

Irredeemable: Framing Crime in the Shadow of the Holocaust

The concentration camp *Mittelbau-Dora* was a late and improvised addition to the network of Nazi camps. Equidistance from Berlin and Frankfurt, it was located at the center of the German *Reich*. In contrast to other camps, *Mittelbau-Dora* was created as an underground site for guided missile production. After the RAF had bombed above ground facilities in Peenemuende, the “miracle” weapons needed to be shielded from an increasing number of enemy air raids. Even though *Mittelbau-Dora* only operated for three years, at least 20000 people died there.¹ Deaths accelerated dramatically when Allied Forces closed in on the *Wehrmacht* in January 1945. Inmates “evacuated” from the concentration camps *Gross Rosen* and *Auschwitz* arrived at *Mittelbau-Dora* starving and freezing to death. Since they were too weak for slave labor, the SS dumped them in old vehicle halls. Left unattended, 3000 people died there within three months.

On April 11th 1945 the U.S. army’s Third Armored Division liberated *Mittelbau-Dora*. Confronted with mass graves and dying former slave laborers, the army’s war crime branch began its investigation immediately. Photos and films shot during the days after liberation were recorded as evidence. In their hasty departure, the Germans left behind a list of approximately 2000 SS-men that had served in the concentration camp. Over the coming months members of the war crimes unit collected testimonies of survivors and interrogated captured SS-men to cross-reference the administrative documents. From August to December 1947 the Americans prosecuted 18 defendants for crimes against humanity committed at *Mittelbau-Dora*. Seven of them were sentenced to life in prison, one defendant was sentenced to death.²

Another two decades passed until the Federal Republic of Germany attempted to hold *Mittelbau-Dora*’s leading gestapo officers accountable. Three men, who had escaped American authorities during the chaotic early postwar years, were tried in Essen between 1967 and 1970. The trial was preceded by extensive investigations of the “Central Office of the State Justice Administrations for the Investigation of National Socialist Crimes” (*Zentrale Stelle*) in Ludwigsburg and Cologne. Drawing in part on material the Americans had collected, investigators systematically interviewed survivors of *Mittelbau-Dora* to build their case. After three years in court, the results were disappointing: The lawyer Karl Bischoff, who was in charge of Gestapo interrogations at *Mittelbau-Dora*, was deemed too sick to be adjudicated. The other two appealed their minor sentence and never had to serve any time in prison.³

Research Questions and Hypothesis

German courts famously showed leniency toward Nazi war criminals. At the same time the postwar justice system handed out harsh sentences to non-violent, repeat offenders.⁴ Among them were so-called “career criminals,” who had spent years doing slave labor in concentration camps.⁵ While these Holocaust victims served long sentences in German prisons, many Nazi perpetrators were acquitted of war crimes. Based on this counterintuitive sentencing practice this research project asks two main questions:

¹ Wagner 2001, p. 287.

² See: <https://www.dora.de/geschichte/chronologie/konzentrationslager/prozesse-karrieren>, accessed 12/06/2024;
<https://encyclopedia.ushmm.org/content/en/article/mittelbau-main-camp-in-depth?parent=en%2F4909>, accessed 12/06/2024

³ Opfermann 2023, p. 470.

⁴ Eichmueller 2012.

⁵ Wachsmann 2006.

1) Why did this discrepancy in sentencing remain viable for decades after the war?
2) What role did this sentencing practice play in maintaining the stability of social stratification between the Third Reich and the Federal Republic of Germany?

To address these questions, “Irredeemable: Framing Crime in the Shadow of the Holocaust”, draws on archival material related to the *Mittelbau-Dora* investigations. By analyzing witness testimonies, police records and judgments ranging from the 1920s to the 1970s, this project focuses on the interaction between cultural processes and legal practice. This case study reveals how culturally specific frames of deviance align with narrow legal definitions of crime.

I hypothesize that eugenicist norms shaped the German judiciary well into the 1960s.⁶ Certain ethnically German victim groups (i.e. homosexuals, “asocials,” “career criminals”) were considered irredeemably “inferior”, and their behaviors remained criminalized. It took the German government 75 years to recognize “career criminals” as victims of the Nazi regime.⁷

I further maintain that normative criminological concepts, such as prediction of future crime based on past behavior, or deterrence as the main function of punishment, worked against these groups.⁸ The lack of a criminal record, steady employment, and a high-level of education, on the other hand, favored of upper-middle class and elite defendants, who had tortured and killed people in concentration camps.

