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The Eichmann Case and the Distortion of History

ELI M. ROSENBAUM*

Good afternoon. It is a privilege to be here to participate in a program with so many distinguished speakers who have enlightened us so much with remarkable presentations today. It is a special honor to be in a room once again with one of my heroes, Justice Bach. Those of you who heard Justice Bach either last night or this afternoon will soon learn that he is not only my hero, but that he has been my teacher as well; you'll notice that especially near the end of my remarks.

I should preface those remarks by stating that the views I will express are strictly my own. They are not those of my employer, the United States Department of Justice, as these are matters that have not been considered by the Department of Justice—nor, I think, would one expect them to come within the Justice Department's purview.

The Adolf Eichmann case is an enormously positive landmark in the history of human rights enforcement and of the effort to seek accountability on behalf of the victims of genocide. The Eichmann case revived the world's interest in the crimes of the Nazi regime and its European allies—interest that had already declined precipitously in the comparatively few years that had passed since the conclusion of the great Nuremberg experiment in the mid-to-late 1940s. Indeed, by the end of the 1950s, the last of the surviving convicted Nuremberg defendants had been released, including some of the men who had been sentenced to death there for leading the notorious Einsatzgruppen mobile killing units. (By the way, the last of those Einsatzgruppen officers—Martin Sandberger—died only last year, in Germany, more than half a century after his 1958 release and some 60 years after he was sentenced to death at Nuremberg.)

* Edited transcript of the author's oral remarks presented at the symposium "Perspectives on Genocide: The Adolf Eichmann Trial – Looking Back 50 Years Later," held on September 16, 2011, at Loyola Law School, Los Angeles, California.

The Eichmann trial was probably more responsible, than was any other event, for the revival of prosecutorial interest in the Nazi cases in Germany, the United States, and in the lamentably few other countries that pursued a measure of justice in those cases after the 1950s. It was also a major factor in encouraging Holocaust survivors to speak publicly of their horrific experiences and in precipitating the birth of Holocaust studies as an academic discipline and Holocaust remembrance as an imperative in the Jewish world and beyond.

Sort of picking up on Professor Browning's theme of distortion, I regret to say, however, that from a lessons-learned standpoint, the case also has a very sad and even dangerous legacy, for it is emblematic, in my judgment, of the way in which history can be severely distorted and yes, on occasion, fabricated by individuals who either are careless in dealing with even so weighty a subject as the Holocaust, or who have agendas that they seek to advance through reckless or, sometimes, willful misrepresentation of provable historical facts.

Egregious distortion and misrepresentation have occurred in at least three major facets of the history of the Adolf Eichmann case, namely: (1) the facts of Eichmann's capture in Argentina in 1960; (2) the facts of the supposed role of U.S. intelligence in delaying that capture; and, most troubling of all, (3) the facts of Eichmann's wartime role in, and his responsibility for, genocide. What is especially disturbing about this phenomenon is that, in each instance, the truth was, so to speak, in plain sight.

Since this is a panel discussion, and we're running late, I can offer only a summary treatment of these three aspects.

I will begin with Eichmann's apprehension. As is well known, Eichmann was captured in Argentina in 1960 by a team of Israeli intelligence agents directed by the late Isser Harel, the head of Israel's foreign intelligence service, the Mossad. Harel disclosed many of the details of the daring mission in his bestselling 1975 book, *The House on Garibaldi Street*, and in a little-known expanded edition in 1997 that provided additional important details.¹ Among the long-awaited disclosures in Harel's original book was the belated identification of the source of the information that enabled the Israelis to track Eichmann down. Harel revealed that the initial lead was provided by a partially blind half-Jewish German refugee in Argentina named Lothar Hermann,

1. ISSER HAREL, *THE HOUSE ON GARIBALDI STREET* (1975); see also SHLOMO SHPIRO, *Introduction to THE HOUSE ON GARIBALDI STREET* (Routledge 1997) (1975) (an expanded edition of the work including Shpiro's introduction).

whose daughter, as it happened, had been dating one of Eichmann's sons. Harel further revealed that that lead had been provided by Hermann to a German prosecutor named Fritz Bauer and that Bauer, convinced that his own government would never obtain custody of Eichmann, not only tipped off the Israelis to Eichmann's whereabouts and alias—Ricardo Klement—but repeatedly pressed Israeli authorities to mount an operation to capture him. Bauer was no longer alive when Harel's book was released, but its publication has ensured that he received, albeit posthumously, the credit he deserves for his extraordinary actions. The expanded 1997 edition revealed that Bauer had acted with the secret blessing of Georg-August Zinn, the prime minister of the German state of Hesse, where Bauer was serving as district attorney. Bauer, Zinn, Hermann, and the Israelis who risked their lives to apprehend Eichmann justly share the credit for the achievement.

