Bad Acting, from Adolf Eichmann to Paul Maria Hafner: Testimonial Performance and Nazi Perpetrators

Brad PRAGER

Trials are theatrical. They incorporate multiple characters whose voices and standpoints may contest one another. A trial’s principal figures are each involved in recounting their versions of events and in staging their respective pleas for justice. Ideally, the interests of all parties, the accused and the aggrieved, are taken into account, as well as the interests of the state, which presents itself as the legitimate voice of law. That the courtroom is a performance space was pointed out in the nineteenth century by Jeremy Bentham, whose Principles of Judicial Procedure (1843) repeatedly refers to ‘courtroom dramas’ and to the ‘judicial theatre,’ a phrase that occurs many times in that work. Susan Sontag reaches as far back as antiquity, pointing out that the very first account in history of a trial can be found in a drama, “in the third play, The Eumenides, of Aeschylus’s trilogy, The Oresteia” (Sontag 1964, p. 118). Sontag makes this observation in an essay in which she asserts that Adolf Eichmann’s 1961 trial was “in the profoundest sense, theater” (ibid., p. 119). Writing three years after that trial, Sontag concludes, “If […] the supreme tragic event of modern times is the murder of the six million European Jews, the most interesting and moving work of art of the past ten years is the trial of Adolf Eichmann in Jerusalem” (ibid., p. 118).

Peter Weiss’s The Investigation (Die Ermittlung, 1965), a documentary play based on information elicited at the Auschwitz trials in Frankfurt, had several aims, not the least of which was to draw the German public’s attention to atrocities committed during the Holocaust, but it can also be understood as a demonstration of the extent to which trials and plays

---

\[1\] In her study of the interconnection between courtrooms and media, particularly theater and film, Cornelia Wisman traces the theme back to Solon and Theopilus, who, in the sixth century BC discussed the limitations of theatrical representations vis-à-vis courts (see 2010, p. 34-35). Their encounter stands as an early philosophical instantiation of this idea.

---
share common performative terrain. In relying on conventions of documentary theater — specifically, in abridging and condensing original trial transcripts — Weiss alleges that the Auschwitz trial can be put before the public as a theatrical production with only small amounts of alteration. Weiss was adamant that those who produce his play not attempt to reconstruct the Frankfurt courtroom on stage (see 1969, p. 7), yet his performers’ voices are meant to reproduce and ventriloquize the witness’s statements. Weiss condenses the trial into three hours, and the hundreds of witnesses who participated are reduced to a handful of unnamed representatives. The play prompts the public to take a position on both the merits and the failings of the proceedings to which Germany had recently subjected itself. The work’s greater provocation, however, lies with its proximity to the original transcripts, and in the degree to which the play’s very existence highlights the notion that the judiciary is theater.

Asserting that trials, akin to plays, are about performing various interests does not undermine a legal system’s legitimacy, and Weiss had no intention of mocking the Frankfurt trials. Although plays can have a variety of functions, dramatists often see themselves as participants in the delegation of justice. Performance is an inherent part of that process, and one can assert that a trial is theatrical without seeking to undercut any particular trial’s gravity. If theatrical performances can be understood as appeals for social justice, as in the case of plays by Bertolt Brecht, Arthur Miller, Tony Kushner, and Anna Deavere Smith, then trials, in *vice versa*, can surely be said to contain performative dimensions; this comparison cuts both ways. Sontag writes, “as the trial is preeminently a theatrical form, the theater is a courtroom. The classical form of the drama is always a contest between protagonist and antagonist; the resolution of the play is the ‘verdict’ on the action” (1964, p. 119). Whether one speaks of trials or dramaturgical productions, spectators’ identifications are liable to shift, sometimes aligning the public with the victim and sometimes with the perpetrator. Erika Fischer-Lichte calls this process “perceptual multifinality” and describes conditions under which a theatrical performance’s “order[s] of perception” are repeatedly disrupted and replaced by new ones (see 2008, p. 148).