Historically this research sheds light on “career criminals” as forgotten victims of the Nazi genocide - a topic that has not yet received significant attention in Holocaust studies. From a sociological perspective, “Irredeemable” investigates how justice systems not only reflect, but shape social structures and political outcomes.⁹

***Mittelbau-Dora* as a Case Study**

More than other postwar trials in Western Germany, the *Mittelbau-Dora* proceedings juxtapose highly educated, influential perpetrators with the victim group of “career criminals”. In 1942, repeat offenders, labeled as “parasites”, were transferred from prisons to concentration camps with the explicit goal “to exterminate” them “through labor”.¹⁰ A considerable number later testified against their former oppressors.¹¹ Though they were important witnesses, “career criminals” continued to be stigmatized. After the war other survivors quickly distanced themselves from fellow “criminal” inmates. Hermann Langbein, chairman of the International Auschwitz committee, for example, testified during the Auschwitz trials that while some “career criminals” were respected by their fellow inmates, he still considered most of them “morally defective”.¹² The German government eagerly seized on the notion that so-called “career criminals” were in fact “criminals”. Since these men and women had not been persecuted on the

⁶ Herzog 2024.

⁷ Only in 2020 did the German government officially recognize “career criminals”, who had to wear a green triangle in concentration camps, as Nazi victims (Nonnenmacher 2024).

⁸ Harcourt 2007.

⁹ Durkheim 1964.

¹⁰ For a comprehensive overview of persecution of so-called “career criminals” and “asocial” during the Third Reich see: Hoerath 2024 p.52 – 84, in Nonnenmacher, Frank 2024. For documentation of the conversation between minister of Justice Thierack and Himmler see: BAArch B 162/ 40610.

¹¹ The prominent role of so-called “career criminals” during the investigation for the Dora Trial in Essen may be related to their availability. This victim group remained in Germany and those who had recidivated were easy to locate in German prisons. Ethnically German prisoners, political prisoners, as well as “career criminals”, were also more likely to be put into a leadership position as “Kapos” by the SS. As a result, they had a better understanding of the command structure and more extensive knowledge of atrocities that specific SS men had committed. See: Wagner 2001 p. 396f.

¹² See: Langbein testimony Auschwitz trial https://www.auschwitz-prozess.de/zeugenaussagen/Langbein-Hermann_2/, accessed Jan 23rd 2023; also: Stengel 2012.

basis of their race or political convictions, the argument went, their sentence may have been harsh but was still lawful.¹³ As German cities were rebuilt from the rubble, the life-course of so-called “career criminals” stalled. Their biographies, reconstructed from archival material that dates back to the 1920s, show the continuity of poverty and labeling. Stuck at the bottom of the social hierarchy, some turned to criminal behavior and were quickly reincarcerated.¹⁴

Elite and Upper-Middle Class Perpetrators

Mittelbau-Dora served as the manufacturing site for V2 rockets. As a result, leading German scientists, most prominently Wernher von Braun, were involved in the ruthless production process. Von Braun, who defected to the Americans shortly before the end of the war, represented the kind of prewar German excellence and discipline many were eager to remember.¹⁵ During his lifetime his reputation remained untarnished, even though his role at *Mittelbau-Dora* was far from a “detached” and “unaware” scientist.¹⁶

Because of his central role in the ballistic missile development, von Braun was called to testify during the Western German Dora trial. He denied having had any awareness of the massive death toll it took to produce his “invention” underground. His testimony supported the narrative of the three upper-middle class former Gestapo officers, who insisted that they had only followed orders and had not been involved in any extra-legal killings or torture.¹⁷

Legal Approaches to Adjudicating Genocide

In addition to juxtaposing the fate of lower-class victims and upper-middle class/ elite perpetrators, the *Mittelbau-Dora* proceedings reveal how social processes interact with legal framing. American court proceedings tried Nazi perpetrators according to the principle set forth by the International Military Tribunal in Nuremberg. Those who were responsible for and participated in the Nazi genocide had committed crimes against humanity”.¹⁸

