

The Mahler Trial in Potsdam -- Day 3 (17 Oct 2008)

Translated by J M Damon

[Translator's Remark: When Frederick Töben visited me in September he asked me to translate Horst Mahler's reports of his present trial, which he wanted to post on the Adelaide Institute website. Five days later, he was arrested in Heathrow Airport. Frederick considered this trial particularly important in view of the developing world financial crisis, which is similar in many respects to that described by Gottfried Feder 80 years ago in his book *Kampf gegen die Hochfinanz* (The Struggle Against Globalism) – especially the chapter entitled *Das Manifest zur Brechung der Zinsknechtschaft* (Manifest for the Abolition of Interest Slavery)]

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In my Potsdam show trial, the *Vierte Große Strafkammer des Landgerichts Potsdam* (Fourth Superior Criminal Chamber of Potsdam District Court) has reached its first peak of self-revelation by dropping its mask of legality.

When Herr Dielitz, the presiding judge, showed an obsessive interest in my article *Jüdische Spiegelungen* (Jewish Reflections), and repeatedly goaded me in an effort to make me "confess," I decided to humor his impetuosity.

I "confessed" and explained in detail that I had written and distributed it on the Internet. However, I also demonstrated beyond reasonable doubt that such an act cannot be a punishable offense under the law.

In order to present my case in detail, it was necessary for me to familiarize the Court, especially the lay judges, with the contents of "*Spiegelungen*."

This was too much for both Attorney Schell, the head prosecutor, and Judge Dielitz.

A spirited exchange developed between the prosecutor and me, and Herr Dielitz promptly intervened in order to establish that it is he who is directing the trial. In view of the bellicosity of Prosecutor Schell, the question of who is in charge had not been as evident as it could be.

In the course of a longish lecture, Judge Dielitz made a slip and accused me of presenting a "demonic lecture" by reading aloud from *Spiegelungen*.

This remark prompted my first motion to disqualify Judge Dieletz on account of bias, and his official response to my motion was a real "Hammer" (doozie.) The judge openly stated his intent to hinder my defense.

I promptly filed a second motion of objection for bias, which presents the issue as follows:

In the show trial being conducted against me before Potsdam District Court, Case No. 24 KLS 42/05, I hereby move that the errant presiding judge Dielitz be rejected and dismissed on account of bias.

Basis for the Dismissal of Judge Dielitz:

The errant judge has clearly stated his bias in his official response to my motion for disqualification dated 17 October 2008.

I had made that motion because of the remark the errant judge made during the trial on 17 Oct, to the effect that I was presenting a "demonic lecture," namely *Jüdische Spiegelungen* (Jewish Reflections), as part of my defense.

In his official response to my objection, Judge Dielitz offered the following explanation:

Judge Dielitz's Response to My Motion to Reject:

a) "I interrupted the defendant during his *Einlassung* (opening presentation) in order to maintain order during the trial, since he was quoting sentence after sentence of his '*Jüdischen Spiegelungen*.'

I interrupted him in order to hinder his committing criminal acts during the trial."

By interrupting me, Herr Dieletz was forestalling and avoiding the question of whether distribution of the *Spiegelungen*, the subject and cause of my present indictment, is a criminal act on account of its contents.

He interrupted me before the hearing of my statement, before the submission of evidence, and before final argumentation.

Furthermore he interrupted and hindered my presentation without consulting other judges of the Court.

The purpose of the main hearing is to give the accused the opportunity to present his views regarding specific counts or points of his indictment.

If these points concern utterances of opinion concerning his philosophy or worldview, then they obviously provide a basis, reason and point of reference for relevant presentation of the incriminating text.

The judge's and court reporter's knowledge of the facts of the case that they gain solely from reading court documents is inadequate.

The attending lay judges, who might have no knowledge of these documents, must be made familiar with the proscribed opinions that are the objects of the trial.

This familiarization is accomplished during the oral part of the trial.

How could it be accomplished except through oral presentation?

During this presentation, the accused must be allowed to formulate his statement as he sees fit.

The only limitation to this presentation exists at the point where factual connection is lost and an indication of intent to misuse the statement clearly becomes apparent.

Such a limitation is clearly inapplicable when, as in the present case, the defendant's presentation is accomplished by reading "sentence for sentence" the very text that is referenced in the *Anklageschrift* (written indictment) but not in the *Anklagesatz* (oral indictment).

The judge's characterization of my presentation as "demonic" is a powerful utterance, a crass violation of due process.

