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Bodies of Evidence, Burdens of Proof

Reason before the Court of Cinema after the Third Reich

Abstract

Images of Jews in relation to morality and the conditions of law and justice have been present from the earliest productions in German Cinema. The themes of alterity and the tensions these posed for Jews and Gentiles underwent a radical shift in perspective in German cinema by the time of the Third Reich.¹ At the end of the war, German cinema had been debased by the racial politics of the medium under the Nazis and faced an uncertain future among the physical and spiritual ruins of total defeat. The early post-war Cinema in the former Greater German Reich was placed under Allied control and films required a licence for production and distribution. Just what this entailed and how it was implemented is, however, not the subject of this paper. Rather, I intend to look at how narratives about Jewish figures featured images and tropes of legal discourse and the courtroom space as a means to addressing the Nazi past and specifically the genocidal policies perpetrated against the Jews of Europe.

To this end, I shall examine Artur Brauner's "Morituri" and Georg Wilhelm Pabst's "Der Prozeß", and to a much lesser extent Erich Engel's DEFA production "Affaire Blum".² These three films, all made in 1948, are in many ways exceptions to the cinema culture of the time precisely because they directly addressed Anti-Semitism and the law in German Society, a subject which found little popular interest, much less cinematic expression at the time.³ While "Affaire Blum" was made under Soviet licence by DEFA at what was left of the old UFA studios in Babelsberg, The other two films were produced under Western allied licence in Occupied Austria and Germany, nations that had until 1945 been considered a single entity as 'Greater Germany'. These two Western sector films will form

1 Cf. author's preface: Siegbert Salomon Praver, *Between Two Worlds. Jewish Presence in German and Austrian Film, 1910–1933*, New York 2007, pp. x–xi.

2 Eugen Yorck, *Morituri [Morituri]* (CCC Film, 1948); Georg Wilhelm Pabst, *Der Prozess [The Trial]* (Kahla Film [Austria], 1948); Erich Engel, *Affaire Blum [The Blum Affair]* (DEFA, 1948).

3 Cf. esp. Frank Stern, *Im Anfang war Auschwitz. Antisemitismus und Philosemitismus im Deutschen Nachkrieg*, Gerlingen 1991, pp. 100–110 for accounts of the time.

the greater part of my analysis as they present interesting counterpoints to the cinema discourse with the Nazi past away from DEFA's increasingly Stalinist diktats. I hope to show how these films, both offered visual rejoinders to images of the Shoah and aimed to play a part in the narratives of recovery of German Cinema as a morally legitimate medium. I shall look specifically at the themes of rationality and justice and how, through the conduits of Jewish characters and their antagonists, these concepts were played out within Enlightenment values of the primacy of reason as a universal truth, beyond the vicissitudes, and thereby also the responsibilities, of accounting for history and ideology of the recent past. It is especially revealing to trace just how prevalent a return to an 'ahistorical' idealism in Kantian models of legitimacy, both in moral and epistemological terms, served to reconstruct restorative national narratives after the collapse of Nazism in film.

Before my analysis of this move, it is necessary to place these films of 1948 into historical cinematic context. The purpose of this is to frame the Cinema space itself as a courtroom. In so doing, an examination of the radically divergent presentations of Jewish figures, Cinema and legal space in both the Anti-Semitic Cinema of Goebbels's Reichsfilmkammer and the documentary films shown at the War Crimes trial in Nuremberg by the Allied prosecution offer a key to the significance of the dramatic appearance of the 'court space' within the post-war films under discussion here.

1 Bodies of Evidence: Image against Narrative

Certainly the most striking and horrific images that made it to the Cinema screens in Europe in the years immediately after 1945 were to be found in the footage shot by the Allied forces of the liberation in the Camps in the aftermath of the Shoah. The films were edited together into documentaries that shocked audiences worldwide. These cinema images revealed the horrors of orchestrated genocide on an industrial scale, where whole populations of, mainly Jews, were reduced to the status of objects, the survivors marked by a starvation that robbed them of any prior recognisability, the dead poured into pits by bulldozers like so many pale and filthy puppets. These Jews, then, became the bodies of evidence on screen for the most damning indictment levelled at the German people in mainly voluntary screenings in the cinemas of the ruined cities and towns of the former Third Reich.⁴ In particular, Billy Wilder's production "Die Todesmühlen"

⁴ Cf. esp. Ulrike Weckel, *Beschämende Bilder. Deutsche Reaktionen auf alliierte Dokumentarfilme über befreite Konzentrationslager*, Stuttgart 2012, pp. 329–390.