Israel's then-prime minister, David Ben Gurion, announced Eichmann's capture and incarceration in Israel on May 23, 1960. The media learned almost immediately that the fugitive had been abducted in Argentina. A major international contretemps erupted, with Argentina lodging a formal complaint in the United Nations about Israel's clear violation of Argentina's territorial sovereignty. Under such geopolitically charged circumstances, it was politically useful at the time for the Israeli government to say as little as possible about how Eichmann was found and how he was captured. Into this informational void stepped a then comparatively little-known Holocaust survivor named Simon Wiesenthal.

Wiesenthal had settled in Austria after the war, devoted himself, indefatigably, to trying to locate suspected Nazi perpetrators, including Eichmann, in order to relay the information to government authorities in Germany, Austria, and other European countries that possessed jurisdiction to investigate and prosecute. Wiesenthal, in an interview with *The Times* of London conducted just two days after Ben-Gurion's announcement, spoke candidly. *The Times* reported that he "denied a suggestion that he personally had something to do with Eichmann's arrest."² However, after months passed without the Israeli government

2. *Secret Agents Seized Killer Nazi Abroad and Took Him to Israel*, *TIMES* (London), May 25, 1960, at 1. I am grateful to British author Guy Walters, who found and shared with me the *Times* article while researching his outstanding 2009 book, *GUY WALTERS, HUNTING EVIL: THE DRAMATIC TRUE STORY OF THE NAZI WAR CRIMINALS WHO ESCAPED AND THE HUNT TO BRING THEM TO JUSTICE* 300 (2010). The article is prominently mentioned in Walters' book.

revealing how the operation had originated and been carried out, Mr. Wiesenthal seems to have correctly gambled that no one would recall that small press item, and, in October 1960, he began boasting to reporters that he had indeed been a participant in the operation.

In fact, shortly before Eichmann's trial began in 1961, Mr. Wiesenthal published a German-language book, the title of which, *Ich jagte Eichmann*, translates to *I Hunted Eichmann*, in which he explained that it was he who had deduced that Eichmann was in Argentina and that, in 1959, he had tipped off Israel's ambassador in Vienna, Yehezke'el Sahar, about where Eichmann was. Here, in English translation, is what, according to his 1961 book, Mr. Wiesenthal had written to Ambassador Sahar, in 1959: "According to the story told by Eichmann's children before they left [Austria], it seemed likely that they had gone to live somewhere in the Argentinian pampas, since they would be going to a big farm, where they could ride horses and have an 'uncle.'"³

That was Wiesenthal's account, published the year *after* the Israelis captured Eichmann in Argentina and the whole world learned that he had been in Argentina. There was, alas, one big problem with this account: It was a fabrication. But it was a story to which Wiesenthal clung and which formed the principal basis of his ensuing decades-long fame. Eventually, outraged that Wiesenthal was taking credit for a historic and dangerous mission in which he had actually played no part, former Mossad chief Isser Harel made available a copy of Mr. Wiesenthal's *actual letter* to Sahar. Here, in English translation from the German, is what Wiesenthal *actually* had written to the Israeli diplomat, on September 23, 1959:

The children's school friends say that Eichmann's three sons had told them—before leaving school—that they will be going to a property with vast lands, where one can also do horseback riding. Due to still additional ways of expressing themselves, the impression was that they might be talking about northern Germany.⁴

Thus, as the Israelis were already preparing to grab Eichmann in Argentina, Wiesenthal wasn't telling them to look there at all. Instead,

3. SIMON WIESENTHAL, *ICH JAGTE EICHMANN* 220 (1961).

4. Letter from Simon Wiesenthal to Yechezkel Sahar, Israeli Ambassador to Austria (Sept. 23, 1959) (on file with the Loyola of Los Angeles International and Comparative Law Review) [hereinafter Wiesenthal letter]; see also ELI M. ROSENBAUM & WILLIAM HOFFER, *BETRAYAL: THE UNTOLD STORY OF THE KURT WALDHEIM INVESTIGATION AND COVER-UP* 451 (1993) (providing an English translation).

he was suggesting that they search for Eichmann in *northern Germany*! In his 1961 book, however, through the simple expedient of replacing the words “northern Germany” with “Argentina” in recounting the text of his 1959 letter, he was able to misappropriate to himself credit for one of the most important and sensational operations in the history of law enforcement.

