

Rachel Auerbach

Reimagining the Victim as »Eyewitness« to the Nazi Camera

Take #1: Lemkin's Shadow Trial

London, Summer 1945: Raphael Lemkin arrives in London to informally advise the team of the American prosecutor Robert Jackson about the approaching Nuremberg Trial. He lobbies the prosecution to include »genocide« – a term he coined in his 1944 book – in the indictment.¹ As part of his efforts, Lemkin takes the testimony of Rachel Auerbach, a Holocaust Survivor who was a key participant in *Oyneg Shabbas* – a clandestine archive in the Warsaw Ghetto that was founded by Jewish historian Emmanuel Ringelblum to record the lives of Jews in the Ghetto and the Germans' crimes from the perspective of the victims.

Raphael Lemkin, the Jewish-Polish jurist, needs no introduction here, as he is world-renowned for his tireless efforts to include the new crime of genocide in international law, efforts that culminated in the 1948 Genocide Convention.² Rachel Auerbach, on the other hand, has been forgotten for many years. In recent years historians have turned their attention to her work, but only with the publication of Samuel Kassow's

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- 1 Lemkin, *Axis Rule in Occupied Europe*, 79.
- 2 UN General Assembly, Convention on the Prevention and Punishment of the Crime of Genocide, 9 December 1948, A/RES/260, <https://www.refworld.org/docid/3b00fo873.html> [accessed 13 January 2020]. There is a wealth of publications on Lemkin and his contribution to international law. For some examples, see Sands, *East-West Street*; Lemkin, *Totally Unofficial*; Loeffler, »Becoming Cleopatra.«

This background explains Lemkin's choice of Auerbach as a potential Jewish victim-witness for the upcoming Nuremberg trial. In the margins of the first page of her testimony, she added in handwriting in Yiddish: »A copy of a testimony I gave in 1945 in London for the Jackson committee in charge of preparation for the Nuremberg Trial. The translation to English was done by Lemkin.«¹² However, in the end, her testimony did not find its way to the Nuremberg Trial. Despite Lemkin's and other Jewish leaders' efforts to put the Holocaust in the spotlight,¹³ Jackson eventually decided not to call Jewish witnesses to testify. In a letter to Chaim Weizmann he explained: »We were eventually able to get such complete and damning documentation on the persecution of the Jews that it would have been an anti-climax to have had any Jew testify to it. The Nazi documents are so coldly cruel and so complete as to the purpose to

¹³ On Jewish attempts to shape and join the Nuremberg Trial, see Aronson, »Preparations for the Nuremberg Trial,« 264; Jockusch, *Collect and Record*; Lewis, *The Birth of the New Justice*, 150-180; Loeffler, *Rooted Cosmopolitans*, 125-134.

exterminate the Jews that nothing could be added ...¹⁴ Instead, he chose to put the charge of waging a war of aggression at the center of the trial and to rely on incriminating Nazi documents and on eyewitness testimonies of Germans complicit in the crimes.¹⁵

Take #2: Jackson's Vision

The Nuremberg trial began on 20 November 1945. A week later, the American prosecution presented a new type of evidence to the court: the documentary film *Nazi Concentration Camps* that had been shot by Allied Forces during the liberation of the camps.¹⁶ Jackson already mentions the film in his opening speech of the trial: »We will show you these concentration camps in motion pictures, just as the Allied armies found them when they arrived ... Our proof will be disgusting, and you will say I have robbed you of your sleep ... I am one who received during this war most atrocities tales with suspicion and skepticism. But the proof here will be so overwhelming that I venture to predict not one word I have spoken will be denied.«¹⁷

James Donovan, an assistant trial counsel, expressed the same sentiment: »These motion pictures speak for themselves in evidencing life and death in Nazi concentration camps ...¹⁸ Thus, the American prosecution evidently hoped that the introduction of the film would help overcome one of the most difficult challenges of the trial: how to »establish incredible events by credible evidence.«¹⁹

14 »Letter from Robert H. Jackson to C.L. Weizmann«, 7 January 1946, YVA O.65/73.

15 For Jewish criticism, see Robinson, »The International Military Tribunal.«

16 Trial of the Major War Criminals Before the International Military Tribunal, Nuremberg, 14 November 1945 – 1 October 1946, *Nuremberg: International Military Tribunal, 1947*, vol. 2, 432. [Hereinafter IMT].

17 Ibid., 130.

18 Ibid., 433.

19 See an early report sent to President Truman by Jackson. Report of Robert H. Jackson, United States Representative to the International Conference on Military Trials, London 1945 (Washington, DC: Department of State, 1949), 48.

