

Morality Play

Aestheticized ethics – the Holocaust
trials as a form of dramaturgy

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Hisotry will repeat itself

At five, at exactly five . . . Hattie and I sit before the TV and we become a silent movie. . . . A small-faced man narrates. His voice weak and light. An advertisement disguised as not an advertisement from a Jewish real-estate firm. None of that seems to matter. I begin to sweat. My heart pounds. . . . We sit on hard kitchen chairs drawn up before the TV, watching. As if putting ourselves to school. The eyewitnesses, their faces designed into masks, wrinkled... . Their voices, in translation, disembodied. There is something . . . about the way we both move — or don't move — while we are watching. Hattie and I are an experimental, silent film reacting to a film on TV. The old speeded-up, slowed-down, silent film. (Rosen 1965, p.278)

1. Introduction

The experience of witnessing the war crimes trial of Adolf Eichmann described in Norma Rosen's novel Touching Evil is one shared by many others in 1961. 50 years after the trial took place in Israel, the full compendium of more than 400 hours of film footage documenting the trial were released by the Yad Vashem and the Israel State Archives on Youtube earlier this year. Eichmann, former SS officer and highest ranking figure in the Nazi hierarchy responsible for facilitating mass deportation and the extermination of European Jewry, was charged and tried before an Israeli court with committing crimes against the Jewish people and crimes against humanity. The case of multiple controversies was the first telecast of actual courtroom proceedings and with the distribution to many countries reached an international audience. Especially in America, the trial was daily broadcasted over a period of several months, thereby inscribing and framing the collective memory of the country.

From the very beginning the trial was conceptualized as a symbolic performance, supported not only by the staged design of the courtroom and the cinematographic aesthetics of the film footage, but also by the role the audience was given. The morally charged act of witnessing the trial as a drama became a formative role in establishing the Shoah as part of collective history. As Hans Kellner describes: "Creating a reader for the Holocaust has been the work of writers, artists, filmmakers, poets, and historians since the end of the war." (Shandler 1999, p.) However, the explicit staging of the trial also leads to the question whether the Shoah can or should have an aesthetic dimension?

Reflecting on the performative nature of the Eichmann trial Susan Sontag argues that tragedy has become

a form of history. Dramatists no longer write tragedies. But we do possess works of art (not always recognized as such) which reflect or attempt to resolve the great historical tragedies of our time. [...] As the supreme tragic event of modern times is the murder of the six million European Jews, one of the most interesting and moving works of art of the past ten years is the trial of Adolf Eichmann in Jerusalem in 1961. (in Shandler 1999, p.121)

Adorno's well-known comment from 1949, that "writing poetry after Auschwitz is barbaric", was answered by the German documentary theater movement by utilizing documents such as protocols, files, letters, statistics and interviews as their source material. In The Investigation theater maker Peter Weiss is re-enacting parts of the so-called Auschwitz trails from 1963 to 1965 in Frankfurt am Main and transferring them onto stage. Premiered in 1965, Weiss uses the court hearings to avoid the reconstruction of concentration camps itself, yet picturing the unutterable horror in the unemotional speech of justice.

Whereas the Eichmann trial was deliberately conceptualized as a symbolic performance with a highly theatrical approach, the documentary theater "attempted to renounce as comprehensively as possible all fictionalization in drama" (Wüst 2005, p.110). In the following essay both paradigms shall be discussed further to deconstruct trials as a form of dramaturgy, examine narrative and aesthetic strategies in the representation of the Shoah and reflect the impact of mediation on the creation of moral and memory.

2. The Eichmann Trial (1961)

2.1 Trial as Performance

After fleeing a possible prosecution in Germany, Eichmann was captured by Israeli agents in Argentina and was brought to Israel, where he was tried before an Israeli court from April to August 1961. From the very beginning the case was controversially discussed, regarding the legality of Eichmann's abduction from Argentina as well as the legality of a trial before a Jewish court in Israel. Moreover, as Hannah Arendt puts it in her analysis of the trial, Eichmann in Jerusalem. A report on the Banality of Evil, the "case was built on what the Jews had suffered, not on what Eichmann had done" (Arendt 1965, p.). The trial was incessantly linked to "Jewish history, Israeli politics, human psychology, or universal ethics" (Shandler 1999, p.87), thereby creating a case of moral rather than justice.

