

# **Israel: Politics, Myths and Identity Crises**

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## The Kastner Case, Jerusalem 1955<sup>1</sup>

In 1954 I was a student at the Hebrew University, Jerusalem, when the papers announced that the Israeli government was suing for libel a 71-year-old Hungarian Jew, Malkiel Greenwald, who had accused another Hungarian Jew, Dr Israel (Rudolph) Kastner, of collaborating with the Nazis in Hungary during 1944–45.

Like most other Israeli youths I was surprised and puzzled by this news. For me – and for many others – the questions raised were: who is this Greenwald, and who is this Kastner? What exactly did Greenwald say about Kastner? Where did he say it? Why didn't Kastner himself sue for libel? Why did the government find it necessary to sue an individual for libelling another individual? How was it possible for a Jewish collaborator with the Nazis to live in Israel for nine years without being publicly denounced?

Greenwald had come to Palestine in 1938 from Vienna, where he had been badly beaten up by the Nazis. Many of his family were exterminated in Auschwitz. He ran a tiny family hotel in Jerusalem, and wrote pamphlets entitled: *Letters to my Friends in the Mizrahi* (Mizrahi was a small political party of religious Jews who supported Zionism). He mailed his pamphlets to selected members. In Pamphlet 51 (mailed in 1952) he accused Dr Israel Rudolf (Rezso) Kastner, aged 48, of collaborating with the Nazis in Hungary during the period 1944–45 and of assisting them in their extermination of some 500,000 Hungarian Jews. Greenwald called for a public enquiry committee to investigate his accusations.

Kastner himself came from Kluj (now in Rumania), a town with a Jewish community of some 20,000 which was annexed by Hungary during the war and was known as Koloszvar. He was born in Kluj, and from 1925 to 1940 was the political editor of *Uj Kelet* (New East), the Jewish daily paper in that town. From December 1942 till the Soviet army entered Budapest in February 1945 he headed the Jewish Relief Committee in Budapest, which was affiliated to the Relief Committee of the Jewish Agency in Palestine (the 'Agency' was, in effect, the 'government' of the Jewish community in Palestine, and as such the spearhead of the entire Zionist movement). He arrived in Palestine in 1946 and joined Ben-Gurion's ruling party MAPAI (the Zionist Labour Party, 'Land of Israel Workers Party'). He became a MAPAI candidate

to the first Knesset, was given the post of Spokesman of the Trade and Industry Ministry, was appointed Director of Broadcasts in Hungarian and Rumanian languages on the state's radio, was appointed Chief Editor of *Uj Kelet* (the same title as his old paper), MAPAI's paper in Hungarian, as well as Chairman of the Organisation of Hungarian Jewry. In other words, he was head of the Hungary department of the ruling party.

This information, from the daily press in Israel, answered some of our first questions. It was obvious that Kastner was a prominent figure of the Israeli establishment and had either to clear his name or be sacked. But why didn't Kastner himself sue Greenwald? Had Kastner sued Greenwald and lost his case he would be liable to prosecution under Israeli law for sentencing Nazis and their collaborators (1950), the only crime in Israel for which the death penalty exists. Could it be that the establishment had decided to sue because Kastner's failure to do so would have implicated others above him? His posts indicated that he had connections with the very top of the ruling party (Prime Minister Sharet noted in his *Personal Diary* on Saturday 27 February 1954: 'At 9 a.m. [a meeting with] Israel Kastner (one of the leaders of the Zionist organisation in Transilvania) testifying for some days in a libel case initiated by the Attorney General in his defence (as a state employee) ...'.<sup>2</sup> We don't know what was discussed in that meeting, but it emerged during the trial that Sharet was involved in the issue.

I attended some of the hearings in the tiny court room in the Russian Compound in Jerusalem and, like most Israelis, followed the press reports about the trial. A law student friend became the assistant to the defence lawyer and provided me with more details. What emerged was beyond anything I – and most Israelis – could have imagined; even the judge and the two attorneys had to repeat their questions occasionally due to disbelief. New, alarming and unexpected questions emerged that have never been answered.

### *The Trial*

What became popularly known as the 'Kastner trial' was, legally, a trial not of Kastner but of Greenwald, who was sued for libel by the Israeli government. Kastner was a witness for the prosecution. But it was the pressure of the questions of the defence, and his own evasions, contradictions and lies that transformed Kastner from a witness into a defendant.

The Attorney General filed his libel case against Greenwald on 25 May 1953. The trial began on 1 January 1954. The case was known as Criminal Case 124/53, in the District Court, Jerusalem, the Attorney General against Malkiel Greenwald, before the President of the Court, Dr Benjamin Ha'levi.

The final hearing was on 3 October 1954. The hearings lasted about 70 days during which 52 people testified, some more than once. Kastner himself took the witness stand ten times. The prosecution provided 130 documents, the defence 180. The summing up of the defence lasted 30 hours. After the hearings Ha'levi retired for nine months to consider the case (there is no jury system in Israel, and the judge alone must decide whether a witness has lied or told the truth, and whether that truth is partial or complete). On 22 May 1955 Ha'levi began to read his judgment.

He grouped Greenwald's accusations against Kastner under four headings:

1. collaboration with the Nazis
2. 'indirect murder' or 'preparing the ground for murder' of Hungary's Jews
3. sharing plunder with a Nazi war criminal
4. saving that war criminal from punishment after the war.

After an exhaustively reasoned judgment of 200 pages, he ruled that apart from the third charge all charges were true and therefore not libellous. Charge 3 he found not fully proven, and he fined Greenwald a symbolic single Israeli pound. He ordered the government to pay the costs of the trial.

During the trial one of the witnesses, Phillip von Freudiger, the political leader of the religious (Orthodox) Jewish community in Hungary, had submitted a document stating that when the Nazis entered Hungary in March 1944:

... anyone known as anti-Nazi, or not completely pro-German, was arrested ... within 36 hours the public arena was cleared completely of all courageous and conscientious figures ... who could cause problems for the Germans ... the way was open for political and economic adventurers, for politicians whose whole purpose was to achieve the power they coveted and for which they would have sold their soul to the devil.<sup>3</sup>

Ha'levi used Freudiger's last phrase in his judgment when he stated '... by accepting this gift [the Nazi promise to allow 600 Jews selected by Kastner to travel to a neutral country] Kastner has sold his soul to the devil'.<sup>4</sup> The press headlines next morning were: '*Ha'levi: Kastner has sold his soul to the devil*', and that is how the case became registered in the minds of most Israelis in 1955.

Prime Minister Sharett noted in his *Personal Diary* on the day of the verdict: 'Kastner. A nightmare, horrific, what did the judge take upon himself? The party suffocates. A pogrom!'<sup>5</sup>

The government immediately appealed to the Supreme Court. It took another three years before the five members of the Supreme Court gave judgment. Before that, on 3 March 1957, Kastner was shot by an Israeli and died two weeks later. I shall discuss the appeal and the assassination later.

### *Background to the Case*

During the Second World War Hungary was a willing ally of Germany and sent troops to fight against the Russians. The Nazis did not invade the country. However, early in 1944, as it became clear that the Nazis were going to lose the war, and the Russians were already driving the German Army out of nearby Rumania, Admiral Horthy, the Head of State, tried to negotiate a separate peace treaty with the British. On 19 March 1944 the Nazis invaded Hungary to prevent any separate peace.

On that day a special SS unit whose sole purpose was the extermination of the Jews, headed by Adolph Eichmann (head of department 4B in the SS) entered Budapest.

Eichmann had only 150 SS people with him, and could muster a few thousand Hungarian soldiers. The Jewish community in Hungary numbered some 800,000. Of these, 300,000 lived in Budapest and the rest in the provinces. Most of the Jews were living among the Hungarians. Eichmann decided to deal first with the Jews in the provinces, and later with those in Budapest. His task was divided into three stages:

1. locate and mark the Jews (by the yellow star)
2. move them into special concentrated areas (ghettos)
3. deport them from the ghettos to Auschwitz.

As the German Army was busy fighting the Russians Eichmann could not rely on its help. Even to secure the necessary trains was a problem. And yet between 15 May and the end of June some 500,000 Jews from the provinces boarded the trains to Auschwitz, roughly 12,000 per train, often four trains a day, and were gassed there. When this became known in the West, Roosevelt sent a strong letter to Horthy, and bombers to bombard Budapest. The deportations were stopped for a while. The Nazis continued their efforts, and on 16 October they engineered a coup which ousted Horthy and handed power to the Arrow-Cross (Hungarian Fascists) who continued the massacre of Jews with a vengeance. The Russians entered Budapest on 16 January and saved its remaining Jews.

