending the Auschwitz trial — some 20,000 people, among them large numbers of schoolchildren — later said that their presence at the trial, listening to the witnesses, marked the beginning of their political awakening that led them into the student rebellion of 1968.

In many ways the change of the 'dispositive' from 1945 is obvious. At that time, the beginning of the 1960s, the Federal Republic was a stable democracy. Only a few months before the courts passed sentence diplomatic relations with Israel were established in May 1965, though for different reasons. Nevertheless, as scholars emphasize, it took more than a decade before the continued existence of the former Nazi elites in the Federal Republic was questioned — not only by a few critical journalists such as Axel Eggebrecht and former victims of the regime,<sup>37</sup> but more generally. The shift in historiography that took place in the 1960s — a period of modernization in Germany — included a turn in the discourse about the Nazi past.<sup>38</sup> As a result of the Ulm trial, the legal prosecution of NS crimes was sharply criticized by the public.<sup>39</sup>

Before 1933, Frankfurt had one of the largest Jewish communities in Germany. In sharp contrast to the self-image of the city's liberal bourgeoisie, antisemitism spread at the end of the Weimar Republic, setting the stage for the persecution of the Jews after 1933. In the mid-1920s 29,000 Jews lived in Frankfurt, 11,500 of whom were deported and

murdered; another 15,000 emigrated. At the end of the war, only 140 Jews still lived in Frankfurt. Nevertheless, after the war more Jews returned to Frankfurt than to any other German town. In 1945 the U.S. Army made Frankfurt its headquarters for Germany and moved into the IG Farben skyscraper. The city tried to revitalize the traditions of the Paulskirche with its historic ceremony of March 18, 1848. Frankfurt University and the local administration invited Jewish social scientists Theodor Adorno and Max Horkheimer to return: The reestablishment of the *Institut für Sozialforschung* not only symbolized hope for the return of Jewish emigrants but also a sort of continuity after the rupture of 1933. The students of the institute were well prepared for the trial. As historian Irmtrud Wojak noted, it was the personal and professional relations between Fritz Bauer, the Attorney General,<sup>40</sup> and Adorno and Horkheimer that made Frankfurt the suitable place for the trial.<sup>41</sup>

The opening sessions of the court took place in the city hall at the Römer, the heart of the city that was destroyed by the bombing and restored in the original style. The site was chosen to symbolically stress the importance of the trial as well as the liberal traditions of Frankfurt as the city of Goethe and the Paulskirche. One may interpret this symbolic act as a way of reconciling the now democratic town with its past, a way to rewrite the history of the city that had hoped to be chosen as capital of the Federal Republic.

### *The legal framework*

Scholars have shown how the Konrad Adenauer government strikingly neglected the prosecution of Nazi crimes. The influence of the former Nazi elites who gathered in the Nord-Rhine-Westfalian Free Democratic Party (*FDP*) is only one example.<sup>42</sup> Joachim Perels speaks of the

40 Fritz Bauer, born 1903 in Stuttgart in a German Jewish family, emigrated in 1936 to Denmark. In 1949 Kurt Schumacher, the leader of the German Social-Democratic Party, persuaded Bauer to re-emigrate. In 1950 he served as the Attorney General in Braunschweig and from 1956 in Frankfurt. It was he who gave the decisive tip to the Israeli Mossad about the whereabouts of Eichmann. Bauer was more than upset about the way the German government dealt with the prosecuting of Nazi crimes.

41 Wojak, *Auschwitz Prozess*, pp. 59ff.

42 Ulrich Herbert. *Best. Biographische Studien über Radikalismus, Weltanschauung*

37 For example, Detlef Garbe, "Äußerliche Abkehr, Erinnerungsverweigerung und 'Vergangenheitsbewältigung': Der Umgang mit dem Nationalsozialismus in der frühen Bundesrepublik," in Axel Schildt and Arnold Sywottek, eds., *Modernisierung im Wiederaufbau. Die westdeutsche Gesellschaft der 50er Jahre* (Bonn: Dietz Nachf., 1993), pp. 693-717.