Whereas the performative nature is possibly inherent to every public trial, Eichmann's case was put on stage even more evidently. In American newspaper one could read that the trial was "a show and spectacle carefully stage-managed to wring the maximum sympathy out of a dramatic exposure of Nazi genocide" (Shandler, 2001). Robert Hariman describes the perception of a trial as a "performance of the laws" in the "national theatre" as a dilemma: "the more a trial appears to be a scene or product of [...] rhetorical artistry, the less legitimate it appears. [...] It seems that good law and powerful rhetoric do not mix." (in Shandler 2001, p.)

Supporters and critics of the trial alike agreed on the notion of the trial as performance. Latter would declare the case as a mere show trial, whereas its advocates stressed the educational value of the presentation. Especially the presence of a larger audience and cameras in the courtroom were bashed by Eichmann's defense counsel. The prosecution on the other hand argued that the thus obtained publicity should be a guarantor of a fair trial (Shandler 2001, p.). Arendt's description of the Eichmann trial that were originally published in *The New Yorker*, picture the judge's powerlessness when trying to prevent the trial to become a theatrical performance. She writes: "Among the reasons he cannot always succeed is the simple fact that the proceedings happen on a stage before an audience, with the usher's marvelous shout at the beginning of each session producing the effect of the rising curtain." (year, p.) Susan Sontag agrees by stressing that the Eichmann trial was "in the profoundest sense, theater", however, it should "be judged by other criteria in addition to those of legality and morality" (in Orzeck year, p.).

2.2 The Stage and the Characters

Because of the special demands of the trial the Israeli government held the proceedings in Beit Ha'am. The large public theater and community center was under renovation at the time and remodeled to accommodate the event and meet the security needs and fit the broadcasting equipment. In her description of the courtroom, Arendt writes:

Whoever planned this auditorium in the newly built Beth Ha'am, the House of the People (now surrounded by high fences, guarded from roof to cellar by heavily armed

police, and with a row of wooden barracks in the front courtyard in which all comers were expertly frisked), had a theater in mind, complete with orchestra and gallery, with proscenium and stage, and with side doors for the actors' entrance. Clearly, this courtroom is not a bad place for the show trial David Ben-Gurion, Prime Minister of Israel, had in mind when he decided to have Eichmann kidnapped in Argentina... And Ben-Gurion, rightly called the 'architect of the state,' remains the invisible stage manager of the proceedings ... [N]o matter how consistently the judges shunned the limelight, there they were, seated at the top of the raised platform, facing the audience as from the stage in a play. The audience was supposed to represent the world. (Arendt 1964, p.)

The room was built on different layers: On the highest the three judges were seated, enthroned by the emblem of Israel, the only ornament-like decorum of the room. Just beneath two facing tables for the protocols were placed from where a few steps lead to the middle space, divided between the prosecution (right) and the accused (left). During the proceedings Eichmann was kept in a bullet-proof glass booth flanked by two armed guards, often polemically referred to as "the cage", with "its contradictory promises to display and to protect" (Shandler 1999, p.). Seated in the international style interior and placed in opposition to the victim on the other side of the room, this glass box was surely the most eye-catching element of the "stage". The spectators' hall was symbolically divided from the stage by a pit. Of the 756 seats for the audience, 474 were occupied by the press. Reporters were provided with transistor radios to receive the simultaneous translations in either English, German or French. (Shandler 2001, p.) However obvious the press presence might have been, the cameras were deliberately kept concealed behind windows on either side of the room, hiding the millions of television viewers from all over the world.