The truth was established in 1993 when, courtesy of Isser Harel, I published the text of Wiesenthal’s actual 1959 letter, along with the pertinent fraudulent text from his 1961 book, in my own book, on the Kurt Waldheim affair.⁵ (By the way, even if Wiesenthal *had* told the Israelis in 1959 that he believed Eichmann to be in Argentina, without more specific locational information and/or information on the alias that Eichmann was using, the information would have been virtually worthless. After all, Argentina was and remains, by land mass, the eighth largest country in the entire world, having nearly 3.3 *million* square kilometers of land within its borders.)

Israeli writer Tom Segev recently authored an important biography of Wiesenthal. There are a lot of very significant revelations in it. Wiesenthal had died in 2005. Based on extensive research, including first-ever research conducted at Wiesenthal’s private archives, the book was published in this country last year by Doubleday.⁶ I was optimistic that Segev, who has long had a reputation for fearlessness in speaking uncomfortable truths, would do no less in his biographic treatment of Simon Wiesenthal. And Segev plainly *knew* the truth. Not only had he read my 1993 book, which is cited in his own book, he had spent a day with me in Washington discussing the Wiesenthal story while he was researching it.

I had given him a copy of the 1959 letter from Wiesenthal to Ambassador Sahar—he already had a copy of the 1961 Wiesenthal book—and we had talked about the letter and about how it manifestly disproved the claims made by Mr. Wiesenthal in his 1961 book and in his writings and interviews over the ensuing four decades of his life. In fact, Segev cites this very letter in an endnote in his book, but he references it for an innocuous point that has nothing whatsoever to do with the truth of who provided the Israelis with the information that they used to track down and apprehend Eichmann.⁷ And, by the way, Segev’s book makes no mention of Wiesenthal’s 1960 London *Times*

5. ROSENBAUM, *supra* note 4, at 451.

6. TOM SEGEV, *SIMON WIESENTHAL: THE LIFE AND LEGENDS* (2010).

7. *See id.* at 143, 434 n.17.

interview, which had been publicized before Segev's Wiesenthal biography came out, in a book that he cited in his own book.⁸ In promoting the book, Segev's publishers renewed the false claim that Wiesenthal played a key role in the Eichmann operation, and Segev did likewise on the interview and lecture circuit. For shame - How naive of me to have once believed that history was a reality-based enterprise.

Turning to the second point, that of the supposed role played by the United States Central Intelligence Agency in delaying Eichmann's apprehension. The origin of this claim is, alas, in a noble federal project in which I, and my friend and co-panelist today Tim Naftali, participated—a nine-year effort to implement the terms of the Nazi War Crimes Disclosure Act of 1998.⁹ That statute required the federal government to locate, declassify and disclose to the public classified documents in US government possession that related to Nazi crimes and their perpetrators. An interagency working group was created in 1999 to direct this project, and I represented a succession of attorneys general on that group.¹⁰ In the end, more than eight million pages of documents were declassified and made public at the US National Archives.

Tim described this morning some of the depressing facts about United States—and, by the way, one might add *Soviet*—intelligence actions that were revealed in these documents. We also hired independent historians who were faculty members at leading US universities and gave them carte blanche to prepare reports to the public on what they considered to be, in their own judgment, the most important revelations in this huge mass of documentation.

Among the documents that our project found, declassified and disclosed to the public were the CIA's records on Adolf Eichmann. What those records showed was that, in the 1950s, the CIA took actions in the Eichmann matter that were in apparent contravention of federal law. What did the Agency do? At the behest of a well-connected Jewish activist rabbi in New York, it launched a concerted effort to track down Eichmann in the region in which he was widely alleged to be hiding out: the Arab world. This was impermissible for the CIA because Congress had written into the CIA's charter a prohibition against the Agency's

8. See WALTERS, *supra* note 2, at 300 (which Segev cites at page 444 of his Wiesenthal biography). Segev's Wiesenthal biography also cites Rosenbaum at least nine times, ROSENBAUM, *supra* note 5, which disclosed the misrepresentation made in Wiesenthal's 1961 book of his September 23, 1959 letter to Ambassador Sahar.