If this unlawful evaluation is meant to deny me the fundamental right to a legal hearing guaranteed by Section 103, Paragraph 1 of the Basic Law, then this trial has clearly been removed from the judicial framework of a nation of laws and relegated to the realm of arbitrary law.

There can be no doubt about this among informed observers of this trial.

In this and similar cases the defense consists of demonstrating, through oral argument and on the basis of published text, that the allegedly unlawful act, opinion or utterance is not Incitement of the Masses in the sense of Section 130 Paragraph 1 of the Federal Republic's Penal Code.

This demonstration is supported by the fact that the allegedly unlawful act expresses avowal of a worldview and therefore cannot be unlawful, in view of the superior stipulation of Section 4 Paragraph 1 of Basic Law.

The answers pertaining to questions of culpability that arise from the indictment are tentatively given, following hearings and consultations, in the Court of First Instance.

In case of appeal they are given by the Bundesgerichtshof (Appeals Court), and finally by the *Bundesverfassungsgericht* (Supreme Court).

It cannot be assumed that, in the conduct of his defense, a defendant will defer to the tentative opinion of a presiding judge or his subordinates; and it cannot be assumed he will defer to their attempts to hinder the exercise of his legal rights.

The path prescribed by law is to allow the accused to proceed with his presentation and, where appropriate, to introduce sanctions in a separate criminal trial in case the defense's presentation has constituted an unlawful act.

The general principle prescribed in Section 193 of Criminal Procedure must be considered in deciding this question.

According to Section 193, potentially criminal behavior is not unlawful when it occurs in the context of a lawful act or interest, particularly the exercising of a subjective right.

The constitutionally assured right to a defense (Article 103 Paragraph 1 of Basic Law) guarantees this right.

The errant judge is not allowed to insert his private opinion as a standard and then enforce his opinion by prohibiting the defense.

Surely, under quiet consideration this must become clear to him.

The illegality of the errant judge's procedure makes clear that he has already decided on my conviction, independent of my trial and without knowledge of its outcome.

Such procedure causes the informed defendant to suspect that the errant judge is not considering his case with the required impartiality.

In this connection, it is also significant that before the prosecutor and errant judge interrupted me, I had not given utterance to a single opinion that was not included in the bare text itself, precisely as contained in the indictment.

The prosecutor and judge made their disruptive intervention as soon as I had read "word for word" exactly thirteen lines of *Spiegelungen*.

Imminent Anticipation With Unlawful Opinions

b) Without his actually saying so, Judge Dielitz's opinion that reading the *Spiegelungen* in the main hearing is a punishable act (in view of Section 130 Paragraph 1 of Penal Code) implies not only that the *Spiegelungen* article represents a disparagement of the Jews, but also that reading it in the main hearing "is intended to disturb the public peace."

When it comes to Germans who wish to remain German, this Court has apparently forgotten how to read.

How else can we account for the fact that in trials of accused "Holocaust Deniers" and "Inciters of the Masses," the courts are suppressing the arguments of the defendants and their attorneys as punishable acts without devoting a single syllable to the subject of whether such utterances in the trial are capable of "disturbing the peace?"

The "Holocaust" courts take great pains to overlook and ignore the fact that in expressing unlawful opinions, the modality or condition of "likely to disturb the peace" must be present in order to establish a basis for sanction.

They ignore and overlook this fact even though the framework of the law "bumps the noses" of the judges in order to make sure they observe the stipulation about disturbing the peace.

Section 130 Paragraph 1 of Penal Code begins as follows:

"Whoever, in a manner designed to disturb the public peace..."

It is impossible to ignore this!

How is it possible, in a nation of laws, for a court to ignore the question of whether a criminal trial, with its principles of directness, oral proceedings and public openness, has taken into consideration whether the accused has disturbed the peace?

Have not the courts considered that public trials, thanks to the legal thought that arose from the Enlightenment, aim for the establishment and protection of public peace above all else?

Is it not preserving and protecting public peace when the authorities publicly investigate an alleged "inciter of the masses" in the only appropriate way, that is by providing him a "fair trial" with a defense that is worthy of the name?

The defendant is not the only one allowed to speak in a trial!

He has a vocal opponent in the district attorney, who is in a powerful position to contradict and neutralize incorrect or inciteful statements.

He can use his inherent authority to make his estimation of the defendant's unlawful or heretical defense clear to the Court.

The court's professed fear that a disturbance of the public peace might emanate from the Defense is pretenseful, illogical and unlawful.

What image of mankind lies behind the Court's alleged concerns for the public peace?

The Court obviously does not have the image of reflective and responsible citizens in mind.