38 See Dieter Pohl's paper in this book.

39 For the entire field of research see the summary by Irmtrud Wojak, "Der erste Frankfurter Auschwitz-Prozess und die 'Bewältigung' der NS-Vergangenheit," in *Auschwitz-Prozess. Katalog zur Ausstellung des Fritz Bauer Institut*, 4 Ks 2/63 2004 (Cologne: Snoeck, 2004), pp. 53-70; see Irmtrud Wojak, ed., *Gerichtstag halten über uns selbst. Geschichte und Wirkung des ersten Frankfurter Auschwitz-Prozesses* (Frankfurt/Main: Campus, 2001); Fritz Bauer Institut, ed., *Auschwitz: Geschichte, Rezeption und Wirkung* (Frankfurt/Main: Campus, 1996).

abandonment of the principle of legality.<sup>43</sup> The main problem that characterized the sentencing after the trial was the enormous gap between the “explication of the facts” (*Sachverhaltsaufklärung*) and their “legal assessment” (*strafrechtliche Bewertung*). This gap — which Barbara Just-Dahlmann, an attorney at the Central Office at Ludwigsburg sarcastically, defined as “one dead = 10 minutes jail”<sup>44</sup> — is based on categories of criminal law. At the Auschwitz trial only six of the defendants were sentenced as principal perpetrators, whereas the other eleven defendants were classified only as ‘*Gehilfe*’ (accomplices) whose deeds were not committed out of self-interest. Thus the legal framework of the Auschwitz trial with its extensive interpretation and the formulation of the complicity offence generally allowed for the changing of perpetrators into accomplices. This separated the murder, initiated by the administration of the regime and of the camps, from the individual agenda. Eggebrecht’s hopes for a different trial were dashed.

### *The Cold War*

The Auschwitz trial provided a stage for the Cold War. The German Democratic Republic — personified by attorney of law Friedrich Karl Kaul, co-plaintiff (*Nebenkläger*) in many NS trials in the Federal Republic — tried to stress, following communist ideology, that the Nazi criminals were the puppets of ‘Monopolist Capital.’ In truth, the close links between big industry and Auschwitz were largely ignored in the trial, even by reports of the historical experts. But also the expert’s report of the East-Berlin historian Jürgen Kuczynski was problematic as a result of mistakes in interpreting the material. The defense counsel, especially Hans Laternser, used the ideological repertoire of the Cold War to cast doubt on the credibility of the witnesses coming from East

*und Vernunft 1903–1989* (Bonn: Dietz, 1996), p. 461; Norbert Frei, *Vergangenheitspolitik. Die Anfänge der Bundesrepublik und die NS-Vergangenheit* (Munich: DTV, 1999).

43 Joachim Perels, “Die Strafsache gegen Mulka und andere, 4 Ks 2/63 — Juristische Grundlagen,” in *Auschwitz Prozess*, pp. 124–147.

44 Barbara Just-Dahlmann, *Die Gehilfen. NS-Verbrechen und die Justiz nach 1945* (Frankfurt: Athenäum, 1988), p. 45. Quoted after Perels, “Die Strafsache gegen Mulka,” p. 137.

Germany and other communist countries. It made no difference that Poland, for example, only allowed to go to Frankfurt those witnesses who had their testimony checked beforehand by Polish legal staff. Nevertheless, during the trial a collaboration with archives of the Soviet Union was made possible for the first time, and finally the Polish and German governments agreed that a delegation of the trial could visit Auschwitz.