The Liberation of the Jews, who had been living under the dark shadow of sudden death for so long, was exclusively the merit of the Red Army and its offensive spirit. The armies of Tolbukhin

and Malinowski occupied the capital in the nick of time. A delay of only a few days would have meant total annihilation for the Jews. Nobody could have stopped the rioting Nylas ('Arrow-Cross') horde, blood thirsty and undisciplined as it was.<sup>6</sup>

### *How Could it Happen?*

Why did half a million Jews, many of whom were young and had military training in the Hungarian Army, board the trains to the gas chambers without making any effort to hide, escape or resist?

The answer, which sounds unbelievable, is simple; the Jews who boarded the trains did not know that they were heading for Auschwitz. Many knew about Auschwitz, some believed it, some didn't, but all were led to believe that the trains were transferring them to another place in Hungary for 'resettlement'. Some even made special efforts to get on the earlier trains in order to get better housing in the new settlements ...

Given the acute shortage of Nazi manpower and the general retreat of the German Army, Eichmann knew that it was absolutely essential that the destination of the trains be kept secret from the Jews. Had they known their destination they would have made every effort to avoid deportation, and many could have escaped. Eichmann knew that the Jews would not trust the Nazis or the Hungarian authorities. The only people they would trust were their own leaders. He and his staff had to make sure that the Jewish leaders would not inform the rest of the Jews about the destination of the trains. The questions Ha'levi had to answer were:

1. did the Hungarian Jews know that the trains were going to Auschwitz?
2. did the Jewish leaders know that the trains were going to Auschwitz?

Ha'levi determined, from witnesses and documents, that the majority of Hungary's Jews did not know that the 'resettlement' trains were heading for Auschwitz, whereas Kastner and other Jewish leaders did know. Moreover, when the trains arrived at Auschwitz the Nazis forced some Jews to write postcards saying 'I have arrived. Am well', postmarked 'Waldsee'.<sup>7</sup> These were handed to Kastner who had them distributed among those still awaiting deportation. Other postcards mentioned Kenyermeze (a fictitious Hungarian place) as their origin.<sup>8</sup> These facts were not challenged by the Supreme Court which discussed the appeal against Ha'levi's judgment.

To substantiate Ha'levi's conclusion a report, dated April 1944, by a Jew who had escaped from Auschwitz provided detailed information on Auschwitz plus a warning to Hungary's Jews about the

preparations being made in Auschwitz for their extermination. His report became known to Jewish leaders in Czechoslovakia and Hungary before the deportations began. It also reached the West. The author of that report, Rudolf Vrba, wrote in 1966:

Even today few can believe that 400,000 human beings collaborated by their mere passivity in their own brutal destruction. Some historians, indeed, seem puzzled by this contradiction of the well-known biological facts concerning self-preservation, despite all the proof that it happened – the trials, the silent testimony of the principal witnesses.

Yet the answer to the riddle is very simple. The victims were kept in ignorance of their real fate until the last possible moment, often until they entered the gas chambers, when nothing was left to them but to die.

They had been told repeatedly by the Horthy propaganda machine that they were going to resettlement areas, to ghettos, to 'reservations for Jews in the East', where they would have to 'work hard', but would be safer than they were at home, where pogroms threatened constantly.

No denial came from their own leaders and so they believed it all, as Major makes clear when he writes: 'Many survivors and witnesses affirmed that they either had not heard of the extermination camps, or, if they had heard about them, did not believe it.'

No doubt before they left Hungary, they were worried about the real nature of their sinister, unknown destination; but there is a difference between vague suspicion and exact knowledge. They were people who had spent their lives under civilized influences and thus they were inclined to hope in their darker hours that, by obedience, they might avoid a massacre of their children. The Jewish leaders in Hungary, though knowing the truth, the detailed facts about Auschwitz, did nothing to dispel this unrealistic hope.

Had they spoken, they might have changed the history books which record mournfully that 400,000 Jews were transported to Auschwitz and died without resistance. As an ex-prisoner of Auschwitz-Birkenau, one who was forced to witness from the closest possible quarters the functioning of this annihilation apparatus, I cannot emphasize sufficiently strongly that secrecy was the main key to its successful operation.

The Fascists in German-occupied or semi-occupied countries, under the protection of and with encouragement from the authorities, created a pogromistic atmosphere. Against this background, the Jews were hoodwinked into going voluntarily to the 'resettlement areas'. When they arrived and realized they



had been swindled, they were inside the confines of the extermination camps, which were, for all practical purposes, watertight. In most cases, indeed, as I have said, they were inside the actual gas chambers or at their gates. Their only choice was between being wounded and tortured to death or dying less elaborately.

Often they were killed before they had time to think, to weigh the alternatives, for that was a vital part of the mass annihilation technique. While I was in Auschwitz (June 30, 1942 to April 7, 1944), I saw this process going on daily, but on a smaller scale than that of the Hungarian holocaust. During my time there, the daily quota was 'only' 1,000 to 5,000 victims. From January 1944, however, I witnessed unusually extensive technical preparations, designed to step up the intake of this murder machine to 20,000 victims a day. It was no secret in Auschwitz that these extraordinary preparations were designed for the rapid annihilation of Hungary's Jews, who were almost 1,000,000 strong.

In March 1944, after the complete occupation of Hungary by the Germans, it was evident to us Auschwitz prisoners that the start of this well-prepared action was quite imminent.

It was equally clear that the whole complicated annihilation procedure could be slowed down by revealing the secrecy of the 'resettlement areas' to its potential victims, by exposing the extermination machinery to the world in general and the Jews in particular.

With this in mind, Fred Wetzler and I escaped from Auschwitz-Birkenau on April 7, 1944, and reached Slovakia 14 days later. We immediately contacted the Jewish leaders and, at meetings in Zilina on April 24, 25 and 26, informed them in detail of what the Nazis had in store for the Hungarian Jews. The information contained in our testimony to them (the 'Auschwitz Report') contained all technical details of the annihilation process.

The leaders of Hungarian Jewry were in full possession of these facts by the end of April, 1944, at the latest. This can be confirmed by the surviving members of the Jewish Committee in Slovakia, Dr. O. Neumann, Mr. Krasnansky and Mr. Steiner, the first two of whom now live in Israel.

The facts of our report were supported by Rabbi Michael Dov Weisman, whose own report on Auschwitz to the Hungarian Jewish leaders incorporated that by Wetzler and myself, though he improved it, naturally, by rabbinical style and authority.

... Wetzler and I saw the preparations for the slaughter. Morgowicz and Rosin saw the slaughter itself. It was their description of it that the Rabbi quoted, proof, indeed, that Wetzler and I were not exaggerating. So the Jewish leaders knew what was happening, even when they were lending their

administrative help to the Nazis by preparing lists of deportees. Those who did not know were the men, women and children who were herded on to the trains when the deportations began in the middle of May, 1944. They went on day and night. Sometimes at a rate of 10,000 or even more daily (see A. Eichmann's 'Memoirs', *Life*, January 1961).

They boarded those trains passively with or without their families. They did not know that their fate was sealed as tightly as the trucks that carried them, that death was awaiting most of them and all their children at the other end of the line. I make no apology for being repetitious because it seems that it is necessary.

Instead of information, the Jewish leaders provided the adults with sandwiches and the children with milk for the journey. Had these had knowledge of hot ovens instead of parcels of cold food, they would have been less ready to board the trains and the whole action of deportation would have been slowed down. This is accepted by the historian Gerald Reitlinger, versatile though he is in the English art of understatement (see his *The Final Solution*, NY, 1953).

On p. 427 of this well-known work, he writes: 'On April 7, two Slovak authors of the War Refugee Board Report made their sensational escape from Birkenau (the annihilation centre in Auschwitz) to Bratislava. The knowledge contained in this report could at this time have saved at least 200,000 lives.'

On page 540 of the same book, Reitlinger writes about the Auschwitz report: 'The author, who had been registrar of one of the Birkenau infirmaries, was exceptionally accurate and conveyed his report to the Swiss Red Cross as early as June, 1944, thereby making history'. But Major surely is aware of these quotations because in his article in *Jewish Currents*, Reitlinger's book is quoted liberally.

It is, unfortunately, an historical fact that, between May 15 and June 30, about 120 trains, loaded with Jewish men, women and children, left Hungary for Auschwitz, while Kastner and other Jewish leaders were negotiating with Eichmann in Budapest. They negotiated with the Nazis five years after Chamberlain, at a time when any child could have told them that they were dealing with people who understood only one brand of argument!<sup>9</sup>

Rudolf Vrba, did not live in Israel, and was not called to give evidence in the trial. The prosecution, keen to clear Kastner, had no interest in such information, and the defence couldn't locate him. But there were many other witnesses, living in Israel, who gave similar accounts.

Levi Blum, from Kastner's hometown, Kluj, whose brother was arrested for lack of documents went to the Jewish council in Budapest to deal with the matter:

They asked me where I'm from, I said: 'From Kluj'.

They said: 'There is a good friend here, a leader dealing with the rescue'.