After 1949, when German courts had regained some of their independence, war criminals were treated as if they were “conventional offenders”.¹⁹ The three gestapo men tried in Western Germany were accused of a singular crime: murder. The court acknowledged that one of them, Erwin Busta, had brutally tortured inmates. However, in his defense the judge noted, that Busta had never committed any other crime before or after the war: “He lived a normal, bourgeois life.” The verdict asserted that it was highly unlikely that Busta was going to recidivate. A harsh sentence would therefore not serve any deterrent function.²⁰ In line with other postwar trials against Nazi war criminals, the punishment was lenient. Busta was sentenced to eight years and

¹³ Lieske 2016, 53f. also: Wagner 2001.

¹⁴ Nonnenmacher 2024.

¹⁵ Under the umbrella of the infamous “Operation Paperclip” von Braun and his research group were seamlessly integrated into the American space program (Neufeldt 2008).

¹⁶ Michael Neufeldt’s (2008) biography of Wernher von Braun describes in great detail Braun’s moral corruption. Von Braun was eager to offer his services to the Americans once he realized that end of the Third Reich was near. He and his team waited out the chaotic final days before Germany’s surrender in a luxury hotel in the Bavarian Alps. “While concentration camp prisoners expired by the thousands in the death marches [...] he partook of the hotel’s gourmet kitchen and wine cellar.” (Neufeld 2008, p. 198).

¹⁷ Testimony von Braun BArch B2503 Nr.1355; Testimony Speer BArch N2503 Nr. 2159

¹⁸ See also: Arendt 2006

¹⁹ Fritz Bauer, prosecutor behind the Auschwitz trials took an approach, more akin to the Nuremberg trials. He held that [...] we must understand that adapting to an unjust regime constitutes an injustice” In: Warum Auschwitz-Prozesse? *Neutralität. Kritische Zeitschrift für Kultur und Politik*, 2 (6-7), p. 9.

²⁰ Lfd.Nr.731 LG Essen 08.05.1970 JuNSV Bd.XXXIII p. 942, <https://junsv.nl/westdeutsche-gerichtsentscheidungen>, accessed July 19th 2024.

six months in prison. His co-defendant, Ernst Sander was supposed to serve seven years and six months in prison.²¹ Their lawyers successfully appealed the sentence and none of them served any prison time. The main defendant, Helmut Bischoff, was deemed too sick to be sentenced. He died twenty-three years later.²² In the end, acts contributing to thousands of deaths were considered singular aberrations of otherwise well-adjusted individuals.²³

Methodology and Data Collection

This interdisciplinary research sits at the intersection of history, criminology, and sociology. Aiming for “theoretical generalizability”, the trial proceedings are contextualized in the socio-economic and political realities of postwar Germany.²⁴ Empirically, the *Mittelbau-Dora* case is treated as a Weberian ideal-type, revealing “historically specific causality” with respect to the construction of deviance and conformity on the social, political, and individual level.²⁵

Most men sent to concentration camps as “criminals” did not leave behind diaries, poetry, or drawings. After the war many wanted to hide their past and achieve what had so far alluded them – to blend in and live a conventional life.²⁶ Inadvertently, some of their narratives have been preserved in the investigative files of the *Zentrale Stelle* that I have been able to access over the past two years.

Though “career criminals” were never recognized as NS victims during their lifetime, some still filed restitution claims.²⁷ These case files I collected in state archives allow me to reconstruct the group’s existence at the margins before, during, and after World War II. I have created a subsample of 37 “career criminals”, who were interviewed during the Dora investigations and whose life course can be documented through police reports, prison files and trial records. Utilizing case files from pre-trial investigations collected at the *Bundesarchiv* in Ludwigsburg, I was able to access testimonies of 131 so-called “career criminals” that were interviewed by the investigators of the *Zentrale Stelle*. This material ranging from the 1920s to the 1970s has not been analyzed from a sociological or criminological perspective

The innovative potential of this research lies in its focuses on a victim group that has been historiographically marginalized and whose fate has never entered the public narrative of the Holocaust. Sociologically, the data offer a rare opportunity to show how discourses surrounding criminal behavior consolidate power and undermine fundamental social change

Conclusion

“Irredeemable: Framing Crime in the Shadow of the Holocaust”, is an interdisciplinary project that relies on a vast amount of archival data. A preliminary analysis indicates, that removing the stain of genocide from Germany’s elite and upper middle-class, was inextricably intertwined with the uninterrupted construction and exclusion of a “criminal underclass”. During the postwar years pathologizing lower-class “criminals” was crucial for maintaining boundaries between “worthy” and “unworthy” Germans.²⁸ From the perspective of German authorities “career criminals” chronically lacked discipline and respect for authority. Elite actors of the Nazi regime,

²¹Ibid., p. 763.