Eggebrecht, who saw himself as an independent socialist who, as said earlier, had broken with the Communist Party, was critical of both sides. On the one hand, his political views had sharpened his capability of seeing the whole picture, the links between the SS system and big business like IG Farben and others, while on the other, he was very suspicious of the communists in the courtroom. He criticized Kaul sharply for manipulating the witnesses and Kuczynski for misinterpreting the material.<sup>45</sup> But the discursive field was more complex, mainly because Cold War discourses were made instrumental by Laternser and the like for the defense interests. Eggebrecht noticed that some of the lawyers failed to seize the historical opportunity the trial offered to show the whole world that the Germans were taking responsibility for their Nazi past. “They misuse the trial as an arena, where they display their horses in a completely disastrous vanity.”<sup>46</sup>

### *The reports of Eggebrecht*

Though Eggebrecht was in the courtroom from the first day of the Auschwitz trial, the archive of Hamburg does not have the reports from the first months. Eggebrecht planned to publish a book about the trial and some notes were found that help to reconstruct his first impressions.<sup>47</sup> He comments that his traveling to Frankfurt signified a journey into a dual past: Not only was he reminded of the Nazi past but — as his train stopped at Lüneburg — it brought back his memories of the Bergen-Belsen trial.

45 SUUB Hamburg Ai 3, 22/3/64.

46 SUUB Hamburg Ai 6, 11/4/64.

47 SUUB Hamburg Ag 264, Ai 51, Ai 52. The remaining reports start on March 8, 1964.

*Law and justice*

Whereas an already ambivalent and difficult relationship between law and justice underlies all discourses on criminal law, these discourses become really tricky and awkward in times of deep-rooted change. And they turn extremely difficult when the trial is based on the law of the victorious nation and is embedded in strategies of reeducation, which is true for the Belsen Trial. Two decades later, however, this tricky relationship had barely changed. The gaps between the expectations of the trial concerning the different social groups involved and the legal and political framework had become multifaceted and could not be bridged. Axel Eggebrecht was very conscious of these tensions and much in despair with regard to their effects. He still saw himself as a political journalist whose task it was to diminish the animosity towards the NS trials exhibited by most of his audience. He spoke frankly about his dilemma: These trials disclosed the political and social tracks of the Nazi past leading into postwar German society. In considering the legal limitations of the trial, these aspects had to be ignored. But Eggebrecht insisted that it was his task and that of the German people to take a close look at continuities from the Nazi past.<sup>48</sup> Like his reports on the Belsen trial, Eggebrecht did not deal with the complicated legal framework. However, by constantly contrasting the Auschwitz trial with the trial against Hans Hefelmann in Limburg concerning the euthanasia program and with the parallel trial in Frankfurt of the close collaborators of Eichmann — Hermann Krumei and Otto Hunsche in Hungary — he was able to show very clearly that the law was partly produced during the trial itself,<sup>49</sup> following British Case law. In his reports on all three trials he focused on the role of the presiding judge, on the public prosecutor and on the defense counsel. By so doing he hoped to describe the chances each of them had to interpret the law freely in a morally decent and politically correct manner.

48 SUUB Hamburg Ai 52, p. 47.

49 See Judith Butler, *Hass spricht. Zur Politik des Performativen* (Frankfurt/M: Suhrkamp, 2006).

*The perpetrators*

With regard to the perpetrators there are two main tracks to be considered. Whereas Eggebrecht insisted on depicting the system behind the individual perpetrators during the Belsen trial, he — obviously alerted by the tendencies he had observed in the trials in Limburg and Frankfurt — now pleaded against the construction of a complicity offense and stressed the role and responsibility of the individuals. The week that the sentence was announced he declared to be a bleak one: Krumei was sentenced to only five years imprisonment for complicity in the murder of 300,000 people. “Otto Hunsche, legal advisor not only in Budapest during the great deportations but since 1939 legal advisor of the RSHA was acquitted for lack of evidence.”<sup>50</sup> He commented: “I would like to cite a question which our most widespread mass newspaper asked its readers after the sentence against Krumei and Hunsche: What is more terrible — not to catch a criminal or not to sentence him? Whatever the case — the dubious words of the minister of justice, Ewald Bucher, that we have to consent to live with some murderers among us appear to become reality.”<sup>51</sup> By dramatizing the case he repeatedly made use of the metaphor of the defenseless victims and the cool, laughing, remorseless perpetrators. This can be illustrated by a comment of his on the exhibition in the Paulskirche, displayed during the trial: “Again and again the exhausted victims, at work, locked into the shackles, broken, hungry, slain, shot. There was nothing which the cameras of the executors did not notice. The executors themselves are posing, laughing, observing, somehow proud and sure of themselves. And we see SS officers speaking to engineers of IG-Farben. The human commodities are dealt with for exploitation.”<sup>52</sup> Eggebrecht quoted the co-plaintiff Henry Ormond who successfully broke with the myth of the SS as a front-line fighting force, maintaining that, on the contrary, they only used their power against the defenseless.<sup>53</sup> As a professional journalist Eggebrecht tried to keep his own emotions in check. But his description of the perpetrators as being petit bourgeois men trying to follow their routines as well