I said: 'Who is he?' The man said it was Mr. Kastner. I went to the Hotel to look for Kastner. There was someone there, his secretary I think, I told him my brother was arrested. He left and after I waited for twenty minutes he returned and said that Mr. Kastner was sorry but he couldn't do anything in the matter.

'What happened to your brother?'

'I do not know what happened to him.'

'When did you meet Kastner?' asked Tamir [the defence lawyer].

Blum: 'In 1948, or the beginning of 1949. I saw that there was a reception at the corner of Diezengoff Street. Dr. Arne Marton [a leader of the Hungarian community] rose to speak. He said to Kastner something like: 'You'll get a street named after you even before you get a flat'. This was too much for me. I jumped up and said: 'You are making a great mistake gentlemen,' and to Kastner I said: 'You are the only one who was the best friend of Eichmann, and you were a Quisling, you are a murderer.' I asked him to sue me because I am too poor to sue. And I added: I know that you are responsible for the Hungarian Jews, mostly from Kluj, who went to Auschwitz without knowing where they were being sent and what the Germans intended. You knew where they were being sent and what the purpose of the Germans was. Kastner did not reply. I continued and asked: 'Why did you send postcards from Kenyermeze?' Someone in the audience jumped up and said: 'That was Kohani!'. Kohani was also in the hall, he stood up and said: 'Yes, I received those postcards,' I then asked: 'From whom did you receive them?' He replied: 'It's none of your business, I don't owe you a report.'

The judge stops the witness: 'Was this in public?'

Blum: 'Yes, there were a few hundred people there.'

Tamir: 'When did you meet Kastner again?'

Blum: 'The war of independence began, I was in the army; it was before the elections to the first Knesset. I suddenly see that Kastner was a candidate to the Knesset for MAPAI [Ben-Gurion's party], it stated: "Dr. Kastner, head of the Rescue committee in Hungary". Your honour, when I read this the blood rose to my head.'

'What did you do?'

'I have a good friend' [Yambur a journalist from Al-Hamishmar]. I went to him and said: 'look Yambur bachi, Kastner again!'<sup>10</sup>

### *The Deal*

Many more witnesses gave similar evidence. The facts were overwhelming and were not challenged by the prosecution. Ha'levi faced a new question: 'Why did Kastner (and other leaders of Hungary's Jews) withhold from their communities the information that the 'resettlement' trains were heading for Auschwitz? Ha'levi states in the judgment:

A few days after this letter [of 25 April 1944, from Kastner and his deputy Brand, to Sally Meyer in Switzerland, asking for \$2 million to bribe the Nazis], in the last days of April, Kastner received the black news from Auschwitz (the preparing of the gas chambers for Hungary's Jews, the railways agreement, the first deportation to Auschwitz, a secret rumour about the decision for a general deportation) which brought him to the verge of despair. From all the data he concluded that the deportation was imminent and inevitable, he suddenly realized the futility of all the lengthy negotiations conducted so far. At this moment of depression and crisis, during a meeting with Krumey [Eichmann's subordinate] requested by Kastner to decide on the continuation of the 'negotiations' (para. 26), Krumey pulled out the card authorizing 600 emigration permits. It is clear that his aim was to prevent a break with Kastner by providing him with a real interest and justification for continuing his relations with the SS, and even strengthening the relations for the imminent extermination period.

The temptation was great. Kastner was given the actual possibility of rescuing, for the time being, 600 souls from the imminent holocaust, with some chance of somewhat increasing their numbers by payment or further negotiations. Not just any 600 souls, but those he considered, for any reason, most prominent and suitable for rescue. His relatives, if he so wished, his friends if he wished, members of the movement if he wanted, and the heads of Hungary's Jews, if he wanted. The extermination plan threatened not just the communities in the provinces but also the Jews of the Capital, and Kastner didn't expect the total deportation to halt, miraculously, at the gates of Budapest. Here he had an opportunity to save his mother and wife from Budapest, his brother and father-in-law from Kluj, and all his other relatives and friends. The possibility of saving the

'prominents' of the provincial towns and Budapest appealed to him also from the public aspect. The rescue of the important people in the community due to the activity of the Rescue Committee appeared to him as a personal, and Zionist, success. A success which could also justify the entire policy of his previous leadership: his initiative to negotiate with the Nazis, his usurpation of the 'political' contact with the authorities, the exhausting negotiations, the protective relationship between the authorities and the committee. He still didn't give up completely the hope of a total arrangement with the Nazis based on the 'Europe Plan' or a similar big plan. Kastner was very pessimistic about the chances of the Jews to escape by their own efforts from the Nazi extermination machinery, which had already finished off almost all of Europe's Jews, and he saw the main hope of rescue in an agreement with the Nazis. No wonder that under these circumstances he accepted, without hesitation, Krumej's gift.

But *timeo Danaos et dona ferentes* (I fear the Greeks even when they bring gifts). By accepting this present Kastner had sold his soul to the devil. The immediate outcome of his agreement with Krumej was that Kastner became dependent on the favours of the Nazis. It cannot be said that he was independent before. Already his appeal to Wisliceny on behalf of the 'illegal' rescue committee, the negotiations with the Nazi leaders, and accepting the Nazi protection for the committee made Kastner himself, and the committee, considerably dependent on the Nazi regime. But before the agreement with Krumej Kastner was free, if all was lost, to cut off his contacts with the rulers and go underground with the committee, as was done in the Warsaw ghetto and other extermination locations. After the agreement with Krumej, Kastner was tied to the Nazis in the matter of saving the 600. As long as he had any hope that the Nazis would honour the rescue agreement – and indeed, despite some bad disillusionings he had to face, the agreement was, after all, honoured – Kastner was interested, for saving the 600, to maintain correct relations with the authorities. As the general agreement with Krumej became actualized and acquired a living form by choosing Kastner's candidates for rescue – including his family (more than 20 people), friends, comrades, leaders of the Zionist movement and other prominent Jews, and as the number of the souls included in the rescue agreement continued to grow, so did Kastner's interest in good relations with the Nazis grow. The success of the rescue agreement depended, until the last minute, on the Nazi goodwill, and the last minute didn't arrive until long after the end of the extermination of the Jews in the provincial towns. Throughout

this period Kastner depended on, and had an interest in, the goodwill of the exterminators, in order to achieve the rescue of his candidates.

The first promise to save the 600 was given to Kastner by Krumei, but the final decision on honouring and executing it lay with Eichmann. Kastner, who visited Eichmann with Mrs. Brand, had no illusions about the role and authority of that hater of the Jews: 'We knew we were facing the head of the Jews' extermination project but that he also held the possibilities for rescue. He – and he alone – decided on life and death' (Kastner's report, p. 38).<sup>11</sup>

... Kastner had no reason to assume that Eichmann got involved in rescuing Jews out of humane motives. He well knew that all Eichmann's activities were directed towards one goal – the extermination of Hungary's Jews.

The fact that during the period crucial to the fate of the Jews the head of the Rescue Committee in Budapest was tied to the head of the exterminators by a joint rescue plan, interested and dependent upon his goodwill, was, without doubt, a serious weakness in the defence system of Hungary's Jews!<sup>12</sup>

### *The Choice*

Ha'levi continues:

On 2 May (the day of the agreement with Krumei) Kastner was at the crossroads, one way for the rescue committee was to continue the method of free rescue which was not dependent on the Nazis, in the way prepared by the committee before the Nazis invasion and strengthened by the pioneer's organizations. The main means of that rescue method so far were warnings and 'journeys'.

With the deterioration of the situation at the end of April, the accumulating evidence for a total deportation, and the Nazi efforts to soothe the Jews and hide from them the preparations for the deportation, the duty of the committee at that moment was to spread the truth, to warn the people of the Nazi lies and plans, to strengthen the escape organization by all possible means, and to prepare the masses of Jews everywhere for organized activities at the moment of need.

The Jews in the ghettos, and until early May only part of the Jews in the provinces were concentrated in ghettos and the process was continuing, were totally cut off from any sources of valid information, even the Jews not yet imprisoned in the ghettos were confused by the waves of Nazi deceptive propaganda and the false announcements concerning their future.

Kastner possessed at that moment the first news about the preparation of the gas chambers in Auschwitz for Hungary's Jews, the agreement between the railway authorities of Hungary, Slovakia, and Germany for directing 150 deportation trains to Auschwitz, the first actual deportation of 1500 Hungarian Jews to Auschwitz, and the secret information from German agents about the decision on a total deportation.

Spreading this substantive news among the leaders of the Jews, especially the Zionists, in the provincial towns, and through them to the masses, could, more than the earlier general warnings by holocaust refugees which were received with indifference and disbelief, warn the leaders and the masses about the real danger of the imminent total deportation facing Hungary's Jews, and immunize them against Nazi deceptions. Spreading the truth about the actual preparations for the deportations to Auschwitz could have undone not only the Nazi disinformation plots in the provinces or made it harder to implement them, but was also a first condition for preparing the people for any organized action like large scale escape, hiding children with [non-Jewish] Hungarians, disrupting the efforts to concentrate the Jews and the preparations for deportation, passive or active resistance to the deportation, defence or sabotage.