(“Death Mills”) became widely known in the Western sectors as a so-called *Gräuelfilm* or ‘gruesome film’ by Cinema audiences in Germany. It appeared in 1945 in many versions, not only screened for a civilian population throughout Europe and in the US, it was shown in Prisoner of War, and Displaced Persons camps alike, including a version made in Yiddish.⁵ The “indelible shadows” as Annette Insdorf has termed them had been irrevocably cast for any future consideration of the Nazi past in film.⁶

It was, however, another film by George C. Stevens that made history by being the first motion picture film specifically made to be entered into evidence at an international Trial. Appearing as Prosecution Exhibit number 230 on the 29th of November 1945, the courtroom seating was rearranged to become a cinema space and those present were duly forewarned about the shocking images that would, in the cautionary introduction by the Allied Chief Prosecutor, Robert H. Jackson, open him up to accusations that “you will say I have robbed you of sleep”.⁷ The assembled court, now a cinema audience, watched Steven’s compilation film “The Nazi Concentration Camps” in total silence.⁸ The Prosecution had deliberately not called one single witness from the Allied forces to give testimony about what they saw in the Camps. Exhibit 230 was the only ‘witness’ to give this evidence. At insistence of the Chief Prosecutor, the sole eyewitness testimony was to be that of a movie camera.⁹ Recalling the screening, Goering is said to have remarked: “And then they showed that awful film, and it just spoiled everything”.¹⁰

5 Jean-Paul Goergen/Ronny Loewy, *Di toit milen – die jiddische Fassung von Die Todesmühlen* (1945), in: *Filmblatt*, no. 8,21, winter/spring 2003, pp. 63–67.

6 Annette Insdorf, *Indelible Shadows Film and the Holocaust*, Cambridge 2003, pp. xv–xix.

7 Lawrence Douglas, *Film as Witness. Screening Nazi Concentration Camps before the Nuremberg Tribunal*, in: *The Yale Law Journal* 105,2 (1995), pp. 449–481, at p. 450.

8 George Stevens, *Nazi Concentration Camps* (OMGUS, 1945), US Library of Congress (URL: <https://archive.org/details/gov.archives.arc.43452>; 2. 11. 2020). Cf. esp. Yvonne Kozlovsky-Golan, *The Shaping of the Holocaust Visual Image by the Nuremberg Trials. The Impact of the Movie “Nazi Concentration Camps”*, Göttingen 2008, for the afterlife and impact of this film.

9 Telford Taylor, *The Anatomy of the Nuremberg Trials. A Personal Memoir*, New York 2013, pp. 146–149.

10 Jack El-Hai, *The Nazi and the Psychiatrist. Hermann Göring, Dr. Douglas M. Kelley, and a Fatal Meeting of Minds at the End of WW II*, Reprint PublicAffairs 2014, p. 22.

2 “Jud Süß”: Foreign Bodies in the *Volkskörper*

What had been so ‘spoiled’ one might ask, the dream of a ‘thousand year Reich’? The dream, if not the nightmare had certainly been dispelled, and the *Traumfabrik* of the German Cinema lay in ruins. So also, seemingly, that golden era of German film that had so eagerly espoused the racialised logics of a national grand narrative of ethnic struggle against such pernicious myths of a controlling ‘World Jewry’. Yet in order to place the shock of the documentary footage of the liberated Camps into context, at least for the German viewing public it is instructive to briefly examine the legacy of images of ‘the Jew’ in the film of the Third Reich.

The state Anti-Semitism that had found voice in the Cinema of Nazi Germany was perhaps best embodied in the appearance of a quintessentially sinister dramatic figure. The villainous caricature of Jud Süß Oppenheimer emerged as a symbol of hate on screen in 1940. What is striking, moreover, is that it is a court case which provides the denouement of Veit Harlan’s “Jud Süß”. The film and the court case depicted in the narrative bears testament to the nadir of a debased cinema culture under the Nazis, legitimising the perversions of the 1935 Nuremberg race laws and the subsequent murder of the Jewish people in a dramatic appeal to a continuity of malice, validating the historical traditions of persecution via the law in enforcing the oppression and exclusion of Jews from German Society. The sheer brutality of the final celebratory hanging of the eponymous Süß marks the film out as a call to morally legitimised and legally sanctioned murder.

