

## ***Krieger v. Mittelman and Jewish Perceptions of the Refugee in the Early Cold War***<sup>1</sup>

JOEL SILVERMAN

ON THE MORNING OF JUNE 20, 1950, ACCORDING TO an account appearing in *Life* magazine, Benjamin Krieger glanced out the window of his Brooklyn fish store and spotted someone he thought he knew. He rushed out of the store, seized the startled man, and began to question him angrily in Yiddish.

"Were you at Auschwitz?" Krieger demanded. The man, quite frightened, nodded his head. "At Dachau? At Mühldorf?" Again, the man nodded. "Is your name 'Majer?'" shouted Krieger. A crowd was forming around the two men. Trembling, the man signaled yes. "Then," Krieger roared, "you are the man who killed my brother!"<sup>2</sup>

The accosted man insisted that Krieger was mistaken. Still holding the man, Krieger began to shake him violently. "You beat me that day, too!" Krieger screamed, and the crowd of about 50 onlookers started yelling at the accused man. Krieger swung his fist and connected. The man he had confronted fled for his life. Krieger and the angry mob chased him for two blocks and, when the man ran into a bookstore, Krieger had him cornered. The man locked the bookstore door, but Krieger and the crowd yelled: "Lynch him...; let us have him..."<sup>3</sup> Fortunately for the accused, the police were soon on the scene and brought both men to the stationhouse.

The officers questioned Krieger and the man he accused, Majer Mittelman, for several hours. Mittelman maintained his innocence throughout and insisted that he had never before met Krieger or his brother. He declined to press charges against his attacker, however. With no complainant and lacking jurisdiction in the original crime, the police decided to drop the matter.<sup>4</sup>

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As soon as he was set free, Mittelman called his attorney, who advised his client to remain silent.<sup>5</sup> Mittelman made his living as a ritual slaughterer, or *shochet*, of chickens, and was a religious functionary for a Jewish congregation in Olyphant, Penn. His attorney feared that Mittelman's livelihood would suffer if Krieger's accusation became widely known.

Krieger, on the other hand, had no intention of remaining silent. On his release, he talked to the press. The next morning, New York's newspapers carried the story of Krieger's public denunciation. *The New York Times* wrote that the 42-year-old Krieger had claimed that a camp trustee had bludgeoned to death Krieger's 48-year old brother in April 1945, when all three men were captives in the Mühldorf, Germany, concentration camp. Krieger told the *Times* that he planned to go to federal authorities with his complaint.<sup>6</sup>

Another New York newspaper, the *Daily Mirror*, included a photograph that showed Krieger wearing his fish dealer's cap and apron, and displaying the numbers that the Nazis had branded on his arm. This article revealed that the police department planned to report the case to immigration authorities, since both Mittelman and Krieger were immigrants. Mittelman, now 34 years old, had come to the United States in 1947; Krieger had been in the United States for only nine months prior to the incident. The *Mirror* also reported that Krieger had been advised to seek help from the King's County District Attorney's office.<sup>7</sup> Neither article offered statements from or photographs of Mittelman, who, following his attorney's counsel, avoided the media.

### **The Community Mobilizes**

Reading these articles, officials at the American Jewish Congress quickly recognized the demons Krieger's accusation could unleash. An accusation of a homicide committed by a Jew who collaborated with the Nazis could provide hate groups with fodder for their anti-Semitic propaganda. An AJCongress staffer, Phil Baum, called Krieger at his Brooklyn home, inviting him to the organization's offices to discuss his story.<sup>8</sup> Krieger was already considering whether to press formal charges against Mittelman and so declined the invitation.<sup>9</sup>

Concerned about potential damage to the image of the Jewish community, the AJCongress convened a *beit din* (literally, a house of judgment, it is an arbitration board consisting of three judges) to provide both Krieger

and Mittelman a forum in which to argue their cases. This was an unusual move in four basic respects:

1. It likely was the first *beit din* in American Jewish history to confront a charge of homicide. In any case, *batei din* in general had long ago ceased hearing such cases.
2. Coverage of the tribunal's proceedings was opened to the secular press.
3. The tribunal sought out the parties in the dispute, rather than being petitioned by one or both sides to hear their case.
4. Finally, while complainants were ordinarily eager to air their disputes before a *beit din*, it took the AJCongress two months to convince Krieger to participate. Apparently, he was still considering the possibility of going to the federal authorities with his complaint.