The Eichmann trial proves remarkably fruitful terrain where analysis of this intersection is concerned, and Eichmann’s comportment, whether it is seen as authentic or as the product of an elaborate masquerade, has been subjected to intense scrutiny. Heinar Kipphardt’s *Bruder Eichmann* (1982) follows Weiss’s *Investigation* as another example of German documentary theater. In that play Eichmann is portrayed as someone who found fulfillment in following orders, asserting that it was not he, but rather those who gave the orders who were ultimately responsible for dealing with thorny questions of conscience. The text of Kipphardt’s play is based on multiple documents including the police interrogation conducted by Avner Less (who appears here under the name Leo Chass) as well as Hannah Arendt’s *Eichmann in Jerusalem* (1963). In selectively culling material from many hours of transcripts, Kipphardt was highlighting Eichmann’s bureaucratic worldview, which he saw as symptomatic of the industrialized twentieth century. Kipphardt felt he recognized elements of Eichmann’s comportment in that of other modern bureaucrats, and he was convinced that many contemporary judges and businessmen would, years later, still be disposed to make the same murderous choices (see 1986, p. 205). Along lines similar to *The Investigation*, Kipphardt’s play strives to be polyphonic. It is replete with interlocutors, some of whom voice Eichmann-esque rationalizations about their work. Included in the play are: Captain Weiss, who flew missions over Vietnam and never expressed moral qualms about dropping bombs; a contemporary Israeli soldier who harbors fear that his behavior makes him resemble the Gestapo; the terrorist Ingrid Möller, who speaks about the attempt on her life and about the night Andreas Baader and Gudrun Ensslin died; as well as Ariel Sharon, who uses words like “Lösung” (“solution,” recalling the Nazis’ “final solution,” i.e., their plan to exterminate all Jews) and “Liquidation” (“liquidation,” referring to this extermination or genocide) when speaking about possible resolutions to the Israeli-Palestinian conflict. Kipphardt incorporates all of this into the performance, staging it and thereby highlighting the abundant voices and interests involved. To him, Eichmann’s trial, including the frame of the extra-judicial interrogation, was always already theatrical, yet as a production, it failed to deliver to its public what should have been presented as a clear-cut moral lesson.

In *Eichmann in Jerusalem* Arendt also understands Eichmann’s trial as a polyphonic amalgamation of voices. In her examination of the trial, she notes that whoever designed the Jerusalem courtroom conceived of it as a theater, “complete with orchestra and gallery, with proscenium and
like Peter Weiss, was sympathetic to the aims of the German prosecutors—somewhat more so than she was to the intentions of the Jerusalem court—Arendt concluded that the Frankfurt trial would be unable to produce "the truth, the whole truth," because,

no generality—and what is truth if it is not general?—can as yet dam up the chaotic flood of senseless atrocities into which one must undermine oneself in order to realize what happens when men say that 'everything is possible,' and not merely that everything is permitted. (see 2003, p. 255)" 4

Rather than the "whole truth," Arendt argues, the Frankfurt trial offers only "moments of truth, and these moments are actually the only means of articulating this chaos of viciousness and evil" (ibid., p. 255). Arendt writes that instances such as these "arise unexpectedly like cases out of the desert. They are anecdotes, and they tell in utter brevity what [Auschwitz] was all about" (ibid., p. 255). It was not within the court's capacity, Arendt maintained, to reveal or come to terms with comprehensive truths about the Holocaust. The Frankfurt Auschwitz trial offered only clearings—moments of truth, in the form of anecdotes—such that one might, even if only fleetingly, behave as though the unimaginable atrocities were comprehensible. Given the incomprehensibility of the suffering involved, the Frankfurt Auschwitz trial was destined to fail; it could not produce a materialization of the truth. It was instead a production contrived in order that ephemeral glimpses of truth might appear as would shadows on the wall of a cave. A trial of this sort functions, for Arendt, as a means of staging conditions that enable the truth to be seen.

In these passages Arendt brings an aesthetic paradigm—a discussion of a trial as a performance—to bear on a legal one. Her perspective is consistent with Santag's 1964 observation that the Eichmann trial was,

the attempt, dramatically, to deal with and resolve the [Holocaust] tragedy. It was, in the profoundest sense, theater. And, as such, it must be judged by other criteria in addition to those of legality and of morality. (see 1964, p. 119)

Benjamin Robinson likewise remarks on Arendt's basis for judgment, noting that Arendt views the trial differently than a legal scholar would. Here,

4 This distinction between what is 'possible' and what is 'permitted' is an explicit evocation of Dostoevsky's _The Brothers Karamazov_ (1879-80). In Dostoevsky's novel Dmitri Fyodorovich Karamazov observes that without God, everything is permitted.
he follows Shoshana Felman, who also describes Eichmann in Jerusalem in terms of its slippage between the spheres of law and art (see 2001, p. 202). Robinson argues that Arendt's examination of the Eichmann case as a courtroom spectacle and as a basis for the formation of national identity, rather than as a faithful or even rational manifestation of the law, coincides with aesthetic and affective positions—standpoints that are, on the one hand, part and parcel of most dramatic productions, and on the other hand antithema to the highly reasoned decisions one expects to reach in courtrooms. If we are concerned with pathos (with, say, the drama) rather than logos (in this case, the law), our attentions might preferably be drawn to a film or a play. A playwright or a filmmaker might appeal to the senses, and their "aesthetic discretion" will most likely conflict with "the relentlessly commensurate that is the object of judicial weighing and deciding" (Robinson 2003, p. 95). Citing Jürgen Habermas, Robinson points out that aesthetic perceptions may be unique to the perceiving subject, but juridical claims are expected to "overstep the boundaries of an individual consciousness." This is true. "[E]ven if in each case [juridical claims] are apprehended by a variety of subjects in various places and at various times" (ibid., p. 95). Laws are meant to be universal, while aesthetic judgments can be left to the individual. The law and aesthetics govern separate spheres and Arendt's arguments may therefore be more persuasive to those inclined to reason based not on the law, but on other rationales, or on other models of sensibility. One would expect a discussion of the treatment of justice in Hamlet, for example, to draw on different arguments, depending on whether that discussion was conducted by legal scholars, artists, or clerics.