I do not say that all these means were suitable or possible everywhere, at every stage and in every case, but that only when faced with the alternative of Auschwitz would the Jews, leaders as well as the people, have been able to consider fully and properly the ways and means suitable for defence or rescue according to the circumstances of the place and the time. There is no doubt that this way – the free rescue method independent of the Nazis – was dangerous to all involved in it and its results were not guaranteed in advance. It was impossible to know how many would be rescued in this way and it was impossible to take it unless it was done without their knowledge and against their will.

The other way opened for Kastner by Krumei was the method of rescuing Jews by the Nazis themselves, with their help, according to agreement with the SS. This way was convenient and offered predictable results. The number of Jews saved in this way was fixed, and it was possible to determine in advance who would be rescued. True, the number of candidates for rescue by this method was very small, but, as stated, it could be increased by further negotiations and large ransom payments.

The head of the Rescue Committee had to decide and choose between these two ways. It was difficult to vacillate for long and hold the rope at both ends: to enjoy Nazi help to rescue the 'Prominents' and also to save ordinary Jews by anti-Nazi

methods. Perhaps the desire to attract the Committee made the Nazis close their eyes to smaller rescue efforts like forging of documents, financing 'journeys' on a small scale. But it was clear that the Nazis could not allow Kastner to warn the Jews in the province towns about their lies and plots, or to organize them to disturb the deportation plan. The totalitarian authority forced Kastner -- like anyone seeking its benefit -- to face a sharp choice: with us or against us. The moment he chose one way he gave up the other.

To take both ways together Kastner would have had to deceive the Gestapo and the 'Juden-Commando', an extremely difficult and dangerous task. It was not without reason that Eichmann said to him (on another matter -- Brand's mission), that he (Eichmann) was cleverer than his rivals and could not be deceived, more than once did he hint to Kastner very politely about the possibility of sending him to Auschwitz: 'Your nerves are too tense Kastner, I shall send you to Theresienstadt for recuperation, or do you prefer Auschwitz' (Kastner's report, p. 43) [Ha'levi does not give full reference].

Indeed, one of the main reasons that Kastner and the members of the Rescue Committee were not sent to Auschwitz, despite their connections with the Pioneers underground, was that Kastner chose the second way: dependence on the Nazis goodwill and preferred it to the first method. Eichmann was interested to prevent the Jewish and Zionist rescue and defence system from developing in an anti-Nazi direction.

Kastner did not dare to deceive the Nazis by double dealing. From the moment he chose the joint rescue method with the Nazis (rescuing the prominents) he remained loyal to his method and to his partners in this rescue. Not merely the threat of Auschwitz prevented him from any serious deviation from this line. Kastner knew that any anti-Nazi act on his behalf or of one of his subordinates would endanger and foil the rescue of the prominents, a rescue operation he began and whose success was dependent on Nazi goodwill. Kastner didn't want to destroy with his left hand what he built with his right. He also didn't want to endanger the lives of those who relied on his rescue. For these reasons Kastner had to walk the line for rescue determined for him by the Nazis.

The rescue agreement with the Nazis forced Kastner and the Committee to give up any rescue operation which would endanger this agreement. Kastner and the Committee had to give up the independent rescue method; they had to refrain from a real warning of the Jews in the provinces, from organizing large scale escape, not to mention organizing resistance or disturbing the deportations. They had to stop or refrain from efforts to save



the public or part of it by any suitable means, and had to restrict and confine the activity of the Committee to rescue specific people previously agreed to by agreement with the Nazis.

The real meaning of the rescue agreement between Kastner and the SS was to make the rescue which depended on the Nazis – the rescue ‘authorized’ by the rulers – the only rescue method of the committee. Giving up the free rescue was the price paid by Kastner for the rescue ‘authorized’ by the SS.<sup>13</sup>

... An admission by Kastner that he put the fate of all rescue on the Nazi card alone is implied in that part of his report where Kastner describes his deliberations on 3 June due to Eichmann’s temporary refusal to honour his word about the rescue of the prominents in Kluj and the provincial towns (para. 39).

In that part says Kastner:

It was clear to me what is now in the balance. It is not a matter of saving a few hundred Jews from the provinces. If here and now Eichmann can’t be made to compromise, then the committee, which in roulette played with human lives bet on the German number, would be a no less naive loser than so many others before us in conquered Europe. Then the millions paid would not only have been a folly. The loser in that game would also be called a traitor.<sup>14</sup>

### *A Double Secret*

The agreement with the Nazis to keep the real purpose of the ghettoisation process and the real destination of the deportation trains secret implied that the mere fact that there was an agreement also had to be kept secret. Ha’levi commented in his judgment:

The agreement with the SS imposed on Kastner the duty of secrecy. It was a ‘Reich secret’. Already at the early stages of the negotiations at the stage prior to the agreement, Kastner was warned by Krumei that the plan for the emigration of the 600 and everything related to the negotiations constitutes a ‘Reich secret’, and only with difficulty did Kastner inform Kraus [the Jewish Agency representative in Budapest], who was responsible for 600 immigration permits to Palestine, of the secret of the ‘*aliyah* camouflaged as deportation’ (para. 23).

The heads of the SS forbade Kastner at the beginning of the negotiations to have any contact with the Hungarian authorities. They insisted on the secrecy of the negotiations. On 10 May Kastner was arrested by the Gestapo and during his two day detention was interrogated by Klages, Head of the Gestapo, about his connections with Grezoli, member of the Hungarian General

Staff, and about information on the negotiations with the SS which he divulged to Hungarian circles. (Kastner's report, p. 34)

Rescuing the prominents of the provincial towns was a 'Reich secret' kept both from the Hungarians and from the Jews of the provincial towns.<sup>15</sup>

... Why was it forbidden to reveal to inhabitants of Kluj, and even – according to Kastner – to most of the rescued themselves until they left Kluj, the 'rescue secret'?

The truth is that both Eichmann and Kastner had an interest in keeping the rescue plan secret. Eichmann's words to Kastner on the danger of murders in the ghetto hint at this common interest. Had the ghetto inmates known or worried that the Nazis intended to send them to Auschwitz and the prominents to safety there could have been a rebellion endangering the prominents and the deportation plan as well. Not only a clear and complete knowledge of the Nazi plan to destroy the majority and rescue the minority but any partial information, any escape detail on an early agreement between Kastner and the SS for a separate rescue of the prominents could raise suspicions among Jews. The success of the extermination plan depended on surprising the Jews and on totally misleading them; to this end it was necessary to remove suspicions from the victims. To ensure the success of his task Eichmann imposed a total blackout on all his plans, including the plan to rescue the prominents. The sheer term 'rescue' could hint to the victims about the danger of extermination, therefore it was preferable to the heads of the SS that Kastner talked of aliyah [immigration to Palestine].

Dr. Hermann, one of the Zionist leaders in Kluj, and of the heads of the Bergen-Belsen transport [a Nazi concentration camp in Germany where the 'prominents' stayed for a while] testified (pp. 380, 382):

In our eyes it was not a train of rescue, but of aliyah, therefore we wanted to join it, to emigrate to Palestine via Spain. The possibility of aliyah in those days was of course most attractive given the cruel conditions in which we lived ... the decision then was not whether to rescue 380 out of 18000, but whether to bring about aliyah, since there was no awareness of extermination, there was an awareness of danger not an awareness of extermination.

... Kastner understood very well – and the sections above on the danger of 'murder in the Ghetto', avoiding 'attention' and maintaining the 'rescue secret' indicate that even Eichmann and his aides clarified to him fairly explicitly – that the prominents

as a whole and his friends in Kluj in particular would not be rescued from the holocaust prepared for the people.

Kastner knew that the more blurred the difference between the fate of the prominents and the fate of the people the better the prospects for the success of the operation, whereas the more true information about the Nazi plans whether about the extermination of the majority or the rescue of the minority that infiltrated the ghetto the smaller the chances of the prominents to be rescued. Eichmann and Kastner were both interested, for different reasons, in keeping the 'Reich's secret'. Eichmann – for ensuring the success of the extermination, and Kastner – for ensuring the success of the rescue plan. This is not confined to the 'rescue secret' alone; the secret which Kastner describes by this innocent name, when saying 'the rescue secret had to be kept' – was in reality nothing else than a branch of that terrible central secret on which a Nazi blackout was imposed – the secret of the extermination.