In her testimony Auerbach provides evidence for the genocide perpetrated by the Germans, as Lemkin was seeking to convince the IMT to include it in its indictment, a legal framing contesting the main charges of waging a war of aggression and committing war crimes, as proposed and eventually adopted by the American prosecution. Lemkin saw genocide as a systematic policy of social and cultural destruction that cannot be captured by a war crimes framing or be reduced to mass murder.²⁸ Auerbach follows Lemkin's broad definition of genocide as a systemic and all-encompassing attempt to destroy the »essential foundations of the life of national groups, with the aim of annihilating the groups themselves.«²⁹ Accordingly, Auerbach describes the comprehensive attempt to destroy a national group as such – targeting all sources of its existence (economic, political, cultural, and physical): »In the first period there was no mass extermination ... The main purpose of the German occupants at that time was to degrade the Polish population to the lowest standard of life and destroy all foundations of the Jewish population, such as property, employment, income, and health.«

Auerbach then turns to describing the starvation, disease, and mass deaths in the Warsaw Ghetto: »At that time, the number of corpses was so high that it was impossible to conduct individual funerals and very often the bodies were buried in mass graves. The sight of the streets was completely changed because of the prevailing hunger. Faces and bodies were swollen and disfigured. Masses of hungry people, beggars, were asking help by singing beggar songs, especially children were doing that. The street looked like an infernal picture.«

Take #4: A Jewish Eyewitness to the Nazi Camera

At this point in her testimony, as Auerbach describes the streets of Warsaw's ghetto as a vision of hell, her testimony unexpectedly changes direction. Auerbach turns her attention to the German cameras that recorded life in the ghetto: »German newspapermen used to come to the

28 See Bilsky/Klagsbrun, »The Return of Cultural Genocide,« esp. 380f.

29 Lemkin, *Axis Rule in Occupied Europe*, 79.

This paragraph discloses a complex process: Auerbach is aware that, in the competition between the German perpetrator and the Jewish victim, the murderer has the final word. Therefore, she wants to give testimony from the point of view of the voiceless victims. However, on a deeper

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level, her move intends to reveal something about the unique nature of the crime. The Nazis tried to achieve total control not only over the victims' lives, but also over the representation of the crime after their deaths. They attempted to control the historical narrative by erasing all traces of their violence.

By filming the ghetto, the Nazis relied on the objectivity attributed to the photographic image in order to present a distorted story of life inside it. Importantly, they used the victims themselves as »actors« in the hands of the (hidden) German director. The movie was supposed to be part of their propaganda about the racial inferiority of the Jews. After the dissolution of the ghetto and the destruction of most of its population, Auerbach, the surviving witness, gives testimony that exposes the role of the film in the crime.

The other side of the Nazi attempt to control the historical narrative by filming the ghetto shortly before its destruction was prohibiting victims from creating their own documentation and photography.³¹ Auerbach, as part of the *Oyneg Shabbas* group in the Warsaw Ghetto, had taken the risk of recording the crimes in real time as an act of »passive resistance« (in her words) against the attempt of the Nazi perpetrators to have the last word. Members of the Ringelblum archive urged ordinary people to take pen in hand and write down their testimonies in diaries, drawings, letters, and so forth. The Jewish victims documented the Nazi actions and Jewish responses and before the evacuation of the ghetto buried the secret archive in the ground, in milk jugs and crates, hoping that at least their testimonies would survive. After the war, survivors Rachel Auerbach and Hersz Wasser played a central role in the efforts to recover parts of this buried archive.³²

31 The prohibition of Jewish photography was not total, and the *Judenrat* in Lodz ghetto even had a filming department. However, documenting deportations, executions and other crimes committed by the Nazis was strictly prohibited (Löw, »Documenting as a »Passion and Obsession,« 392). Although the Nazis often took photos and films, these were also strictly prohibited both during mass shootings and in the extermination camps.

32 Cohen, »Rachel Auerbach,« 197.

The testimony Auerbach gave to Lemkin about the German film was not her first one on the subject. In the ghetto, Auerbach wrote a diary that later served as the basis for her Hebrew memoir *Be-hutzot Varsha* (*In the Streets of Warsaw*).³³ Her diary entry of May 22, 1942, entitled »The Germans film a movie ...«, offers a further explanation of the filmmakers' aims. She writes that this was not only antisemitic propaganda about the immorality and perversity of the Jews, but a deliberate attempt to contrast the rich Jews with the poor starving Jews in order to blame the victims for their own destruction: »In short: by the German definition it follows that without that 10 – let's say even 20 percent of Jews, who held themselves, somehow, above the water – first, those gaining from the disaster brought about by the Germans, those who collaborated with them one way or another – the remaining 80 percent could be saved (those whose economic roots were ripped up by the German persecution, those who were cruelly robbed of everything a person needs to exist, who expect now the danger of being robbed of the last thing that remains to them: their pathetic life itself, hissing like a dying ember!).«³⁴