Although Arendt is concerned with the question of justice, she also pays significant attention to the signs that compose the participants' respective performances, including facial expressions, body language, and the gestures of prosecutors and defendants. In reporting on each of these two trials, the one in Frankfurt and the one in Jerusalem, Arendt concerns herself with the performative characteristics of the various persons, specifically how the faces and bodies of the accused support or undercut their testimonies. She studies the expressions and reactions of the perpetrators in Frankfurt just as she studies Eichmann's face and body language in Jerusalem, where she speculated about the desk murderer's apparent inabil-

6 "Desk murderer" is not Arendt's characterization of Eichmann, but rather that of the prosecutor Gideon Hausner. In his opening speech at the trial on April 17, 1961, Hausner informed the court, "In this trial, we shall also encounter a new kind of killer, the kind that exercises his bloody craft behind a desk." Since then, the label of "desk murderer" has frequently been applied to Eichmann. (See Cesarani 2004, p. 3)
really is nothing more than a functionary, is really a very dangerous gentleman. Ideology, in my view, didn't play a very big role here. (Ibid., p. 44)

At issue is not whether Arendt relies on what she sees and hears in the courtroom — what else would we expect a witness to rely on? — but rather her contention that she was avoiding Freudian speculation into Eichmann's psyche. His urge to do evil as well as his deeds could be explained in terms of his aim of functioning admirably. It is wrong to say that Arendt reduces Eichmann to a single dimension; one might rather say that Arendt attempted to concern herself with Eichmann's successful participation in a system based on the information that "stared [her] in the face at the trial" (Arendt 2006, p. 287). She avoided writing about things that she could not see, in particular the perpetrator's elusive psychological depths.

Regardless of whether we consider Eichmann's courtroom persona in terms of performance or performativity — that is, regardless of whether Eichmann was consciously and deliberately dissimulating or was engaged in an unconscious construction of his own identity in the form of performed behaviors — Arendt draws evidence for her conclusions on the basis of her observations concerning his self-presentation. She assessed the former SS-man not as an analysand, but rather as an actor in a theater production, and her conclusions are based on that comportment. In this respect, Arendt distinguishes herself from Gideon Hausner, the prosecutor who portrayed Eichmann as a lying monster, insofar as Arendt understood the entire courtroom to be participating in a performance — it was a room in which everyone had a part to play. Although Hausner supposedly grew tired of cross-examining Eichmann because he "answer[ed] all questions with lies" (Ibid., p. 5-6), Arendt read the courtroom against its grain, seeing performance in everyone's actions. Hausner believed his task was to reveal the truth, yet he fallaciously spoke of his role without reference to its own performative character. He was disinclined to confront the fact that he was, in the words of Israeli historian Tom Segev, "the impresario of a national-historic production" (1991, p. 338). The idea that only the accused wears a mask while the prosecution wears none misses a fundamental truth about courtrooms, judicial theater, and about the trial's nature as a showplace.

Many have, since that time, concluded that Eichmann was putting on a false front in Jerusalem, and that his seemingly pure bureaucratic functionality was a calculated dissimulation. Even when Arendt's position is set alongside that of Bettina Stangneth, who has, more than anyone else, provided a basis for rethinking Arendt's conclusions, their respective positions turn on an interpretation of Eichmann's performance. Stangneth's study is based on interviews conducted in 1957, a few years before Eichmann was taken to Jerusalem for the trial, a transcript of conversations with the Dutch collaborator and Nazi journalist Willem Sassen in which Eichmann revealed himself to be an unrepentant Nazi, one whose only wish was that he had finished the job. In contrast with Arendt's contention that Eichmann was banal, the logical conclusion is that the court was dealing with an anti-Semite who willfully concealed his anti-Semitism at trial. Arendt's mistake may have been to treat Eichmann's statements as constitutive rather than performative because she presumed that he, like a rational actor, was speaking and writing in order to be understood. For this reason, Arendt "fell into his trap" (Stangneth 2014, p. xxiii). Stangneth writes that the Eichmann who appeared in Jerusalem "was little more than a mask" and that Arendt "didn't recognize it" (Ibid., p. xxiii). If one would have to refine this standpoint: Arendt saw Eichmann as a performer, but not pace Stangneth, as a liar. Eichmann was indeed performing, but, contra Hausner, he was performing neither more nor less than many others in that courtroom.