²² Wagner 2001, 571.

²³ Opfermann 2023, p.7 & p. 470.

²⁴ Burawoy 1991.

²⁵ Weber 1949; Hedstroem and Ylikoski 2010.

²⁶ Lieske 2016.

²⁷ Ibid.

²⁸ “The Division of Labor” (1964) Durkheim argues focusing societies sanction behavior reveals their general organizing principle (1964: 128).

as well as upper middle-class executioners, could present themselves as dutiful and obedient members of the *Volk*.

Bibliography and Works Cited

- Arendt, Hannah. 2006. *Eichmann in Jerusalem. A Report on the Banality of Evil*. New York: Penguin.
- Bauer, Fritz. 1964/65. "Warum Auschwitz-Prozesse?", *Neutralität. Kritische Zeitschrift für Kultur und Politik*, 2 (6–7): 9.
- Brechtken, Magnus 2018. *Albert Speer. Eine Deutsche Karriere*. München: Siedler.
- Browning, Christopher. 1992. *Ordinary Men Ordinary Men: Reserve Police Battalion 101 and the Final Solution in Poland*. New York: Harper.
- Burawoy Michael. 1991. "The Extended Case Study Method." Pp. 271-87 in *Ethnography Unbound: Power and Resistance in the Modern Metropolis*, edited by Michael Burawoy, Alice Burton, Ann Arnett Ferguson, and Kathryn J. Fox. Oakland: University of California Press.
- Durkheim, Emile. 1964. *The Division of Labor In Society*. New York: Free Press.
- Eichmüller, Andreas. 2012. *Keine Generalamnestie. Die Strafverfolgung von NS-Verbrechen in der frühen Bundesrepublik*. München: NS Dokumentationszentrum.
- Erikson, Kai. T. 1996. *Wayward Puritans. A Study in the Sociology of Deviance*. Boston: Allyn & Bacon.
- Frei, Norbert, ed. 2003. *Hitlers Eliten nach 1945*. München: dtv.
- Goffman, Erving 1986. *Frame Analysis: An Essay on the Organization of Experience*. Boston: Northeastern.
- Harcourt, Bernard, 2006. *Against Prediction. Profiling, Policing, and Punishing in an Actuarial Age*. Chicago: University of Chicago Press.
- Hedstroem, Peter, and Petri Ylikoski. 2010. Causal Mechanisms in the Social Sciences. *Annual. Review of Sociology* 36: 49-67.
- Herzog, Dagmar. 2024. *The Question of Unworthy Life: Eugenics and Germany's Twentieth Century*. Princeton: Princeton University Press.
- Heubaum, Regine. Raketenrüstung und KZ-Zwangsarbeit: Ingenieure und Wissenschaftler als Akteure im Betrieb des Konzentrationslagers Mittelbau-Dora. 2021. In: Breuer, Uta and Dieter D. Genske (Ed). *Ethik in den Ingenieurwissenschaften. Eine Annäherung*, pp. 33-49. Springer: Wiesbaden.
- Jäger, Herbert. 2020. *Verbrechen unter totalitärer Herrschaft*. Frankfurt. Suhrkamp
- Jureit, Ulrike. 1995. *Erziehen, Strafen, Vernichten. Jugendkriminalität und Jugendstrafrecht im Nationalsozialismus*. New York: Waxmann.
- Klee, Ernst. 2013. *Auschwitz – Täter, Gehilfen, Opfer und was aus ihnen wurde: Ein Personenlexikon*. Frankfurt: Fischer.
- Kolata, Jens. 2024. *Krankheit, Wissen, Disziplinierung. Öffentliche Gesundheitsfürsorge in Frankfurt am Main zwischen Sozialhygiene und Eugenik 1920–1960, Studien zur Geschichte und Wirkung des Holocaust Bd. 9: Göttingen*
- Köchl, Sylvia. 2016. "Bedürfnis nach gerechter Sühne". *Wege von "Berufsverbrecherinnen" in das Konzentrationslager Ravensbrück*. Wien: Mandelbaum Verlag.
- Kranewitter, Andreas. 2024 *Die Konstruktion von Kriminellen. Die Inhaftierung von "Berufsverbrechern" im KZ Mauthausen*. Wien: New Academic Press.