“Jud Süß” had a wide international release in occupied lands, as well as Italy and Spain and was even, tellingly, screened to members of the SS *Einsatzgruppen* as well the general public throughout the war.¹¹ In the film, Ferdinand Marian plays the film’s eponymous character, a manipulative, exploitative and murderous rapist who ascends through social and political hierarchy only to suddenly lose the protection of his vain and avaricious Patron, the Duke of Württemberg after he dies unexpectedly of a heart attack. The carefully crafted plot to usurp the Duchy of Württemberg for the nefarious ends of the Jews, by installing his gullible benefactor as an absolute ruler on his behalf fails and Jud Süß Oppenheimer is put on trial. The pivotal and penultimate part of the film sees the ‘Court Jew’ take the stand at court. Visually striking, dressed in all his rings and finery and sporting a well-kempt beard, he holds forth, employing his talent for sophistry to obscure the truth and frustrate all attempts to hold him to rights (fig. 1).

11 Cf. Friedrich Knilli, *Ich war Jud Süß. Die Geschichte des Filmstars Ferdinand Marian*, Berlin 2000, pp. 126–167 for a detailed account of distribution and popular reaction.



Fig. 1: "Jud Süß": The 'Court Jew' in Court (Veit Harlan, 1940).

That he consistently seems to evade all charges put before him, ratchets up the tension up until the dramatic denouement when he is finally caught out – for having forced himself on a Christian woman who was subsequently driven to suicide as a result. The final sequence of the film sees Süß Oppenheimer hanged, pleading and attempting to talk his way out of his fate: he is lifted to the highest gallows yet built in the town in an iron cage for all to see. At the moment of his death, a soft purifying sheet of soft snow silently descends on the townsfolk gathered below. The vain and duplicitous Süß embodies all that Goebbels could muster as hateful in a Jewish figure on screen, intervening personally in the script process to emphasise the maleficence of the character. The film itself was one of the most successful of the Reich. Over twenty million saw it, not only in Germany but also in Cinemas showing foreign language versions across Nazi occupied Europe, to much acclaim receiving the Golden Lion at the 1940 Venice Film Festival.¹²

The evasions and lies of Josef Süß Oppenheimer defending himself at his trial unequivocally situate the Cinema audience at the febrile heights of an emotive all-encom-

12 For a comprehensive account of the film and its legacy cf. Eric Rentschler, *The Ministry of Illusion. Nazi Cinema and Its Afterlife*, Cambridge 1996, pp. 149–179.

passing narrative to great effect: culminating in the great deceiver's comeuppance. The narrative trajectory of "Jud Süß" is clear and presents him as a deceiver from the outset. The audience in position of 'privileged spectator' bears witness to the crimes he commits and watches as he lies, sanctions murder, rapes and opens the gates of the city to a caravan of Jewish invaders to the *Volkskörper*. The litany of crimes is presented as narrative evidence for his guilt throughout the film, presenting a grand oppositional narrative that leaves no room for any interpretive space or ambiguity.¹³ Harlan's rationale for the denouement of the film; the judgement at court, when it comes is laid out clearly for the audience in the depiction of his misdeeds before any trial has taken place: the trial itself serving only to showcase the insult added to injury as Josef Süß Oppenheimer attempts to deceive the court. But his fate is long sealed in the minds of the cinema spectators of the time. This *fait accompli* in the narrative unfolding of the film subsumes any engagement with 'Rationality' or the uses of reason. Indeed, reason is presented as yet another tool for the cunning Jew. Therefore ostensibly rational arguments before the court are presented as instruments of deception employed by the master deceiver. The type of spectatorship encouraged by the immersive Cinema of "Dream Factory" of the Reich having offered little by way of interpretive space, replaced introspection with spectacle. Lavish productions such as "Jud Süß" encouraged a visual totality to match the totalising politics of Nazism such that any residual sense of a Kantian aesthetic 'distance' was all but eliminated in a tide of emotion in visual and narrative excess.

"Jud Süß" was placed on the list of forbidden films in 1945 by the SHAEF authorities.¹⁴ It is still banned from general release in Germany and may only be legally screened as part of an educational programme on Anti-Semitism.

3 Cassandra in Court: "Affaire Blum"

Before embarking on more detailed analyses of the two aforementioned Western sector films of 1948, it is important to, however briefly, address the DEFA production of the same year. Erich Engel's "Affaire Blum" had moderate success in the Soviet sector and was given a limited release in the West at a time of great political tension during the Berlin

13 Cf. Linda Schulte-Sasse, The Jew as Other under National Socialism. Veit Harlan's *Jud Süß*, in: *The German Quarterly* 61,1 (1988), pp. 22–49, at pp. 31–33 (URL: <https://doi.org/10.2307/407114>; 2. II. 2020), for further close analysis on this point.

14 For further information to the fate of Harlan's film cf. Friedrich Knilli, "Jud Süß". Filmprotokoll, Programmheft und Einzelanalysen, Berlin 1983.