However, toward the end of this entry, Auerbach seems to have changed her mind: »Let them film! Film as much as possible! Let there remain a filmic representation from the ruin they brought on a settlement of 400,000 Jews! Let there remain on film the many faces of Jewish passers-by in crowded streets! Clusters of faces, of eyes ... many years later they will shout a silent scream and tell the truth.«³⁵

The filmic image, according to Auerbach, has a surplus that can reveal something beyond the director's intention. What can this »silent scream« of the photograph tell us about the way we should understand the new crime of genocide? What is the role of the camera in the crime? What should be the role of film as witness to the crimes in the trials of the perpetrators? And what should be the role of the victims themselves vis-à-vis photographic images taken by the Nazi perpetrators?

33 Auerbach, *Be-Hutzot Varsha*, 31-33.

34 Ibid., 36 (My translation, L.B.).

35 Ibid.

Take #5: Film as Witness in the Nuremberg Trial

The Nuremberg Trial marks an important turning point in international law – a moment of legal self-confidence when there was an attempt to apply the rule of law to war itself by putting the architects of the war on trial. At this precedent-setting moment, the IMT sought new procedures that would be appropriate for the magnitude of the crimes, and it was ready to break with tradition by bringing a camera into the courtroom: both to film the trial and to overcome the weaknesses of human eyewitnesses by relying on the camera as an objective eyewitness.³⁶

The hero of the 2006 documentary film »Nuremberg: The Nazis Facing Their Crimes« by French director Christian Delage³⁷ is the camera itself – both because of the Allies' unprecedented decision to use »film as witness« and because of their decision to record the trial on film. Delage argues that the original aim of the American prosecution was to use the films the Germans made themselves as incriminating evidence against them.³⁸ However, since most of the films made by the Nazis had been destroyed or lost before the Allies could find them, the prosecution decided to rely on the American camera and on footage of the liberation of the camps.

However, the attempt of the American film unit to find Nazi-made films for use as incriminating material against them did bear fruit, including the Nazi film on the Warsaw ghetto, which Auerbach mentions in her testimony. In a memo written by General James Donovan one day before the trial began, he outlines his strategy of presenting films as evidence. He suggests five films, including the SS-film of the Warsaw ghetto, which he proposes to screen as evidence for the persecution of the Jews. Among other things, Donovan writes: »In the film are seen policemen, who administer vicious beating. They wear a Star of David on their arms and the Nazis apparently wished to give the impression of Jewish

36 For an analysis of the trial's recording, see Delage, »The Place of the Filmed Witness.«

37 »Nuremberg: The Nazis Facing Their Crimes,« directed by Christian Delage (France: Compagnie des Phares et Balises and ARTE, 2006).

38 Delage, »Bringing History into the Present,« 34.

cruelty to Jews. In any event, the fact that they staged the whole thing is established by an affidavit of a Polish Jew who was there when the film was made, and just what explanation the defense counsel could make of their having photographed Jewish misery during German occupation of Warsaw is difficult to see ...³⁹ It is possible that the affidavit mentioned is the testimony Auerbach gave to Lemkin, which was then passed on to Jackson's staff.

Why wasn't the SS film on the ghetto screened at Nuremberg? The archives provide no clue. Perhaps the prosecution feared it would be forced to present the entire film and that it might be used by the defense as propaganda, blaming the victims for their own suffering and presenting them in a degrading and racist manner. It is also possible that the planners of the trial faced the dilemma of how to use a Nazi propaganda film in a way that would serve as criminal evidence, without recreating the director's original intent.

However, the film the American prosecution eventually did screen at trial, *Nazi Concentration Camps*, was produced by the Office of Strategic Services (OSS) under Donovan's supervision. Most of the materials were filmed by Allied forces and commercial news photographers who accompanied the soldiers during the liberation of the concentration camps.

Auerbach's surprising move during her testimony to Lemkin when she turned herself into an eyewitness to the camera seems to have anticipated the future. As noted, concerns about legal »objectivity« led the American prosecution to prefer German documents and films over the testimonies of victims. And so, ironically, the Jewish voice was excluded not only by the perpetrators of the crimes, but also by the American prosecution, which sought to put Nazi crimes on trial. In both cases, the exclusion of the victim's voice was due to the »objectivity« accorded to the camera. It was erased first from the Nazi film about the ghetto, intended to control and manipulate its representation to the world, and again in the Nuremberg Trial, this time because of the requirements of criminal procedure – to establish guilt with »objective« evidence.

39 See James Donovan, »Memorandum to the Planning Committee,« 19 November 1945, Cornell Collection, Vol. 018, 56.03, at 5. James B. Donovan was an assistant trial counsel and in charge of the presentation of visual evidence.