That Krieger was now receiving national exposure only added urgency to the AJCongress' attempts. In its July 3 issue, for example, *Time* magazine openly wondered whether a murderer was on the loose in the United States. "(T)here seemed no sure way of deciding whether it was a case of mistaken identity or of a murderer beyond the reach of the law," *Time* reported.<sup>10</sup> The *Time* article also included a portrait of Krieger's neighborhood that probably troubled many American Jews. The article told of refugees who were

filtering in, bringing the dress, customs and fears of the Old World's Orthodox Jews. Synagogues stand on almost every corner; the streets are full of men with long beards and skull caps; store signs are written in Hebrew, and their clerks speak Yiddish....[M]any women shave their heads, according to Orthodox custom.<sup>11</sup>

Leo Pfeffer, the AJCongress' associate general counsel, later wrote that the media coverage was a major factor in the decision to hold the hearings.<sup>12</sup> To some in the American Jewish community, the unassimilated Benjamin Krieger was a publicity nightmare. American Jews still associated unassimilated Jewish immigrants with the stereotypes that anti-Semites had promoted in the past. Traditionally, established American Jews feared that the strange attire, language or dress of newcomers might incur the wrath of anti-Semites on all Jews.<sup>13</sup> The sentiment was the same as one held during the Great Depression, which caused several American Jewish organizations to silently accept U.S. immigration restrictions.<sup>14</sup>

This reticence also explains why the AJCongress emphasized that the purpose of its tribunal was “to arrive at an equitable and expeditious determination of the issues in the interest of preserving the dignity and self-respect of the American Jewish community.”<sup>15</sup>

The men selected to judge Krieger’s accusations were well-respected within and without the Jewish community.<sup>16</sup> The AJCongress chose Leo Pfeffer to chair the tribunal. Pfeffer, who would later argue a historic religious test case before the Supreme Court, was already a prominent lawyer by 1950. He was a member of the New York and U.S. Supreme Court bars, as well as an Orthodox Jew. The fact that he had one foot in the Orthodox community and another in the American justice system made him an ideal choice, for both religious and secular Americans would respect his decision.

His fellow judges—Rabbis Simon Federbusch and Emanuel Rackman—also straddled both the Jewish and the secular communities. Federbusch, who was born in Poland and once served as chief rabbi of Finland, was principal of Yeshiva Israel Salanter in the Bronx. Federbusch also served as a member of the Polish parliament, the *Sejm*, in the 1920s and, at the time of his appointment to the panel, was a member of the executive committee of the World Jewish Congress. Rackman, in addition to being a rabbi, had both a law degree and a Ph.D. in political science from Columbia University. At the time of his appointment to the panel, he was a member of the Yeshiva University faculty and a past president of the Association of Jewish Chaplains of the Armed Forces. He was also a member of the executive committee of the AJCongress.<sup>17</sup> Choosing these three men was the AJCongress’ attempt to satisfy any concerns about the tribunal’s legitimacy.

### The Trial

In the first session of the *beit din*, held on Oct. 10, 1950, these three men heard the impassioned testimony of Benjamin Krieger. Before an audience of approximately 40 people, about half of whom were concentration camp survivors, Krieger recalled how his brother Zalman had died at the hands of a fellow Jew.<sup>18</sup> The man who Krieger said had caused Zalman’s death was a *blockschreiber*, or a “block clerk”—an inmate who was responsible for keeping work, food and attendance records. One of the block clerk’s jobs was to check off inmates as they received their evening meal. The block clerk was not at the top of the inmate hierarchy, for he answered to a “block elder” who in turn answered to the Nazi guards.<sup>19</sup> Still, Krieger’s attorney stressed that the block clerk did possess a certain degree of authority over his fellow inmates.