50 SUUB Hamburg Ai 48, 7/2/65.

51 Ibid.

52 SUUB Hamburg Ai 39, 29/11/64.

53 SUUB Hamburg Ai 63, 30/5/65.

as murdering innocent men and women in cold blood was underlined by a deep loathing. So he spoke about Josef Klehr who murdered men and women with phenol injections and reported that this man had a Jewish prisoner build a board, and on it a scroll with lyrics that would be sung to the popular tune *Gold und Silber hätt ich gern* for his nieces wedding where he appeared as an organ grinder. Eggebrecht commented: "We have to visualize this: The man with the phenol injection as a merry-go-round organ grinder." Thus, without overtly using the words Eggebrecht illustrated the obscenity of the perpetrator. But not once did he allow his listeners to forget the SS perpetrators. "The atrocities of Auschwitz and Hadamar [euthanasia extermination center] — put everybody in danger. Especially the reporter, the observer. That's me."<sup>54</sup>

### *The witnesses*

As in his coverage of the Belsen trial, Eggebrecht did not spare his audience. In almost every report there was a story of the suffering of an individual. He bluntly stated his impression that some of the testimonies were not trustworthy. His argument was twofold: Some of the victims were naturally traumatized and therefore some of their testimonies might not reflect the facts. It was the task of the judges and the jury to discern the truth.<sup>55</sup> On the other hand he tried to make his audience understand that when standing before the judge in the courtroom the witnesses were reliving their suffering and the anguished memories. He quoted from a booklet by Emmi Bonhoeffer, widow of Klaus Bonhoeffer, who took part in the conspiracy of July 20, 1944. Eggebrecht himself felt uncomfortable that he had not paid enough attention to the problematic psychological situation of the witnesses at the start. Almost begging the judges he repeated that the demands on the memories of the witnesses were too much of a burden. Whether the deportees who got out of the railway wagons were sent to the right or left side on the ramp, for example, should not be a reason to doubt their credibility. He point-

54 SUUB Hamburg Ai15, 14/6/64.

55 For example, Ai 27, 6/9/64: Eggebrecht refers to a testimony of a witness who incriminated the doctor Franz Lucas who at least in the first months of the trial appeared to have helped the prisoners.

ed out that this court demanded less from the accused than from the survivors. "What price the victims have to pay for our late justice."<sup>56</sup>

He vehemently criticized the strategies of Laternser and other members of the defense counsel: Eggebrecht comments that when they questioned a witness from Russia who was, as Eggebrecht conceded, a difficult witness, it was like an inquisition, and he reminded his audience that, next to the Jews, Russian prisoners suffered the most. The witness confirmed that of the 13,000 Russians sent to Auschwitz only forty-eight survived: "I do think that one should show some more respect in questioning the Russian witnesses."<sup>57</sup> Speaking about his own exhaustion from the drawn-out proceedings, he pointed to both the large number of witnesses and the aim to definitively establish the facts as responsible for the excessive length of the trial. However, at the same time he was clearly aware of the monotony of the horror: "The monotony of the atrocities may not diminish the horror itself. The single horror, the single crime done by an individual."<sup>58</sup>

### *The counsels of defense*

The strategies of the defense counsels were not homogeneous. The most argued with counsel was without doubt Laternser, whose cynical and arrogant way of dealing with the witnesses shocked Eggebrecht. Laternser tried to cast doubt on the credibility of the witnesses — either because he "saw hate in their eyes" or because, as in the case of Dr. Rudolf Vrba whose statement incriminated Robert Mulka, he accused them of being partisans. Eggebrecht cites from the questioning of the defense:

Laternser: "You have fought in the underground army, ...may I ask which uniform did you wear?"