However, as Lawrence Douglas argues, the attempt by the American prosecution to use film as witness to »unprecedented crimes« failed. This was due to two factors: First, the photographic images did not speak for themselves and had to be adapted to the conventional legal framework of war crimes, thus obscuring the uniqueness of the Holocaust.⁴⁰ Second, the desire to find the ultimate »witness« in the camera – one that was not subject to the weaknesses of human eye witnessing – raised the specter of a show trial. For example, the film begins with photographs of affidavits given by its producers who testify to its authenticity, thus avoiding the possibility of witness cross-examination. Douglas notes that »[t]his gesture of self-authentication thus supports the novel understanding of the documentary as a privileged witness independently competent to swear to the truth of its own images.«⁴¹ Moreover, the prejudicial impact of the horrific images projected onto the screen threatened to overshadow their probative value.⁴²

Take #6: Nazis Face Their Crimes in Nuremberg

Douglas asks, »If filmic testimony could supply credible, indeed irrefutable, evidence of unprecedented crimes, what exactly did the Tribunal see when the prosecution screened *Nazi Concentration Camps*?«⁴³ In other words, what kind of evidence does the film provide about the nature of the new crimes?

When Douglas searches for an answer to his question in the Nuremberg Trial protocol and in memoirs written by trial participants, he discovers a deflection: Instead of dealing with the film's content, accounts of the trial describe the reactions of the German defendants to the film screening. »Despite their differences, all four accounts share an interesting rhetorical feature. We are supplied with the barest description of the actual images projected in the film. Instead, we are asked to see the film

40 Douglas, »Film as Witness,« 476 f.

41 Ibid., 466.

42 Twist, »Evidence of Atrocities,« 270.

43 Douglas, »Film as Witness,« 454.

voyeuristically through the eyes of not just any viewers, but of those allegedly responsible for the very atrocities captured on film.«⁴⁴

Douglas suspects this approach because of the message it sends: as if the photo images can force the Nazi desk-perpetrators to confront the truth about their crimes: »We are left wondering whether the defendants had never before seen or imagined the atrocities they had orchestrated, or whether the realism of the filmic representations, their construction from an outsider's perspective, produced an awareness among the defendants greater than that gained through their engagement as Nazi functionaries.«⁴⁵

By describing the reactions of the accused watching the film rather than the images that appeared in the film, the reports do not provide any information about what the tribunal saw in the movie – what its significance was for understanding the crimes. Douglas's conclusion is that the film failed to reveal the nature of the unprecedented crimes. Ironically, the film was understood through the legal prism of »war crimes« advanced by the prosecution, which obscured the nature of the new crimes of genocide and crimes against humanity.⁴⁶ Its images showed unimaginable atrocities, but the conventional framing of the trial around war crimes forestalled the possibility of elaborating on what was legally new about Nazi crimes.

Can we think of a different explanation for the reporters' diversion from the content of the film to its impact on the defendants? Perhaps the shift of gaze from the images of the film to the defendants' reactions was not merely a »stylistic device«? Douglas's question »what does the film show?« presupposes the forensic model of »eyewitness« and applies it to the camera, thus preventing us from noticing another way in which the film functioned in the trial. In the following I argue that the diversion of the reporter's gaze from what the filmic image revealed to its impact on

44 Ibid., 456. Weckel reveals that, for the purpose of a better view of the defendants, the prosecution ordered U.S. Army technicians to install neon tubes in the dock the evening before showing *Nazi Concentration Camps* (Weckel, »The Power of Images,« 226).

45 Douglas, »Film as Witness,« 456.

46 Ibid., 479 f.

the accused should be understood not as a failure or a writing technique, but as pointing to a different perception of the role of the witness vis-à-vis Nazi crimes. We can trace this perception back to the moment when Auerbach decided to turn herself into an eyewitness to the Nazi camera.

Take #7: Das Ghetto – A Film Unfinished

The film the Germans shot in the Warsaw Ghetto was rediscovered only in 1954.⁴⁷ It was an unfinished film without sound.⁴⁸ It was shot during May 1942 shortly before the largest *Aktzia* began and the Jews of the Warsaw Ghetto were sent to their »extermination.«⁴⁹ Since its discovery, images from the film have often been used as visual evidence of life in the Ghetto; in movies, museums, and exhibitions, often without mention of their Nazi origins.⁵⁰ In her 2009 film, *A Film Unfinished*, Israeli film director Yael Hersonski aimed to present the film in its entirety and to discuss the context in which it was produced, a context that is missing from most of the postwar reproductions thereof:⁵¹ »I realized that things were much more complex than what they ultimately show us, what was eventually stored in the collective national memory [...] Through the details you become aware that what you perceived as history is being