Blockade. The critical reception was muted but positive and the film did quite well at the box office with a viewership of around 2 million.¹⁵ The DEFA production presents a narrative where the audience and the key protagonist, the eponymous Blum are aware of the fate of the Jews of Germany: the audience in retrospect, and Blum as a Cassandra figure, with a sense of unspoken foreboding. The story, set pre-war, of a liberal educated Jewish man framed for murder and then acquitted despite the best efforts of Anti-Semites in the Weimar Republic's judiciary sets out some ideological tenets of the future East German Republic on the subject of Fascism. Here, Nazism is seen as a force made possible by the corruptions of Capitalism, undermining everything, even the liberal ideals of the *Rechtsstaat* and the rule of law. The ideological position of the SED,¹⁶ the ruling party of an inchoate state in 1948 chimed in with a position that held the persecution of the Jews was a by-product of the Nazi state rather than one of its *raison d'être*. Erich Engel's film can be seen as fitting in with this worldview, and was regarded as such at the time.¹⁷

4 Burdens of Proof: Narrative against Image

Immanuel Kant had famously opened his case for the Enlightenment Revolution by declaring that Reason would stand before itself in the new endeavour to determine just what constituted rational thought and legitimacy; effectively it would test the limits of its remit. This would, in the words of the great Königsberg Philosopher, be a legal determination, a matter of *quid juris*.¹⁸ The German filmmakers of 1948 faced just such a, albeit metaphorical, court. The context and consequence of an era that had produced such unmediated hatreds such as "Jud Süß", was faced with the equally unmediated present in images of the documentary films from the Camps. The screen fantasy of the Reich and the horror of the facts post-war left little room for manoeuvre. This had thrown German film production into a deep crisis of legitimacy, a crisis that extended to an acute crisis for the very existence German cinematic language itself. The task after the horrors of the

15 Cf. Christiane Mückenberger/Günter Jordan, "Sie sehen selbst, Sie hören selbst ...". Eine Geschichte der DEFA von ihren Anfängen bis 1949, Marburg 1994, pp. 97–105.

16 SED or Socialist Unity Party, which would become the single ruling party of the German Democratic Republic until 1989.

17 "Hart am Justizmord vorbei" (author unknown), in: Der Spiegel, no. 48, 11. 12. 1948, p. 26 (URL: <http://www.spiegel.de/spiegel/print/d-44421056.html>; 2. 11. 2020).

18 Immanuel Kant, Immanuel Kant's Critique of Pure Reason, trans. by Norman Kemp Smith, Houndmills ²⁷1995, p. 120 (A84/B117).

Camps was to recover a rational legitimate voice for Germans that would speak beyond the barbarism as witnessed on screens and in photographs after 1945.

For Germans films of the time to approach the theme of Jewish suffering required that the narrative locus and questions of legitimacy it addressed be posed within cinematic questions of a type of Kantian *quid juris* – firmly placed within a realm of an ideal judicial reason and away from what a Kantian method would describe as its opposite in questions of *quid facti* seen the damning images of the Allied documentaries. The following examination of two films made in 1948 will be illustrative of just how tropes of justice and rationality were framed through Jewish characters and narratives of legal argument, restoring the cinema space from a courtroom where the audience were placed in the position of the accused to one where the court, and with it the Jewish body, could be returned to a dramatic trope on screen that would facilitate a set of restorative narratives.

5 The Court of Reason: Brauner's "Morituri"

It is important to note that 1948 was a pivotal year for the burgeoning global tensions that would eventually lead to the Cold War. For Germans and German film in particular, this had direct, local and practical consequences. The unilateral currency reforms in the Western sectors of occupation had forced the Soviets' hand and as a result Berlin had been blockaded, ostensibly to stem the spread of the new currency which threatened to undermine Soviet occupation of Germany.¹⁹ The film industry in the Western sectors also radically changed as a result. The decentralised and inchoate film production houses might now be able to turn a profit, but equally their success or failure as going concerns depended on box office success in an era where films no longer cost a single *Reichsmark* to see.²⁰

Artur Brauner's CCC film company had already made its debut with "Herzkönig" a year previously in 1947.²¹ His second production, "Morituri" – directed by Eugen Yorck, is perhaps most famous for being a consummate box office and critical disaster.²² This

19 Cf. Norman M. Naimark, *The Russians in Germany. A History of the Soviet Zone of Occupation, 1945–1949*, Cambridge 1995.

20 Cf. Johannes Hauser, *Neuaufbau der westdeutschen Filmwirtschaft 1945–1955 und der Einfluss der US-amerikanischen Filmpolitik. Vom reichseigenen Filmmonopolkonzern (UFI) zur privatwirtschaftlichen Konkurrenzwirtschaft*, Pfaffenweiler 1989, pp. 443–458.