Vrba: "In Czech uniform — I know, we were called bandits."

Laternser: "Whom have you shot?"

Without hesitation Vrba answered: "Every German murderer in uniform. And I am not ashamed."

56 SUUB Hamburg Ai 2, 15/3/64.

57 SUUB Hamburg Ai 31, 4/10/64.

58 SUUB Hamburg Ai 12, 24/5/64.

But one sentence Laternser did not hear. Dr. Vrba said to Eggebrecht after the trial: "Pressburg was full of German women and children as well as old people — we did not touch a hair on their heads — in Auschwitz the weak were the first to die."

Again, in this brief exchange Eggebrecht's strategies become evident. He tried to refute the positions of Laternser by contrasting them with the witnesses' statements, thus showing their absurdity. A different approach was to contrast Laternser with other counsels, such as Dr. Ehrhard who defended Hans Stark, the youngest of the accused. In his plea he referred to his complete lack of remorse. Ehrhard argued that every institution, the army as well as the judicial institutions, was completely immoral. Eggebrecht comments: "That a counsel spoke of the general responsibility of all Germans for the millions of murdered in the camp, seems remarkable."<sup>59</sup> Again he contrasted this with Laternser who not only accused some of the witnesses of fraud — some of them had tried to get more money for travel expenses — but also tried to argue that those who were on the ramp during the selections were the true heroes, resisting the 'Endlösung.' In these statements the listeners could sense how distressed and enraged Eggebrecht was.

### *The end*

Eggebrecht who had always claimed that the presiding judge, Dr. Hans Hofmeyer, tried his best in the complex and extremely difficult trial and never hesitated to position himself on the side of the survivors, described Hofmeyer in his last report not only as a brilliant jurist but as a compassionate man. Eggebrecht quoted Hofmeyer, who recalled the twenty months of listening to reports of unbelievable suffering and torture and thanked the jury with tears in his eyes. Eggebrecht said: "This trial demanded more of a court than the law is able to accomplish." And in a final statement he concluded: "The enormous trial was, eventually, a truly great event. An example which reinforced our concept of justice and which may encourage all those who are struggling for human dig-

59 SUUB Hamburg Ai 64, 13/6/65.

nity, reason, and historical insight. The twenty months which seemed endless were not in vain."<sup>60</sup>

### *Conclusion*

At the end of the Auschwitz trial Eggebrecht was pessimistic about its impact on German society. On October 8, 1965 he wrote: "The world outside has not forgotten Auschwitz. It watched the trial more attentively than we did.... Most people did not care about the Auschwitz trial, they were even angry about it. This is not only true for the facts which emerged month after month; most of the people felt embarrassed and objected to the trial for being useless."<sup>61</sup> On the other hand Eggebrecht had made ambivalent remarks as well, and he never doubted the importance of the trial in general.

Finally, I suggest five issues that might warrant future research and/or will lead to a more complex conclusion.

1. In view of how the media consider the expectations of their consumers, the fact of the intense radio coverage — apart from the NDR and the *Deutschlandfunk* the coverage by all other stations was very similar, especially of course the *Hessischer Rundfunk* (the radio station of Hesse) — it seems that the notion that the radio listeners in general "did not care" or "were angry about the trials" does not seem convincing. To date no detailed research relating to all the different types of media has been done.<sup>62</sup> If we can link the 'dispositive' and the discourses, we may get a more complex picture. Looking at the polls that were conducted we see that during the Auschwitz trial the number of Germans who voted for an end to the legal prosecution of Nazi crimes was higher than before and after.<sup>63</sup> The polls, however, do not give the reasons for this