9. Nazi War Crimes Disclosure Act of 1998, Pub. L. No. 105-246, 112 Stat. 1859, 5 U.S.C.A. § 552 (West 2009).

10. Exec. Order No. 13,110, 64 Fed. Reg. 2,419 (Jan. 11, 1999).

exercising “police, subpoena, or law-enforcement powers.”¹¹ Of course, Eichmann wasn’t found in the Arab world; he had never fled to the Middle East but was instead living in Argentina at the time.

Another revelation in the CIA files: in 1960, after the Israeli government announced Eichmann’s apprehension, the CIA secretly offered to provide the Israelis with investigative assistance. Specifically, as Tim mentioned, the CIA offered to pore over many thousands of captured Nazi records in US custody that had not been used at Nuremberg, to search for evidence that might help Israeli prosecutors prove their case. The Israelis accepted the offer and the CIA thereafter secretly provided a large quantity of documents to the Israelis, in several shipments. (It should be noted in this regard that at least two countries *refused* Israeli government requests for evidentiary assistance. One won’t surprise you, one probably will: the Soviet Union and the United Kingdom.) The CIA even spied on a West German official who, to Israel’s alarm, was conducting research at our National Archives on captured Nazi documents, possibly to help prepare a demand by Bonn that the Israelis surrender Eichmann to be tried in West Germany instead of Israel. (As Professor Safferling mentioned, no such demand ever materialized). Over strenuous National Archives objections—privacy objections—the CIA even provided the Israelis with duplicates of every document that the German official had asked to have copied for his government.

However, if one looks at the *New York Times* coverage of what our disclosure effort revealed, or, alas, at the current Wikipedia entry on Eichmann, the aforementioned facts are not referenced at all.¹² Instead, the claim is made that the CIA documentation that we disclosed shows that the CIA knew in 1958 that Eichmann was in Argentina, knew what his alias was, and withheld this information from the Israelis—who, had they possessed this information, might have launched the Eichmann operation a year or more earlier than they did.

To be sure, the documentation reflects that a German intelligence agent mentioned Eichmann to the CIA in 1958. The CIA’s contemporaneous 1958 account of what the agent said, which is a small item buried in the middle of a long report covering many matters, reads in its entirety as follows:

11. 50 U.S.C. § 403-4a(d)(1).

12. See, e.g., Scott Shane, *C.I.A. Knew Where Eichmann Was Hiding, Documents Show*, N.Y. TIMES, June 7, 2006, at A1.

Adolf Eichmann ([file number:] 201-047132) was born in Israel and became an Obersturmbannführer. He is reported to have lived in Argentina under the alias CLEMENS since 1952. One rumor has it that despite the fact that he was responsible for mass extermination of Jews, he now lives in Jerusalem.¹³

Now query how much credence anyone at CIA who either knew something about Eichmann or checked into his past would have given this odd report. Eichmann plainly had not been born in Israel, or even in pre-Israel Palestine. (Records that had been captured by United States armed forces at war's end confirmed that he was born in Solingen, Germany). And, surely, just about the last place in the world that Eichmann would have chosen to live in 1958 was Jerusalem. Obviously, he wouldn't be hiding out on the Israeli side of what was then still a divided city. And it would have been nearly as inadvisable for him to settle in the then-Jordanian part of Jerusalem, which, he would have had to assume, was accessible, at least from time to time, to Israeli secret agents. In addition, the 1958 report's reference to Argentina is couched in tentative terms (Eichmann is "reported" to have lived there), the report can also be read as suggesting that he may no longer be living there, and it contains no specifics as to where in that vast country he might be living. In hindsight, we know today that the alias set forth in the report—Clemens, C-L-E-M-E-N-S—is a variation on the false identity that Eichmann actually used—which was Klement, K-L-E-M-E-N-T.

However, even if the CIA had concluded that the obviously and deeply flawed German agent's report might include some potentially valuable information, there was no reason to expect the Agency to share this information with the Israelis. To suggest otherwise is simply *ahistorical*. The CIA files prove that the Agency had no knowledge that the Israelis were considering, much less planning, an operation to capture Eichmann. Israel did a masterful job of keeping the operation secret. And there was scant reason to suspect that Israel would be prepared to conduct such a mission. After all, Israel had never acted to apprehend a Nazi criminal abroad, nor, by the way, did it ever do so again (other than an aborted effort to capture Josef Mengele of Auschwitz infamy at the same time that Eichmann was abducted).

