



Guilt and Accountability in the Postwar Courtroom

The Holocaust in Czortków and Buczacz, East Galicia, as Seen in West German Legal Discourse

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Abstract • This article examines the way in which West German courts confronted the case of low-level, former Nazi perpetrators who conducted mass killings of Jews in isolated towns in Eastern Europe. Using the example of the towns of Czortków and Buczacz in eastern Galicia, the article argues that such trials, conducted in the late 1950s and 1960s, sought both to recreate the historical reality of genocide on the local level, where killers and victims often knew each other by name, and to identify a type of perpetrator who differed essentially from “ordinary” Germans, even as he was himself invariably defined as a “victim of the circumstances of that time.”

Keywords • Buczacz, Czortków, Galicia, Holocaust, Nuremberg, postwar Nazi Trials, Third Reich, World War II

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The Law

In the late 1950s and 1960s a series of trials of former Nazi perpetrators took place in the Federal Republic of Germany (FRG). The best known and most influential was the Frankfurt Auschwitz Trial of 1963–1965. That trial in particular helped establish in the FRG a certain view of the Holocaust, the perpetrators, and the nature of guilt and accountability in the context of a state-ordered genocide. The Auschwitz Trial was concerned with the torture and murder of inmates in a concentration and extermination camp.¹ Other trials, however, during the same period focused on the destruction of Jewish communities in Eastern Europe, many of whose members were murdered in mass shootings in or in very close proximity to their own towns, while others were transported to extermination camps.

The perpetrators of such local killing operations were SS-men, members of various police agencies, and non-German collaborators. These men, as



well as some women, often gained an intimate knowledge of the communities to which they were posted before annihilating them. They were far less constrained by a rigid system of supervision and control and thus had much greater opportunity for personal initiative than the personnel in the camps. They represented the “human” face of genocide: In these small and rather insulated communities contact with the people whose fate depended on the perpetrators’ sympathy, rage, kindness, or cruelty was frequent, close, and occasionally ambivalent. The non-Jewish local population was another important factor in these towns: Its attitude and conduct—ranging from active collaboration with the Germans to indirect profit-making from the destruction of fellow citizens, from willingness to provide shelter to the persecuted to active resistance—could be as decisive in determining the fate of the victims as was the zeal and efficiency of the Nazis. Up to half of the Jewish victims of the Holocaust were murdered under such circumstances, either in their own towns or following their subsequent deportation to extermination camps.²

In prosecuting former Nazis in the 1950s and 1960s, German justice had to contend not only with the industrial killing of human beings in the extermination camps, but also with the very different circumstances of the eradicating of local communities in German-occupied territories. For this purpose, German courts had to recreate the historical context in which these crimes were committed, often unknown to the public at the time and in many cases still quite murky today. They also had to work under the constraints of German postwar law.

Following the establishment of the FRG in 1949, the German judiciary rejected the option of applying the new legal concepts of crimes against humanity and genocide to events that occurred before such terms and laws had existed. Crimes against humanity were first defined in the London Charter and the Nuremberg International Military Tribunal in 1945, and codified by the United Nations in 1946. The United Nations’ Genocide Convention was adopted in 1948, and subsequently ratified by most member states.³ But strong German legal opposition to trials based on ex-post-facto law, which denied the principle of *nulla poena sine lege* (no punishment without prior law), compelled West German courts to apply only conventional criminal law to those indicted for crimes during the Nazi period.⁴

The murder law of the German penal code, originally established in 1871 and still in force in the FRG, defined a murderer as “anyone who kills a human being: from lust for killing, to satisfy his sexual drives, from covetousness or other base motives, treacherously, cruelly, or by means endangering the community or in order to facilitate or conceal another crime.”⁵ The focus in this definition was therefore largely on the subjective motives of the defendant. In the case of Nazi crimes, such “base” motives could rarely be attributed to defendants who participated in a genocidal state-directed undertaking and acted within the framework of military, police, or bureaucratic hierarchies apparently sanctioned by law and in accordance with directives emanating from the highest echelons of the state.

Considering the specific circumstances of the Third Reich, soon after German courts assumed full judicial powers in the FRG in 1951, the German Supreme Court (*Bundesgerichtshof*, BGH) determined that “base motives” would include racial hatred and antisemitism. Thus defendants motivated by antisemitism to kill Jews would fall under the definition of murder, whereas those who did so merely under orders would not. This naturally led Nazi defendants to deny any anti-Semitic motivation. It is therefore not surprising that anti-Semitism appears to have rarely featured among the reported motives of Nazi perpetrators. And since it is in any case notoriously difficult to determine such subjective motives if they are not attested to by the defendant, very few murder convictions were ever reached on this basis.⁶

German defendants also tried to invoke the argument of “superior orders” (*Befehlsnotstand*), which the Nuremberg Tribunal had rejected. This line of defense, however, was deemed inadmissible by West German courts.⁷ Nevertheless, the need to prove subjective “base motives” for a murder conviction meant that most defendants whose cases were not entirely dismissed were eventually convicted of either manslaughter or of aiding and abetting as accomplices to murder. As of 1960, charges of manslaughter fell under the statute of limitations, whereas a conviction of accomplice to murder often carried ludicrously light sentences.⁸ Moreover, conduct which could be shown to have constituted treachery or cruelty, and might therefore bring a murder conviction, was attributed primarily to those rare, lower-rank sadists who were neither representative of the mass of the perpetrators nor responsible for most of the killings.

The ironic result of this legal logic was that, while a few “excess perpetrators” (*Exzeßtäter*) of the lower ranks received life sentences, many of the higher-ranking organizers of local mass killings were either acquitted or given very short prison terms.⁹ This also meant that the courts created an entirely false picture of the nature of genocide, depicting those who carried out genocidal orders as far less guilty than those who manifested sadistic traits. The implication was that the killings were the result of unauthorized actions by a few depraved individuals—quite incapable of organizing a continent-wide genocide—rather than the outcome of a well-coordinated undertaking conducted by perfectly “normal” officials following the procedures of military, police, and bureaucratic organizations. Yet without these officials’ willing, and quite often enthusiastic, collaboration, the mass murder of the Jews would never have attained such a devastating magnitude.¹⁰

The Site

Historians have written a great deal on the decision-making process that led to the Final Solution, as well as on the concentration and extermination camps, the regional implementation of genocide and its links to policies of ethnic cleansing and economic exploitation, and the motivation of the men

who carried out mass murder.¹¹ Yet we still know very little about what happened in the thousands of communities that came under German occupation, especially in Eastern Europe and the western regions of the Soviet Union.¹² Considering that much of the Holocaust actually occurred in such communities, this gap in our knowledge is quite startling.

But this is not only a matter of expanding our knowledge. For even the little we already know about the manner in which genocide unfolded in the vast array of East European towns and the surrounding villages seems to shed new light on the Holocaust as a historical event. It may also help expose both similarities and differences between the mass murder of the Jews and other genocides, for these towns were in large part made up of several religious and ethnic communities, and the relations between these groups played an important role in the fate of the victims.¹³ Such towns also provided the social context for far more intimate and dynamic relations between perpetrators, victims, collaborators, and bystanders, not least because the status of each of these groups was often far from stable. Indeed, focusing on such communities reveals that the category of bystanders had very little meaning, that there was a surprising degree of overlap between rescuers and collaborators, and that even victims and perpetrators might reverse roles, often more than once. Finally, and most relevant to the present discussion, the study of such towns makes it possible to gain a much more intimate knowledge of the perpetrators and their relationship with the communities in which they lived, as well as with the men, women, and children they murdered.

The sources for such reconstructions are numerous and varied. They range from contemporary documents to testimonies, diaries, and interviews.¹⁴ Concerning the perpetrators, the records of their indictments and trials are often the most detailed and revealing. But these records expose more than the facts of the matter. Just as important, they demonstrate the manner in which German courtrooms constructed a view of the Holocaust that differed from the convention at the time and still remains unfamiliar today: not of detached and impersonal mass extermination in the camps, but of face-to-face relations between Germans and Jews that almost always—but often after relatively lengthy acquaintance—ended up in face-to-face killing. In undertaking this sociology and psychology of genocide, West German courts strove to locate the perpetrators on the margins of German society and culture and on the extreme end of the scale of baseness. In this manner they hoped to limit the destabilizing effect on postwar Germany that might have resulted from the courts' actual findings about the utter conventionality of many of the defendants.¹⁵

Geographical location also mattered a great deal. For the German occupiers and perpetrators, as well as for the German courts, the East European towns in which these massacres occurred meant very little. Conversely, for the local population, they were often sites of long histories and memories, rich culture, and deep religious roots. The German occupiers and postwar

lawyers, judges, journalists—and the public—were oblivious to all that. For them the question was: How did civilized Germans behave in such a murderous fashion? Part of the answer was that they had strayed out of a social and cultural context that would have otherwise restrained them and preserved their civility.¹⁶

This was also the reason that German courts found it easier to accept testimonies from witnesses whose credentials included professional training at German and European institutions of higher learning, even though men with similar training featured prominently among the perpetrators as well. Consequently, the courts strove to create a picture of the defendant that distanced him from the rest of German society—indeed, even from the judges themselves—and postulated that such political, cultural, ethnic, or psychological distance was at the root of the crime.¹⁷ Underlying this assumption was also the notion that the site of the crimes was essentially different; though not a camp (which was after all created by the Germans) it was a strange and far-off territory, where certain types of otherwise unacceptable behavior seemed to be legitimate.