The domains of rescue and extermination fed each other. Anyone divulging the 'rescue secret' revealed an inkling of the extermination secret. The prominent's rescue operation was declared a 'Reich secret' to defend and guard strictly the secrecy of the extermination plans. If Kastner was forbidden to reveal the 'rescue secret' he certainly couldn't reveal the extermination secret. If revealing the 'rescue secret' could have led to 'murders in the ghetto', revealing the extermination secret even more so. If revealing the 'rescue secret' could have sparked off disturbances and rebellion in the ghettos, could have endangered the rescue of the prominents and disrupt the total deportation, then revealing the extermination secret could have acted like dynamite, destroying all plans together. Kastner knew that any leak of the extermination secret would endanger him and the entire rescue committee and put an end to all joint rescue plans.

The association with the heads of the SS on which Kastner placed the entire fate of the rescue forced him to withhold his information about the extermination plans from the majority of Hungary's Jews.<sup>16</sup>

### *The Paratroopers*

In the course of the trial the prosecution (the Attorney General) brought up a totally unknown issue, one which wasn't mentioned in Greenwald's pamphlet. His intention was to show that Kastner was trusted by the Jewish Agency.

The issue concerned the sending of three young Jews from Palestine to Hungary in April 1944 to warn Hungarian Jewry about

the impending extermination, and to initiate and organise resistance or escape. The three, who had migrated to Palestine from Hungary before the war, knew Hungary well. One of them (Joel Nusbacher 'Palgi') came from Kastner's home town, Kluj, and was a member of the Zionist youth organisation headed by Kastner before the war. Another, Hannah Senesh, was the daughter of Bela Senesh, a writer and critic who was a close friend of Otto Komolloy, head of Hungary's Zionists.

The three were trained by the British Army, commissioned as officers, and given the additional task of helping Allied prisoners of war and radioing military useful information to the Allies. An RAF plane dropped them into a part of Yugoslavia held by Tito's partisans, and from there they crossed the border to Hungary. They were given Kastner's address as a reliable contact.

Senesh was caught crossing the border into Hungary and was arrested. She was imprisoned in Budapest, tortured, and finally shot in October. Nusbacher arrived at Kastner's place, and as a result of their conversation decided to hand himself over to the Gestapo. Before that he managed to locate the last of the three, Goldstein, who was hiding in Budapest, and persuade him, too, to hand himself in. Both were sent to Auschwitz but Nusbacher managed to escape, returned to Palestine, and eventually became a director of El-Al, the national airline. Goldstein perished in Auschwitz.

During Kastner's cross-examination in the trial it turned out that he had attempted to hide from the court the fact that he had informed the Gestapo about Goldstein and Nusbacher while they were still free, two days before they actually handed themselves in. He asked for, and was granted, a further testimony to clarify the issue. Ha'levi states:

The reception given by Kastner to the two paratroopers was not very encouraging. Kastner was horrified and very perturbed by their unexpected arrival (Palgi's testimony, 399; exhibit 35, 110; exhibit 40, 416). He turned pale when he recognized Palgi who entered first. His first words were: 'Are you crazy? How did you get here?' After a brief conversation with the two youths he invited them to a meeting next morning while it was still dark. During their first night the two Haganah emissaries had to stay in Nazi Budapest in a hotel watched by the police. To reduce the risk Palgi registered only one guest in the hotel book and Goldstein entered Palgi's room without registering. For some reason Kastner, despite his close links with the Pioneers' underground, was unable to find a refuge for the two paratroopers (Palgi's testimony, B.77, 426/7; exhibit 40, 416/7; exhibit 35, 110).<sup>17</sup>

After 20 pages of detailed analysis Ha'levi concludes:

We'll sum up the main facts as proved indisputably by the evidence mentioned so far: it has been proved that Kastner forced the two paratroopers, with extremely heavy moral pressure exercised secretly and on the basis of false explanations, to give up their duty. That Kastner informed the head of the Gestapo about the two paratroopers. That Kastner tried, by his pressure and tricks already mentioned to make the paratroopers hand themselves over to the Gestapo and succeeded at that stage with Palgi. It had also been proved that these acts were not done on behalf of the paratroopers, but, on the contrary, endangered their lives.

... the real explanation for these acts of Kastner stems from his relations with the Nazi regime. Kastner had put, as he admits (end of para. 40), all his rescue operation on the Nazi card. All his enterprise until the arrival of the paratroopers was actually on the rescue, with the help of the SS, of 700 prominents out of half a million Jews from the provinces sent to Auschwitz.

Even those didn't reach a safe shore, but only Budapest, where they were joined by 500 of capital's prominents and wealthy, and all the 1200 rescue candidates – including more than 20 of Kastner's family (his wife, mother, brother, father in law, and more) and many of his friends and comrades – waited in the SS camp for the prominents in Columbus Street, desperately awaiting the departure of the promised train to Spain. All of Kastner's hopes for the departure of the train depended on Eichmann who could have tormented him again at the last minute, as he did on 3 June (para. 39), and on Klages, head of the Gestapo, who, on 3 June intervened on behalf of Kastner and who was also in these days before the train's departure in close contact with him (testimony of Kastner and Mrs. Brand) ... Kastner gave up long ago any possible position compatible with the arrival of the paratroopers and their mission. Any Jewish resistance, particularly Zionist, among Budapest's Jews would have endangered immediately the chances of success of his efforts – the rescue of the Bergen-Belsen train – and endanger all his links with the Germans. Moreover, the arrival of the paratroopers involved Kastner in a complication touching the roots of his loyalties. On the one hand he was asked to provide shelter and assistance to two members of the Haganah who relied on his loyalty as self-evident. On the other hand Kastner had long ago given his loyalty to the Nazi regime, not out of love of the Nazis, but due to circumstances, as a pre-condition and foundation of his entire joint effort with the Nazis which depended on their goodwill. Eichmann and Klages could, and did, rely on Kastner because all the assurances and guarantees were in their hands. His most vital interests: the rescue operation,

the fate of the rescued, the fate of his relatives, his own fate and safety, forced on Kastner loyalty to the ruler. The totalitarian regime did not accept 'dual loyalty' ... It was impossible to enjoy daily the favours of the ruling tyrant without reciprocating. Kastner, who knew the Nazi murderous regime from close quarters, could not deviate even minutely from this loyalty. Secret contact with paratroopers of the enemy, or knowledge of their arrival without informing the Gestapo would have constituted a serious breach of his loyalty to the Nazi regime. The vital interest of Kastner to exist and act under the protection of the Nazi regime forced him to inform Klages as early as possible of the paratroopers' arrival.<sup>18</sup>

As for Senesh, who is revered as a hero in Israel, Ha'levi concluded:

Apart from the futile proposal of 14 October [months after their arrest, when he asked the Red Cross and Hungarian Defence Ministry to release the three] Kastner did nothing for Hannah Senesh. Despite the comfortable possibilities of help that existed during the prolonged relaxation period [at the end of August Hungary expelled Eichmann and stopped all actions against the Jews due to pressures by the Allies, this lasted until mid-October when the Nazis and the Hungarian Fascists (the Arrow Cross) staged a coup and took over] Kastner didn't visit Hannah in prison, didn't appoint a lawyer, didn't approach the department for POWs at the Swiss Embassy, and prevented Kraus from approaching it, didn't reply to Hannah's appeals to him, didn't send her any parcel, didn't receive her mother who tried, unsuccessfully, to see him, didn't inform the head of the committee, the late Dr. Komoly who was a family friend of the Seneshes and knew Hannah personally, about her being in prison in Budapest. Kastner admitted only a few of these facts and denied most in his testimony, but all were proved true by the reliable testimony of Mrs. Catherin Senesh [Hannah's mother] and other testimonies.<sup>19</sup>

### *Sharing the Plunder*

*The Black Book on the martyrdom of Hungarian Jewry* by Eugene Levai states:

Grievous charges were brought against Kastner & Co. in general (Brand having left, his place was taken by his wife) because no account had ever been rendered by them in respect of the huge sums collected by that time. Similarly, Kastner never accounted for the amounts paid into his account from foreign sources. Dr. Kastner and his companions have therefore only themselves to

blame if Jewish circles in general distrusted their activities from the beginning and, even up to the present time, are suspicious of their management of the funds.<sup>20</sup>

Ha'levi states:

Kastner contradicted himself seriously about the 'Becher Treasure'. In his letter to the Jewish Agency of 21.10.45 (exhibit 142) he informed the Executive of the Agency 'with special delight and satisfaction' based on the accompanied report by Dr. Schweiger about the treasure handed him by Becher that 'the valuables handed by the committee in Budapest were never used by the Germans, meaning they were never used in the German war effort'.