47 The film was catalogued in the GDR film archive in 1954 (Horstmann, »Juden-aufnahmen fürs Archiv.«).

48 Ghetto Bundesarchiv-Filmarchiv, reference number 11780, 35 mm, b/w, silent, 1,746 meters; Böser, »A Film Unfinished,« 55. Horstmann, »Juden-aufnahmen fürs Archiv,« 9: »The film was created from the following recordings: »Asien in Mitteleuropa« (archive title, 1942) »Das Warschauer Ghetto« (archive title, 1942) »Ghetto in Dombrowa und Bedzin« (archive title, 1942) and »Judendeportation in Polen« (archive title, 1942). All film documents can be viewed in the Bundesarchiv-Filmarchiv, Berlin.«

49 Pager, »The Warsaw Ghetto.«

50 For an early critique of the uses of the Nazi film as representing life in the Warsaw ghetto, see Dawidowicz, »Visualizing the Warsaw Ghetto.« For analysis of the ways in which the Warsaw ghetto footage was used after the war, see Ebbrecht-Hartmann, »Three Dimensions of Archive Footage«; Łysak, »The Posthumous Life of Nazi Propaganda.«

51 »A Film Unfinished,« directed by Yael Hersonski (Israel: Oscilloscope Laboratories, 2009). The film was released in German under the title *Geheimsache Ghettofilm*; its Hebrew title is *Shtikat HaArchion*.

perceived through the eyes of a Nazi cameraman, that the Holocaust, as we visually perceived it, was designed through Nazi eyes. The footage had images which became the most accessible images, the predominant images, of the Warsaw Ghetto. I felt as if something which is substantially important for my understanding was denied to me.⁵²

In making a »film about a film« she had to confront the ethical dilemma faced earlier by jurists: how to represent the Holocaust on the basis of a Nazi propaganda film. Will the filmic images succeed in penetrating beyond the Nazi intentions and telling the truth? As Auerbach wrote in her ghetto diary, »Let there remain a filmic representation from the ruin ... Clusters of faces, of eyes ... many years later they will shout a silent scream and tell the truth.«

In an interview with journalist Dalia Karpel, Hersonski explained: »I wanted to show what exists beneath the manipulation. It's an attempt to capture moments from that unimaginable place – a copy of reality that's impossible to comprehend [...] The ghetto occupants live and survive day after day in front of the camera lenses. These moments when the people look into the camera and at the viewer with our knowledge of their end, and their ignorance of their destiny – are still moments of life. And this still gives me shivers every time I think about it. The ability to communicate from a time that does not exist.«⁵³

The way Hersonski chose to deal with the split created by the Nazi camera between the gaze of the perpetrator and the words of the victim was by recreating, in retrospect, an imaginary meeting point. For this purpose, she contrasts the camera images with readings from diaries of Jewish victims from the Warsaw ghetto, who, like Auerbach, documented the production of the Nazi film.⁵⁴ In this way she exposes the gap between what the camera shows and what the victims explain. She also adds a

52 Melamed, »A Film Unraveled,« 11.

53 Interview by Dalia Karpel, *Haaretz*, 20 January 2011 [Hebrew], <https://www.haaretz.co.il/misc/1.1158168>.

54 See, for example, Hilberg/Staron/Kerminz, *The Warsaw Diary of Adam Czerniakow*; Gigliotti/Lang, *Inside the Ghetto: Emmanuel Ringelblum*; *The Warsaw Diary of Chaim A. Kaplan*; Weinbaum, »Shaking the Dust Off«; Lewin: *A Cup of Tears*.

voiceover narrative that explains the propaganda purposes of the Nazi film and inserts a re-enacted postwar court interrogation of one of the S.S. photographers, Wili Wist (who was responsible for the nude scenes of Jewish women in the Mikveh, the ritual bath), in order to shed light on how the film was shot.

However, Hersonski goes even further: She screens the silent Nazi film to five Jewish survivors from the Warsaw Ghetto – capturing their verbal and facial reactions to the film's images.⁵⁵ Her move echoes the earlier »diversion« of the reporters in the Nuremberg Trial, but in the opposite direction. She recreates Auerbach's act by transforming the surviving victims of the Warsaw ghetto into eyewitnesses to the Nazi film (in retrospect), and turns her own camera into a witness to the witness.

What is the significance of this retrospective integration of the testimony of the silent Nazi film with testimonies of the Jewish victims and survivors? Is it just a cinematic trick, or can it teach us something about the new crime, whose essence seems to get lost in the binary choice between Nazi documents (and films) and victims' testimonies, a binary choice that has become pervasive in contemporary debates about filmic representation of the Holocaust?⁵⁶ Can such retrospective »integration« solve the ethical dilemma posed by the need to rely on the Nazi camera?⁵⁷ Or maybe such integration between Nazi gaze and Jewish voice – one that was structurally prohibited at the time of the events – falsifies something about the nature of the new crime, which was based on a complete split between the perpetrator and the victim.