Krieger quickly identified Mittelman as the block clerk in the Mühldorf concentration camp<sup>20</sup> who had killed Krieger's brother on a food line in the spring of 1945. Krieger, who testified that he could see and hear all that transpired, accused Mittelman of first denying Zalman Krieger some soup and then striking him over the head with a metal soup plate when he refused to leave the line. Benjamin said he dragged his bleeding brother to the barracks, and then carried him to the camp hospital the next morning. Three days later, Krieger said, he was told that his brother had died.<sup>21</sup>

During its cross-examination, the defense attempted to demonstrate that Krieger's memories about the death of his brother were jumbled. Simeon Gross, one of Mittelman's attorneys, first tried to establish that Krieger could easily have mistaken Mittelman for another block clerk. When Gross asked what it was about Mittelman's face that stuck in Krieger's memory, Krieger responded: "I recognized him by his crooked nose."<sup>22</sup>

Gross later questioned Krieger repeatedly on key details, getting Krieger to contradict himself on a few facts, such as the exact date of the assault.<sup>23</sup> This line of questioning vexed Krieger and, in the course of this first session, he often became impatient. At one point during cross-examination by Gross, Krieger suddenly removed his coat, rolled up his sleeve and displayed the numbers burnt into his arm. "Is this proof enough that I have been in a concentration camp?" he exclaimed.<sup>24</sup> According to Loudon Wainwright, who wrote about the *beit din* for *Life* magazine, when the tribunal called for a lunch break, Krieger "pulled angrily at his cap and stalked muttering from the room."<sup>25</sup> Krieger's anger and outrage would soon spread to the spectators, demonstrating the volatility of the case. The defense clearly understood the dangers of attacking the credibility of a victim of the camps and, accordingly, it sought to focus narrowly on the issue of Krieger's memory. Mittelman, the defense argued, simply was not the man who served as block clerk on the day that Zalman Krieger was bludgeoned.

During this first hearing, two defense witnesses testified that Mittelman was physically incapacitated at the time of the assault. Jacob Grossinger, 46, said that he had been at Mühldorf and that Mittelman had indeed been a *blockschreiber*.<sup>26</sup> Yet Grossinger also said that during most of his time at Mühldorf, Mittelman was severely ill and kept in the barracks.<sup>27</sup> In addition, Grossinger said that he had never heard about Mittelman beating anyone. This became a fundamental argument for the defense.<sup>28</sup> The concentration camp grapevine was strong and quick, Mittelman's lawyer would suggest, and other inmates would have heard about a murderous collaborator.

If Mittelman had been incapacitated, of course, he would have been murdered by the Nazis. To survive would have required the help of fellow inmates. Mittelman received that help, according to the next defense witness, Rabbi Moses Hoffman, who not only corroborated Grossinger's testimony, but explained how Mittelman survived. "[Mittelman] was a friend of the block leaders," the witness explained. "And when the guard came through, he got up and made as if he were working."<sup>29</sup>

So far, then, the defense had succeeded in casting doubt on Krieger's testimony by placing Mittelman elsewhere, but it also had succeeded in confirming some of what the accuser had said—specifically, that Mittelman in fact was a *blockschreiber*. The conflicting facts alternately refuting and validating Krieger's memory apparently frustrated many of the participants, and this frustration would spill out during the next session.

It may also have frustrated one of the three judges. When the tribunal opened its second hearing on Oct. 23, Rackman had been replaced by Rabbi Joseph H. Lookstein, a fellow Yeshiva University faculty member and the former president of the Rabbinical Council of America.<sup>30</sup> It is not certain why Rackman withdrew from the *beit din*. An Oct. 11 letter from Rackman to Pfeffer pointed to a possible difference in philosophy toward the hearings. Rackman wrote that Pfeffer "ought to speak to the parties about the possibility of finding the block leader [at Mühldorf] whose testimony would be most valuable. He probably survived and must be either Germany or Israel or America. If *real effort were exerted to find him* he could shed a lot of light on the case" (italics added).<sup>31</sup> The rabbi's logic seems sound; given more time, Pfeffer's staff might have located witnesses elsewhere in the world. Time, however, was a luxury the AJCongress did not feel the Jewish community could afford.