... clearly, Becher handed Dr. Schweiger only a very small part' of the property received from the committee. By contrast, Becher in an affidavit given after his release [from Nazi war criminals' prison] in 1948, stated (exhibit 74) that he gave Schweiger 'the diamonds, gold, etc. given to me by Dr. Kastner, worth some SF 2M', and Kastner, in his letter to the late Minister of Treasury, Mr. Kaplan (exhibit 22) supported Becher's claim, and gave details of the items that disappeared according to Becher and accused of negligence 'those emissaries of the Agency whose duty it was at first to guard scrupulously the fate of the suitcase ...' Kastner's version corresponds to Becher's words to Schweiger (exhibit 142) and to Becher's affidavit (exhibit 74) but is implausible and merely forms part of his continuous efforts to 'purify' Becher in the eyes of the Jewish Agency – efforts which began before the end of the war and continued afterwards.

Continuous steps to clear Becher were the joint alibi actions, the agreement to hand the treasure to the Jewish Agency, the letter of 21.10.45 (exhibit 142), and the whole of Kastner's report handed to members of the Zionist Congress. Kastner gradually prepared the ground for the decisive step – his intervention in Nuremberg on behalf of Becher in the name of the Jewish Agency. His continuous support – before Arian's report and after it – for Becher's claims about returning the plundered Jewish property is merely a part of the purification process.

... Kastner's contradictions concerning 'Becher's Treasure' do not prove that he shared the plunder with Becher. It has not been proved that he spent 'an empty and licentious' time in Switzerland, as the accused [Greenwald] stated in his pamphlet, nor has it been proved that he had considerable property after the war; on the contrary, it seems that he lived a normal life of an official living on his salary.<sup>21</sup>

Ha'levi held the accusation of 'sharing the plunder with a Nazi war criminal' to be unproved.

### *Saving Nazi War Criminals After the War*

As already mentioned by Ha'levi, Kastner went to the International War Crimes Tribunal after the war (in 1945 and 1947) and gave evidence on behalf of Becher. That evidence saved Becher from the death penalty, the fate of many high-ranking SS officers. The SS itself was declared a 'criminal organisation', so that by definition all its high ranking officers were war criminals.

During the trial Kastner at first denied that he had given evidence on behalf of Nazis, but when the defence pressed him he admitted that he had testified before the German deNazification authorities (who had no authority to issue death penalties). The Attorney General Haim Cohaen, trying to help Kastner out of the contradictions in his statements, questioned him:

'Before appearing as a witness in the court did you consider the problem of whether it is a national crime or national sin to testify on behalf of Becher?'

'I certainly did.'

'We heard that you talked to many people and tried to convince them. But after the event did you talk to people, did you defend yourself?'

'No.'

'Did anyone tell you that you committed a national crime by testifying on behalf of Becher? Did they tell you in the [Jewish] Agency that you committed a national crime?'

'No.'

'Did you ever present this distinction between intervention and testimony before your interrogation in this court?'

'No.'

'You said that intervention is a crime whereas testimony is not. Do you know this distinction today?'

'I wish to answer that question with a few sentences. In the cross-examination, which proceeded as it did, I didn't always express myself in the best manner. On Becher I was asked today whether I ever stated in court that I didn't give a statement. I remember that I said I gave a statement before a member of the international court. I regret some of the statements I made regarding Becher in the cross-examination.

'... I also don't think I formulated my testimony in this matter in the most proper form, but my testimony to the police, and to some extent my letter to the late Kaplan [Minister of Finance] indicate that I've never tried to hide my activity in this matter,



and I acted with a calm conscience and good faith in this matter. If under the pressure of a demagogic interrogation I said here and there things that I regret today it does not change my basic position on this matter.'

Cohen: 'Let us return to that statement. If you had to make that statement [on behalf of Becher] today, would you make it or not?'

'Yes, but without the last phrase. That is, I wouldn't have given it also on behalf of the Jewish Agency.'

'Would you do it in your name?'

'Yes, or I would have asked for written authorization, or showed my statement in advance.'

'But apart from that would you give that statement with the same formulation?'

'The same formulation.'

'Do you consider this your duty as you were in that situation with Becher, or was this the duty of every decent person?'

'Every decent person should have done as I did.'

'Did you testify on behalf of any other Nazi officer apart from Becher?'

'I did not give a testimony that could help them.'

'I hear you testified against Nazis.'

'Tens of times.'

'But do you know of a case apart from Becher's [where a Jew testified on behalf of a Nazi]?'

'There was a committee of Orthodox Rabbis in USA and Canada, who, as far as I know, intervened on behalf of Shelenberg who was a war criminal.'

'How do you know they intervened on behalf of Shelenberg?'

'I saw the letter they wrote to the international court in Nurenberg, where there was also a trial of Shelenberg, and I was about to prove he was a criminal.'

'Did you appear against him?'

'Yes.'

[Haim Cohen takes out of his file a bunch of papers.]

'Did you ever see these statements? These are sworn affidavits from the Becher file in the German denazification court.'

'I don't know if this is all, but I saw them.'

'When did you see them?'

'When I was in Nurenberg the second time.'

'Did you see them before your statement?'

'No. After my statement. Part 1 I knew before but as a file I saw them when I was there the second time.'

[As the Attorney General begins to hand statement after statement to the judge he comes across a document that surprises him.]

'Your honour, I'm afraid that I've misled the court ... I have here the original English version of the affidavit ...'<sup>22</sup>

Kastner's affidavit on behalf of Becher before the international war crimes tribunal, whose existence was first denied by Kastner, and whose Hebrew translation was later contested by him and which the Attorney General pretended to know nothing about was suddenly found in his file, turned up by accident. It ends with the words:

Having been in personal contact with Becher, from June 1944 until the middle of April 1945, I should like to emphasize, on the basis of personal observations, that Becher did everything within the realm of his possibilities and position to save innocent human lives from the blind fury of killing of the Nazi leaders. Therefore, even if the form and basis of our negotiations may be highly objectionable, I did not doubt for one moment the good intentions of Kurt Becher and in my opinion he is deserving, when his case is judged by Allied or German authorities, of the fullest possible consideration. I make this statement not only in my name, but also on behalf of the Jewish Agency and the Jewish World Congress.<sup>23</sup>

This statement was given by Kastner to the International War Crimes Tribunal, 11 August 1947. In December 1947 Kurt Becher was released by the international court in Nuremberg, which ruled that he should not be tried; he was then handed to a German deNazification court, which released him in 1948.

In a letter of 16 July 1948 to Mr Eliezer Kaplan, the then Minister of Finance, Kastner wrote: 'It is known that Becher was a former SS Colonel and served as a liaison officer between me and Himmler during the rescue operations. He has been released in the meantime by the occupation authorities due to my personal intervention.'<sup>24</sup> Ha'levi states:

Kastner knew well that Becher did not stand up 'courageously' against the current as he stated but obeyed Himmler's orders, from the Bergen-Belsen transport [the train of the 'prominents'] to the transfer of the Bergen-Belsen camp to the British, and that the initiative to all these acts was Himmler's and not Becher's. He also knew that the aim of Himmler and Becher was not to save Jews but to achieve Nazi interests – whether for the Nazi regime as a whole or for the relevant war criminals.

There is no truth and no innocence in his statement 'I did not doubt for one moment the good intentions of Kurt Becher.' That statement by Kastner was a deliberate lie given on behalf of a war criminal in order to save him from being tried and

punished in Nuremberg. The defendant [Greenwald] has proved the truth of his accusation.<sup>25</sup>

... Kastner's behaviour, defending Becher after the war, attempting to purify him in the eyes of the Jewish Agency, and even saving him from trial and punishment as a war criminal in Nuremberg do require strong and most unusual motives but there is no need to look for the explanation in the financial domain as the accused assumed in his pamphlet. There are many signs in Kastner's report that strong personal sympathies were formed with the time between him and Becher, which blurred the natural separation between the Jew and the SS man. The prolonged collaboration of Kastner with the Nazis had its effect of blurring his sight, and the identification with his period of greatness continued to affect him after the change of period. Kastner needed the purification of Becher and his justification for justifying himself. Such, or similar motivations can explain Kastner's behaviour. But there is no need to ascertain the motive when the act has been proved.<sup>26</sup>

But the story does not end there. In 1960, six years after the trial, Joel Brand, Kastner's closest friend and deputy in Budapest (until he left for Palestine with Eichmann's offer to trade Jews for goods, when his wife replaced him), published a book (in Israel) in which he states:

When I investigated the Kastner affair, I searched and found Dr. Robert M.V. Kempner, the American prosecutor in those days, who later worked in Frankfurt as lawyer for Jewish compensation claims. He answered my questions:

Yes, I invited Kastner from Tel-Aviv to Nuremberg as a witness for the prosecution. Immediately after his arrival I regretted this invitation. Apart from the fact that he turned out to be a very expensive witness, and the expenses incurred by his visit were extremely high, a curious situation developed. We were, after all, the authorities of the prosecution. I consider it my duty to state explicitly that Kastner roamed the Nazi prison camp for Nazi Officers searching for those he could help by testimony or intervention on their behalf. In the end we were very glad when he left Nuremberg.<sup>27</sup>

Brand continues:

On 13 September 1945 [four months after Germany's surrender] Kastner stated before the Chief American Military Attorney Warren F. Farr, as follows:

According to Krumei's statement ... given in February or March 1945, Eichmann convened in Berlin, in spring 1942,

a meeting of the officers of the 4th dept. [in charge of exterminating the Jews] informing them that the German government has decided on the extermination of Europe's Jews, to be carried out secretly, in gas chambers ... Krumej insisted that this secret be carefully guarded – not be revealed by Eichmann, only a few officers of the 4th dept. knew the details ... the entire German Reich machinery collaborated with the 4th dept. in this task ... The officers of this dept. moved from country to country ... the operative plan was identical in almost all countries ... Krumej and ... were at the head of the operations in Hungary, Austria, and Poland ...