55 She also interviews them about their memories about the film's production and participants.

56 The most famous controversy is between film director Claude Lanzmann and Jean Luc Godard (Saxton, *Haunted Images*, 364-378).

57 Hersonski's film follows in the footsteps of Lucy Dawidowicz (1992), who added excerpts from ghetto diaries in order to counter the simplifications and lies of the original footage (Łysak, »The Posthumous Life of Nazi Propaganda,« 4, 9f.).

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The danger that Friedländer identifies of uncritically adhering to the ideal of objectivity is intensified in relation to the use of the photographic image. The claim photography makes to objectivity was known as a hallmark of the medium from its beginning. The invention of photography, a century before World War II, was presented as enabling a new order of images, one that releases the image from the traditional conditions of painting and specifically from the abilities, limitations, whims, or moods of the artist.⁶² How, then, can the claim of Nazi photos to objectivity be challenged? Is it enough to add the victims' voices to the »silent« Nazi film, as was done by Hersonski, in order to problematize this expectation?

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Among the survivor-witnesses in the trial was Rachel Auerbach.⁶³ Lesser known is the fact that Auerbach also had an important role in shaping the jurisprudence of the trial by her insistence on the central place of the victims' testimonies as eyewitnesses to the Holocaust. In his 1966 book on the trial, Hausner attributes the legal revolution in the victims' role in the trial to himself and dedicates only a few sentences to Auerbach. While he does acknowledge that »She was most helpful in placing at our disposal her department's huge collection of statements and putting us in touch with prospective witnesses,« he paints her contribution to the trial as technical and logistical at best.⁶⁴

New historical research has tried to do Auerbach belated justice by demonstrating that it was her initiative to open the trial to the testimonies of Holocaust survivors.⁶⁵ Indeed, already in the first document Auerbach prepared for the trial, dated 23 November 1960, she requested to base the trial on the testimonies of Jewish eyewitnesses.⁶⁶ Historian Hannah Yablonka explained: »The acceptance of presenting testimonies by survivors ... took an important turn following a meeting between Bureau 06 Deputy Head Hofstaedter and Rachel Auerbach, Head of the Testimony Department at *Yad Vashem* and director of its Tel Aviv branch, as well as a former historian and Holocaust survivor. At that time, the *Yad Vashem* collection of testimonies included 1700 names. Rachel Auerbach suggested taking ten to fifteen witnesses who would cover the five stages of the annihilation: the *Aktionen* and deportations; sending people to the death marches; mass killings by firearms; death camps; and execution

63 For Auerbach testimony in the Eichmann trial, see TAE, Session 26, 3 May 1961. For discussion of Auerbach's testimony, see Geva, »And Now You Are Married.«

64 Hausner, *Justice in Jerusalem*, 293.

65 Cohen, »Rachel Auerbach.«

66 See »Sherutei Ha-Mahlaka Le-Gviyat Eduyot Le-Hachanat Mishpat Eichmann« (contribution of the [Yad Vashem] Department of Oral Testimony for the preparation of the Eichmann trial), [Hebrew], 23 November 1960, in YVA AM.11/10 (picture 52 f.). This document was submitted by Auerbach during a meeting with Jacob Robinson, Arye Kubovy, and Ephraim Hofstadter on the subject of »Holocaust Witnesses in the Eichmann Trial,« see minutes of the meeting in *Yad Vashem* [Hebrew], 23 November 1960, in YVA AM.11/10 (picture 50 f.). For elaboration, see Cohen, »Rachel Auerbach.«

In other words, Auerbach understood early on the duality of the role of witnesses in Holocaust trials. Their testimonies had to supply »legal evidence« and, at the same time, reveal the nature of crimes beyond imagination – and do so in a reliable way. The survivor-witnesses were to provide a living bridge between past and present through their testimonies in the trial. This approach was a complete reversal of the jurisprudential approach of the Nuremberg trial. In contrast to the perception of the survivors as unreliable witnesses, Auerbach was convinced that only their living testimonies could confer a measure of reality to events that sounded unbelievable.