For his part, Hausner, long before Stangneth, took the uncompromising position that Eichmann was a liar. Hausner argues that he was constrained by his role as prosecutor from revealing the truth. He writes, "Eichmann carefully constructed a picture of himself that was best calculated to save his life. [...] This picture was, of course, distorted. [...] The portrait

7 Others support Stangneth's position, including Yaacov Lozowick, who writes, "Hannah Arendt was wrong. There was very little that was banal about Eichmann or any of his accomplices [...]. By 1938, many of these men were impatiently casting about for a mode to carry out the ideas they had been developing" (2001, p. 216-17).
8 On this subject, Arendt writes: "The judges did not believe [Eichmann], because they were too good, and perhaps also too conscious of the very foundations of their profession, to admit that an average, 'normal' person, neither feeble-minded nor indoctrinated nor cynical, could be perfectly incapable of telling right from wrong. They preferred to conclude from occasional lies that he was a liar and missed the greatest moral and even legal challenge of the whole case" (2006, p. 26).
9 The testimony of some survivors seems to be excluded from this overall framework. Consider Arendt's moving account of the testimony of Zindel Grynszpan, whose story called for "a purity of soul, an unmirrored, unreflected innocence of heart and mind that only the righteous possess" (2006, p. 229).
Biala Prager

Eichmann presented in court rarely brought out his total lack of remorse” (1962, p. 22). Eichmann was, in Haasner’s estimation, a more vicious man and a slyer opponent than the court allowed him to convey. As far as Haasner was concerned, everything Eichmann showed the judges was a distillation, but Haasner was, of course, reluctant to see his own demagoguery as performance. Liking the trial to a play, as does Arendt, is a means of avowing the simple truth that the prosecution and the defense each have parts to play, and either side can present itself as sympathetic or unsympathetic to its public. Arendt acknowledged that courtrooms compel roleplaying. She highlighted both Haasner’s performance and that of the judges, a standpoint for which the essayist Golo Mann criticized her, writing facetiously that Haasner’s histrionic inclinations were one thing, but “it remains to be asked whether he was the first trial lawyer since Cicero to give himself over to them” (2013, p. 114). On this point, Arendt’s argument differs from the others: the courtroom is always already a stage.

The Trial as Documentary

The Jerusalem courtroom recalls a performance space in Leo Hurwitz’s now famous trial footage. At the behest of Capital Cities Broadcasting Corporation, the company contracted by the Israeli government, Hurwitz filmed the proceedings. He positioned four cameras in the room, and the trial was preserved on the then-new medium of videocassette tape before it was shipped out of Israel and broadcast widely around the world. His images call the trial’s performative dimensions to mind insofar as they, with their multiple angles, turn a historical event into a film of that event. Owing to shifts in perspective and to the inevitable re-framing of the witnesses, Hurwitz’s footage cannot help but aestheticize the proceedings. One becomes quickly aware of the extent to which it sets everyone involved deliberately or involuntarily upon the stage.

On its own, the presence of television cameras does not make a courtroom theatrical (see Ball 1975, p. 85), but the fact that it was turned into a film or saved on video means that we can now see the trial’s spaces as settings, the personnel as performers, and we can observe all the gestures in their repetitions, thereby seeing everyone’s socially encoded gestures as gestures. Although the witnesses were, for the most part, not speaking with these cameras in mind -- some appear to have given the cameras considera-

tion, others less so -- in Hurwitz’s footage, the defendant, the prosecutor, the judges, and the witnesses each appear as documentary subjects. Eichmann, for one, was keenly aware of his self-presentation, if not before Hurwitz’s camera, then at least before the members of the press in the gallery. According to Haasner, when films were introduced that the prosecution wished to include as evidence, Eichmann was dressed casually – having been told that the hearing was only preliminary. Suddenly, however, “he started an agitated argument with his guards” (Haasner 1962, p. 23). Haasner writes:

He had noticed that there were some people sitting in the seats reserved for the public, and on being told that they were journalists, he protested against having been brought to the courtroom in slacks and a sweater, instead of the dark-blue suit provided him for the trial. (ibid., p. 23)10

In the 1999 film The Specialist: Portrait of a Modern Criminal, Eyal Sivan thematizes the trial footage’s intrinsic theatricality. Hurwitz’s original footage is here turned into a provocation. Where Sivan, at times, digitally imposes a reflection of audience members in the gallery onto Eichmann’s transparent booth, the image of the trial’s antagonist is merged with that of the Israeli public who sits in judgment, each side implicated in the process of demonizing him. He had done the things he was accused of, but the trial was geared toward convincing the public that the aged man seated in the glass booth was a monster. Francis Guerin notes that, “The Specialist clearly announces itself as an aesthetic articulation of the Holocaust, an aesthetic articulation of the legal proceedings which, in turn, are shown as a performance” (2005, p. 168). Digital manipulations and other superimpositions and special effects, very few of which are marked as such, permit the film to be seen not as an engagement with the trial, but as an engagement with our visual memory of the trial. The Specialist is an example of what Thomas Elsaesser describes as a paraaxiss – a somewhat unconventional translation of the Freudian term “Fehlleistung” (see 2014, p. 8). Elsaesser suggests that “Fehlleistung” can mean “a failed performance” or “a performance of failure,” and from his perspective, representations such as Sivan’s critically assess the inadequacy of prior memory work, and deliberately