21 Helmut Weiss, *Herzkönig [The King of Hearts]* (CCC Film, 1947).

22 Accounts of Refusals to screen the film in Berlin and Hamburg, cf. Claudia Dillmann-Kühn, *Artur Brauner und die CCC. Filmgeschäft, Produktionsalltag, Studiogeschichte 1946–1990: Ausstel-*

notwithstanding, “Morituri” is notable for being the first all German production to feature dramatisations of a Concentration Camp and was presented at the Venice Biennale in 1948, seven months after the completion of principal photography. At the festival, the reception, although not hostile, described the engagement with the themes of war crimes and persecution as somewhat cold and reserved given the other fare at the screens in Venice at the time.²³

The film chronicles a Polish camp doctor who facilitates the escape of inmates from a camp in Poland. During the escape he loses his wife but nonetheless manages to get the freed international band of camp-inmates to the safety of a forest hideout. The film builds tension with news of that the Russians are approaching and the retreating German Army come perilously close to discovering the hideout. Eventually, a young German Wehrmacht soldier is captured by some escapees and is taken down under the camouflage netting into the hideout to face the survivors of the camp. The pivotal moral narrative of “Morituri” plays out in this space. As Bernhard Groß rightly notes, “Morituri” transforms the documentary into narrative in relation to the reeducation films and addresses pragmatic question in drama that documentary images left little room for; making for a “quintessential” dramatic unfolding of the questions and moral positions facing the Post-war German society of 1948.²⁴

The boy, frightened and confused in his army uniform is taken down into the hideout where his presence soon attracts an angry crowd. Although there are Jews present, Yorck’s film places emphasis on the international character of the fellowship of inmates in the hideout. The crowd initially saves the German boy from strangulation at the hands of a disturbed woman; who returns to cradling a doll that she believes to be her dead child. However, the emergence from behind the trees of the figure of the one-legged Eastern European Jew, speaking with a heavy accent, levels the accusation of collective guilt at the boy. He declares the boy must die, if not for the danger he poses if he lives and brings reinforcements, but because – although he might laugh and sing songs he is not a human for he has done inhuman things (fig. 2).

lung/Filme 28.06.–09.09.1990, Frankfurt a. M. 1990, pp. 36–37; cf. also Peter Reichel, *Erfundene Erinnerung.: Weltkrieg und Judenmord in Film und Theater*, München 2004, pp. 180–181, for an account of the specifically hostile reception to the film in Germany.

23 Dillmann-Kühn, Artur Brauner (see note 22), p. 36.

24 Bernhard Groß, *Die Filme sind unter uns. Zur Geschichtlichkeit des frühen deutschen Nachkriegskinos: Trümmer-, Genre-, Dokumentarfilm*, Berlin 2015 (Traversen 15), p. 379.



Fig. 2: The crippled and vengeful “Ost-Jude” in “Morituri” (Eugen Yorck, 1948); © CCC Filmkunst GmbH “Morituri” (1947/1948).

The intervention of a ‘civilised’ German Jew, cast both visually and in class terms as his opposite, sets up the moral debate. The assimilated, clean-shaven, bald, bespectacled and well-spoken man proposes to defend the boy. We have been made aware previously that this man is a German Jew, a former public defender, robbed of his profession and status by the Nazis. What follows is a pivotal scene in the form of a transformative and fantastical sequence in the film. As the former lawyer starts to speak and propose his defence, his words serve to transform the forest space into a courtroom: stones become tables and the whole forest glade is eventually transformed into an interior of a court, initially visually overlaid and then replacing the forest setting entirely (fig. 3 and 4).

The cast of international bystanders all agree, in their various languages with his defence of the German in the name of humanity. The agreement is one of mercy, but also one of condemnation. His life is spared, but the boy is sentenced to live in the hardships those who judge him have endured as the vanquished. This judgement locates the moral core of the film as one of moral equivalence. The audience are tasked with accepting



Fig. 3–4: The visual transformation of the forest hideout to courtroom in “Morituri” (Eugen Yorck, 1948); © CCC Filmkunst GmbH “Morituri” (1947/1948).

their defeat as a price for the war, and more explicitly as a price for the persecution of the Jews. In this light, meek might well inherit the earth, but the powerful will have their turn suffering their privations. The threat of old-testament wrath is tempered with enlightenment rationalist equanimity, but not with forgiveness.