13. CIA ROUTING AND RECORD SHEET, 2, RC LOCATION 230/902/64/3, RC BOX NO. 14, available at http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB150/box14_do_file_vol1/doc41.pdf.

Moreover, as a comparatively underdeveloped country—and I saw it in 1966 and it was still comparatively underdeveloped—surrounded by well-armed nations that were openly committed to Israel’s destruction, the young state’s military and intelligence services were understandably preoccupied with, literally, existential matters. Indeed, the CIA files show that officials inside the Agency, like the general publics in Israel and throughout the world, were flabbergasted by the May 1960 news that Eichmann had been found by and taken to Israel. The CIA files reveal that the Agency was extremely interested in determining how on earth the Israelis had managed to pull off such a challenging operation thousands of miles from Israeli territory.

It should especially be recalled that, in the 1950s, following the mid-decade restoration of German independence, responsibility for pursuing justice in the Nazi cases had been relinquished by the Allies and returned to the Germans. The United States no longer had jurisdiction, or a forum, in which to prosecute Eichmann itself. For better or worse, the job now belonged to the Germans. Thus, the logical reaction inside CIA to receiving the information about Eichmann’s possible whereabouts from the German intelligence agent in 1958 would have been, “*It sounds like the Germans are searching for him. That’s great. Perhaps they can find him and bring him before a German court to stand trial.*”

To suggest that the CIA should have thought to alert the Israelis is to commit the error of interpreting historical events not on the basis of what the actors knew and intended at the time but instead on the basis of what the world learned subsequently. This is, as I have stated earlier, completely ahistorical and indeed, it reflects historical ignorance. I was especially disappointed when Neal Bascomb’s book retelling the Eichmann capture story, *Hunting Eichmann*, was published two years ago.¹⁴ Like Tom Segev’s book, Bascomb’s book was the product of extensive research and a major publisher, Houghton Mifflin Harcourt, published it. Alas, Bascomb buys into the CIA misconduct story completely, and he omits all reference to the CIA’s efforts to help the Israelis successfully prosecute Eichmann.

It seems that, in connection with the postwar fate of Nazi criminals, the world is prepared to accept only that these perpetrators have been tracked down primarily by self-styled “Nazi-hunters” and

14. See generally NEAL BASCOMB, *HUNTING EICHMANN* (2009) (omitting CIA efforts to help Israel prosecute Eichmann).

that US intelligence acted principally to obstruct efforts to pursue justice—or at least that’s what certain authors and publishing houses evidently believe the world will accept. As it happens, both premises are demonstrably false.

Finally, there is the matter of the decades-long effort in some quarters to minimize Adolf Eichmann’s role in the Nazi genocide of the Jews. At trial, Eichmann famously contended that everything he did was a matter of obedience to superior orders. It was, he beseeched the judges, those who had decided to murder Europe’s Jews, not people like him, who, he insisted, had only carried out that decision, who should be held criminally responsible. The émigré Jewish philosopher Hannah Arendt pioneered this effort to minimize Eichmann’s responsibility, in her 1961 reportage on the trial in *The New Yorker* and in the book she published in 1963 based on those *New Yorker* articles, *Eichmann in Jerusalem: A Report on the Banality of Evil*.¹⁵ Arendt portrayed Eichmann as hardly more than a passive recipient of orders, a man who took no initiatives in connection with the destruction of the Jews.

Many of you are familiar, I think, with the myriad of important errors and distortions in her book, both regarding Eichmann’s supposedly exaggerated responsibility for Nazi mass murder and regarding the conduct of the trial in Jerusalem. Justice Bach spoke very eloquently about the latter at lunch. We will probably never know with certainty what led Ms. Arendt down the path she followed. The world learned only in the 1990s of her secret pre-war romance with the pro-Nazi German philosopher Martin Heidegger and of the friendly contacts she maintained with him until she died in 1975—a relationship that, according to the writer Ron Rosenbaum (no relation) contaminated both Arendt’s thinking about the Holocaust and her “banality of evil” formulation.¹⁶ Although, in Rosenbaum’s view, Arendt’s “banality of evil” thesis is “fatuous,” “fathomless,” and increasingly discredited, her book is the *only* book on the trial that has been continuously in print over the decades. The book has had an outsize influence on the public’s comprehension of the case, and the phrase “banality of evil” in its subtitle has become a hackneyed expression, applied not only to Eichmann, but to many other perpetrators of mass violence.