Figure 1: Beit Ha'am court room with Eichmann standing in the glass booth, 1961

But not only the auditorium itself resembled a theater, also the protagonists on stage unavoidably presented themselves as actors in a play. Hannah Arendt describes the comparison as follows:

[B]oth begin and end with the doer, not with the victim. A show trial needs even more urgently than an ordinary trial a limited and well-defined outline of what was done and how it was done. In the center of a trial can only be the one who did – in this respect, he is like the hero in the play – and if he suffers, he must suffer for what he has done, not for what he has caused others to suffer. (year, p.)

Prosecutor Gideon Hausner, most enthusiastic about the theatrical features of the trial, saw the witnesses as effective performers and made dramaturgical choices as to how particular individuals might present similar evidence:

I asked a plumber to give evidence on the events in Bialystok, an important Jewish center. After his statement was recorded, a well-known writer, a leader of the underground in the same place, volunteered to give evidence on the same events. By many standards the latter witness might have been preferable. But I wanted to have the plumber tell his story in his own simple words. (in Shandler 1999, p.)

2.3 Televising the Eichmann Trial

The special staging of the Eichmann trial is certainly linked to the televising of the event and its international audiences. Since in 1961 Israel had no TV station, the trial particularly targeted foreign spectators and provided “a front-row seat” in Beit Ha’am (Shandler 1999, p.). But the telecast not only brought the attention of millions to Israel, it also transferred the morally charged act of witnessing into people’s domestic spheres. Especially American television offered an extensive coverage of the trial and thus framed the collective memory and shaped its relation to Israel. From a newsletter of the American Jewish Congress:

Thanks to the ingenuity of modern communications – particularly the urgent intimacy of television – the distance between us and the Beit Ha’am in Jerusalem is almost non-existent; we, too, are present in the courtroom. We listen to the recitals of the prosecution. We hear the testimony of the witnesses. We see Adolf Eichmann. (? year, p.)

Since the filming should not have interfered with the trial procedures, a single broadcaster (Capital Cities) was authorized to produce an official recording of the trial. However, no rights or exclusivity to the recordings was given, in fact they had to provide footage to all interested television networks and turn over the

profits to charity. The American program was sponsored by the Glickman Corporation and was thus “constantly interrupted – business as usual – by real-estate advertising” (Arendt year, p.). Even though no satellite transmission was possible, the distribution of the recordings was well-organized and allowed some kind of live-experience. Presented on a regular basis it was a proceeding narrative, presented in little pieces, yet foreseeing the finale of the telenovela, which not surprisingly ended in the conviction of the accused.

Not only dramaturgic but cinematographic decisions had to be made. Leo Hurwitz, the director of the film recordings, explained: “You can’t simply follow a witness all the time he speaks, and then put the camera on Eichmann when his name is mentioned, [...] [y]ou have to have a sense of the event.” A specific style of editing, a variety of camera angles, composition and editing give proof of the deliberate choices made. Jack Gould wrote in his report of the trial for the New York Times:

[R]eflected alert and competent camera work for the most part. There’s no gainsaying that the sustained visual coverage affords a very real sense of presence at the courtroom drama in Jerusalem. [...] The close-ups of Eichmann in the glass-enclosed dock are especially good; the impassiveness of the man on listening to the indictment was chilling to watch. (year, p.)

During the translation of Eichmann’s statements, the camera predominantly continued to focus on his face. Thus American spectators usually only saw the mostly still face of the accused and heard the English translation of his testimony by a female voice. Eichmann was shown in close-ups, sometimes medium shots or angles including the glass booth and guards, interrupted with shots of the audience. Thus more than 400 hours of film material were created, of which only parts were originally shown on television.

2.4 The Body and Voice of Discourse

The reports of journalists were usually accompanied by description of the body on trial, which was so ordinary that it allowed any projection. Arendt describes Eichmann as

medium-sized, slender, middle-aged, with receding hair, ill-fitting teeth, and nearsighted eyes, who throughout the trial keeps craning his scraggy neck toward the

bench (not once does he face the audience), and who desperately and for the most part successfully maintains his self-control despite the nervous tic to which his mouth must have become subject long before this trial started. (year, p.)