In what follows I will discuss the trials of three perpetrators who participated in the destruction of the Jewish communities in two Galician towns. The main focus of my larger research project has been the town of Buczacz.¹⁸ But since the regional outpost of the German security police (*Sicherheitspolizei*, or Sipo) was located at nearby Czortków, it is necessary to consider the activities of the perpetrators in both towns as well as in other sites under their control.

Buczacz and Czortków, both founded in the late middle ages, were located in the Tarnopol (now Ternopil') district of the former Galician province of Austria-Hungary, now part of Western Ukraine. In 1921, following the defeat and subsequent collapse of the Habsburg Empire, both towns became part of the newly established Second Polish Republic.¹⁹

Buczacz had a Jewish population since the early sixteenth century; in the late nineteenth century Jews constituted almost two-thirds of the inhabitants, shrinking to about half of the total population by 1914.²⁰ Similarly, Czortków numbered close to 3,000 Jewish inhabitants out of a total of slightly over 5,000 in 1910; in 1914 the old city and its outskirts counted 5,000 Poles, 4,500 Ruthenians, and 4,500 Jews.²¹

Buczacz was the birthplace of such major figures as the writer and Nobel Prize laureate Shmuel Yosef Agnon, the historian and subsequent founder of the Warsaw Ghetto's *Oneg Shabbat* archive Emanuel Ringelblum, and the "Nazi hunter" Simon Wiesenthal.²² These towns were also sites of increasing nationalist mobilization and intellectual activity by the majority Ruthenian population, who dominated the rural areas, and who identified increasingly with the Ukrainians across the border under Russian and then Soviet rule. They also experienced growing nationalist mobilization by the Poles, who maintained cultural and political hegemony despite being a minority in the region.²³

On the eve of World War II, Jews represented a plurality rather than a majority of the inhabitants in both towns.²⁴ In September 1939 the entire area came under Soviet rule as Poland was divided between the USSR and Nazi Germany. The Soviets deported large numbers of citizens: nationalist Poles and Ukrainians as well as bourgeois and Zionist Jews.²⁵ The Germans marched into the region in early July 1941 and immediately enforced a series of anti-Jewish measures: Jews had to wear identifying armbands, their property was confiscated, and they were employed in often deadly forced labor.

Starting in the fall of 1941 most communities in Galicia were ghettoized; executions of the “intelligentsia” were common. Deportations, especially to the Bełżec extermination camp, began in August 1942, accompanied as of October by mass shootings on site. In early 1943, all Jews not employed in labor camps were ordered killed. On 30 June 1943, Police Brigadier General Friedrich Katzmann, the SS- and Police Leader (SSPF) of the Galicia District, declared the area under his control *judenfrei*: only 21,156 registered Jews were still living in twenty-one labor camps. The following month the labor camps were also liquidated. Well over 90 percent of Galicia’s five hundred thousand Jews were murdered. Of the sixty thousand Jews in the Czortków area (including Buczacz), only twelve hundred were alive when the Red Army returned in July 1944.²⁶

This general outline of the Holocaust in Galicia was reflected in events in Czortków and Buczacz. A few weeks after the Germans marched into these towns they murdered the first group of some 150 Jews in Czortków, and up to 650 Jews in Buczacz. In both cases these victims were considered to be members of the intelligentsia who might provide leadership to the community. Sporadic local killings continued, mainly at a site called the Black Forest near Czortków and on the Fedor Hill near Buczacz. In late August 1942 the Jewish Ghetto in Czortków was surrounded and some three thousand people were seized and sent by train to Bełżec. Another six hundred people were deported in October; hundreds of others were shot on the spot. Mass killings in Buczacz began in October 1942; a ghetto was established in December, and the killing continued until the city was declared *judenfrei* in May 1943.

About half of the estimated ten thousand Jewish victims of Buczacz, who included people crammed into the city from the surrounding villages and towns, were murdered in Bełżec; the rest were shot on the Fedor Hill and the Bashty Hill (where the Jewish cemetery was located). The killings were organized with the assistance of the Buczacz Jewish council (*Judenrat*) and the Jewish local police force (*Ordnungsdienst*), and were carried out by German police and SS-men from Czortków, helped by Ukrainian auxiliary police (*Schutzmannschaft*, or *Schuma*) detachments. In June 1943 the remaining labor camps (“*Julag*”) in Buczacz and Czortków were liquidated. The few instances of armed Jewish resistance in the vicinity of these towns were largely ineffectual. Czortków and Buczacz were liberated by the Red Army

in March 1944. While only some one hundred Jews from Czortków are known to have survived, about eight hundred Buczacz Jews came out of hiding. Most of them were murdered when the Wehrmacht recaptured the town in April. By the time the Red Army returned in July 1944, fewer than one hundred Jews were still alive in or near Buczacz.

The Perpetrators

Heinrich Peckmann joined the Sipo outpost in Czortków soon after it was established following the German invasion of the Soviet Union on 22 June 1941. The outpost reported directly to SSPF Katzmann in Lemberg (Lwów, Lvov, L'viv), which was attached in August 1941 to Governor Hans Frank's General Government (*Generalgouvernement*), the German-occupied part of Poland that had not been annexed to the Reich.²⁷

Born in Parsau, Lower Saxony, in 1904, Peckmann joined the police in 1925, and served as a police sergeant major in Cologne by 1932. In 1937 Peckmann gained entry into the criminal police (*Kriminalpolizei*, or Kripo) by joining the Nazi Party and became a Gestapo official. Having completed a Kripo training course and after promotion to *Kriminalsekretär* (equivalent to second lieutenant), Peckmann transferred in 1940 to several Sipo posts in Poland. In September 1941 he arrived in Lemberg, and the following month he was sent to Czortków. Appointed deputy commander of the outpost in late 1942, Peckmann served as its commander between April and October 1943. In November 1943 he returned to Lemberg. Peckmann was eventually taken prisoner by the Soviets in Czechoslovakia in May 1945. Released shortly thereafter for health reasons, Peckmann returned to his hometown, but was interned again in 1946–1947. In 1954 Peckmann rejoined the Cologne police force, and served as *Kriminalobermeister* (sergeant) until his arrest in 1960.

Kurt Willi Otto Köllner served in Czortków between December 1941 and early 1944. Born in 1908, Köllner was raised in Bad Dürrenberg, near Leipzig.²⁸ Köllner's father had been a respected member of the Social Democratic Party since 1904. In 1938 Köllner joined the SS and the Nazi Party, claiming in his trial testimony that he did so in order to protect his socialist father from being sent to Buchenwald. After service in the military between May and December 1939, Köllner trained at a border police school and was then transferred to the Sipo post in Warsaw. In August 1941 Köllner was sent to the Sipo post in Lemberg, and four months later arrived at the Sipo outpost in Czortków. Appointed *Judensachbearbeiter* (official in charge of Jewish affairs) in July 1942, by 1943 Köllner achieved the rank of *SS-Scharführer* (sergeant). When the outpost was dismantled in early 1944, Köllner returned to Lemberg, and was eventually taken prisoner by the Americans in Slovakia.

Released in June 1945, Köllner returned to his hometown. Arrested again in August and held by the Soviets until 1950, Köllner then moved to the Saarland, where the West German authorities arrested him in 1958 and kept him in prison for most of the intervening period until his trial in 1962.

Paul Thomanek played an important role in the organization and subsequent murder of Jewish forced labor in Czortków and Buczacz. Born in Petershofen in 1909, Thomanek was raised in the Hultschiner Ländchen, a part of Silesia that became part of Czechoslovakia in 1920 but was annexed by Germany in 1938.²⁹ Thomanek began attending a German elementary school in 1916, but after 1918 his schooling was in Czech. In 1929 he joined the Czech police. In 1939 Thomanek volunteered for the Auxiliary Police (*Hilfspolizei*), which recruited members of Nazi Party formations. In his trial he claimed to have done so in order to avoid service in the Wehrmacht. In November 1939 Thomanek began training with a Waffen-SS Death's Head (*Totenkopf*) unit. The following month he joined a Special Task (*Sonderdienst*) SS unit in Lublin, composed of ethnic Germans. Governor Frank, to which this unit reported, described it as a "murder squad" (*Mördertruppe*).

In October 1941 Thomanek was posted to Lemberg, where he served for over a year in Jewish forced-labor camps established to build Thoroughfare IV (DG IV) between Lemberg and Taganrog on the Ukrainian-Russian border.³⁰ The death rate from illnesses and arbitrary shooting in these camps was very high. Still a mere private, in November 1942 Thomanek was sent to establish a labor camp for Jewish craftsmen in Czortków, eventually being given charge of all labor camps in the Czortków region, the liquidation of which he also oversaw in 1943.

Thomanek finally left Galicia in July 1944 and was eventually captured by the Czechs. Still just a corporal, he was released and returned home in 1948, only to be arrested again and deported to Germany. For several years he worked in various menial jobs in Germany and Sweden, until he was finally arrested by the West German police in 1957.