The tempo of the second hearing was slowed by the repeated emotional outbursts of distraught audience members. When Krieger again took the stand, Gross used the same strategy he had used during the first hearing. He had Krieger repeat key dates and events in order to reveal inconsistencies. In exasperation, Krieger suddenly jumped up and shouted, "Why do they ask me all these questions?" He then pointed to Mittelman, yelling, "I knew him as a scoundrel and he is still a scoundrel!"<sup>32</sup> At this point, members of the audience also stood up and began to shout. Pfeffer later revealed the intensity of that session:

[T]here were frequent emotional outbreaks from persons in the room, many of them co-internees. On one occasion Krieger got into a rage and started to walk out, shouting that he would have nothing further to do with the hearing, but he was persuaded by his counsel to return to his seat. So tense was the hearing that on one occasion the Yiddish translator..., himself a war veteran, began openly to express his opinion in respect to some witness's testimony, until I directed him to restrict himself to his duty as impartial translator.<sup>33</sup>

Pfeffer restored order and warned that rowdy individuals would be asked to leave.<sup>34</sup> It was imperative that he maintain a dignified proceeding, because the secular press was covering the story and the subsequent articles would offer most Americans their first look at the self-governance of the Jewish community. Moreover, if Krieger had walked out, there was nothing the *beit din* could do to force his return. All of the AJCongress' efforts would be undermined, and the unresolved conflict between the two survivors would continue to be featured in the media. Pfeffer had to keep both Krieger and the public calm so that all participants could hear the testimony for themselves.

With Krieger off the stand, his attorneys called their star witness, Jacob Rubenstein. A Brooklyn interior decorator, Rubenstein shared a devastating history with Krieger and Mittelman. All three were survivors who had lost their wives and children to the German gas chambers.<sup>35</sup> Rubenstein testified that a few weeks after Zalman Krieger's death, Mittelman had beaten him, too: "He hit me so long that I couldn't move. Then he brought an SS man, and the SS man hit me."<sup>36</sup>

Rubenstein then identified Mittelman as the man who had killed Krieger's brother. "I know...", he testified, "because I stood behind [Zalman] and he fell." Attorney Harry Berger asked Rubenstein if he had ever seen Mittelman sick in the barracks. Rubenstein said no.<sup>37</sup> During the cross-examination, Mittelman's attorneys were able to show that Rubenstein's memory was cloudy in spots. According to reporter Wainwright, however, Rubenstein's testimony was generally strong, confident and compelling—particularly the testimony about Mittelman beating him.

The defense, in turn, brought its strongest witness to the stand—Dr. Alexander Schonfeld, an East Saint Louis physician who had been interned with Mittelman, Krieger, Hoffman, Grossinger and Rubenstein at Mühldorf. Schonfeld, a graduate of a Prague medical school who had been a general practitioner in the town of Munkacs before the war, had worked with three

other physicians at Mühlendorf's "primitive hospital."<sup>38</sup> Schonfeld said that Mittelman had suffered from periproctal abscess—that his entire lower body had been infected.

When Gross asked Schonfeld whether in 1945 he had ever tended to a patient "with either a fractured skull or suffering a hemorrhage as a result of a blow on the head," Schonfeld said that he had not.<sup>39</sup>

Gross apparently insinuated that if Schonfeld had never seen a patient with such an injury, then perhaps Benjamin Krieger had imagined the entire incident. When Berger cross-examined Schonfeld, he sought to counter this. "Why are you so positive that Zalman did not die?" he asked. Schonfeld, echoing Grossinger, replied that such a dramatic event could not have occurred without him knowing.<sup>40</sup> The physician, like Krieger, lost his temper and concluded his testimony by insisting not only that the accused had not been a *schreiber* but that he was a decent, moral man.<sup>41</sup>

Here, again, was conflicting testimony. Rubenstein painted Mittelman as a ruthless brute, while Schonfeld described him in quite the opposite way. Krieger insisted he had taken his brother to the hospital, but one of the doctors at that hospital said he never saw or heard of such a patient. Rubenstein's testimony, however, had bolstered Krieger's credibility. It would be more difficult to dismiss Krieger as a poor, deranged Holocaust victim now that Rubenstein had corroborated his story.