The close-ups provide the television audience an “advantage over the courtroom spectator, but only emphasized Eichmann’s inscrutable ordinariness and made his presence seem that much more remote” (Shandler 1999, p.). The spectators not only watched the accused, but witnessed the cruel stories of millions that were outspread before him. In the court, however, it was his body against the body of the witnesses, that in save symbolic distance had a stronger voice than they were given during the Auschwitz trials.

At least in American television, Eichmann’s voice remained still for most of the times. Enclosed in his glass box, this emphasized the study of the evil as later discussed by Arendt and others. The trial was conducted in Hebrew, however, Eichmann spoke German as did most of the judges, who sometimes impatiently had to await the Hebrew translation. Arendt remarks that the audience followed the proceedings in Hebrew through the simultaneous radio transmission, which was “excellent in French, bearable in English, and sheer comedy, frequently incomprehensible, in German”. Clearly, not only the body and the mind, even the language of the accused had to be evil and devaluated to assist the *Gesamtkunstwerk* of the drama, in which the good would surely win the game.

3. Debating the Eichmann case

Among the American press reviews of the trial, two positions can be identified. Whereas the first denounced the hearings as “the worst stage-managed circus in modern history,” equipped with “every hysterical and sensational device,” the latter found that the trial had been conducted with “impressive dignity,” “remarkable restraint,” and “scrupulous fairness” (in Shandler 1999, p.).

Political theorist Hannah Arendt followed the Eichmann trial in Israel to write a series of articles for *The New Yorker*. Her controversial analysis of the proceedings were later published in form of a book with the title Eichmann in Jerusalem: A Report on the Banality of Evil. There she notes:

What I speak of the banality of evil, I do so only on the strictly factual level, pointing to a phenomenon which stared one in the face at the trial. Eichmann was not Lago and

not Macbeth, and nothing would have been further from his mind than to determine with Richard III “to prove a villain.” Except for an extraordinary diligence in looking out for his personal advancement, he had no motives at all...He merely, to put the matter colloquially, never realized what he was doing. (Arendt 1977, p.287)

Arendt’s critique, which is usually reduced to its subtitle and last sentence of the book, is not only in detail picturing the person in question, but also criticizing the legitimacy of a trial as a juridical procedure that was so clearly staged as a performance. In her writing she refers to the prime minister David Ben-Gurion as “the invisible stage manager of the proceedings”, or to the prosecutor Gideon Hausner’s “frequent side glances into the audience, and the theatrics characteristic of a more than ordinary vanity”. By questioning the effectiveness of the trial she constructed a “secondary courtroom drama and a secondary case for arbitration and adjudication: not just Attorney General v. Eichmann but also, simultaneously, the drama of the confrontation between Justice and the State” (Felman in Orzeck 2002, p.109).

Even though Arendt’s critique is dominating the discourse about the trial, there are also plenty other positions. The American writer and art critic Harold Rosenberg describes the motives behind the case and its consequences in his article The Trial and Eichmann from 1961. Rosenberg argues that the trial has to fulfill a universal need, “that of social therapy, perhaps, or of patriotism, or of progress toward a better world”. (in Shandler 1999, p.) The tragic retelling of the story shall therefore “prevent anything like them from ever happening again.” (Rosenberg 1961, p.) Chief attorney for the defense, Dr. Servatius, even emphasizes that the ending of the trial should “serve as a warning signpost for history” and maintain peace. For Rosenberg, the trial undertakes “the function of tragic poetry ... on a world stage ruled by the utilitarian code.” (in Shandler 1999, p.)