It has the image of a bloodthirsty mob eager for a word of criticism of the Jews, which will immediately throw it into a homicidal frenzy.

That is not a true image of mankind or us Germans, however.

That is the image of Germans that our enemies have projected for generations.

Whoever wants to declare as punishable the reading of the very points in the indictment that are enumerated in the indictment, is trying to introduce (or re-introduce) secret trials!

That person wants to deny the accused the possibility of a defense at the very point where the allegedly unlawful act is depicted and described.

That person is avoiding the judicial light of day, the monitoring that is achieved by public scrutiny.

"Holocaust" justice has good reason for avoiding such public monitoring, since it is itself profoundly unlawful.

Whoever says that it is an additional crime to discuss the act specified in the indictment is saying that any and every defense is disallowed.

That person is no longer standing on legal ground.

If he is exercising the power of a judge, he is exercising it unlawfully.

Must we not weigh the overriding value of a lawful trial (which necessarily includes a Defense) against the necessity of "protecting the peace," especially when it is not clear that the peace is actually threatened?

The Court must consider the vital issue that Section 130 of Penal Code deals with abstract offenses of potential exposure rather than actual crimes of commission.

Section 130 does not deal with actual violations of the law, whereas the suppression of free and unhampered defense immediately inflicts profound injury upon the highest and most cherished legal interest, namely the dignity of the individual.

This injury includes the position of the accused as subject rather than object.

The role of the accused as subject rather than object is destroyed if the defendant is not allowed to defend himself as he sees fit.

He is denigrated and reduced to a mere object of official sanctions.

These considerations are so elementary that they are truly "common knowledge" for everyone, not just "learned jurists."

The discredited opinion of this errant judge lies not in the realm of representational concepts of legality, it lies entirely in the realm of arbitrary legality. According to a ruling by the *Bundesverfassungsgericht* (Supreme Court), such a mistaken attitude is based on concerns about bias, without regard to the defendant.

The colossal dysfunction of the courts in the area of "Holocaust" justice can be explained solely by *metus judeorum* (Fear of Jews) as described in the Bible (Esther 8: 17 and John 19: 38 and 20: 19.)

This *metus judeorum* is destroying the German institution of judgeship at its roots.

The Errant Judge's Position

c) The errant judge's position of 17 October 2008 also states:

"The defendant presented the *Spiegelungen* in order to support the theory that the Jewish people strive for supremacy."

Immediately preceding this was the sentence: "I interrupted the accused in order to hinder the commission of criminal acts during the trial."

This clearly shows that the errant judge considers expression of the thesis that the Jewish people strive for supremacy to be a criminal act.

Once again his statement shows that the law is not operative here, but rather the caprice of an errant judge.

The question of whether a nation is striving for supremacy (Does anyone deny that there are people and nations who strive for supremacy?) is not a question of law nor of fact, but rather a question of how one interprets the world.

It is a question that is not subject to legislation or the justice system.

If one says that Russia is striving for world supremacy, a dispute might arise as whether such a statement is applicable.

If one says that the United States are striving for supremacy, one will probably be told that they gained it after World War II and have no need to strive for it now.

And if someone says that China is striving for supremacy,

some additional information will most certainly be called for, to the effect that at present, an attempt by China to gain supremacy has not yet become apparent, but is expected in future.

Is it really an "affront to dignity" for a people to exercise or strive for supremacy?

Even if one wanted to negatively evaluate the expression "Jewish supremacy" consideration of the facts would still have to precede conviction for "Incitement of the Masses."

In case it is true that world Jewry is already exercising supremacy, the observation of this fact is as little a denigration of Jewry as is the ascertainment that a thief has stolen something. Surely no one would think of declaring public consideration and discussion of differing points of view a criminal act!

Presumably, anyone who undertook to treat such public discussion as a criminal act would be rebuked with reference to Article 5 of Basic Law.

If someone mentions that the Jewish nation is striving for supremacy, it probably not occur to the normal

thinking person will think that the District Attorney should be bothered with a legal complaint.

However, the errant judge deviates in his opinion from the circle of people who think normally.

What is the reason for this?

Apparently, his normal thought reflexes have been conditioned to always serve the interest of world Jewry, to avoid identification and to remain in the background.

My main task in life is to broadcast the reality of the Jewish national spirit as the "negation of the life of nations" as expressed by the Jewish philosopher Martin Buber.

It may be that this displeases the other Jews; I can understand this.

I can also understand that they are displeased when Goethe identifies them as a nation whose religion empowers them to rob strangers (from *Das Jahrmarktfest zu Plundersweiler.*)

Of course a robber is displeased when he is identified. But can a robbery victim legally be prohibited from identifying the robber?