10 This scene is reproduced in Kipphardt’s Bruder Eichmann in which Eichmann can be heard complaining about what he is wearing when the atrocity films are screened (see 1986, p. 105). On the court’s inclusion of these images, and on their inclusion in The Specialist, see also Buerkle 2008, p. 227.
extend an earlier, erant tradition.¹ Parapractical representations take unprocessed events from the past and continue to process them in ways that deliberately avoid the production of clear conclusions. Sivan's documentary is, in this way, a parapraxis of a parapraxis, or a Freudian slip of a work. Arendt, on whose book Sivan was drawing, maintained that the trial failed in key respects, writing:

The failure of the Jerusalem court consisted in its not coming to grips with three fundamental issues, all of which have been sufficiently well known and widely discussed since the establishment of the Nuremberg Tribunal: the problem of unpaired justice in the court of the victors; a valid definition of the 'crime against humanity'; and a clear recognition of the new criminal who commits this crime. (2006, p. 274)

If the trial itself was flawed – if it failed to address “fundamental issues,” then The Specialist is meant to echo this failure. It is the cinematic equivalent of a counter-memorial, and insofar as Sivan is critical of the Eichmann proceedings, he takes the extant image of the trial and refashions it as a provocation, one that builds upon an original, unruled foundation.

The Specialist highlights the trial’s performative aspects, doubling down on Harwitz’s representational choices through creative editing and through the addition of digital effects, all of which emphasize the role-playing that went on in the courtroom. For this reason, many contest the use of the term “documentary” when applied to this film (see Pinto 2005, n.p.). To be sure, there are enormous differences between reviewing Harwitz’s extensive footage and Sivan’s 126-minute work, and no one who has seen only Sivan’s film should profess to have ‘seen’ the Eichmann trial. Sivan’s footage is, to say the least, misleadingly edited. Gil Raz summarizes that “Sivan chooses to present a prominently disrupted and incomplete chronology of Eichmann’s trial. [... ] This distorted chronology occurs not only at the level of entire scenes but also on the editorial scale within the scene” (2005, p. 10). One can level many objections against the film’s practices, particularly its tendentious editing. Among its offenses: testimony is shown in fragments and out of order; we are never told the names of witnesses; and, Sivan adds nondiegetic orchestral music throughout. The film is itself a performance, much more than an expository documentary or an archival compilation.

One should learn neither about history nor about Arendt’s Eichmann in Jerusalem from Sivan’s film. The Specialist draws on Arendt mostly insofar as it emphasizes Hausner’s histrionic performance. Raz notes that, “The sequence that follows the opening credits shows a montage of a series of Hausner’s extroverted body gestures and theatrical hand movements,” and he connects this emphasis to Arendt’s decision not to “hide her aversion to Hausner’s style of litigation” as well as her determination that Hausner’s opening address was a matter of “bad history and cheap rhetoric” (see 2005, p. 13; see also Arendt 2006, p. 19). The Specialist in this regard shares common terrain with Arendt, yet it abandons her wide-ranging historical focus. Many familiar with Eichmann in Jerusalem would not necessarily connect the text and the film. If we draw any conclusion about watching The Specialist, it is that Sivan wants us to observe the gestures of the prosecution in addition to those of Eichmann. Watching the trial footage, whether in the form of Harwitz’s initial recordings or as it is mediated and digitally enhanced by Sivan, we see and hear those same expressions, statements, and gestures in video’s two dimensions.

As an observer of the Frankfurt trial, Arendt had been particularly concerned with perpetrators’ reactions. She agreed that the men on trial in that case were uncommonly sadistic, and that “the faces of those who did their best, or rather their worst, to obey criminal orders are still very different from those who within a legally criminal system did not so much obey orders as do with their doomed victims as they pleased” (Arendt 2003, p. 241). But what does an assessment of this sort really reveal? However informed Arendt was by the evidence, her conclusions were based on watching and listening to the defendants’ performances. She reads a great deal into their behavior, observing that Germans’ disdain for the prosecution and for being badgered about the recent past was “manifest in the behavior of the defendants — in their laughing, smiling, smirking impertinence toward prosecution and witnesses, their lack of respect for the court, their
disdainful and threatening’ glances toward the public in the rare instances when gasps of horror were heard” (ibid., p. 228). But with what information do these gestures provide us, and what do Arendt’s aesthetic judgments tell us about the law? The defendants’ smiling reminiscences are part of their courtroom performance, but would any of these trials’ outcomes have been different had these men went? We may, on the one hand, be witnessing an unmasking, yet on the other hand, the defendants are also playing roles that have been constructed under a particular set of circumstances.