The Crimes

These, then, are three of the men who participated in the destruction of the Jewish communities in the Czortków and Buczacz region. But what did they actually do and what were they charged with once finally subjected to West German justice?

Though obviously responsible for the murder of tens of thousands, Heinrich Peckmann, former deputy commander and then commander of the Sipo outpost in Czortków, was indicted for only two cases of alleged murder: killing bookkeeper Jakob Seldmann during a roundup in the village of Mielnica, near Czortków, in September 1942; and killing Levi Auerbach, a disabled person, during a roundup in Czortków in October 1943. Although

the court dismissed Peckmann's alibi of having been on leave at the time of the second killing, it also rejected as unreliable the testimonies of the two witnesses of these events.³¹

The testimony of the first witness, the forty-nine-year-old dentist H., was dismissed on "objective grounds," namely, that he could have misheard the name of the victim, Seldmann, as that of the indicted, Peckmann, who might not have even been present at the site of the killing. The court did not question the testimony on "subjective grounds," however, which is to say that it did not assume that the witness was consciously lying.

Conversely, the testimony of the fifty-one-year-old elementary school teacher R. was not only rejected on "objective grounds" but the court also implied that it had some suspicions about the witness's ability to tell the truth. The main, and somewhat extraordinary, reason for this doubt was an earlier testimony about the killing of Auerbach given by R. to the Jewish Historical Commission shortly after the liberation of Galicia, in which the witness noted that on the same occasion Peckmann had killed several other Jews as well.³² Unable to reconcile the earlier version with the witness's later assertion that Peckmann had shot only Auerbach, the court suggested that a witness who had exaggerated in his testimony to a Jewish organization could certainly not be trusted by a German court.³³

Peckmann was thus acquitted for lack of evidence for personally committing murder. An attempt to reopen judicial proceedings against him in 1970 also failed.³⁴

The case of Kurt Köllner was far more complex. Not only did he claim to have joined the SS merely to protect his socialist father, but he also told the court that he had maintained amicable relations with some Jewish families throughout the 1930s and had even "helped" one of his Jewish acquaintances to emigrate by buying up his possessions—no doubt for a suitably meager sum. Köllner also claimed that he had openly criticized the *Kristallnacht* pogrom of 9 November 1938. Yet his nickname, "*Mäuschen*" (mousy), suggests another aspect of Köllner's personality.³⁵

Even while serving in the SS, Köllner supposedly kept intervening on behalf of Jews. He asserted that he had received special praise from his superior at the Sipo post in Warsaw, *Kriminalkommissar* (lieutenant or detective superintendent) Engels, for curbing Polish and Ukrainian extortions from Jews. Indeed, it would seem that in Engels he found yet another friend of the persecuted. Once he arrived in Lemberg and was employed in the construction of the DG IV, Köllner opined to SSPF Katzmann that without sufficient food, accommodation, and clothing, Jewish forced labor would not be productive. He also noted that, thanks to their preponderance among Galicia's craftsmen, the Jews were indispensable to the military. Unfortunately, Katzmann paid no heed to these arguments, since he saw the road-building project as nothing but *Vernichtung durch Arbeit*—extermination through labor.³⁶

According to Köllner, it was because of his "defense" of the Jews that he was transferred from the comforts of Lemberg to the muddy streets of Czort-

ków. Arriving there just before Christmas 1941, Köllner compensated himself for this punishment by bringing along his wife, who later took over the outpost's registrar office. Once he was appointed *Judensachbearbeiter*, Köllner again "befriended" the local Jewish community, exercising his newly acquired power through contacts with the Czortków Jewish council and Jewish police.

On the eve of the first roundup in Czortków in August 1942, Köllner promised the Jewish council that he could spare people from deportation by stamping their work cards. This facilitated Jewish collaboration and brought in a handsome profit from bribes for these life-saving stamps. Meanwhile, Köllner deceived the Jewish council about the timing of the roundup. Consequently the community was caught unprepared: some three thousand Jews were deported to Bełżec, and another three hundred were shot on the street.³⁷

Köllner's subsequent record reveals few traces of amicable relations with Jews. In early October 1942 he participated in another roundup in Czortków, involving the deportation of a further six hundred Jews to Bełżec. During that time Köllner also organized deportations of many other Jewish communities in the area.³⁸ Yet such generalized responsibility for genocide was not sufficient to bring about conviction in German courts. As we have seen, it was necessary to prove that the defendant was directly guilty of specific murders; that he acted with "base motives," such as sexual lust or sadism; and that his actions were on his own initiative or in awareness of being in fulfillment of clearly unlawful orders.³⁹

In the end, Köllner was charged with eleven separate cases of murder. In August 1942 he shot the fifteen-year-old Haim Morgenstern with his pistol from a distance of about eight meters (twenty-six feet); the youth had tried to escape from the Czortków police station courtyard, where scores of incarcerated Jews were about to be executed. Around the time of the second Czortków roundup of October 1942, Köllner shot a disabled woman, Rifka Schwebel, point blank in the back of the head for failing to keep up with the other deportees. On October 4 he shot the elderly Schlomo Herschkowicz in the head from a distance of three to five meters (ten to sixteen feet) under similar circumstances. In June 1943, during the liquidation of the Czortków Ghetto, Köllner shot the plumber Schorr, his wife, and the child she was holding. A few days later, Köllner detected the youths Emil Kitaj and Hania Adler trying to enter the labor camp in Czortków—the only remaining safe place for Jews in the town. Accompanied by a five-year-old child who was almost certainly his own son (born in 1938), Köllner shot the youths point blank as they fell to their knees and begged for their lives.

Köllner was also active in Buczac. On 8 October 1942, he shot and killed Jakob Halpern, who suffered from a severe intestinal illness, for failing to pull himself up into the deportation train during the first roundup in Buczac. In November 1942 Köllner shot the elderly Julia Hirschhorn, who had been dragged out of her apartment and was unable to walk. In March

1943 Köllner shot the Jews Mandel and Fuchs, after they were evicted from the Buczacz hospital. The following June, during the “extermination action” in Buczacz, Köllner hauled the elderly Rosen couple from their apartment, made them run ahead of him, and then shot them in the head with a sub-machine gun.

In early August 1943, during the liquidation of the labor camp in nearby Nagorzanka (now a suburb of Buczacz), Köllner discovered three youths hiding in a barn. He chased and shot the fleeing Mojsze Waisman, and then shot Bina and Gisela Horowitz point blank in the head as they knelt in front of him tearfully begging for their lives. Finally, Köllner was charged with organizing a mass execution in October 1942 in the town of Borszczów. He followed the Ukrainian militia and the twenty-eight Jewish men and women it had assembled on his orders some six hundred to eight hundred meters (less than half a mile) out of town and monitored the execution.⁴⁰

Paul Thomanek was acquitted at his first trial by the Jury Court of Hagen in 1957, but soon after he was indicted again for “having killed Jews in numerous cases on his own initiative, in part together with others, out of bloodthirstiness or otherwise with base motives and partly also in a gruesome manner, in the period from November 1941 to July 1943.” During his second trial in 1960 Thomanek admitted that he had been present at shootings and mass executions, but denied taking part in them. He also admitted to having been in charge of several camps in the Czortków area and to participating in the liquidation of the Czortków camp, but claimed that he shot Jews only in self-defense, or in compliance with his superiors’ orders. Thomanek submitted to the court that “today he knows that it is a terrible crime to eradicate an entire race. But at the time he could not refuse orders, since it was said, ‘Whoever doesn’t cooperate with us is against us.’”⁴¹

Thomanek was charged with a long series of crimes. As SS-man in the Kamionki forced-labor camp near Tarnopol, in November 1941 he shot the sick Jewish inmates Kleiner and Eisen, and killed Dr. Bela Blum, who was wounded in a melee during the food distribution. In December he shot a woman named Sala who had brought food for her incarcerated husband. In March 1942 Thomanek ordered two Ukrainian guards to flog Aron Schwarz seventy-five times, while he pressed his foot on the inmate’s head. He then shot Nahum Klein, who tried to eat the snow by the fence, having received no food or water for several days. Shortly thereafter he shot six sick inmates during a roll call. Several weeks later he shot the inmate Byk who was too sick to attend roll call.

For these and other cases in nearby Tarnopol, the court relied on several witnesses. They included Dr. R., who was working at the time of the trial as head doctor in Israel and had served as a physician in the Kamionki camp. The doctor described Thomanek as the second-most powerful man in the camp, noting that the inmates called him “*Der Erschiesser*” (the shooter). Born in 1908 in Tarnopol, Dr. R. had studied in his home town as well as in

Vienna, Prague, and Italy, and was raised speaking German. These credentials convinced the court of the veracity of his testimony.