“Morituri” then, ostensibly depicts the victory of rational argument over the desire for revenge; the transformative speech of the German Jewish lawyer not only visually transforms the forest hideout into a courtroom it re-establishes the rule of law. However, this is not a national law, instead the unanimity of the ‘Jury’ of plaintiffs constitutes a form of deontological consensus, effecting a type of democratised categorical imperative. The righteous figure of the educated Jew recreates a trial setting as might be otherwise imagined at Nuremberg, one of a future Germany before the law of international opinion, defended by a member of the most aggrieved. That the argument for sparing the German soldier’s death is met with international and near-universal agreement in the scene, serves as a dramatised counter-verdict to that in the documentary images of the Shoah. This moral ascent spoken in all the languages of Europe then, reflects a verdict of a universal law. The single bitter and dissenting voice, that of the ‘*Ost-Jude*’, turns his back and vanishes back into the woods in silence where he is consigned to the past along with his grievances.

Where the trial sequence of “Morituri” offers the film its ‘redemptive’ conclusion is in the clever reconfiguration of the legal trope on screen: the tables are turned, the condemned become the judges and the jury, and crucially refuse to become the executioners. Mercy, if it is indeed to be read as such, comes with a heavy price. The young German soldier is condemned to live in ignominy and with the shame of defeat, if not the shame of the crimes against humanity. A verdict writ-large on the official film poster of the time:

“Wenn die Mächtigsten der Erde auch die Klügsten wären
dann würde es keine Kriege mehr geben
Einmal werden alle, die leiden, siegreich sein über jene
die die Macht haben.
Dann werden sie und ihre Leidensgefährten das Urteil sprechen
Es wird lauten: Zum Leben verdammt.”

In “Morituri”, the Christian interpretation of the biblical maxim of an “eye for an eye” is not refuted but instead deftly modified under an appeal to a Kantian universal moral imperative: the acquittal delivered by the victims of Nazism themselves. The promotional poster features a graphic stone tablet rising from the fiery text underscoring the nature of the commandment that the “Film speaks to the World” and reiterating the judgement in the forest hideout, does not shy away from the judgment to be delivered in the drama. This ‘condemnation to live’ of those surviving Germans who were to identify with the plight of the captured youth will very likely have come across as last straw presented by Brauner’s film.

6 The Transcendental Seduction: Georg Wilhelm Pabst’s “Der Prozeß”

The final film I wish to discuss was by far the most successful of the three in terms of box office, critical reception and international recognition. “Der Prozeß” was released in 1948 to both considerable controversy and critical acclaim.²⁵ It won the Silver Lion directors Prize in the Venice Biennale that year for its director the veteran, legendary and controversial director Georg Wilhelm Pabst. Ernst Deutsch won the Volpi prize for best actor for his portrayal of Scharf, a temple elder of the Synagogue.

Pabst had returned from American exile to Austria via France during the Third Reich, making two films, including the ideologically tainted “Paracelsus” in 1943.²⁶ This among other things earning him a degree of infamy among his peers and ignominy in the

25 Lisa Silverman, Absent Jews and Invisible Antisemitism in Postwar Vienna. *Der Prozeß* (1948) and *The Third Man* (1949), in: *Journal of Contemporary History* 52,2 (2017), pp. 211–228 (URL: <https://doi.org/10.1177/0022009417696452>; 2. 11. 2020).

26 Georg Wilhelm Pabst, *Paracelsus* [Paracelsus] (UFI, 1943).

post-war press, that might well have steered him into the making of the film – a project he had once conceived and abandoned in 1933.²⁷

An adaptation of an infamous case of “blood libel” in the Hungarian village of Tiszaeszlár in 1882,²⁸ “Der Prozeß” was completed in 1948 and given a licence for distribution under the US sector command in Austria. Pabst set out to make a self-consciously Philo-Semitic film of the case. The film opens with the suicide of a young Magyar girl on the eve of Passover, driven to her death by drowning by her relentlessly cruel mother. Her disappearance prompts her mother to hysterically claim the Jews had killed her to make the unleavened bread for Passover using her blood. The townspeople soon descend on the Synagogue. Meanwhile, the Rabbi’s assistant, Scharf is having his own domestic crisis: his teenage son Móric no longer wants to be a Jew. Móric cuts off his *peyot* and breaks the Sabbath law. The gathering storm at the village comes to the attention of the local landowner Baron Ónódy, a rabid anti-Semite, and he sees an opportunity to rid his estate of the Jews and soon the case is brought before the district court. After a bitter argument at home Móric runs away from home and into the hands of the Baron’s henchmen. The prosecution case has no body to present as *habeas corpus* but has wrung a false witness from the tortured errant son of Scharf, Móric. Móric’s desire to not be a Jew is initially pandered to and then manipulated. He is finally tortured and brainwashed.