69 Cohen, »Rachel Auerbach,« 214.

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camps in the same condition as the liberation armies found them. In the case of others, it followed from the contents that they were actually taken at the time of the events shown. We are unable to say when, exactly. But we shall only exhibit a film in a case where some witness or other will be able to appear and swear that what he saw with his own eyes at a particular place and at a particular time looked as the film shows. We have a short film of an execution by the Einsatzgruppen. I do not know who filmed it, and I do not know when it was taken. But we shall produce a witness who will swear that this was what the execution looked like. We have a film which was apparently taken at the time of a deportation to the Westerbork camp. We shall bring a witness who will swear that when people were deported, the scene looked like that, and this will illustrate the testimonies heard.«⁷¹

A comparison between Hausner's and Auerbach's approaches to film is striking. While Hausner summoned the Jewish survivors to testify to the »authenticity« of the Nazi films, Auerbach saw her role as eyewitness to the Nazi camera as disruptive, to warn *against* its pretense of »objectivity,« to expose the manipulation.

Take #11: Henryk Ross – Victim as Photographer

The issue of how to understand the role of the camera is given another twist when we turn to the testimony of Henryk Ross in the Eichmann trial. We saw that the reluctance to rely on photos as evidence stemmed from the fact that these photos had been shot by Nazi perpetrators in an attempt to achieve total control over the representation of the past. Henryk Ross had been a professional Jewish photographer before the war. In the Lodz Ghetto, he had been a photographer and a worker in the *Judenrat's* statistics department, which had given him access to film and processing facilities in the ghetto.⁷² However, he had also taken unofficial photos in secret, documenting the conditions in the ghetto, the suffering of the Jews, and the brutality of the Germans, thus risking his life.⁷³

⁷¹ See TAE, Session 66, 6 June 1961.

⁷² Löw, »Documenting as a ›Passion and Obsession‹«, 396 f.

⁷³ Ibid., 403.

Like those involved in the *Oyneg Shabbas* archive in Warsaw, Ross had buried thousands of negatives in the ground of the Lodz Ghetto. He later explained: »Just before the closure of the ghetto (1944) I buried my negatives in the ground in order that there should be some record of our tragedy, namely the total elimination of the Jews from Lodz by the Nazi executioners. I was anticipating the total destruction of Polish Jewry. I wanted to leave a historical record of our martyrdom.«⁷⁴

Ross's testimony in the Eichmann trial consisted of two parts. First, he was brought in to testify as an ordinary eyewitness to the events in the ghetto. Second, the prosecution submitted his photos to the court as forensic exhibits, and Ross was brought in to testify to their authenticity.⁷⁵ However, this attempt by the prosecution to adapt Ross's testimony (and photos) to the conventional procedures of an eyewitness (in order for the photographic evidence not to be considered hearsay, the photographer must be summoned to testify to the credibility of the photos and be available for cross-examination by the defense) seems to obscure the unique role of the victim as witness-photographer.

Another opportunity to rethink the role of the camera as witness to the Holocaust occurred 17 years later in David Perlov's film, *Memories of the Eichmann Trial* (1979).⁷⁶ The film opens with a scene in which Perlov shows his interviewees photos of Eichmann from the trial. Later, Henryk Ross appears. In contrast to his testimony in the Eichmann trial, Perlov interviews him together with his wife Stephania, who assisted him in the ghetto.

In the most memorable scene, Perlov asks Ross to recreate the way he secretly took photos in the ghetto. Ross wears a hat, scarf, and a coat that conceals the camera he is holding. He quickly pulls the camera out from beneath the coat, takes a picture, and, just as quickly, closes the coat.

74 Henryk Ross, cited in Reiniger, »The Jewish Photographer Henryk Ross.«

75 TAE, Session 23-24, 6 June 1961.

76 »Memories of the Eichmann Trial,« directed by David Perlov (Israel: Israeli Broadcasting Authority, 1979). Perlov's film was produced for Israeli television, screened only once, and was forgotten for many years. Only in 2011 was it found and reconstructed by Perlov's daughter (Ofaz, »Filmic Testimony«).

The recreation of the moment shows how Ross turns himself into the aperture of the camera.

Although Perlov's film focuses on the photographs, they are not presented as legal evidence of the crime, and the witness is not there to confirm the credibility of the photographs. The photographs act as a stimulus to memory, a trigger for the testimonies.

One photograph of particular interest is a photograph of the Lodz Jews being loaded onto a train destined for an extermination camp. It was a photograph taken against all odds, as there was a curfew during the *Aktzia*, and it was forbidden to leave the ghetto for the train station where the deportation took place. Ross's friends managed to smuggle him ahead of time into a cement storeroom beside the train. There, he looked through a hole in the wall and took the photo. However, the photo cannot show all the relevant information – although we see Jewish police, one pulling a man inside the cattle car and, a few meters from there, an SS soldier carrying a gun, the inside of the cattle car remains in complete darkness. Nor can the photo tell us anything about the destination of the train.