The court found the testimony of the witness G. reliable for similar reasons: Born near Kamionki in 1913, he had obtained a law degree in interwar Poland. According to G., the defendant was known at the time as “the red dog Thomanek” because of his red hair and brutality. The witness O., born in 1891, had studied law in Lemberg and Vienna, had served as an officer in the Austrian-Hungarian army, and had owned a lumberyard and brick factory in Tarnopol in the interwar period. He described the arbitrary shooting by Thomanek of his twenty-one-year-old nephew, Osias Seräth, who was kneeling with a group of other youths in the town square of Tarnopol during a roundup. The court accepted his testimony without reservation.⁴²

Once he was appointed commandant of the labor camp in Czortków in November 1942, Thomanek reported directly to SSPF Katzmann in Lemberg, and was thus not under the control of the Sipo outpost in Czortków. This gave him absolute power over some three hundred male and female Jewish workers along with several children. Shortly after his arrival Thomanek shot the grocer Bonia Hertmann and the cap-maker Wachtel for no apparent reason. Yet witnesses concurred that initially Thomanek was concerned primarily with his own well-being rather than with brutalizing the inmates.

For instance, as Dr. Izrael Schorr testified at the trial, Thomanek threatened to confiscate his X-Ray machine unless he provided him with regular supplies of pork and milk, which the doctor received from local peasants in return for his medical services. Dr. Schorr had practiced as an X-Ray specialist before the war; after the liberation he assisted the Soviet Extraordinary Commission in the investigation of Nazi crimes, which exhumed the mass graves in the vicinity of Czortków. By the time of the trial, he was practicing again in Israel. The court found him entirely reliable.⁴³

In spring 1943, possibly following a visit by Katzmann, Thomanek became noticeably more brutal. In May Thomanek publicly shot Sofia Wolf, Baruch Kratter, and Glaser Diamant. As she was led to the execution, Sofia Wolf, whose “offense” consisted of speaking through the camp’s fence with the Polish woman caring for her child, turned around and called: “Herr Camp Commandant, spare my life, I have a small child.” Thomanek shot her in the face and she fell dead to the ground. He then shot the other two men in the back. Some witnesses suggested that Thomanek merely wanted to try out the new Finnish submachine gun he had been given by Katzmann.⁴⁴

On 23 June 1943, Thomanek liquidated the labor camp with the help of German gendarmes and Ukrainian auxiliaries. At the roll call of the entire camp population, Thomanek separated the men from the women and ordered everyone to lie on their stomachs and not to raise their heads. He then sorted out some forty to fifty Jews to dismantle the camp’s workshops. At this point the inmate Mania (“Papusch”) called out to Thomanek: “Herr Camp Commandant, take me too, I am your barber after all.” Thomanek

killed him on the spot with his submachine gun, also fatally wounding the inmate Bergmann, who was then shot to death by the gendarme Schultz.

The rest of the Jews were transported in groups by truck to a former airfield and were all shot. When the brothers Gotesfeld refused to climb on the truck, Thomanek shot them dead. He also severely beat and then shot Max Lineal, whom he found hiding in the barracks. When the women's turn came, a seventeen-year-old blond girl named Jäger begged Thomanek to spare her life. She too was shot on the spot.⁴⁵

Thomanek's version—that he had tried to save the people he knew by selecting them, but had been compelled to defend himself when a Jew wielding a pipe-wrench attacked him—was rejected by the court. The court also dismissed Thomanek's assertion that he merely collected the victims' valuables at the airfield rather than participating in the shooting.⁴⁶ Indeed, as it turned out, Thomanek was involved in killings throughout the region.

In February 1943 Thomanek participated in a mass execution on the Fedor Hill, near Buczacz, in which some five hundred Jews were shot in groups of ten in front of a pre-dug trench after being forced to undress. In April 1943, during another killing operation, Thomanek and the head of the Jewish council, Baruch Kramer, encountered four young Jews who were caught trying to escape, being led down the main street of Buczacz. One of them, Akiba Weissmann, called out: "Baruch, save me, I want to live." Kramer responded: "I can't help you." But as Weissmann persisted, Thomanek pulled out his pistol and shot him point blank.⁴⁷

A few days later, on a tip from a Ukrainian waitress, Thomanek and another SS-man raided a restaurant near Buczacz where ten Jews were being hidden by the new Ukrainian owner. They included former owner Leonie Folkenfolk, his wife, and their nine-year-old son; Dr. Fonki Neinan, his wife, their five-year-old child, his mother-in-law, and his brother-in-law; and a man named Tischler and his pregnant wife. Thomanek stripped the Jews of their valuables and shot them all with his submachine gun. The last to be shot was the pregnant woman, who threw herself at his feet and begged for her life.⁴⁸

At his trial, Thomanek denied all charges. While recalling what he termed the "assembly-line" killing on the Fedor Hill, Thomanek claimed to have merely helped collect the victims' valuables, and even remembered saying to a fellow SS-man on the drive back: "Look at these beautiful flowers and yet so many people have to die." But Jewish survivors could detect no such compassion. The witness Rabinowicz noted that Thomanek was well known in Buczacz. A large man with red hair, Thomanek spent many days in the town, where he had his own room and made numerous demands, not least to be provided with "girls." Whenever Thomanek appeared he would spread fear, for people knew that "something was going on." The witness Kleiner also recalled with terror the man whom they called "*Automaniuk*."⁴⁹

The court accepted the testimonies of the Jewish survivors. Here too a personal profile of the witnesses served to establish their reliability. Rabino-

wicz, who was one of the young Jews present when Thomanek shot Weissmann on the street in Buczacz, was born in 1916 and was working at the time of the trial as an engineer in the food industry in Israel. Son of a well-known merchant and city councilor in Buczacz, Rabinowicz served in the Polish army in World War II, escaped from German captivity back to Buczacz, and worked with his father under the Soviet occupation as manager of a grain storage depot. Because they had helped Baruch Kramer under the Soviets, the latter protected them when he was made head of the Jewish council by the Nazis. The court was impressed with Rabinowicz, stating that he “speaks very good German” and “gave his testimony in a calm, informative manner.” As the court noted, “There was no indication whatsoever that he exaggerated, let alone provided any false information under the pressure of his emotions.”⁵⁰

The court also had a positive view of Kleiner, who was sixty-two years old at the time of the trial and worked as a spice merchant in New York. Before the war, Kleiner too had belonged to the wealthy grain merchants of Buczacz. The court noted that Kleiner, “due to his temperament, gave his testimony in a more animated, even agitated manner, compared to Rabinowicz.” It insisted, however, that the witness, “whose profound and genuine Jewish faith was visible, left an impression of an uncompromising love of truth.” Thus social class, professional training, business success, European and German culture, and religious faith were all important elements in accepting the testimony of Jewish witnesses.⁵¹ But it was just as valuable to be able to report in a detached, “objective” manner about the horrors that one experienced or witnessed. Any demonstration of excessive emotion was seen as suspect by the court.

This judicial preference for lack of emotions can be glimpsed from the following case. In early 1943, Thomanek discovered the teenagers Binka and Nuzia Steigmann visiting relatives at the Nagorzanka labor camp under his command. The two young women threw themselves at his feet and begged for their lives. Thomanek shot them one after the other in the head. The event was witnessed by Schlomo Wolkowicz, who testified about it to the court. Born in nearby Jagielnica in 1922, Wolkowicz was trained as a technical engineer and was working in this capacity in Israel during the trial. What made his testimony credible to the court was not only his professional and social status, but also the fact that he depicted in what the judges called a “heart-wrenching manner” how he had survived a mass execution in the town of Złoczów, crawled from under the pile of bodies, and made his way back to Jagielnica in time to see the murder of the two teenaged girls. That he could report all this in a calm and composed manner was evidence of his truthfulness.⁵²

And yet, even the setting of the court could not entirely obscure the terror that Thomanek instilled in his victims. During an inspection of the Jezierzany camp in June 1943, Thomanek hauled the elderly Rosen couple out of the barracks, led them to a small hill, and shot them with his subma-

chine gun. As the fifty-nine-year-old witness Dr. W., who had worked as a lawyer in interwar Poland and was practicing in Israel at the time of the trial, succinctly put it, “the defendant with his red hair was at the time an apparition that one would never forget.” The witness C., who was born in 1930, recalled the terrifying cry “Thomanek is coming!” when his tall, fat, red-haired figure was detected in the camp.⁵³

The Judgments

How did German courts evaluate the guilt of the indicted? What understanding of the historical and political context of these events did the judges demonstrate and what role did this context play in sentencing the defendants? In other words, what relationship did the courts establish between personal guilt and state-directed genocide?

In considering these charges against Kurt Köllner in 1962, the State Court of Saarbrücken took several factors into account: first, that the events occurred twenty years earlier; second, that the witnesses’ perception might have been distorted by the extraordinary nature of these events; third, that the witnesses might have been motivated by feelings of hate or revenge; and fourth, that the witnesses might have conspired with each other to condemn the defendant. The court concluded its review of witness testimony with the following statement:

During the entire proceedings the court paid special attention to all such issues that were of the greatest significance to the credibility of the witnesses and, in view of these special circumstances, the court employed the strictest standards in weighing the credibility of the witnesses. The witness testimonies were therefore carefully scrutinized and assessed. The judgment was based only on witness testimonies in which errors caused by flawed observation or flawed memory as well as untrue statements could be ruled out with certainty.⁵⁴

Köllner denied all charges. He even went so far as to claim that some Jews willingly revealed to him the locations of their hiding places. Just as he asserted that his transfer from Lemberg was punishment for his criticism of anti-Jewish actions there, Köllner also suggested that his kindness to the Jews of Czortków got him into trouble. In May 1943 he was summoned to an SS and police interrogation in Lemberg, and meanwhile his Czortków house was searched. Jewish witnesses, however, noted that Köllner’s alleged kindness derived from sheer greed: he did release some Jews from imprisonment, but only for exorbitant bribes. Indeed, it was these bribes that triggered the SS inquiry into his conduct. The court thus rejected this line of Köllner’s defense.