When we watch such things on film – when we see Eichmann’s face in Hurwitz’s footage or in Sivan’s The Specialist – we can only speculate into what is going on behind the filmed subject’s eyes. Criminal law scholar Saira Mohamed draws a connection between viewing trials and viewing documentaries, arguing that “juxtaposing proceedings inside courtrooms with the events captured in a documentary film” is “guided by a belief that the two forums resemble each other” (2015, p. 1165). She writes that both trials and films “are sites of performance and drama. In each, individuals play a role, they function inside a performance space, and, implicitly or explicitly, they speak to an audience” (ibid., p. 1165). She adds that both trials and documentary films “aim to represent the truth, are relied upon to represent the truth, and do represent the truth – or at least some version of it,” but that, “the truth that emerges either way is a restricted one, cramped by doctrine and procedure or reconfigured by editing and film grammar” (ibid., p. 1166). She continues: “Like a documentary, the truth of the courtroom is a mediated truth, filtered through the questions posed by lawyer and judge (or director) and framed to satisfy the ultimate goal of the trial (or film), whatever that might be” (ibid., p. 1166). Mohamed is right to make this association between trials and films, and to adopt the standpoint, as Arendt did, that trials’ truths are only partial at best. On the other hand, regardless of the medium, one must consider whether the perpetrators’ affective performances matter. Perpetrators’ performances, whether they are symptomatic or consciously affected, whether they are voluntary or involuntary, can be seen in witness boxes as well as on the screen, but what role, if any, should aesthetic judgments about these performances play in the legal sphere, and, specifically, in evaluating the guilt or innocence of a defendant? What would it have told the court, for example, if Eichmann had lost control of himself? Would or should the tribunal in Jerusalem have reached a different conclusion, had Eichmann suffered a nervous breakdown on the stand?

If The Specialist has anything in common with Eichmann in Jerusalem, it is their shared program of presenting Eichmann as an actor among actors. Our collective memory of Eichmann is, in this way, a memory of a performance — the gestures and comportment of an SS-man have become part of a highly mediated memory archive of the Holocaust. Eichmann was particularly well known for his smirk — for having always looked as though he were “savoring some private joke” (Liebman 2002, p. 40), even during the most painful survivor testimonies. The consistent smirk suggests many things, ranging from disdain for the proceedings, to his longing to say more than he was permitted to in his defense, to an indication of ill health. Insofar as Eichmann’s face and gestures are transmitted to us as photographed or televised images, we only encounter him in media. He appears to us as a seemingly self-satisfied former SS-man who occupies space in our shared televisual memory of the Third Reich. Writing about how memory is transmitted through film, Elsaesser notes that the Holocaust memorial archive was in large part fashioned from unreliable, objectionable but indispensible visual evidence, and has been sustained by the genres, narratives and visual tropes of television and mainstream cinema. [...] Yet once these filmic representations are seen not under the aspect of the historians’ standards of truth based on verifiable fact, nor as travesties and betrayals of the Holocaust’s singularity and essential unrepresentability, but viewed as part of an ongoing and open process, as a framing and retuning of memory, then the divide discussed [...] between verbal, written, public discourse (‘cultural memory’) and ‘images’ as discourse (‘media memory,’ ‘historical imaginaries’) does indeed all but disappear, or at the very least, presents itself within a different overall perspective. (2014, p. 61)

In the case of Sivan’s film, we are presented with an echo of a dissimulation, and the auditory echo digitally inserted throughout is meant to highlight its continuing reverberation; it recalls for us the contradictions produced by the original Fehleistung.

SS-Man Paul Hafner: Another Bad Actor

One finds another echo of the depiction of a smug perpetrator in Günter Schwaiger’s 2007 documentary Hafner’s Paradise. The film is centered on the highly decorated former SS soldier Paul Maria Hafner, who lived for
many decades in Spain. Schweiger's Hafner is an echo of Eichmann insofar as he is a similarly self-satisfied perpetrator who fled to a Spanish-speaking land after the war. Hafner was originally from South Tyrol. He came to Berlin in 1940, joined the Waffen-SS in 1941, and fought until 1944 on the eastern front in Finland. After the war, Hafner studied at the University of Innsbruck, and in 1954 he took a job in Spain with a right-leaning German industrial conglomerate. He worked alternately as an innkeeper and as a specialist in pig breeding.12 Hafner lived for many years among a wider community of exiles in Madrid, including the Belgian politician and Nazi collaborator Leon Degrelle, whom he came to admire.

The documentarian Schweiger gets extraordinary access to this former SS-man, and part of our intimacy with Hafner is that we are witnesses to his many bold statements of denial. Schweiger spends time with him, for example, in his kitchen, where Hafner brags about eating a healthy yoghurt-based diet. We hear from Hafner's friends, particularly members of the German-speaking community among whom he lives, we hear about his fitness regimen and his ailments, and we see him both in and out of his underpants. All this intimacy is accompanied by proclamations reflecting his ongoing commitment to fascism.