Susan Sontag suggests that “the Eichmann trial not only did not, but could not have conformed to legal standards only” (in Shandler 1999, p.). She identifies his role as highly problematic, since “[i]t was not Eichmann alone who was on trial. He stood trial in a double role: as both the particular and the generic; both the man, laden with hideous specific guilt, and the cipher, standing for the whole history of anti-Semitism, which climaxed in this unimaginable martyrdom.” (in Shandler 1999, p.) Sontag notes the natural relationship between theatrics and

trials and further suggests that the function of the trial “was like that of the tragic drama: above and beyond judgment and punishment, catharsis” (in Orzeck 1982, p.126). Rosenberg agrees, when saying: “The trial is a dramatic form which imparts to events a certain provisional neutrality; the outcome remains to be decided; the very word 'defendant' implies that a defense is possible. In this sense, though Eichmann, as everyone expected, was condemned to death, the form of the trial favored Eichmann. Perhaps this is why many feel, in retrospect, that the trial was a frustrating experience, an anticlimax.” (Shandler 1999, p.)

4. Trial and Holocaust in the Arts

Even if one would agree that the theatric form is inherent in every trial, the question remains if and how the Shoah can have an aesthetic dimension. The Italian philosopher Giorgio Agamben writes about the topos of the unspeakable which is closely associated with the genocide of European Jewry. For Agamben testimony contains at its core an essential lacuna – “the survivors bore witness to something it is impossible to bear witness to.” (Agamben year, p.) Not only does it stand for such a horror that goes beyond any description. The Holocaust also demolishes all ethical and juridical categories, proving the incompetence of legislation and impossibility of dealing with a “reality, that necessarily exceeds its factual elements”, which Agamben describes as the aporia of Auschwitz. (in Robert Buch) However, one could argue that the artistic representation itself can be a form of testimony, which represents and generates the past in the present, thereby creating and enforcing a politics of remembrance.

4.1 Documentary drama

This challenge of artistic representation of the Holocaust was approached by the documentary theater, formed in the 1960s in Germany, who “attempted to renounce as comprehensively as possible all fictionalization in drama” (Wüst 2005, p.110). Authentic materials, such as protocols, files, letters, statistics or interviews, were reused on stage without changing their content, but compressed in their form. Besides Heinar Kipphardt, Peter Weiss was one of the main representatives, describes the movement as

“[a] documentary theater, which above all wants to be a political forum and which renounces all notions of artistic excellence, calls its own existence into question. In such a case practical political activity in the outside world would be more effective. Only after theater has refashioned [umfunktioniert] the matter of reality into an artistic medium through its sorting, controlling, and critical activity, can it achieve legitimacy in its confrontation with reality. On such a stage a dramatic work can become an instrument for shaping political opinion.” (in Wüst 2005, p.110)

Theater critic Ernst Schumacher identifies Peter Weiss' play The Investigation as a possible answer to Adorno's request, since it does not attempt to reconstruct the reality of the concentration camps itself, but re-enacts the Auschwitz trials held in Frankfurt am Main. In 1965 he writes:

To refuse to make Auschwitz the object of art leads only to the refusal to understand our epoch and to the renunciation of one of the possible means whereby people can understand the extent of their previous 'acts of condemnation' as well as of the 'damnation' that awaits them. It is of great importance, however, that the journey to hell does not stop at mere condemnation but instead promotes a capacity for judgment [Urteil] and action. It is in this connection that one finds what will last in The Investigation. (in Wüst 2005, p.127)

4.2 Peter Weiss: “The Investigation” (1965)

In the play The Investigation (Original: *Die Ermittlung. Oratorium in elf Gesängen*), which is based on documentary material taken from the so-called Frankfurt Auschwitz trials from December 1963 to August 1965, Peter Weiss is questioning the paradigm of witnessing as well as the limits of justice and representation. The Auschwitz trials represented the largest jury trial up until that date, charging 22 defendants for their roles in the Holocaust, especially concerning the death and concentration camps in Auschwitz-Birkenau. Survivors appeared in the trial as witnesses for the prosecution. In contrast to the Eichmann trial in Israel, German law did not allow convictions on the basis of crimes against humanity, but demanded that the accused were tried for specific deeds.