- Laub, John H., and Robert J. Sampson. 2003. *Shared Beginnings, Divergent Lives: Delinquent Boys to Age 70*. Cambridge: Harvard University Press.
- Lieske, Dagmar. 2016. *Unbequeme Opfer: "Berufsverbrecher" als Häftlinge im KZ Sachsenhausen*. Berlin: Metropol.
- Mommsen, Hans. 1991. *From Weimar to Auschwitz: Essays in German History*. London: Polity Press.
- Neufeld, Michael J. 2008. *Von Braun: Dreamer of Space, Engineer of War*. New York: Vintage.
- Neufeld, Michael J. 2012. 'Smash the Myth of the Fascist Rocket Baron': East German Attacks on Wernher von Braun in the 1960s. In: Geppert, A.C.T. (eds) *Imagining Outer Space*. London: Palgrave Macmillan.
- Nonnenmacher Frank. (2024) *Die Nazis nannten sie "Asoziale" und "Berufsverbrecher. Verfolgungsgeschichte im Nationalsozialismus und in der Bundesrepublik*. Frankfurt: Campus.
- Opfermann, Ulrich F. Zum Umgang der deutschen Justiz mit an der Roma-Minderheit begangenen NS-Verbrechen nach 1945. *Für die Unabhängige Kommission Antiziganismus. Bundesministerium des Inneren und fuer Heimat*.
https://www.bmi.bund.de/SharedDocs/downloads/DE/veroeffentlichungen/themen/heimat-integration/antiziganismus/opfermann-nsg-verfahren.pdf?__blob=publicationFile&v=2, accessed 12/06/2024.
- Pendas, Devin O. 2010. *The Frankfurt Auschwitz Trial, 1963–1965: Genocide, History and the Limits of the Law*. Cambridge: Cambridge University Press.
- Raithel Thomas. 2009. *Die Strafanstalt Landsberg am Lech und der Spöttinger Friedhof (1944 - 1958): eine Dokumentation im Auftrag des Instituts für Zeitgeschichte München-Berlin*.
- Roth, Thomas. 2010. *"Verbrechensbekämpfung" und soziale Ausgrenzung im nationalsozialistischen Köln : Kriminalpolizei, Strafjustiz und abweichendes Verhalten zwischen Machtübernahme und Kriegsende*. Köln: Emos.
- Schrafstetter, Susanna. Verfolgung und Wiedergutmachung Karl M. Hettlage: Mitarbeiter von Albert Speer und Staatssekretär im Bundesfinanzministerium. *Vierteljahreshefte fuer Zeitgeschichte* (3), 2008.
- Stengel, Katharina 2012. *Hermann Langbein. Ein Auschwitz-Überlebender in den erinnerungspolitischen Konflikten der Nachkriegszeit*. Frankfurt am Main, New York: Campus.
- Stengel, Katharina. 2022. *Die Überlebenden vor Gericht. Auschwitz-Häftlinge als Zeugen in NS-Prozessen (1950– 1976)*. Göttingen: Vandenhoeck & Ruprecht
- Wachsmann, Nikolaus. 2006. *Gefangen unter Hitler. Justizterror und Strafvollzug im NS Staat*. München: Siedler.
- Wagner, Jens-Christian. 2001. *Produktion des Todes. Das KZ Mittelbau-Dora*. Göttingen: Wallstein.
- Weber, Max. 1949. *Methodology and the Social Sciences*. Edited and translated by Edward A. Shils and Henry A. Finch. Glencoe: Free Press.
- Wittmann, Rebecca. 2005. *Beyond Justice. The Auschwitz Trial*. Boston: Harvard University Press.