Mittelman's defense team seemed shaken by Rubenstein's testimony. It had presented credible witnesses, including a prominent physician and a rabbi, to support Mittelman, but Rubenstein's emotional testimony had been effective, at least somewhat. To bolster his client's case, therefore, attorney Emanuel Laster on Oct. 23, the day after the second session, asked the tribunal to obtain a statement from the "Grand Rabbi Halberstam, who is known as the Klausenberger Rabbi."

Laster explained that a special arrangement would be necessary to accommodate the rabbi, since "people of his type do not permit themselves to appear before any boards and do not leave their study rooms for such purposes."<sup>42</sup> Two days later, the tribunal rejected Laster's request. In his letter to Laster explaining the *beit din's* decision, Baum wrote that neither Lookstein nor Federbusch knew of any rabbinical prohibition that would prevent the Klausenberger Rabbi from appearing before the tribunal. On the other hand, if the members of the *beit din* were to appear before the rabbi, they would compromise their authority and this "would detract from

the prestige and the dignity of the Tribunal itself and would impair the standing of the entire proceeding.”<sup>43</sup> Law, not religion, would decide this case.

With an eye toward the non-Jewish community, then, the *beit din* opened its third and final hearing on the case. The date and length of this last session demonstrates just how anxious the AJCongress was to complete its hearings. The hearing opened at 10:00 a.m. on Oct. 29—only one week after its previous hearing—and continued until 12:45 a.m. the next day.<sup>44</sup> The AJCongress had foreseen that this would be a marathon session; as Baum wrote in a letter to Laster, Gross and Berger: “We feel that it is in the interest of all concerned to finish this week...; we are prepared to continue no matter what the hour....”<sup>45</sup> More than five months had passed since the New York press had reported on Krieger’s accusation, and the AJCongress was determined to conclude the case without further delay.

A teenager from Flushing named Peter Stroh took the stand on Krieger’s behalf. Wainwright wrote that Stroh had apparently put the nightmares of the concentration camps behind him, because “he looked like a college freshman, a boy who had never known anything worse than having his allowance cut off for a week.”<sup>46</sup> Stroh was brought to Mühldorf in July 1944. Berger began his questioning by trying to poke holes in some of Schonfeld’s testimony. The physician, Stroh testified, was only one of many who worked in the camp hospital. Stroh knew these doctors, he said, because he was hospitalized after suffering a case of frostbite. When asked if a “Dr. Schonfeld” was the head of the hospital, Stroh responded: “No, he definitely was not.”<sup>47</sup> Stroh then told the tribunal that “it was not unusual for camp trustees to brutally beat fellow Jewish inmates,” although he later admitted that none of the beatings he witnessed involved Mittelman.<sup>48</sup> Third, Stroh said that he definitely remembered Mittelman, that Mittelman was a *blockschreiber*, and that, as far as he knew, Mittelman had never been sick during the 10 months that Stroh had been at the camp.

Gross countered by noting that Stroh had only been 13 years old at the time of the incident. As the defense would state in its summation, “a child of 13, living under such adverse conditions, would not be able to make such thorough observations.”<sup>49</sup> Pfeffer asked Stroh whether he remembered Mittelman performing the duties of a block clerk and whether he saw Mittelman at roll calls. Stroh answered yes to both of the judge’s questions. Despite his age, Stroh seemed to recall these important details clearly.

Confronted with this testimony, Majer Mittelman took the stand. Almost immediately, he severely damaged his own credibility. He began by talking about his religious background—an enormous miscalculation. After attending three Czechoslovakian yeshivas, Mittelman said, he had earned rabbinic ordination. Mittelman said that the Nazis had confiscated his ordination certificate, which was why he served in Olyphant as a religious functionary, not as a rabbi. To test him on this claim, the judges asked Mittelman questions about rabbinical law, which he was unable to answer satisfactorily. The *beit din* would later conclude that Mittelman “was untruthful” on this point.<sup>50</sup> Curiously, while this certainly hurt Mittelman’s credibility, only *Life* ever referred to it in its reporting.