Of course "Holocaust" jurists immediately belch out that I am defending myself against charges of "incitement of the masses" by resorting to an interpretation of Judaism as an institution that strives for supremacy and domination.

They say that I intend to introduce abstruse and irrelevant evidence from the holy books of Jewry as well as generalized religious history.

In order to neutralize this programmed defense of world Jewry -- the reflexive idea that Judaism's holy books long ago lost their significance for the present -- I will produce expert witnesses from the present to prove the opposite.

The errant judge is already familiar with my evidence concerning the Judaic striving for world supremacy, from my "Judaism" trial in Berlin.

In keeping with his firm intent to protect and support Jewry's striving for supremacy, he has firmly resolved to disallow any and all such considerations in my present trial.

His position statement makes this deeply held resolution of his perfectly clear.

In his own words, he leaves no doubt of his intention to "hinder" my defense with all the powers at his command.

And yet the errant judge is perfectly aware, from documents I submitted in the main hearing, that I do not see a separate and purely negative god in world Jewry, but rather servants of the true God in bringing salvation and redemption to the world, in the role of the enemy of all the nations.

This foreknowledge of my line of defense makes the presiding judge determined to disallow its introduction.

In a criminal trial, there is no greater judicial tyranny than the determination of a judge to hinder the defense of the accused.

d) In order to justify his arbitrary conduct of the trial, now exposed for all to see, the errant judge is presenting his position as follows.

The errant judge used these words: "By reading the *Spiegelungen* sentence by sentence, he (the defendant) is utilizing emotional emphasis (!) in addressing the audience and creating the appearance (!) of authenticity of the contents of his presentation." Once again, he is using *Weltanschauungen* (world views) to take aim at the heart of my defense.

Where worldviews are concerned, however, nothing can legally be considered except their veracity.

With his choice of words that I "wish to create the appearance of veracity of the contents" of my worldview, the errant judge is clearly and obviously giving vent to his prejudices, once again.

He is saying that exposition of the authenticity of my interpretation of the mission of world Jewry -- this is the only way the sense of his words can be interpreted! -- might create an appearance of authenticity, and this could be done simply by an "*emotionale Betonung des Inhaltes der 'Spiegelungen'*" (emotional emphasis on the contents of *Spiegelungen*.)

My actual arguments are not even considered for judicial evaluation; they have already bled to death on the barbed wire of the judge's prejudice.

The possibility that I might have wanted not just to bless the judges' bench and "audience" with the "appearance of veracity," but that I might have been insisting in all seriousness on the truth of the supremacy and domination of the Jewish nation with their "Denial of Holocaust," clearly exceeds the judge's powers of comprehension.

He cannot imagine that the suppression of a meaningful defense under the auspices of Articles 1 and 103 of Basic Law could pose a legal problem.

Taking the benchmarks of a nation of laws as our basis: is a defendant really forced to endure such pig-headedness on the part of the presiding judge?

We are curious to find out.

Perhaps it really is true that a passage has been written into

our Basic Law preamble in invisible ink, visible only to judges, that reads:

"This Basic Law is invalid in case it displeases the Jews."

In order to make presentation of the facts of the case as complete as possible, I refer to the official position of the errant judge, the document entitled "Official Statement of Position" dated 17 October 2008. This statement, is to be found along with the other documents pertaining to my motion to disqualify dated 17 Oct 2008.

I request that I be notified which judges will rule on my motion to disqualify Judge Dielitz and I also request that Attorney Wolfram Nahrath be informed of his official response.

In addition, I request sufficient time to prepare my response.

Berlin, 20 October 2008

Horst Mahler

The hearing of 17 Oct 2008 has been adjourned pending the Court's decision on the defendant's motion to disqualify Judge Dielitz.

The matter is further complicated by the fact that the three judges of Potsdam District Court who ruled on my first motion of bias against Herr Dielitz (disallowed of course) all shared the same opinion as the errant judge, namely that my reading of the *Jüdische Spiegelungen* constitutes a criminal act.

Consequently, I have also filed a motion to disqualify these judges as well.

We must now await the ruling on my motion, which is taking place outside the main hearing,

The ruling will determine whether the trial will continue on 5 November as originally planned.

The *Jüdischen Spiegelungen*, my motions to disqualify and Judge Dielitz's official response are all attached to this email.

Berlin, 22 October 2008

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Treason doth never prosper, what's the reason? For if it prosper, none dare call it treason! Sir John Harrington 1561-1612.