Köllner’s attempt to plead mistaken identity and to incriminate a fellow SS-man also failed. He then claimed to have been on sick leave when many

of the crimes in the indictment were committed. His wife provided an alibi for this assertion, but the veracity of her testimony was completely discredited by her extraordinary assertion that during her lengthy stay in Czortków she never knew about the mass killings of the Jews there.⁵⁵

The court found Köllner guilty of most of the crimes as charged. Its findings concerning the Borszczów execution of twenty-eight Jews are especially instructive, considering that in this case Köllner had not personally shot anyone, and that neither Köllner nor Peckmann were charged with the organization and supervision of the mass killing of tens of thousands. According to the court, Köllner had conceded during an earlier interrogation that he had in fact been in charge of the execution squad. Moreover, the court rejected Köllner's assertion of moral qualms. The closing statement noted that the court:

does not believe the defendant that he had inner reservations against taking part in the execution action. What contradicts this claim is first, that by that time he had already shot many Jews, even on his own initiative; second, his entire attitude toward the Jews proves that he had no humane considerations in his treatment of the Jews.⁵⁶

In explaining Köllner's motivation, the court referred to a comment his father had made after the war, namely, that "now his son must put out of his head his previous attitude and previous conduct." This, the court noted, indicated "especially clearly the defendant Köllner's moral transformation and the hold of National Socialist ideology over him." Finally, Köllner's argument that he could not evade orders was also rejected. The court pointed out that Köllner "generally did not shy away from avoiding his superiors' orders when it suited him [as] can be seen from the fact that according to his own testimony, in early October 1942 he went on a private trip with *Kriminalrat* [captain or detective superintendent] Engels instead of participating in an *Aktion* [round-up and mass execution] that had just begun."⁵⁷

The court's concluding observations about Köllner's guilt and its implications for the rest of German society, however, were simultaneously damning and ambivalent. Crucially, even as the judges insisted on Köllner's responsibility for his actions, they also described him as a victim of circumstances. The guilty party was ultimately Hitler's regime. Yet the middle-class values instilled in Köllner at home and in school should have immunized him against the evil of Nazism. Hence Köllner's personal guilt lay in failing to apply these values to the new political situation and in his willingness to be seduced by the promises and opportunities of Nazism:

[Köllner] received a completely normal education in his parental home and at school and was raised in a democratic state. ... [H]e recognized quite early the danger of National Socialism ... [and] remained inwardly unmoved by [its] ideas and goals ... even after he joined the SS. ... All this indicates that the defendant ... would have probably continued to lead an ordinary bour-

geois existence, had he not increasingly succumbed to the temptations of National Socialist ideology following the transformation of the political conditions. In this sense he became—like many others—a victim in the wider sense of the circumstances of the time.⁵⁸

Speaking directly to the vexed issue of personal guilt within what was, after all, a criminal state, the court presented Köllner as a man who knew that he was committing a crime and yet did so for personal gain:

[Köllner's] guilt consists ... in the fact that he sacrificed his previous moral and human restraints and that in the effort to promote his own advancement and profit as much as possible, he became a compliant and pliable instrument of the regime of the time, especially in the planned eradication of the Jews, even though, according to his own description, he knew precisely "that this is murder."⁵⁹

Moreover, the court argued that Köllner's conduct served the goals of the Nazi regime and implied thereby that it was precisely opportunists of his ilk who were the instruments of Nazi power and genocide. But again a certain degree of ambivalence crept into the judges' attempt to distinguish between opportunism and conviction; for while Köllner was said to have acted "only" for personal gain, the court attributed to him racist and thus potentially ideological sentiments as well:

Through his deeds he consciously sustained and strengthened the National Socialist dictatorship's rule over the Jews. He thereby made himself into the arbitrary master over life and death of his Jewish victims in his capacity as *Judensachbearbeiter* and by this means disseminated fear and terror. This is not to deny that in individual cases of momentary caprice he showed kindness to his favorites and to such persons from whom he could expect material profit. The court is convinced that this too happened only out of calculation and for his personal profit. The defendant acted out of this general attitude and out of a feeling of supposed racial superiority.⁶⁰

Kurt Köllner was consequently found guilty of nine counts of murder and was sentenced to life imprisonment. In reaching this verdict, the court noted that "these acts were perpetrated in a period in which the actions of the regime of the time extensively effaced the concepts of justice and injustice and in which the respect for human life had largely vanished." Conversely, the court insisted that "the defendant committed offenses against defenseless people and that he pitilessly and without any scruples destroyed or wanted to destroy the lives of elderly and in part ill persons as well as the lives of young people."⁶¹ Thus the ambivalence of punishing a murderer who acted "normally" in abnormal times, or of bringing to justice an otherwise perfectly "normal" person who had been transformed into a murderer by the circumstances of his time, remained at the heart of the judgment.

We might say that it is still there, not only regarding the Holocaust, but also many of the subsequent genocides the world has experienced.

Paul Thomanek's defense rested on his assertion of having acted on the orders of his superiors or in conformity with SS instructions concerning the treatment of Jews. The Jury State Court of Hagen conceded that SSPF Katzmann had indeed ordered the killing of Jews who were unable to work. But the court argued that since this was a general instruction, it left a great deal of "free play" for the actors in the field. As proof, the court cited Thomanek's own statement that "no one in Lemberg cared about me [in Czortków]." Moreover, the court asserted that since Katzmann's "order" was aimed at facilitating a criminal undertaking it could not be seen as binding. As the court's statement articulated this argument: "It is the basis of any moral order that the life of an individual who is not guilty of anything is inviolable."⁶²

According to the court's logic, Thomanek's guilt therefore had to derive from his ability to distinguish between criminal and lawful orders, or, more generally, between Good and Evil. As in Köllner's case, the court assumed that Thomanek had acquired this ability at home and in school:

The defendant was raised in well-ordered family circumstances. ... He was educated according to the general moral teachings ... [and] he had a confessional commitment. ... Through this personal development the inviolability of human life was always presented to him, so that this fundamental concept of morality was drilled into his consciousness. The defendant was also educated in the then democratic Czechoslovakia ... in which there was no racial hatred. ... [U]ntil he joined the Waffen-SS he had no contact with Jews.⁶³

Because of this background of moral education, argued the court, "the defendant should have recognized ... that the Katzmann order was a monstrous injustice." The court then examined Thomanek's explanation as to why he nevertheless complied with these instructions. Thomanek had argued that initially Katzmann's order "made a terrifying impression on him." "But," the court summarized, "as Katzmann went on to say that the Jew was the worst enemy, [Thomanek] thought to himself, if so many millions of people cheer for Hitler, then what the general says must also be right. Apart from that he [Thomanek] was also afraid of refusing orders."⁶⁴

The judges had no time for such arguments. As they forcefully put it: "This assertion by the defendant that he initially had doubts, but then became convinced that the order was just, is pure evasion." According to the court, "[t]he basic ethical rules, which were taught to the defendant for many years, could not and were not undermined and extinguished by the brief statement of an SS general." What, then, was the true reason for Thomanek's compliance? The judges' view was unequivocal: "The conviction that the actions of the SS against the Jews were just could only exist—if at all—in

people into whom National Socialist ideology had been drilled for many years." And yet, they continued, "This was not the case of the defendant. He was a grown, mature man ... who ... had been educated in a Christian and democratic spirit."⁶⁵

Here, then, was the moral and legal conundrum. A man educated outside Nazi Germany according to fundamental humanitarian principles chose to obey blatantly criminal orders. The court was thus conflicted between, on the one hand, its finding that a man who should have internalized an ethical worldview became a heartless murderer and, on the other hand, its need to demonstrate Thomanek's ability to distinguish Good from Evil in order to find him guilty of betraying his conscience. It thus insisted that "the defendant recognized the unjust nature of the Katzmann order," as evidenced by the fact that on the eve of one labor camp's liquidation, Thomanek "consciously drank himself senseless, so as not to be present at the liquidation, as this already 'disgusted' him." The court concluded that this "is not the way a man behaves when he is convinced that he is doing the right thing."⁶⁶

This is of course a problematic assertion. It assumes that those who were convinced and committed Nazis could not tell Good from Evil. According to this logic, however, such absence of any ethical perspective would make ideologically committed murderers less guilty of the crimes they perpetrated than those who, presumably like Thomanek, had previously internalized a moral worldview. In fact we know that SS-men and policemen who killed hundreds of thousands of Jews often got drunk before, during, and after their actions.⁶⁷ Did this mean that they were all unconvinced of the justice of their actions? If they were not convinced, who was? Could the entire genocide of the Jews have been carried out by men who were filled with doubts? What would be the meaning of such a statement? Can one envision a genocide that would be even worse because it was carried out by truly committed men, who never needed alcohol to soothe their consciences (and nerves) because they had no doubts? Is it necessary to be convinced in order to commit genocide? And what, then, is the relationship between ideological conviction in a genocidal ideology and confronting the reality of mass murder?⁶⁸

There are no simple answers to these questions, and the court was certainly not called upon to address them. Nevertheless, the judges' assumption that overconsumption of alcohol indicated moral revulsion and served to either blunt one's moral sensibilities or evade massacre altogether is quite revealing. In making the dissolute into people of conscience and absolving the ideologues by denying their moral choice, the court's argumentation sheds light on the much wider issue of German confrontations with complicity in genocide and the uncomfortable role of conviction in "coming to terms" with the national and personal Nazi past.