Once the court comes into session, Móric, now utterly broken, gives testimony, having been groomed for an appearance in court by the town chief of Police. He testifies that he had seen the murder of the girl by the Temple elders, including his father, declaring he witnessed the crime through the keyhole at the Synagogue. He stands before the court and suitably coached, repeats his lie to the Judges and to the incredulity and horror of his father.

Pabst places the court drama within images of the public storm surrounding the case and unequivocally lays out the ideological position of the accusers as the case comes to a close – in the hate-filled words of the Baron to an assembled mob in a type of gathering that is a clear reference to the Nazis and the *Reichspogromnacht* of 1938. The Baron standing in the cold winter air declares to the assembled crowd that: “Judenhass ist keine Frage der Vernunft, sondern eine der blinden Überzeugung” (“The hatred of Jews is not a question of reason, but one of blind conviction”) (fig. 5).

27 Cf. Rudolph Joseph, *Filmarbeit mit G. W. Pabst in Paris*, in: Helmut G. Asper (Ed.), *Wenn wir von gestern reden, sprechen wir über heute und morgen. Festschrift für Marta Mierendorff zum 80. Geburtstag*, Berlin 1991, pp. 105–117 for a comprehensive account of Pabst’s project.

28 Cf. Daniel Véri, *The Tiszaeszlár Blood Libel. Image and Propaganda*, in: *Wissen in Verbindung* (URL: <https://mws.hypotheses.org/37349>; 2. 11. 2020).



Fig. 5: Baron Ónódy addresses an angry crowd outside the court (*"Der Prozeß"*, G. W. Pabst 1948).

With this statement, the explicit Anti-Semitism is placed firmly within the irrational: Baron Ónódy even goes so far as to extoll the force of his hatred as one of a primal, "blind" conviction not subject to, and beyond any questions of, reason. The intercutting sequences which frame this section of the film are countered by Károly Eötvös's rational appeal to humanity and reason addressing the chamber of the Hungarian parliament (fig. 6).

The visual juxtapositions of exteriority of the mob and the ordered interiority of the Parliament chamber add purchase and weight to the moral positions they depict. Eötvös's passionate defence of the enlightenment values of reason and rationality in the case against the blood libel cost him dearly as those around him in his personal life turn their backs on him over the case, offering up a narrative of a type of martyrdom for the cause of rational justice and with it the cause of the Jews of Tiszaeszlár slides away from any consideration of the material harm they have suffered at the hands of their persecutors. The moral centre of the film lies firmly with Károly Eötvös. Furthermore, as Lisa Silverman notes, "The depiction of Jews remains its most contentious aspect, and



Fig. 6: Eötvös addresses the elected members inside the houses parliament ("Der Prozeß", G. W. Pabst 1948).

perhaps best reveals how the film perpetuated stereotypes about Jews even as it purported to dismantle them."²⁹

The passionate displays of legal and primal oratory aside, it is ultimately dispassionate deduction and logical detective work that proves to be undoing of the blood libel against the Jews of Tiszaeszlár. It is the persistence and conviction of the defence lawyer, Dr. Eötvös that proves to be pivotal in securing an acquittal in court. Although Scharf pleads with his son in open court to come to his senses it is only the intervention of the Catholic defence lawyer who uncovers the conspiracy of lies when the girl is found drowned and not cut with knives and Móric fails to see what he claimed through the key-hole in a reconstruction of the supposed murderous events at the ruins of the Synagogue. The case collapses.

29 Silverman, *Absent Jews* (see note 25), p. 220.

Eötvös is able to act as he does, precisely because he is not a Jew. He is a Catholic and also man of learning and a champion of enlightenment values, his defence of the Jews of a small village is correspondingly borne out of his of a sense of justice and principle. The case against the Jews is not be resolved by an appeal to Jewish religious law, despite the prosecution's case resting on a motive of an alleged Jewish religious rite. Although the accusations of using blood to make Passover bread are countered by Scharf in court by stating that his faith strictly forbids the use of any blood in food, this falls on deaf ears. He is after all, a Jew. It takes the Catholic defence lawyer to make the case, before a court where the courtroom features a Christian cross prominently on the Judge's bench (fig. 7).



Fig. 7: Scharf pleads with the men behind the cross, while his son watches ("Der Prozeß", G. W. Pabst 1948).

In "Der Prozeß" the Jews appear in this courtroom context as secondary figures that serve first as conduits and later as foils for a process of justice underwritten by a legal process sanctioned by the Church.