60 SUUB Hamburg Ai 74, 22/8/65.

61 SUUB Hamburg, NE Ai 48, quoted after Marcel Atze, Axel Eggebrecht, in: *Auschwitz-Prozeß*, pp.744–751, 750–751.

62 The contribution by Sabine Horn in the present volume clearly shows the differences between radio and television.

63 In his short article Marcel Atze confirms the ambivalence: He gives a rough overall view on the contemporary reception in literature and different type of newspapers. He mentions Eggebrecht as a very important chronicler but underestimates the TV



opinion. Moreover, many people refused to confront the atrocities and their own guilt feelings; some of them might have been critical of the legal framework itself, which was responsible for the lengthy duration of the trial and for the sentences that seemed not appropriate for the crimes.

2. In this context one should take into account the impact of the new generation born after 1945 on the formation of cultural memory. First of all, the end of the 1950s and the beginning of the 1960s were — as some scholars call them — the turning point for the cultural and political modernization of West Germany. An intrinsic part of this process was the enormous growth in public knowledge on the persecution of the Jews and the Holocaust. Without doubt the Eichmann trial and the Auschwitz trial were crucial to this. Evidently, the media coverage had a profound impact as well.

3. The texts of Eggebrecht clearly show that even though Eggebrecht was an exceptional journalist and his experience enabled him to cover the trials without the ambivalences we find in other texts, the audience was confronted with the past in a very challenging way. Not only did Eggebrecht give his voice to the victims but he never tired of depicting the perpetrators as part of a system in which all of German society was involved. Even if this perspective was perhaps rejected by the majority of listeners in 1945 during the Belsen trial, that may not have been the case during the Auschwitz trial.

4. We have to ask more precisely whether the hope that the trials would be part of the reeducation or self-purging process of German people was realistic. First of all, without the media, which told the public the story of the victims, of the perpetrators and of everybody in court, there would not have been any effects at all. But the media always reflect both those, who are the producers of information as well as its consumers. The media and even Axel Eggebrecht were well aware of the limitations of what could be said and how the story should be told to have

coverage. Marcel Atze, "An die Front des Auschwitz-Prozesses. Zur zeitgenössischen Rezeption der Strafsache gegen Mulka und andere," in: *Auschwitz-Prozeß*, pp. 637-646.

the desired effect on the listeners, the readers or the spectators, that they might decode the message and maybe reflect on it.

5. A disturbing conclusion was drawn by the historian Cornelia Brink: On the basis of pictures taken by military and civil photographers after the liberation of the camps, Cornelia Brink discusses the contemporary reactions of German people.<sup>64</sup> These pictures were printed as posters in occupied German towns and published in local Allied newspapers in the summer of 1945. The Western Allies pursued a policy of distributing objective information to the Germans. The confrontation with "hard facts" about the atrocities was supposed to cause a confrontation with the truth and thus the acceptance of guilt. Photography, in the eyes of the Anglo-American PWD/SHAEF, mirrored reality and thus made it possible to link the legal discourse of evidence with the moral discourse of guilt. All contemporary testimonies as well as a PWD poll show that these photos were rejected and embedded in the stock of denial and refusal of guilt. Brink offers an explanation that seems puzzling at first but which I think is still worth considering: "The position of the camera makes one take the perspective of the punishing eyes of the Allies or the perspective of the survivors pleading for compassion. But at the same time this identification was not possible because the people who were looking at these pictures were not part of either of these groups. They were outsiders, part of the collective of perpetrators. For most Germans looking was identical with being looked at: Their stereotypical answer to this was: We don't recognize ourselves in these pictures."<sup>65</sup>

When speaking of the reactions of Germans to the NS trials, I suggest that this quote be kept in mind.

64 Cornelia Brink, "Ungläubig stehen oft Leute vor den Bildern von Leichenhaufen abgemagerter Skelette," KZ-Fotografien auf Plakaten — Deutschland 1945," in: Fritz Bauer Institut, ed., *Auschwitz*, pp. 189–222.

65 *Ibid.*, p. 210.