Less problematically, from a moral point of view, but of major legal significance, the court also rejected Thomanek's assertion of superior orders. This was the most common argument raised by former Nazi perpetrators after the war, even though the Nuremberg Tribunal had already dismissed

it in 1945.⁶⁹ In Thomanek's case, the judges noted that "the situation of the defendant at the time was not such, that he could only save himself from a threat to his own life and body by acting as he did."

In fact, the court argued, it had not been shown that all SS-men followed Katzmann's order to the letter, or that in the Kamionki forced-labor camp "an SS man who did not take part in executions of Jews faced danger to his own life and limb." The court conceded that had Thomanek refused to shoot Jews, "he would have had to reckon with being dismissed from his post and possibly being sent to the front." Obviously Thomanek did not cherish this prospect. But the threat of being forced to do what millions of other Germans were already doing certainly did not justify compliance with criminal orders.⁷⁰

The Hagen court found Thomanek guilty of twenty-six counts of murders and sentenced him to life imprisonment. But in explaining its reasoning for this decision, the court described Thomanek's guilt using precisely the same logic that the Saarbrücken court had employed in the case of Köllner. For here too, Thomanek was said to have been a victim of his time and circumstances. This argument referred not only to Thomanek but, by extension, to an entire generation of German men, including the court itself. "The question of the defendant's motivation for his deeds," wrote the judges,

can only be answered by reference to his career, his personality, and his attitude to National Socialism. The defendant was ... raised in a Christian spirit and grew up in a democratic state. The fundamentals of a general ethical teaching were planted in him. ... The court is ... convinced that in all likelihood the defendant would have continued to lead a decent life, had he not come into contact with the horrible ideas and plans of the SS leadership through the transformation of the political circumstances and especially through the war. Clearly he does not carry any responsibility for these ideas and plans as well as for the transformation of the political circumstances and the war. To this extent he became—like many others with him—in a wider sense also a victim of that time.⁷¹

Following this general justification of complicity in Nazi crimes, the court elaborated Thomanek's particular circumstances. Whereas in Köllner's case his socialist home provided the foil against which his actions were measured, for Thomanek his ambiguous ethnic identity featured most prominently. Indeed, this mixed identity helped distinguish between Thomanek and most "ordinary" Germans, even as these "ordinary" Germans' complicity had already been explained away by the court's interpretation of circumstantial victimhood. Thomanek, argued the judges, was primarily motivated by an urge to become an even better German than his purely "Aryan," true Reich-German, comrades. Not merely a victim of the political circumstance of Nazi rule,

his fate was formed also by the circumstance of being a resident of the borderlands [*dass er ein Grenzbewohner war*], a man whose national identity

[*Volkstumszugehörigkeit*] could have been seen as somewhat questionable. The defendant declared ... that the Czechs did not see him as a fully rightful citizen, because he was German, and that the Germans had also initially not seen him as a fully rightful German, because he had previously lived in Czechoslovakia. These circumstances stimulated many of these border- or ethnic-Germans, once they were back under German rule, to endeavor to demonstrate and prove from that point on that they were especially reliable and especially “good Germans.” The defendant also made such an endeavor.⁷²

Yet if Thomanek’s circumstances explained his motivation so well, where, after all, lay his guilt? Here too the court employed a remarkably similar rhetoric to that used to condemn Köllner. But while Köllner’s opportunism was one of power and material enrichment, Thomanek’s was focused on establishing his identity, which would then also ensure him of a more secure status and greater material comfort. “The guilt of the defendant,” argued the judges,

consists in that, as a result of his weakness of character, he subordinated all the basic teachings he had earlier acquired to the effort to prove himself to be a “reliable” German, and that he went so far in this effort ... as to offer himself ruthlessly and unconditionally to his contemporary superiors ... not because he was convinced of the moral justification of this conduct, but because he saw it as serving his own personal interest. He clearly understood the dreadful injustice that would be carried out against the Jews. ... But he also saw that the National Socialists, especially the SS with their program and their actions, were in power and in a certain sense were “masters of the world.” He saw ... that he could share that power and that when he behaved in the manner required and expected of him by his superiors, things went well for him personally. ... He led a good life both in Kamionki and later in Czortków. He had his own house in both places and even had his own room in Buczacz. In Czortków he owned a car and had a batman, who for his part also had an assistant [one of the Jewish witnesses]. For a certain time he was in a position to accommodate his wife and child and even his father. These are privileges that would have normally not been reserved for a simple SS man. ... The defendant was offered them because he excelled in the “treatment” of the Jews. ... For this reason he was also then given command of the camp in Czortków and ... [of] other camps in the area ... all while still a mere private. This gave him a position of enormous power beyond any proportion to his rank. ... [He] did not want to be called up by the Wehrmacht and be sent to a frontline unit. Motivated by these selfish reasons the defendant thus became a compliant accessory of the National Socialist dictatorship.⁷³

Thomanek was therefore guilty precisely because he could tell Good from Evil and chose to serve the latter in order to further his own selfish interests. In this Faustian bargain, he acted neither under compulsion nor was he incapable of evading the circumstances in which he found himself.

He joined the police in order to avoid the front; he brutalized others in order to gain his superiors' favor; he killed on his own initiative in order to enhance and maintain his power. He also formed his own understanding of what becoming a "good German" meant: He believed that his German identity could only be ensured by carrying out the genocidal plans of the regime. And yet, in the eyes of the court, he also remained a victim of his circumstances.

Conclusion

The court's characterization of this SS perpetrator contained other contradictions. The court condemned Thomanek for having chosen to kill Jews rather than risking his life at the front. This would imply that, had he gained a better understanding of what it meant to be a "good German," he would have refused the orders of the SS and participated instead in the Wehrmacht's attempt to subjugate Europe and Russia to German rule. Thus the court posited that compared to Himmler's troops, Hitler's soldiers were decent and upright patriots.⁷⁴

Furthermore, if Thomanek had been motivated by his ambivalent status as an ethnic German, could one extrapolate from his case and say that ambiguous Germans were more likely to be Himmler's willing executioners than "real" Germans? Or that Nazi indoctrination did not matter, since those who had not been subjected to it were just as bad, or even worse? And consequently, was one to conclude that such decent men as perhaps the judges themselves, who had presumably lived under Hitler's rule during the war, either practicing the law or serving in the Wehrmacht, were not as likely to act like Thomanek, the *mischling* Czech-Moravian-German who had evaded service at the front and had to prove his German-ness by killing Jews?

We have examined three men who were directly involved in face-to-face murder during the Holocaust. Peckmann was a professional policeman; Köllner came from a socialist family; Thomanek was raised in Czechoslovakia. The professional policeman Peckmann, who in another historical context would have been the most representative of "ordinary Germans," but during the war was one of the commanders of the Sipo outpost in Czortków and thus responsible for the murder of many of the region's sixty thousand Jewish victims, was acquitted. Köllner and Thomanek, one representing the compromised left-wing milieu, the other a son of Germany's ambivalent borderlands, could hardly be seen as the embodiment of the German geographical and social "heartland," where ethnicity was predominantly German and the elites largely continued to hold patriotic and conservative values, and were still perceived as the source of authority and morality in the Federal Republic of the early 1960s.

At first sight, Thomanek appears to fit the stereotype of the low-ranking Nazi perpetrator: crass, brutal, and sadistic. But as the Hagen court discov-

ers, he was only partly German, was raised as a good Christian in a decent family, and acted out of overzealousness to be accepted into the fold of the German nation. Köllner too seems initially like a typical Nazi: less brutal and slicker than Thomanek, perhaps, but otherwise quite true to type. Yet as the Saarbrücken court reveals, he came from a family with deep socialist roots. Neither of these men would have become a mass murderer had the Nazis not come to power. But then of course the Nazis came to power, maintained it, and used it to perpetrate genocide, precisely because such men as Köllner, Thomanek, and, not least, Peckmann, were so willing to help them. Or rather, “the Nazis” were such men as Köllner, Thomanek, and Peckmann.

The judges struggled with this conclusion, because ultimately it implicated large numbers of Germans, including, possibly, themselves. They had to show that decent men could become killers if in evil times they abandoned their humanity for opportunistic reasons. But of course there were very few people in Nazi Germany who did not exercise a measure of opportunism, and the vast majority sacrificed a greater or lesser portion of their humanity. This was a question of degree, and of circumstances. And even after the fact, most men walked free, men like Peckmann, who continued to enforce law and order in the Federal Republic, and innumerable other lawyers, judges, physicians, professors, biologists, anthropologists—and so on. These men became the mainstay of postwar society for another generation, and were treated with at least as much respect as those Jewish witnesses who had earned medical and law degrees at prewar European institutions.