In the Eichmann trial, Ross testified to the circumstances under which he took the photograph: »On one occasion, when people with whom I was acquainted worked at the railway station ... which was outside the ghetto ... and where trains destined for Auschwitz were standing – on one occasion I managed to get into the railway station in the guise of a cleaner. My friends shut me into a cement storeroom. I was there from six in the morning until seven in the evening, until the Germans went away and the transport departed. I watched as the transport left. I heard the shouts. I saw the beatings. I saw how they were shooting at them, how they were murdering them, those who refused. Through a hole in a board of the wall of the storeroom I took several pictures.«⁷⁷

Perlov interviews Ross about his testimony, and Ross tells him of his fear of testifying at the trial, as he knew that whoever sees Eichmann must die: »I was scared because now it's my turn as I saw him.« Ross says that during his entire testimony Eichmann looked him directly in

77 TAE, Session 24, 2 May 1961.

the eyes: »All the time looking at me like something was eating him that I stayed alive.«

It is at this point that a transformation occurs in our understanding of the victim as eyewitness to Nazi crimes. We are reminded that, in the case of an »event without a witness,«⁷⁸ the very act of taking a photo becomes an act of defiance. Moreover, the trial itself recreates a meeting point where the victim returns the gaze of the perpetrator, a meeting point that was supposed to have become an impossibility. In his recollection of the trial, Ross reminds us of the essence of the crime, the very sight of which, like the gaze of Medusa, should have turned people to stone – a »crime without witness«. Near the end of the film it is noted that, after his release from the Lodz Ghetto, Henryk Ross did not take a single photo.

Conclusion

In his book *Images in Spite of All*, the philosopher Georges Didi-Huberman explores the controversy prompted by the exhibition of four photos secretly taken by Jewish prisoners in Auschwitz, the only photos that depict the actual process of mass killing perpetrated in the gas chambers. Trying to explain the significance he attributes to these photographic images, he returns to the myth of Medusa:

»We have learned in school the story of the Gorgon Medusa whose face, with its huge teeth and protruding tongue, was so horrible that the sheer sight of it turned men and beasts into stone. When Athena instigated Perseus to slay the monster, she therefore warned him never to look at the face itself but only at its mirror reflection in the polished shield she had given him. Following her advice, Perseus cut off Medusa's head with the sickle which Hermes had contributed to his equipment.«⁷⁹

Contrary to the view that photographic images of the Holocaust may falsify the truth, Didi-Huberman uses this parable to point to an important aspect of the power of the image: »Perseus does not flee the Medusa, he confronts her in spite of all, in spite of the fact that a face-to-

78 On the concept, see Laub, »An Event Without a Witness.«

79 Didi-Huberman, *Images in Spite of All*, 177.

face confrontation might have signified neither the gaze, nor knowledge, nor victory, but simply death. Perseus confronts the Gorgon in spite of all, and this *in spite of all* – this de facto possibility, despite a legitimate impossibility – is called image.⁸⁰

Didi-Huberman tries to create a space for looking at the four photos, not as the ultimate proof of the Holocaust that obviates the testimony of the victim nor as falsity. Rather, he suggests that the photos taken by Jewish prisoners in Auschwitz, alongside victims' testimonies (such as the *Oyneg Shabbas* secret archive) should be seen as acts of defiance, as attempts by the victims to retain their agency and humanity in face of a crime that aims to dehumanize them. The victims' insistence on preserving their testimonies, on recording the crimes, on taking photos, should all be understood as acts of resistance, attempts to remain human against all odds.

At this point, a common thread becomes apparent. It connects the surprising moment when Auerbach turns herself into a witness of the Nazi camera, the moment when Hersonski transforms (in retrospect) five survivors into witnesses to the silent Nazi film of the Ghetto, and the moment when Henryk Ross, the Jewish photographer who testified in the Eichmann trial, faces the perpetrator and returns his gaze. In each of these moments, there is a recreation of a meeting point that was intended to become an impossibility at the time of the crime. If there is a lacuna in the very heart of the crime – owing to the structural split between perpetrator and victim, between gaze and voice, between body and soul – then any attempt to bear witness that ignores this split can be expected to end up as one of two extremes: on the one hand, as a fantasy of finding the ultimate proof of the crime – a photo that presents the essence of the crime, thus making all words and explanations unnecessary; and on the other hand, as a complete relinquishment of testimony, in accordance with the thesis of an event without a witness – a traumatic crime for which the only testimony is silence (like the collapse of Ka-Tzetnik on the witness stand in the Eichmann trial).⁸¹

80 Ibid., 179.

81 TAE, Session 68, 7 June 1961.

It seems that both Auerbach's attempt to become an eyewitness to the Nazi camera and Henryk Ross's attempt to transform himself into a hidden camera point to the need for a new understanding of the eyewitness, beyond the forensic model of law. If the crime is built on a structural split between perpetrator and victim, then the act of testifying must make this split present but at the same time endeavor to resist it through the very act of bearing witness.