Gross next attempted to steer Mittelman back to Mühldorf. Apparently, he did so very effectively. According to *Life*, Mittelman’s main defense took little more than an hour, and the accused was confident and secure when answering questions about his role in the concentration camp, in contrast to his earlier nervousness when questioned about his rabbinical training.<sup>51</sup> When Gross asked, “Mr. Mittelman, did you at any time, either four weeks or five weeks or six weeks before the liberation, strike anybody on the head in the food line at the evening meal?” he replied: “I never raised my hand over a Jew. There were no non-Jews.”<sup>52</sup> Gross had carefully phrased his question. As Laster and Gross later argued in their summation, the conditions in the camps were inhuman and inmates could be driven by hunger, fear, desperation or insanity to injure others.<sup>53</sup> Perhaps Mittelman had struck another inmate during the day, rather than at night, or had hit a fellow prisoner in the face, rather than in the head, or had even struck the witness Rubenstein. He vehemently denied striking Krieger, however, and his use of the word “never,” applied here, would seem to absolve him of guilt.

Mittelman also testified that he had been too sick to work during the period in question. Federbusch asked Mittelman why he had not gone to the hospital if he had been sick. Mittelman responded that

I knew what the result of being in the hospital was....A woman doctor used to come into the hospital and whoever appealed to her was taken from the bed and was sent to Dachau, and they are no longer on this earth. Therefore I asked Dr. Schonfeld...[to] have mercy on me.<sup>54</sup>

Mittelman thus suggested a vulnerability and helplessness about himself; his self-portrait revealed a man who was dependent on the mercy of his fellow inmates to survive. In his six-hour cross-examination, Berger attempted to dismantle that image, and to trip Mittelman up on key facts. He opened by attacking Mittelman's assertion that he was an ordained rabbi. Next, Berger fired questions at Mittelman about specific names, dates and events. As this barrage of questions continued, Mittelman, like Krieger during the first session, began to mix up his answers. As the hours wore on, Mittelman seriously contradicted himself. Mittelman initially had implied that he was not the block clerk, even though a number of friendly witnesses had said he was. Now he said that on occasion he had checked the food line—putting himself in the very position Krieger claimed he held.

Mittelman might very well have been confused. Krieger, too, may have mixed up particular events. Both men might have been telling the truth as best as they could remember, given the traumas and tragedies they had been forced to endure. Neither man's testimony proved wholly reliable. Still, by the end of the trial, seven witnesses, including a doctor and two rabbis, supported Mittelman's claim that he was bedridden at the time of the alleged crime. Eight witnesses told the tribunal they had never heard of nor seen Zalman Krieger. Fourteen witnesses testified that they had never known a Jew to beat a fellow Jew to death at Mühldorf. The numbers were on Mittelman's side.

### **The Ruling**

After the marathon 15-hour session ended, Pfeffer told the press that the tribunal would render a decision after receiving summations from both sides.

That decision came on Nov. 30. The tribunal cited a lack of conclusive evidence as reason why Majer Mittelman must be absolved of any guilt in the death of Zalman Krieger, who likely was killed by someone in authority, "more probably by a Nazi"<sup>55</sup> than a collaborator.

The *beit din* sympathetically painted Benjamin Krieger as a haunted man, whose memories were scarred by the horrible things he witnessed and experienced during the Holocaust. Krieger's demeanor during his testimony, the judges said, "indicated clearly his honesty and complete belief in the

accuracy of his testimony even when it contained within itself contradictions and inconsistencies.”<sup>56</sup>

They were less charitable in assessing Mittelman’s testimony. Despite Mittelman’s “contrary testimony,” the tribunal concluded that he had been a block clerk and never was a rabbi. The witnesses who testified about his illness, however, and those who insisted they had never heard of the incident were credible, however, and it was their testimony, not his, that led the tribunal to believe in Mittelman’s innocence, it said. That “so shocking an event as the murder of one Jew by another should not rapidly have become notorious” was inconceivable, the judges found.<sup>57</sup>

By distributing the tribunal’s decision, the AJCongress closed a Pandora’s box of questions about the behavior of Jewish concentration camp inmates. Five years after the end of World War II, the average American was not prepared to confront such questions in a rational way. By 1950, thousands of Jewish survivors of the Holocaust entered the United States.<sup>58</sup> Such politicians as Sen. Patrick A. McCarran, the Nevada Democrat who would shortly co-author one of the most restrictive immigration bills in U.S. history, the McCarran-Walter Act, helped inflame Americans’ suspicions of these immigrants, even as they beat the drums against an impending communist threat.