On the one hand, the perpetrators remain elusive figures: the convicted were not typical, and the typical were not convicted. On the other hand, when we observe such an unfathomable event as the Holocaust at the local level, we realize its human dimensions, even at their most inhuman. The peculiarities of the German criminal law allowed many of those who had organized genocide to avoid punishment, and created a stereotype of a Nazi perpetrator who seemed very different from “ordinary” Germans. But these trials also provided valuable insights into the workings of genocide and the relationship between the killers and the killed. Ultimately, much of what we would like to think about the Holocaust turns out to be different when observed close up: the perpetrators often knew the victims; they were motivated by the most conventional urges and desires even if they committed the most abominable crimes; the killing was both systematic and gratuitous, often without any specific motive apart from a sense of power and impunity; and the killers knew that they were committing murder even as they were killing, and chose to act as they did because they hoped to gain from their actions—as indeed they often did—just as they hoped never to pay a price for their crimes, which indeed rarely happened. Even when the reckoning finally came, it arrived belatedly, often in much-diluted form, and was invariably wrapped in layers of rationalizations that protected society from being drawn into the scene of the crime.

Notes

1. Devin O. Pendas, *The Frankfurt Auschwitz Trial, 1963–1965: Genocide, History, and the Limits of the Law* (Cambridge: Cambridge University Press, 2006); Rebecca Wittmann, *Beyond Justice: The Auschwitz Trial* (Cambridge, MA: Harvard University Press, 2005).
2. For estimates of Jewish victims of the Holocaust, see Raul Hilberg, *The Destruction of the European Jews*, 3rd ed., 3 vols (New Haven, CT: Yale University Press, 2003), 3: 1301–1321.
3. Roy Gutman and David Rieff, eds., *Crimes of War: What the Public Should Know* (New York: W. W. Norton, 1999), 107–108, 153–157. Further in Michael R. Marcus, ed., *The Nuremberg War Crimes Trial, 1945–46: A Documentary History* (Boston: Bedford Books, 1997); Lawrence Douglas, *The Memory of Judgment: Making Law and History in the Trials of the Holocaust* (New Haven, CT: Yale University Press, 2001).
4. Pendas, *Frankfurt Auschwitz Trial*, 8–15; Wittmann, *Beyond Justice*, 17–37.
5. Wittmann, *Beyond Justice*, 34, 44.
6. Pendas, *Frankfurt Auschwitz Trial*, 53–55; Wittmann, *Beyond Justice*, 45; Adalbert Rückerl, *The Investigation of Nazi Crimes, 1945–1978: A Documentation*, trans. Derek Rutter (Hamden, CT: Archon Books, 1980), 40–42. This is one of the main problems with the evidence used in Christopher R. Browning, *Ordinary Men: Reserve Police Battalion 101 and the Final Solution in Poland* (New York: Harper Perennial, 1992).
7. Wittmann, *Beyond Justice*, 37.
8. See further in Frank Buscher, “‘I Know I Also Share the Guilt’: A Retrospective of the West German Parliament’s 1965 Debate on the Statute of Limitations for Murder,” *Yad Vashem Studies* (Jerusalem: Yad Vashem, 2006), 249–292.
9. Wittmann, *Beyond Justice*, 46.
10. This argument is made about the Auschwitz Trial by Wittmann, *Beyond Justice*, 271–274. A careful analysis and critique of the peculiarities of the German criminal code and its application to Nazi perpetrators can be found in Pendas, *Frankfurt Auschwitz Trial*, 56–79.
11. See, for example (books in English), Christopher R. Browning with Jürgen Matthäus, *The Origins of the Final Solution: The Evolution of Nazi Jewish Policy, September 1939–March 1942* (Lincoln: University of Nebraska Press, 2004); Mark Roseman, *The Wannsee Conference and the Final Solution: A Reconsideration* (New York: Metropolitan Books, 2002); Philippe Burrin, *Hitler and the Jews: The Genesis of the Holocaust*, trans. Patsy Southgate (New York: Routledge, Chapman, and Hall, 1994); Yisrael Gutman and Avital Saf, eds., *The Nazi Concentration Camps: Structure and Aims, the Image of the Prisoner, the Jews in the Camps*, multiple translators (Jerusalem: Yad Vashem, 1984); Yitzhak Arad, *Belzec, Sobibor, Treblinka: The Operation Reinhard Death Camps* (Bloomington: Indiana University Press, 1987); Shmuel Specter, *The Holocaust of Volhynian Jews, 1941–1944*, trans. Jerzy Michalowicz (Jerusalem: Yad Vashem, 1990); Götz Aly, *“Final Solution”: Nazi Population Policy and the Murder of the European Jews*, trans. Belinda Cooper and Allison Brown (New York: Oxford University Press, 1999); Gitta Sereny, *Into That Darkness: From Mercy Killing to Mass Murder* (New York: McGraw-Hill, 1974); Robert Jay Lifton, *The Nazi Doctors: Medical Killing and the Psychology of Genocide* (New York: Basic Books, 1986).

12. For some work on this, see Shimon Redlich, *Together and Apart in Brzeżany: Poles, Jews, and Ukrainians, 1919–1945* (Bloomington: Indiana University Press, 2002); Jan T. Gross, *Neighbors: The Destruction of the Jewish Community in Jedwabne, Poland* (Princeton, NJ: Princeton University Press, 2001).
13. See Omer Bartov and Eric D. Weitz, eds., *Shatterzone of Empires: Coexistence and Violence in the German, Habsburg, Russian, and Ottoman Borderlands* (Bloomington: Indiana University Press, 2013).
14. See, for example, Omer Bartov, "Seeking the Roots of Modern Genocide: On the Macro- and Microhistory of Mass Murder," in *The Specter of Genocide: Mass Murder in Historical Perspective*, ed. Robert Gellately and Ben Kiernan (Cambridge: Cambridge University Press, 2003), 75–96; Bartov, "Wartime Lies and Other Testimonies: Jewish-Christian Relations in Buczacz, 1939–1944," *East European Politics and Societies* 25, no. 3 (2011): 486–511; Christopher R. Browning, *Remembering Survival: Inside a Nazi Slave-Labor Camp* (New York: W. W. Norton, 2009).
15. For a literary rendering of this marginalization, see Bernhard Schlink, *The Reader*, trans. Carol Brown Janeway (New York: Pantheon Books, 1997). For a critique, see Omer Bartov, "Germany as Victim," *New German Critique: Special Issue on the Holocaust* 80 (Spring/Summer 2000): 29–40.
16. This remained the case long thereafter. See Omer Bartov, "The Wehrmacht Exhibition Controversy: The Politics of Evidence," in *The Crimes of War: Guilt and Denial in the Twentieth Century*, ed. Omer Bartov, Atina Grossmann, and Mary Nolan (New York: New Press, 2002), 41–60.
17. Several female witnesses linked to the German occupiers furnished revealing testimonies about the private lives of the perpetrators and their accomplices and the daily life of genocide.
18. Omer Bartov, *The Voice of Your Brother's Blood: Buczacz, Biography of a Town* (New York: Simon & Schuster, forthcoming 2014).
19. For background see, especially, Danuta Dąbrowska, Abraham Wein, and Aharon Weiss, eds., *Pinkas Hakehillot: Encyclopedia of Jewish Communities: Poland*, vol. II: *Eastern Galicia*, (Jerusalem: Yad Vashem, 1980, in Hebrew and Yiddish), 83–89, 443–450; Yisrael Kohen, ed., *The Book of Buczacz* (Tel Aviv: Am Oved, 1956, in Hebrew); Yesha'ayahu Ostridan, ed., *Memorial Book to Commemorate the Martyrs of the Czortków Community* (Haifa: Irgun Yots'e Chortkov be-Yisrael, 1967, in Hebrew and Yiddish); Office Central de Statistique de la République Polonaise, *Statistique de la Pologne, Série C, Fascicule 78: Deuxième Recensement Général de la Population du 9 Décembre 1931: Logements et Ménages. Population. Professions: Voïévodie de Tarnopol* (Warsaw: Office Central de Statistique de la République Polonaise, 1938). Many other sources, especially memoirs and testimonies, are cited in Omer Bartov, "Interethnic Relations in the Holocaust as Seen through Postwar Testimonies: Buczacz, East Galicia, 1941–44," in *Lessons and Legacies VIII: From Generation to Generation*, ed. Doris L. Bergen (Evanston, IL: Northwestern University Press, 2008), 101–124. On violence in World War I and the Russo-Polish War, see Alexander Victor Prusin, *Nationalizing a Borderland: War, Ethnicity, and Anti-Jewish Violence in East Galicia, 1914–1920* (Tuscaloosa: The University of Alabama Press, 2005).
20. In 1870 the 6,077 Jews in Buczacz constituted 67.9 percent of the total population of 8,959. Majer (Meir) Bałaban, "Buchach (Buczacz)," *Yevreyskaya Encyklopedia*, vol. V, ed. L. Katznelson and Baron D. G. Ginzburg (St. Petersburg: Brockhaus-Efron, 1906–1913, in Russian), 135.