Weiss attended the Auschwitz Trials regularly in 1964. He used his notes together with reports on the trial by Bernd Naumann for the *Frankfurter Allgemeine Zeitung* as the source material for his play, which premiered on October 19, 1965 at several theaters in West and East Germany. The Investigation does not only review Auschwitz, but also the effectiveness of the trial itself. Weiss condensed the more than 200 witnesses to 9 anonymous characters, whose uniformed tes-

timonies were “supposed to attain a level of general validity” (Wüst 2005, p.113). In the interrogation more and more details are revealed, leading to a concretion of the suffering experienced. Yet the witnesses have to justify their survival, and thus experience how little their suffering counted as “relevant evidence” (Wüst 2005, p.114).

8th Witness:
When I lost consciousness
They threw water over me
My arms grew numb
My wrists almost snapped
Boger questioned me
but my tongue was so swollen
I couldn't speak
Then Boger said
We still have another swing for you
I was
taken back to the Political Division

Counsel for the Defense:
Were you subjected to a session
on that swing too

8th Witness:
Yes

Counsel for the Defense:
Then it was possible
to survive it after all

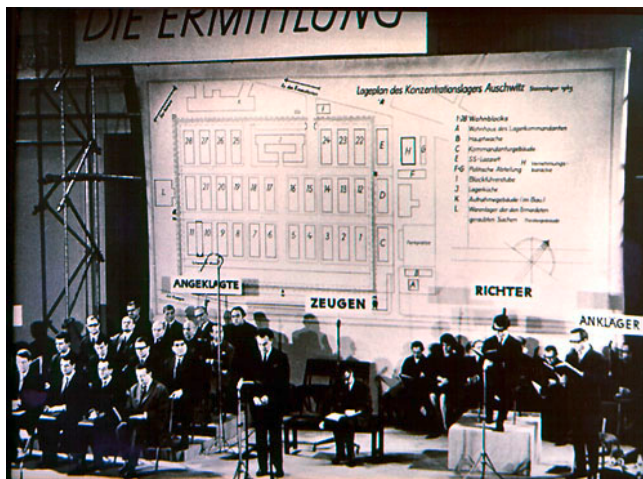


Figure 2: Performance photos of “The Investigation” by Peter Weiss
German Academy of Arts, East Berlin, October 19, 1965

The stage design from the premiere at the Academy of Arts in East Berlin shown above emphasizes the documentary character of the play. In the background the floor plan of the Auschwitz concentration camp is presented. The characters are divided into accused (left), witnesses (center), the judge on a pedestal (center right) and prosecutor (right), all uniformly dressed in black suits. The sign above the setting thrones like a header of a document, presenting the title of the play. The crowded stage doesn't leave space for more than speech and manifests itself with some kind of uncanny cosiness.

Weiss puts the dry recreation of a trial in place of a dramatic act, that aims to produce evidence and proof for the insistent denial of the accused. The formal restriction and reduction to facts without an explicit moral annotation result in a "painful actuality" (Buch 2005, p.). Weiss therefore does not form a memory of Auschwitz, but in his words depicts "Auschwitz in our present" and "how it presents itself in relation to Auschwitz" (in Wüst 2005, p.118).

5. Conclusio

Theodor Adorno's question how to represent Auschwitz by aesthetic means is one of the most crucial moral and aesthetic debates of our times. Both the recently released film footage of the Eichmann trial in Israel from 1961 and Peter Weiss' attempt from 1965 to re-enact the Frankfurt Auschwitz trials on stage did not lose any of their actuality. Whereas the Eichmann trial was deliberately conceptualized as a performance, Peter Weiss' theatre play tried to reduce all theatrical formalities. Yet they seem interchangeable at many levels. Especially the act of witnessing is inscribed in both of them. And it is this act of witnessing, as Jacques Derrida denotes, that is not only describing an event but "performing" its truth. (Derrida year, p.) By making the spectators witnesses of history, both events shape a practice of remembrance in order to avoid history to repeat itself. However, the reproduction of The Investigation performed at London's Young Vic theater by a Rwandan company in November 2007 proves differently. The actors' own experience of Rwandan genocide established an undesired immediacy and recalls the function of the documentary theater as a political forum and space for critical activity.