15. See generally HANNAH ARENDT, *EICHMANN IN JERUSALEM: A REPORT ON THE BANALITY OF EVIL* (1963).

16. Ron Rosenbaum, *The Evil of Banality: Troubling New Revelations About Arendt and Heidegger*, SLATE (Oct. 30, 2009), http://www.slate.com/articles/life/the_spectator/2009/10/the_evil_of_banality.single.html.

Anyone seriously interested in the truth about the case and in the subject of Arendt's treatment of it would do well to read the book that Justice Bach mentioned at lunch, Jacob Robinson's essential 1965 book, provocatively titled *And the Crooked Shall Be Made Straight: The Eichmann Trial, the Jewish Catastrophe and Hannah Arendt's Narrative*.¹⁷ Long out of print but widely available through used booksellers on-line, it is a 406-page, meticulously sourced, almost line-by-line refutation of Hannah Arendt's book.

All who care about justice and historical truth are indebted to last night's Lemkin Award recipient, Justice Gabriel Bach, not only for his brilliant and tenacious work on the team that prosecuted Adolf Eichmann, but also for his myriad efforts over the years, in public addresses delivered in a great many countries, to relate important facts about Eichmann that were conclusively proved at the 1961 trial—facts that established that Eichmann was far more than the mere follower of orders and transportation coordinator he told the court he had been.

Justice Bach has often cited, in particular, the captured July 25, 1944, secret cable in which Reich Plenipotentiary for Hungary Edmund Veessenmayer reports on Eichmann's reaction to Hitler's 1944 decision, made in order to win the assent of the Hungarian leader Miklos Horthy to the deportation of Budapest's Jews, to permit some 8,700 Jewish families to leave Hungary. The cable states that Eichmann deplored Hitler's decision to allow these Jews to survive, as "[t]he Jews in question are without exception important biological material, many of them veteran Zionists, whose emigration to Palestine is most undesirable."¹⁸ Veessenmayer's cable adds that

it has been agreed with Eichmann that to the extent that assent will be given to additional evacuations of Jews from Budapest, these are to be carried out as far as possible suddenly, and with such speed that the Jews in question will already have been deported before the completion of the formalities.¹⁹

17. JACOB ROBINSON, *AND THE CROOKED SHALL BE MADE STRAIGHT: THE EICHMANN TRIAL, THE JEWISH CATASTROPHE AND HANNAH ARENDT'S NARRATIVE* (1965); *see also* Att'y Gen. v. Eichmann, 36 I.L.R. 5, ¶ 155(e) (Jerusalem Dist. Ct. 1961) (Isr.), *available at* http://www.asser.nl/upload/documents/DomCLIC/Docs/NLP/Israel/Eichmann_Judgement_11-12-1961.pdf (for an English translation by the Court).

18. VEESSENMAYER TELEGRAM [VEESSENMAYER CABLE] (Jul. 25, 1944) (Ger.) (on file with Loyola of Los Angeles International and Comparative Law Review); *see also* Att'y Gen. v. Eichmann, 36 I.L.R., at ¶ 155(e).

19. *Id.*

In other words, the goal was to deport the Jews so fast that even if Hitler were to agree to spare a few thousand Hungarian Jewish families, it would be too late for them to be saved, as they would already have been deported to their deaths. Talk about zeal and initiative on Eichmann's part; so devoted was he to the physical elimination of the Jewish people that he was even prepared to threaten to sabotage an order from Hitler himself!

Just one serious biography of Eichmann has been issued in English: *Becoming Eichmann*, by the British historian David Cesarani, published in 2004.²⁰ Much like Arendt, Cesarani's fundamental conclusion is that Israeli prosecutors "grossly inflated" Adolf Eichmann's role in the Holocaust.²¹ He asserts that work conducted by historians subsequent to the trial has "tended to confirm the essence of [Eichmann's] version," namely that he was "nothing more than a transportation officer."²²

It is a mystery to me how anyone can reach such a conclusion after studying the record of the Eichmann trial, reading the transcripts of his pre-trial interrogations, reading Eichmann's hand-edited transcription of the tape-recorded interviews that he gave in the 1950s in Argentina to a confederate there, Willem Sassen, and studying the captured Nazi documents adduced at the trial.