This intimate film is an unmasking, but it is also a film in which Hafner has a part to play. One has the impression that nothing is being concealed from view. On the one hand, this extreme intimacy reflects Hafner's own belief that he has nothing to hide. On the other hand, what we see would not be taking place were it not for Schweiger's intervention. Like the information elucidated at a trial, Hafner's statements are both constitutive and performative. The film is what Bill Nichols would describe as a participatory documentary, or one in which the subjects are invited to participate in the filmmaker, in this case by being interviewed. In Nichols's formulation: "As viewers we have the sense that we are witness to a form of dialogue between filmmaker and subject that stresses situated engagement, negotiated interaction, and emotion-laden encounter" (2010, p. 187). Nichols writes: "If there is a truth here it is the truth of a form of interaction that would not exist were it not for the camera" (ibid., p. 184). This filmmaker can be said to participate in an unmasking, yet he is also playing a role. Schweiger does not capture Hafner's life as it unfolds, but rather presents a consensual interaction and, in this sense, a performance. Hafner likely believes most of what he says — there are, in other words, constitutive elements — but he would not be making most of these statements were it not for the filmmaker's presence. As a participatory documentary, everything is in some sense staged, yet the film also provides an alternative venue in which Hafner can receive a hearing, and in which he can be held to account for his past actions and for his contemporary views.

Although Hafner's role is mutually constructed in cooperation with Schweiger, the film turns Hafner's aged body into a spectacle. It is fair to presume that we are not expected to eroticize Hafner, and Schweiger's choices are likely intended to undercut the former SS-man's continued fascination with eugenics and Nazi perfidiousness. After Hafner explains that he stayed away from his sisters in his youth because he didn't want to fall into incestuous relationships with them, Schweiger meaningfully cuts to footage of the pigs Hafner breeds, and to an interview in which he conveys his admiration for German pigs over Spanish ones. This sequence is then intercut with a story about how Hafner's wife stopped having sex with him when she was in her forties, followed by his own swaggering explanation about how he has continued to sleep with other women. At this moment, Schweiger pointedly cuts to an image of copulating pigs. Montages such as these are associative: the copulating animals take on a highly charged meaning when seen in the context of Hafner's antisemitic biopolitics. Despite the implicit ridicule, Hafner is, at every stage, a participant. He sings "Deutschland über alles" for the camera, surely aware that many who view this footage will revile him for his unconstructed worldview. In front of the camera, Hafner writes a warm postcard to the Holocaust denier David Irving, an ostentatious display of his allegiance to denialism. He goes on at length about how he still today believes that Hitler's ideology should reign forever, and he allows himself to be filmed giving the Hitler salute. These are ideas to which Hafner still holds, and, given that he also published a denialist book of his own, it is fair to say that he wishes to be seen in this light.

---

12 In studying the files of South Tyrolian Nazis who fled through Austria and were never prosecuted, Gerald Steinacher writes with particular interest about Karl Nicolossi-Leck, a mid-ranking commander in the Waffen-SS, who was also employed by the firm Mannesmann after the war, and who later helped Hafner find employment (see 2015, pp. 235-239).
Because Holocaust denial is a key element of Hafner's self-representation as well as his rationale for resisting any expression of remorse, Schwaiger convinces Hafner to watch a film containing archival footage of a concentration camp's liberation. This is an atrocity film, and the sequence can be seen as an echo of one of the most famous moments in Eichmann's trial when the court, including the defendant, were shown atrocity footage that was introduced for its evidentiary value. Here Schwaiger presents Hafner with a difficult-to-watch compilation of images shot in the war's immediate aftermath. Hafner sits in his own living room watching the monitor. We see an over-the-shoulder shot as he watches the screen, followed by images of prisoners' faces, one after the next. Hafner scowls. If we can adduce anything from his expression, it is irritation. The victims' faces stare back at him, and Hafner says, "That proves nothing. It is a film." Hafner rejects documentary evidence as truth, and, on this, of course, he has a point: a film is only a film. Images can be placed in a variety of contexts and are not identical with the truth.

Schwaiger then introduces us to Hans Landauer, an Austrian survivor who took part in the Spanish Civil War and who was eventually, for political reasons, deported to Dachau. He arrived at Dachau in June 1941 and was subsequently assigned to the sub-camp Allach to manufacture porcelain. Hafner and Landauer sit peaceably at the coffee table. Hafner explains that he visited Dachau in 1945, but that he never saw prisoners being mistreated. Landauer explains the basics of internment and extermination policies to Hafner, but the perpetrator's bottom line is simply inculpability. At this point, Hafner, still suffering from a toothache, removes his dentures and places them on the table. Landauer, reacting to the distance between himself and his repulsive interlocutor. The scene makes it all but impossible for even the most supportive viewer to remain sympathetic to Hafner, who looks at the photographic evidence and says, "This is all propaganda." By now Landauer has had enough and asks to stop. We, the camera, are on Landauer's side. The findings here are not those of a trial, but they would be evident to anyone watching. In its echoing of the past, in its remembrance of our memories, the living room is an ersatz courtroom, and Landauer stands in for other survivor-witnesses. Although he is not Jewish, his appearance in the film can be likened to that of the witnesses in the Jerusalem court, and Hafner's defenses are similar to Eichmann's. His response, as he is confronted with a witness's body and a witness's story, is to retreat into a private space. When Eichmann was asked at trial whether he considered Rudolf Höss, Obersturmbannführer at Auschwitz, to have been a criminal or a murderer, he answered that he would not divulge his private feelings and that he felt as though he were being grilled like a steak ("dass ich hier so lange gebraten werde, bis das Rumpsteak eben gar ist," see Arendt 2006, p. 223). Hafner shows a similar resistance, and he beats a retreat. He makes clear that he has nothing more to say to this director and his camera, who are acting as judge and jury.