21. Dąbrowska, Wein, and Weiss, *Pinkas Hakehillot*, 443; *Ilustrowany Przewodnik po Galicyi: 1914*, 145.
22. D. Laor, *S. Y. Agnon: A Biography* (Tel Aviv: Schocken, 1998, in Hebrew), 13–48; Tom Segev, *Simon Wiesenthal: The Biography* (Jerusalem: Keter, 2010, in Hebrew), 40–55; Samuel D. Kassow, *Who Will Write Our History? Emanuel Ringelblum, the Warsaw Ghetto, and the Oyney Shabes Archive* (Bloomington: Indiana University Press, 2007), 17–26.
23. John-Paul Himka, *Galician Villagers and the Ukrainian National Movement in the Nineteenth Century* (New York: St. Martin's Press, 1988); Keely Stauter-Halsted, *The Nation in the Village: The Genesis of Peasant National Identity in Austrian Poland, 1848–1914* (Ithaca, N.Y.: Cornell University Press, 2001); Kai Struve, *Bauern und Nation in Galizien: Über Zugehörigkeit und soziale Emanzipation im 19. Jahrhundert* (Göttingen: Vandenhoeck & Ruprecht, 2005).
24. This is indicated even in the clearly manipulated Polish census of 1931, which included Polish-dominated town outskirts and villages in order to give the impression of Polish demographic preponderance. Office Central de Statistique de la République Polonaise, *Deuxième Recensement Général*, 30. See also: “Jewish-Gen Czortków KehilaLinks,” http://kehilalinks.jewishgen.org/suchostaw/sl_czortkow.htm (accessed on 7 January 2013).
25. On the general context, see Jan T. Gross, *Revolution from Abroad: The Soviet Conquest of Poland's Western Ukraine and Western Belorussia*, expanded ed. (Princeton, NJ: Princeton University Press, 2002). On the fate of the Jewish communities, see Ben-Cion Pinchuk, *Shtetl Jews under Soviet Rule: Eastern Poland on the Eve of the Holocaust* (Oxford: B. Blackwell, 1990), and Yehuda Bauer, *The Death of the Shtetl* (New Haven, CT: Yale University Press, 2009). For conflicting interpretations of the relationship between external occupiers and fraternal conflict, see Alexander V. Prusin, *The Lands Between: Conflict in the East European Borderlands, 1870–1992* (New York: Oxford University Press, 2010), and Timothy Snyder, *Bloodlands: Europe between Hitler and Stalin* (New York: Basic Books, 2010).
26. For an overview, see Dieter Pohl, *Nationalsozialistische Judenverfolgung in Ostgalizien 1941–1944: Organisation und Durchführung eines staatlichen Massenverbrechens* (Munich: Oldenbourg, 1996); Thomas Sandkühler, “Endlösung” in Galizien: Der Judenmord in Ostpolen und die Rettungsinitiativen von Berthold Beitz, 1941–1944 (Bonn: Dietz, 1996). See also Tuvia Friedman, ed., *Report by SS-General Fritz Katzmann on the Killing of the Half Million Jews of Eastern Galicia: Documentary Collection* (Haifa: Institute of Documentation in Israel, 1993). Specifically for the Czortków area, see Fritz Bauer et al., eds., *Justiz und NS-Verbrechen: Sammlung deutscher Strafurteile wegen nationalsozialistischer Tötungsverbrechen 1945–1966* (hereafter cited as *J.u.NS-V*), multiple vols. (Amsterdam: University Press Amsterdam, 1968—), vol. XVIII: 659–660; Marta Goren, *Silent Cries from the Black Forest: The Jews of the Czortkow District 1939–1944* (Rehovot: n.p., 2009, in Hebrew). More generally on German-occupied Ukraine, see Karel C. Berkhoff, *Harvest of Despair: Life and Death in Ukraine Under Nazi Rule* (Cambridge, MA: Harvard University Press, 2004); Ray Brandon and Wendy Lower, eds., *The Shoah in Ukraine: History, Testimony, Memorialization* (Indianapolis: Indiana University Press, 2008).
27. The following account of the career of Heinrich Peckmann is based on “Urteil Landgericht (LG) Saarbrücken 6 Ks 2/62 gegen Kurt O. Köllner und P.,” *J.u.NS-V*, XVIII: 658–659. See also Pohl, *Nationalsozialistische Judenverfolgung*, 255, 419; Sandkühler, “Endlösung” in Galizien, 251, 254–255, 442.

28. The following account of the career of Kurt Köllner is based on "Urteil Landgericht (LG) Saarbrücken 6 Ks 2/62 gegen Kurt O. Köllner und P.," *J.u.NS-V*, XVIII: 655–658. See also Pohl, *Nationalsozialistische Judenverfolgung*, 226, 393, 416; Sandkühler, "Endlösung" in Galizien, 146, 250–253, 269.
29. The following account is based on "Urteil LG Hagen 601031 Lfd. Nr. 498 gegen Paul Thomanek," *J.u.NS-V*, XVI: 728–733. See also Pohl, *Nationalsozialistische Judenverfolgung*, 169, 340, 392, 421; Sandkühler, "Endlösung" in Galizien, 141–148, esp. 145, 194, 254–256.
30. See details in Andrej Angrick, "Annihilation and Labor: Jews and Thoroughfare IV in Central Ukraine," in Brandon and Lower, *Shoah in Ukraine*.
31. *J.u.NS-V*, XVIII: 677–679.
32. On the commission see Laura Jockusch, *Collect and Record! Jewish Holocaust Documentation in Early Postwar Europe* (New York: Oxford University Press, 2012), 84–120.
33. *Ibid.*
34. *Ibid.*, 682; Sandkühler, "Endlösung" in Galizien, 442.
35. *J.u.NS-V*, XVIII: 656–657.
36. *Ibid.*, 657, 660.
37. *Ibid.*, 660–662.
38. *Ibid.*, 662.
39. For the context, see Ingo Müller, *Hitler's Justice: The Courts of the Third Reich*, trans. Deborah Lucas Schneider (Cambridge, MA: Harvard University Press, 1991), part 3; Michael Stolleis, *The Law under the Swastika: Studies on Legal History in Nazi Germany*, trans. Thomas Dunlap (Chicago: The University of Chicago Press, 1998), part 3; Irmtrud Wojak and Susanne Meinl, eds., *Im Labyrinth der Schuld: Täter – Opfer – Ankläger: Fritz Bauer Institute Jahrbuch 2003 zur Geschichte und Wirkung des Holocaust* (Frankfurt: Campus Verlag, 2003).
40. *J.u.NS-V*, XVIII: 662–665.
41. *J.u.NS-V*, XVI: 733.
42. *Ibid.*, 734–740.
43. *Ibid.*, 742–743.
44. *J.u.NS-V*, XVI: 744.
45. *Ibid.*, 747–748.
46. *Ibid.*, 748–749.
47. *Ibid.*, 750–751.
48. *Ibid.*, 751–752.
49. *Ibid.*, 752–753.
50. *Ibid.*
51. *Ibid.*, 753–754.
52. *Ibid.*, 754–756. See also Shlomo Wolkowicz, *Das Grab bei Zloczow: Geschichte meines Überlebens. Galizien 1939–1945* (Berlin: Wichern-Verlag, 1996).
53. *J.u.NS-V*, XVI: 756–757.
54. *J.u.NS-V*, XVIII: 665–666.
55. *Ibid.*, 666–670.
56. *Ibid.*, 676.
57. *Ibid.*
58. *Ibid.*, 680.
59. *Ibid.*
60. *Ibid.*

61. *Ibid.*, 682.
62. *J.u.NS-V*, XVI: 763–764.
63. *Ibid.*, 764.
64. *Ibid.*
65. *Ibid.*, 764–765.
66. *Ibid.*, 765.
67. Numerous examples are cited both in Goldhagen, *Hitler's Willing Executioners*, and Browning, *Ordinary Men*, as well as many other studies and documents.
68. Heinrich Himmler and Adolf Eichmann both became physically sick when they observed mass executions that were, after all, the consequences of their own orders and organizational skills. This specific conundrum is hardly limited to the Nazi case. For recent biographies, see Peter Longerich, *Heinrich Himmler* (Munich: Pantheon, 2008); David Cesarani, *Becoming Eichmann: Rethinking the Life, Crimes, and Trial of a "Desk Murderer"* (Cambridge, MA: Da Capo Press, 2006).
69. For an overview and the pertinent documentation, see Marrus, *The Nuremberg War Crimes Trial*. For the trials of those involved in the actual killing, see Hilary Earl, *The Nuremberg SS-Einsatzgruppen Trial, 1945–1958: Atrocity, Law, and History* (Cambridge: Cambridge University Press, 2009).
70. *J.u.NS-V*, XVI: 765–766.
71. *Ibid.*, 766–767.
72. *Ibid.*, 767.
73. *Ibid.*, 767–768.
74. On the complicity of frontline troops in war crimes, see Omer Bartov, *Hitler's Army: Soldiers, Nazis, and War in the Third Reich* (New York: Oxford University Press, 1991).