And yet, despite this decisive testimony against Krumej, Dr. Kastner stated before the deputy director of testimonials office in the headquarters for rounding up war criminals, on 5 May 1948:

I first met Hermann Krumej in April 1944 ... in those days he was an SS colonel, member of the staff for special actions [the Nazi term for exterminating the Jews] under the command of SS colonel Eichmann in charge of the final solution [Nazi euphemism for 'murder'] of the Jewish question in Hungary. As a result of my negotiations 15,000 Jews – out of 50,000 already deported [to Auschwitz] – were sent to Austria rather than to Auschwitz. This meant that people who could work were given jobs and their families – children, babies, old and sick – were also not sent to the gas chambers as happened to those deported to Auschwitz. They were saved from death. Hermann Krumej was appointed head of a small staff placed in Vienna as the officer responsible for that special group of 15,000 people.

I wish to stress that Krumej carried out his duty with commendable goodwill towards those who depended, decisively, on the manner in which he interpreted his order. As I spent the last three months of the war in Vienna I could observe the facts stated here with my own eyes. I presented Krumej with a series of proposals designed to improve the hard conditions of people in this group and always found him understanding and willing to help.<sup>28</sup>

Brand concludes:

'When I read Kastner's statement I was confused. Nobody knew better than Kastner that Krumej was the immediate deputy of the mass murderer Eichmann. Nobody knew better than him that the anti-Jewish regulations pasted on houses in Budapest, and the orders for concentrations and deportations of Hungary's Jews were signed by Krumej.

He certainly remembered how Krumej faked innocence, stating that those who were already dead in Auschwitz were transferred from Hungary to 'Waldsee' in Germany for forced labour, and even exclaimed in surprise: 'Haven't you received letters from them? You'll soon get them.' But Obersturmbahnführer Hermann Krumej arrived in Hungary already crowned by glorious achievements. He was the commander in Poland of the SS deportation battalions. His pet occupation was the confiscation of Polish and Ukrainian peasants' lands, the deportation of the peasants to Germany as forced labour, and the transfer of the lands to influential persons in the SS.

He it was who received for 'special treatment' the 86 children of Lidice [a Czech village whose entire population was murdered as retribution for the assassination of Heydrich], and no one has seen them since.

Hermann Krumej didn't like the front, and service in the Jewish dept. suited him admirably. This dept. didn't hold the promise of fast promotion but it gave him more power than that of generals. I cannot understand how Rezso Kastner could give such a positive testimony on behalf of this war criminal. Yet Rezso told me 'I never testified on behalf of Krumej. I never defended members of Eichmann's staff, since these were nothing but murderers of the worst kind. It was different with people like Becher.'<sup>29</sup>

Even as late as 17 February 1957 Kastner wrote a letter to Brand insisting:

I cannot remember that I ever testified on behalf of Krumej. When asked to confirm what, to my mind, he did for us, I presumably didn't refuse.

In my statement in London I presented Krumej as a war criminal. I described in my report how he very cynically misled me during our negotiations.

... In repeated memorandums to General Taylor I demanded a trial about the Holocaust, and when Eichmann disappeared without a trace I demanded that Krumej stand trial as the main culprit.

Brand comments 'This letter left a bitter taste in my mouth. Kastner has always denied that he gave a testimony on behalf of Krumej. Even in this letter he argues that he cannot remember having said anything. But such testimonies are not forgotten easily.'<sup>30</sup>

Kastner's testimony on behalf of Krumej was never mentioned in the trial in 1954.

*The Appeal*

Following Ha'levi's verdict the government appealed to the Supreme Court. This consists of five judges each of whom reconsiders the entire case and may deliver a separate judgment. The court's verdict consists of the majority's view. All five judges agreed that the charge of sharing the plunder with a Nazi war criminal had not been proved, and hence constituted libel. As for collaboration, four judges disagreed with Ha'levi and one agreed with him, whereas on the point of 'preparing the ground for murder' all five disagreed with him. The arguments for the disagreements differed. Justice Goitein argued:

and yet, my opinion is that we should uphold the appeal, the reason being that the libel in the pamphlet which is the subject of the trial constitutes one whole and cannot be divided and split into parts except for the convenience of analysis. If the defendant justified it in its entirety he is innocent, if he justified it only partially he is guilty of the entire charge.<sup>31</sup>

Justice Olshan, the president of the court, had a similar view:

When a defendant in a libel case argues that he spoke the truth – he must, according to the law, prove the truth of all the allegations, if he did not do so he has failed in his defence. With all due respect I think that splitting the main charge into two is artificial and unrealistic.<sup>32</sup>

Justice Silberg argued:

The claim of the Attorney General shrinks to one point only, namely: the subjective aspect. Kastner was convinced and believed that there is no shred of hope for Hungary's Jews: not even for one, and if he, as a result of this absolute despair, didn't reveal the secret of the extermination in order not to undo or endanger the rescue of the few, then he acted innocently and cannot be charged with collaboration with the Nazis in facilitating the extermination of the Jews, even if he, de facto, contributed to this result.

I must say that I cannot accept this argument. Is this 'innocence'? Is there 'representation' of despair? Can a single individual, even jointly with some friends, despair on behalf – and without the knowledge – of 800,000 people? Let us consider – and that is the crux of the matter in my opinion – the charges of the witnesses against Kastner is not that but for the guarding of the 'extermination secret' a large part of the Ghetto inmates could have been saved by one major rescue operation, organized, on a national scale; this is not the argument. The argument is that had they known about Auschwitz, thousands, or tens of

thousands could have managed to save their lives by partial, sporadic, or many individual rescue acts, like: local uprisings, resistances, escapes, hiding, hiding children with Gentiles, forging documents, paying ransom, bribes, etc. And if so, and since we speak not about a few seeking rescue, nor about a few thousands, but of many thousands, how dare an ordinary mortal reject, with total certainty, and decide with an absolute 'No' the efficiency of all this multitude and variety of rescue possibilities? How can he test those tens of thousands possibilities? Is he a god?

Indeed, he who behaves with such usurpation towards the last hope of hundreds of thousands cannot claim the defence of innocence. The burning question of 'by what authority?' and 'quo warranto' is an adequate answer to such a claim of *bona fide*.<sup>33</sup>

And yet Justice Silberg argued that whereas the charge of collaboration was fully proven, the charge of 'preparing the grounds for murder' was not, arguing that unless it can be shown that Kastner willed the murder of entire Hungarian Jewry the libel was not justified.

This was also the gist of the argument of Justice Agranat, whose view spans 109 pages. He first argued that since Kastner was accused of murder in the libel, it must be shown as it would in a criminal action that he had a guilty intention [*mens rea*] and had willed this murder. Agranat argued that it has not been proved that Kastner willed the murder of Hungarian Jewry, and that he strove, at every point, to save the largest possible number of Hungarian Jews. He stated his views as follows:

I summarize my final conclusions on Kastner's behaviour during the holocaust of the provincial towns: (1) During that period Kastner was motivated by the sole motive of saving Hungary's Jews as a whole, that is, the largest possible number under the circumstances of time and place as he estimated that could be saved; (2) This motive fitted the moral duty of rescue to which he was subordinated as a leader of the relief and rescue committee in Budapest; (3) Influenced by this motive he adopted the method of financial or economic negotiation with the Nazis; (4) Kastner's behaviour stands the test of plausibility and reasonableness; (5) His behaviour during his visit to Kluj (on May 3rd) and afterwards, both its active aspect (the plan of the 'prominents') and its passive aspect (withholding the 'Auschwitz news' and lack of encouragement for acts of resistance and escape on a large scale) – is in line with his loyalty to the method which he considered, at all important times, to be the only chance for rescue; (6) Therefore one cannot find a moral fault

in his behaviour, one cannot discover a causal connection between it and the easing of the concentration and deportation, one cannot see it as becoming a collaboration with the Nazis.<sup>34</sup>

Agranat then used an example given in Ha'levi's judgment about a guard of a camp betraying his duties:

The enemy informs the guard that the camp is surrounded by superior forces, that it intends to destroy the entire camp and that even if the guard tries to wake his friends they won't manage to escape. The enemy promises the guard to spare the lives of a small number of friends which he may choose on condition that he will not wake all his other friends and not make any attempt to rescue them. The guard presents the enemy with a list of his best friends and avoids alarming the camp and helping it. The enemy destroys the camp and leaves alive only the guard's friends. The guard's act constitutes a betrayal of his friends and duty, collaboration with the enemy, and assistance to destroying the camp (para. 64).