This was the atmosphere in which the *beit din* had heard *Krieger v. Mittelman*. The accusation had unveiled the image of a Jewish concentration camp inmate beating another Jewish inmate to death. One can speculate about the consequences of such an image, had the panel found Mittelman guilty. Anti-immigrant politicians could have exploited the image in order to convince their constituents that Jewish refugees were too dangerous to allow into this country. Had Americans believed that even a tiny percentage of these refugees had committed some barbarity while imprisoned by the Nazis, they might have favored even stricter anti-immigrant regulations.

Additionally, this image could have placed Jewish immigrants who had already arrived in the United States under further suspicion. The panel could not have known this at the time, but with the passage of the McCarran-Walter Act of 1952 no immigrant could be secure in his or her status. Had non-Jewish Americans assumed that refugees were violent crimi-

nals, they surely would have petitioned the Congress to use the new law to investigate and deport refugees.

For these reasons, perhaps, the *beit din* carefully avoided mentioning the fact that interned Jews were sometimes driven to violence in the concentration camps. Instead, it concluded its case by presenting a more acceptable portrait: that of a haunted Holocaust victim, whose suffering had been so immense that he had accused an innocent man of murder.

### NOTES

<sup>1</sup> Thanks to Mark Smith and Robert Abzug at the University of Texas for their helpful feedback.

<sup>2</sup> Loudon S. Wainwright, "You Are The Man Who Killed My Brother. A unique Jewish trial probes back into horrors of concentration camps to judge the charge that a man was murdered over a plate of soup," *Life*, Dec. 11, 1950, 132-150.

<sup>3</sup> "A Man with a Narrow Face," *Time*, July 3, 1950, from Leo Pfeffer Papers, newsclips file, Syracuse University Archives.

<sup>4</sup> American Jewish Congress Arbitration Tribunal, "Decision In the Matter of the Charge of Benjamin Krieger v. Majer Mittelman," Nov. 29, 1950; from Leo Pfeffer Papers, Krieger v. Mittelman file; Syracuse University Archives.

<sup>5</sup> *Life*, 134.

<sup>6</sup> "Refugee in Brooklyn Assaults a Passer-By As Murderer in Concentration Camp in '45," *The New York Times*, June 21, 1950, 19.

<sup>7</sup> "Accuses Stranger of Killing Kin in Germany," *Daily Mirror*, June 21, 1950; Pfeffer: Papers (newsclips).

<sup>8</sup> From Leo Pfeffer, Unpublished Autobiography (excerpt on the Krieger/Mittelman case), courtesy of Alan Pfeffer. Baum, an AJCongress staff member when he called Krieger, eventually rose to head the organization and today is its executive director emeritus, as well as vice-chairman of its Council for World Jewry.

<sup>9</sup> Phil Baum, Memorandum to Files, June 29, 1950; Pfeffer: Papers.

<sup>10</sup> *Time*, July 3, 1950.

<sup>11</sup> *Ibid.*

<sup>12</sup> Pfeffer, Unpublished Autobiography.

<sup>13</sup> Arthur Hertzberg, *The Jews in America. Four Centuries of an Uneasy Encounter: A History* (New York: Simon and Schuster, 1989), 180.

<sup>14</sup> See Howard Sachar, *A History of the Jews in America* (New York: Alfred A. Knopf, 1992), 475.

<sup>15</sup> Toubin, Letter, Aug. 17, 1950; Pfeffer: Papers.

<sup>16</sup> *Ibid.*

<sup>17</sup> American Jewish Congress, Press Release, Oct. 5, 1950, Pfeffer: Papers. Rackman today is chancellor of Bar Ilan University in Ramat Gan, Israel.

<sup>18</sup> *Life*, 134.

<sup>19</sup> Ibid.