Eichmann had been confronted with atrocity images in Jerusalem, and Valerie Hartouni writes that after the screening of footage of the liberation of the camps, Hurwitz's camera cuts to Eichmann:

Looking vacantly out across the courtroom, he performs an utterly banal gesture, one he would hardly perform had he been aware that the camera was trained on him at this moment [...]: he absentmindedly scratches his nose. He blinks and shifts his eyes from right to left, composed and perhaps apprehensive but hardly overcome. (2012, p. 86)

Hartouni continues: "Eichmann's apparent lack of affect, his ostensibly apathetic demeanor during the viewing of these films in Jerusalem [...] seems to reveal a perverse humanity. He looks at the images but neither sees nor seems to grasp the story that is readily if painfully apprehended by others in the courtroom" (ibid., p. 87). Insofar as she writes that his disposition seems to reveal a perverse humanity, she is correct. Not one of these reactions tells us what is actually in Eichmann's mind. The viewing
screen and the face projected upon it are only surfaces and ciphers. We would hope to draw a conclusion about Eichmann’s state of mind, but no conclusion would be certain.

Documentary films, like courtrooms, create conditions of possibility. To use the formulation Arendt employed in describing the Auschwitz trial, they are places where ‘oases of truth’ might emerge. Films and trials are productions, and many of our conclusions are based on aesthetic perceptions. When Arendt studied Eichmann, she tried to cast him as the ‘deer’ in a drama (see Arendt 2006, p. 9), and, even though she felt that the trial’s drama eventually collapsed under the weight of survivors’ testimonies, she focused on his gestures and on his performed characteristics. On this basis, she thought of him alternately as a monster and as a clown (see ibid., p. 54). Hafner likewise plays both roles, performing smug self-satisfaction in his underpants, while espousing a sustained and unreconstructed anti-Semitism, all of which is brought forth in the presence of Schweiger’s camera. One can surely assess these two perpetrators’ performances apart from any verdict’s legal validity.

Trials are attempts to bring bodies of law into agreement with the truth, but as both Arendt and Mohamed note, these efforts frequently fail. The truth is always restricted; in the courts, doctrine hampers it, and in films, editing reconfigures it. For those willing to withdraw their investment in judicial outcomes — for those cynical about whether one can expect the truth via courts of law — the truth ascribed to performances provide valuable recompense. In making Hafner’s Paradise, and in bringing Hafner and Landauer together, Schweiger creates a condition through which other truths emerge. The law, however, often remains far afield from such truths. Because it is cumbersome and at times seems ill suited to adapt to new forms of criminality, the law imposes limits on the justice that trials can provide. Aesthetic representations are, by contrast, less constrained. Revelations of truth in film are not equivalent to seeing justice done, and in exceptional cases have films been singularly responsible for righting justice’s scales, but films can make perpetrators visible, trotting them out for all to see. Watching Eichmann smirking, or watching Hafner again and again provide smug and self-satisfied accounts of himself, means that the viewer will most likely find him or herself recognizing that the most overwhelming evidence generally has a face, one that stares back into our own.

Works Cited

Exit Ghost

Jonathan Bach

Entscheidend ist, dass endlich die Sprachlosen sprechen und die Steine reden.

decisive is, that finally the speechless speak and the stones talk.

Heiner Müller

"With increasing irritation," begins an open letter from members of the Deutsches Theater East Berlin to West German Chancellor Helmut Kohl in November 1989, "we observe your endeavors for democracy in the GDR [...]" A generation later, in 2009, the then-theater student Romy Weyrauch came upon this letter while doing research about the East German playwright Heiner Müller for her final exams. It triggered a chain reaction of thoughts:

I sat for a long time in the archives of the Academy of Arts and it was there I stumbled upon the two production binders of the Hamlet Machine. [...] I just started to read, with a different focus in mind actually, and became totally fascinated by how the folder went back and forth between historical newspaper articles mixed up with play scripts mixed with transcripts from actors' conversations, all filed one after the other. It was like leafing through layers. And since I already knew that I wanted to deal with the East or the collapse (Zusammenbruch) -- I mean simply, deal with it personally -- it somehow all came together very well.²

What came together was the play 1989 [Exit Ghost] (henceforth: Exit Ghost), directed by Romy and written, or more precisely textually arranged, by her and her colleague Martin Zeyer. The play, first performed in 2012 by

---

2. Author's interview with Romy Weyrauch and Martin Zeyer, Berlin, 25 May, 2015. All translations by the author. I will cite this interview as "Interview" throughout the text.


Performativity –
Life, Stage, Screen

Reflections
on a Transdisciplinary Concept

Edited by
A. Dana Weber
Associate Editor:
Margaret E. Wright-Cleveland