The acquittal, when it comes, is a bitter, hollow and pyrrhic victory for the Jews of Tiszaeszlár. Their Synagogue burned, their homes ransacked and driven from their village they have nothing. The final sequence of the film sees the accused Jews freed and those who used him for their ends unceremoniously eject Móric from the court via a side door. He is met with his father and the congregation of temple Elders. The abject son is welcomed back into the arms of his father. This final sequence of the film is especially striking, being both visually distinct and without dialogue and offers a strangely ghostly conclusion to the narrative. The violin refrain that played at the opening titles now returns. The Jews depart in silence into the light, as if they had turned into ghosts. They present, for the audiences of 1948, a visual metaphor for the vanished Jews of Europe, swallowed in a blameless light never to return. In this way, Pabst's film symbolically accounts for the disappearance of the Jews and the malice of their persecutors without once making the cinema audience complicit for their absence (fig. 8).



Fig. 8: The final sequence of "Der Prozeß". The Jews walking into oblivion ("Der Prozeß", G. W. Pabst 1948).

The Jews in “Der Prozeß” ultimately lose all agency, but as the acquitted party under law, their cause has been served, even if it means they must materially vanish from the earth. The final sequence of the film enacts a type of seductive ‘transcendental deduction’. In appealing to the rationality of both material facts pertaining to the case and rejecting the hatred of the irrational opinions of those who brought it in the first place a fatalistic sleight of hand absolves the viewership from any feelings of complicity by making them, ultimately, visually abstract. The cause of justice served, the principle of reason duly upheld; the real crime of the pogrom against the Jews blends away into a fatalistic and tragic immanence, their unremarked fate serving as a metaphorical condition for the possibility moral afterlife without them.

7 “Erst kommt das Vergessen, dann die Moral”

In conclusion I wish to touch on how these films might offer a lens through which post-war narratives about moral legitimacy might be framed in the former Third Reich. The tendency in German film, at least in the Western occupied zones of what was to become the Federal Republic, when thematically addressing the Nazi past was to characterise the historical period of the twelve years under Hitler as an anomaly. It was not just filmmakers who took this line, many historians and intellectuals who had stayed in Germany during the war offered a range of explanations which sought to effectively ‘de-historise’ the past, or at the very least offer narratives of a greater deterministic fatalism of decline which duly absolved the nation and its people of agency and therefore responsibility. Nazism, within this frame of reference, was nothing short of an event without instigation, a period of history that was non-historical, a *Force Majeure*. The metaphysical heights and spiritual depths of the Third Reich might then be duly removed from the fabric of the mortal remainder embodied in the idea of an individual who had survived the ravages of war and defeat and was no longer a member of the *Volkskörper*. It is in the context of this viewership that the films I have discussed must, as much as it is possible, be seen and understood. What Peter Pleyer described as the “Ohnmacht des Individuums”³⁰ permeated the early post-war era in film and it is in this context that an appeal to an ‘ahistorical’ moral deontology embodied in a set of universal and therefore untainted enlightenment values would seem appealing for those tasked with creating film narratives.

30 Peter Pleyer, *Deutscher Nachkriegsfilm 1946–1948*, Münster 1965, p. 159.

The paths undertaken by West Germany and the GDR as well as the Austrian Republic were very different, as were their national narratives about a shared Nazi past.³¹ The Soviet influence on both narrative and style after 1948 is clearly recognisable in “Affaire Blum”. However unpopular “Morituri” offered a unique rejoinder to both the fear of Jewish vengeance and an appeal to German values of fairness that could be cast as universally reasonable, albeit as a form of inverse Nuremberg Trial. The film was clearly an effort by Artur Brauner to exercise his viewpoint and authorship. But perhaps it is Pabst’s film that opens most questions, not least due to his unique career and record during the Third Reich. In his film, reason itself stands before the court, not so much in the figures of the unjustly accused, but as a principle that must be vindicated. The Jews are reasonable people in the film, but they are not accorded the privileged position of judicial agency, they remain powerless throughout. Instead they are foils for a drama that visually, if not narratively marks their departure, acquitted but unwanted. Here, perhaps Pabst unwittingly serves a truly Kantian purpose for the narrative cause of justice in the film. The Jews of Tiszaeszlár might be regarded in the abstract, as conditions for the possibility for the enlightenment values that free them in the eyes of the law, but not the mob, their cause less a moral law or categorical imperative as espoused in “Morituri”, or a Soviet critique of such thinking in “Affaire Blum”, but as a means by which a legitimate future without Jews might be possible not despite their absence, but because of it.

31 Cf. esp. Jeffrey Herf, *Divided Memory. The Nazi Past in the Two Germanys*, Cambridge 1997, pp. 161–167.