<sup>20</sup> The camp was established in mid-1944 as a subsidiary of the better-known Dachau concentration camp.

<sup>21</sup> Ibid.

<sup>22</sup> *Life*, 136.

<sup>23</sup> Emanuel Laster and Simeon Gross, *Summation In The Matter of The Charge of Benjamin Krieger Vs. Majer Mittelman*, Nov. 30, 1950; Pfeffer: Papers.

<sup>24</sup> *Daily Mirror*, Oct. 11, 1950.

<sup>25</sup> *Life*, 136.

<sup>26</sup> "3-Man Board Sits in 'Murder Trial.' Ancient Jewish Custom in Hearing of Man Accused of Killing in D.P. Camp," *The New York Times*, Oct. 11, 1950: 21.

<sup>27</sup> *Life*, 136.

<sup>28</sup> *Daily Mirror*, Oct. 11, 1950.

<sup>29</sup> *Life*, 138.

<sup>30</sup> American Jewish Congress, "American Jewish Congress Tribunal Clears Refugee of Charge He Killed Fellow-Inmate in Nazi Camp," (Press Release, Nov. 29, 1950); Papers.

<sup>31</sup> Emanuel Rackman, Letter to Leo Pfeffer, Oct. 11, 1950; Pfeffer: Papers.

<sup>32</sup> *Life*, 138.

<sup>33</sup> Pfeffer, Unpublished Autobiography. The translator, David Stein, was Pfeffer's brother-in-law; like the attorneys, he had volunteered his services.

<sup>34</sup> Pfeffer also wrote in his autobiography that he had to stop the hearings more than once and order spectators to put out their cigarettes or leave the room.

<sup>35</sup> *Life*, 138.

<sup>36</sup> *Life*, 140.

<sup>37</sup> Ibid.

<sup>38</sup> *The New York Times*, Oct. 23, 1950, 12. The Oct. 23 *Mirror* article cited Schonfeld as saying that the SS would have put Mittelman to death if they had thought him too ill to work.

<sup>39</sup> *Life*, 142.

<sup>40</sup> Ibid.

<sup>41</sup> Ibid.

<sup>42</sup> Emanuel Laster, Letter to Philip Baum, Oct. 23, 1950; Pfeffer: Papers.

<sup>43</sup> Phil Baum, Letter to Emanuel Laster, Oct. 25, 1950; Pfeffer: Papers.

<sup>44</sup> "Testimony Ends in Trial Of Mittelman by A.J.C.," *The New York Herald Tribune*, Oct. 31, 1950; Pfeffer: Papers.

<sup>45</sup> Phil Baum, Letter to Emanuel Laster, Simeon Gross, Harry Z. Berger; Oct. 26, 1950; Pfeffer: Papers.

<sup>46</sup> *Life*, 147.

<sup>47</sup> In the judges' decision on the case, they wrote that this was not a contradiction; according to the court transcript, they stated, Dr. Schonfeld had never asserted that he had been the head of the hospital.

<sup>48</sup> "Claim Jew Slew Jew in Nazi Camp," *New York Post*, Oct. 30, 1950, 7.

<sup>49</sup> Laster and Gross, *Summation*, 18; Pfeffer: *Papers*.

<sup>50</sup> American Jewish Congress Arbitration Tribunal, "Decision in the Matter of..." 4.

<sup>51</sup> *Life*, 148.

<sup>52</sup> *Ibid.*

<sup>53</sup> Robert H. Abzug documents how the inhumane conditions of the camps made humans into animals. A vivid example of this comes from an American soldier who helped liberate the Wöbbelin camp. The soldier recalled how, when the starving prisoners were offered something to eat, "they grabbed it and ran away in a corner and fought off anyone who came near them." See Abzug, *Inside the Vicious Heart: Americans and the Liberation of Nazi Concentration Camps* (New York: Oxford University Press, 1985), 63.

<sup>54</sup> *Life*, 148.

<sup>55</sup> American Jewish Congress Arbitration Tribunal, "Decision in the Matter of..." 4.

<sup>56</sup> *Ibid.*

<sup>57</sup> *Ibid.*

<sup>58</sup> Sachar, 562.

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