I was particularly interested to see whether Professor Cesarani would mention the Veessenmayer cable that I quoted a moment ago. It turns out that he does. However, his take on the episode is that what appears to be "an astonishing degree of presumption for a Lieutenant-Colonel in the SD"²³ is actually nothing of the sort. Eichmann, he insists, "was not turning into a maverick: he was [instead] acting in line with the radicals in both Berlin and Budapest."²⁴

What is especially troubling about Dr. Cesarani's dismissal of the Budapest evidence is that he completely omits from his book's quotation of the July 25, 1944 cable the crucial sentence referencing Eichmann's hope that it will be possible to deport the Jews so quickly that there will not be any Jews left for Hitler to reprieve from deportation to their deaths. The pertinent sentence from the

20. See generally DAVID CESARANI, *BECOMING EICHMANN: RETHINKING THE LIFE, CRIMES, AND TRIAL OF A "DESK MURDERER"* (2006) (arguing that Eichmann had a diminished role in the Holocaust atrocities).

21. *Id.* at 119.

22. *Id.*

23. *Id.* at 185.

24. *Id.*

Veesenmayer cable, it should be noted, is included both in the Jerusalem trial court's judgment and in Jacob Robinson's book.²⁵ Inexplicably, it was not included in Eichmann chief prosecutor Gideon Hausner's 1966 book *Justice in Jerusalem*, written in English.²⁶ Perhaps Cesarani relied on Hausner's book for his translation instead of reading the original German text or turning to the court's published judgment or the text in Robinson's book. Whatever the cause, the result is a distortion of history.

Much as he rejects the notion that the Veesenmayer cable is of any significance in connection with assessing the extent of Eichmann's culpability, he denies the relevance of what he concedes is the "notorious incident" in September 1941 in which Eichmann rejected suggestions that some 8,000 Jews held in Serbia be deported.²⁷ At Eichmann's trial, prosecutors introduced a document in which the Reich Foreign Office's Franz Rademacher reported, following a telephone conversation that he had with Eichmann about these Jews: "*Eichmann suggests shooting.*"²⁸ Cesarani is at pains to portray even this ghastly recommendation as being of no particular significance. In his analysis, since mass-shootings of Jews had been commenced in the wake of the June 1941 German invasion of the Soviet Union and the Soviet-occupied Baltic states, shooting Jews was "established German army policy and not a genocidal step advocated by Eichmann."²⁹

The *truth* about Adolf Eichmann is that, as Auschwitz commandant Rudolf Hoess recalled in his postwar memoirs, he "was completely obsessed with the idea of destroying every single Jew that he could lay his hands on."³⁰ He was a ruthless and cold-blooded mass murderer, a trusted Nazi official, who devised and implemented diabolical initiatives that increased the pace and effectiveness of the Reich's campaign of genocide. He was a senior perpetrator of the genocide of European Jewry. The fact that, in physical appearance, especially at trial in civilian clothes, Eichmann disappoints—he resembled a harried accountant more than, say, a Hollywood-style conception of an arch-murderer—cannot justify the liberties that Ms.

25. ROBINSON, *supra* note 17, at 31; Att'y Gen. v. Eichmann, 36 I.L.R., at ¶ 155(e).

26. See GIDEON HAUSNER, *JUSTICE IN JERUSALEM* 143 (1966) (discussing the cable).

27. CESARANI, *supra* note 20, at 108.

28. *Id.*

29. *Id.*

30. Rudolf Hoess, *Commandat of Auschwitz*, in *THE JEW IN THE MODERN WORLD: A DOCUMENTARY HISTORY* 686, 689–90 (Paul R. Mendes-Flohr & Jehuda Reinharz, eds., 2nd ed. 1995).

Arendt and some of her successors have taken with the facts in order to downplay or even deny his senior responsibility for initiatives that were taken to perpetrate unprecedented crimes against humanity.

In closing, I can only express the hope that, in the fullness of time, historical truth will prevail. Justice Bach is always an optimist. However, based on my own informed observation over more than three decades of work on the Nazi cases—and having seen even more egregious distortions of *other* aspects of the history of Nazi criminality and its aftermath perpetrated not only by Holocaust deniers but, more troublingly, by supposedly responsible writers—I regret that I am not even cautiously optimistic.