My answer to this example is that it fails to apply to our case for two reasons:

First, the plan of the prominents was never considered by Kastner as a singular rescue mission for whose sake he forsook the rescue of the rest of the Jews in the provinces. It was only a by-product of the negotiations to prevent the deportation of Hungarian Jews as whole, and in his eyes this plan was in line with the plan of maximum rescue and not opposed to it. Second, the duty of the guard in the example above – to alarm the camp on the sudden arrival of the enemy who comes to destroy is a ministerial duty, well defined in advance, from which he couldn't deviate in the slightest. But Kastner's public duty obliged him to care for the rescue of the whole of Hungarian Jewry, in other words his sole moral duty was to aspire to rescue the largest number of Jews it was possible to save. Therefore the decision on the question of whether he had to tell the Jews in the ghettos his actual information depended on his evaluation of the use of this means for the said 'maximal' end. But we saw that his evaluation of this issue – which was reasonable – was negative. Therefore my view is that the president (of the District Court) was wrong in his conclusion that the defendant proved, with regard to the holocaust of the provincial towns in Hungary, his first two charges. The tragedy which these Jews suffered is enormous and horrifying both in its substance and scope. But the proof to substantiate it in this case does not justify the conclusion that Dr. Kastner knowingly contributed to this sad outcome and does not justify that he be stained, accordingly, by the stain of a collaborator with the Nazis.<sup>35</sup>



The law on which Justice Agranat, and all the judges of the Supreme Court, based their considerations was Israeli law for dealing with ordinary criminals. But can a political leader, whose policies prove catastrophic, be judged according to the narrow rules designed to deal with ordinary crimes?

Justice Agranat argued that as long as the aim of saving the majority of Hungary's Jews was foremost in his mind Kastner could be accused neither of 'collaboration with the Nazis' nor of 'preparing the ground for murder'. Judge Kheshin agreed, but added:

In the moral domain: this is not a question of whether a person be allowed to kill many in order to save a few or vice versa. The question is in a totally different domain, and has to be formulated thus: a person sees that an entire community is doomed; is he allowed to make efforts to save the minority, although some of the efforts consist of hiding the truth from the majority, or must he reveal the truth to all even though to the best of his knowledge all will be destroyed by this?

I think that the answer is clear: what will the blood of the few add to that of the many?

On this point we have the illuminating testimony of Freudiger, that man seen by all as honest, and a capable leader. He was asked by the court a simple question and gave a clear answer:

Ha'levi: Was it necessary for a Jew who wished to save Jews to study the aims of the Nazis in this trading or was it enough for a Jew to say: every Jewish soul the Nazis allows me to save I save, and if they ask for money I pay money, if they have political or other unknown aims it is none of my business? Or must the Jews answer the question: perhaps in this deal they want to facilitate the extermination of the rest of the Jews?

Freudiger: This is really a very hard question, Mr. President, and I can only answer according to religious law. To my knowledge if it is possible to save a single Jew then one must save him. This is one of the three laws for which one must be ready to die rather than forsake. If I can save someone even if later this will cause worse things to others, then according to my understanding of religious laws I must save him, whether there is worse to come or not ... If I can save I must save ... according to my understand, he who must save the people, and can save, should save (Freudiger's testimony, 24/53).<sup>36</sup>

Justice Keshin accepts this view. Actually, the next sentence in Freudiger's testimony (which Justice Kheshin failed to quote) says: 'Had someone approached me with the problem as the honourable

president formulated it to me I would have asked my rabbinical office what to do.<sup>37</sup>

Kheshin states:

No law, national or international, determines the duties of a leader in time of emergency towards those who rely on his leadership and depend on his command. Moreover, there is no law attaching criminal responsibility to a leader. I think we can state explicitly that if we rule that Kastner collaborated with the enemy because he failed to inform those who boarded the trains in Kluj that they were heading for extermination then it is necessary to bring to court today also Dantzig, Herman, Hanzi Brand, Rahbes, and Marton, and many other leaders and half leaders who also kept silent in times of crisis, who didn't inform others about what they knew, who didn't raise the alarm, and didn't warn about the impending danger. Even Freudiger himself, that man of pure conscience and direct manner, will not come clean. If the honourable president was right in his judgment then Kastner deserves death according to the law of judging the Nazis and their collaborators (1950). I refuse to believe that a Jewish judge would pass a death sentence on Kastner and others like him on the basis of the evidence presented in this trial.

For these reasons I cannot accept the conclusions of the lower court on the accusations of the defendant against Kastner on collaboration with the Nazis to exterminate the masses of the Jews in Hungary during the last war.<sup>38</sup>

It is little wonder that the judges in the Supreme Court agreed that the proper forum for judging Kastner's behaviour and policies would be a public enquiry committee. But the government did nothing to set this up.

### *The Assassination*

Even before the Supreme Court heard the appeal, Kastner was assassinated. On the evening of 4 March 1957 he was shot outside his house by Ze'Ev Ekstein, who was then driven away by Dan Shemer in a stolen jeep. The police arrested them in their homes that same night. Next morning the police had their confessions. A third man, Joseph Menkes, was arrested a little later. Shemer and Ekstein were former employees of the Israel Secret Service. On the day of the assassination an agent of the Secret Service warned his superiors that the assassination would take place that night. No precautions were taken. Kastner was alive and conscious in hospital for another 12 days. Brand, Kastner's deputy and close friend, wrote:

Perhaps cautious politicians didn't know what to do with one person after his trial, where to 'house' him. Needless to add that the public enquiry committee suggested by the judges of the Supreme Court was never established.<sup>39</sup>

### *Who Authorised Kastner?*

For his actions in both Hungary and Nuremberg Kastner claimed to have the authority of the Jewish Agency. When his statement on behalf of Becher was given he signed as a representative of the Agency and reported to its treasurer. Kastner stated in his testimony to Ha'levi:

Before going to Nuremberg [to testify] I sat with the people of the Jewish Agency and with people from the [Jewish] Congress to discuss what to do to bring the Nazis, particularly those who participated in the extermination of the Jews, to trial. There was also a question of what to do about the few cases in which we received help from the Nazis. I mentioned then especially Becher, and the court knows my opinion on him. I asked if in case of a request to give an opinion on this matter I may say, not only in my name, but also on behalf of the Jewish Agency or the Congress, that he deserves consideration for his help in rescuing the Jews. I got a positive answer.

The trial transcript continues:

Ha'Levi: 'You mentioned Becher's case specifically?'

Kastner: 'Yes. Specifically.'

'With whom did you talk then?'

'With Perlzweig and Ridner of the Jewish Congress and Barlass and Dobkin from the Jewish Agency.'

'And these four people gave the permission.'

'They agreed. Yes.'

'They agreed in relation to Becher specifically?'

'Yes.'

[Dobkin, a member of the Executive Committee of the Jewish Agency, then gave a very short testimony. He was asked to testify on one point only. Did he or did he not give Kastner permission to make a statement of behalf of the Jewish Agency?]

Tamir: 'Mr. Dobkin, when did you first hear the name of the SS officer Kurt Becher?'

Dobkin: 'I met this name for the first time only now, when I read the report about the trial.'

'There is a version that you and Barlass agreed that Kastner should testify on Becher's behalf and even add a recommendation in your name. Do you remember such a thing?'

'No. I don't remember any such thing. I don't remember discussing this subject with him.'

'Did you know that Dr. Kastner was going to Nurenberg to testify?'

'I cannot remember.'

'Did you ever face a moral dilemma for testifying on behalf of a Nazi?'

'No.'

'Were you authorized – as head of the Jewish Organizations Department [in the Agency] – to give permission to testify on behalf of an SS General or Colonel?'

'I had no authority in these matters.'

'Do you remember a debate in the Executive of the Agency on the problem of testifying on behalf of a Nazi?'

'No. I have searched my memory, referred to documents and spoken to Mr. Barlass about it, and failed to recall.'

Tamir: 'Thank you Mr. Dobkin.'<sup>40</sup>

In his book *Satan and the Soul*, published six years after the trial, Joel Brand comments:

Kastner testified under oath in court that Eiyah Dobkin and Haim Barlass authorized him on behalf of the Agency to testify in Nurenberg on behalf of the SS Colonel Becher. I don't know if this was so or not. But I do know that Dobkin's claim, under oath, that he heard the name Becher for the first time during that trial, and hence couldn't have authorized Kastner to testify on his behalf, is contrary to the facts. In 1944 Dobkin was due, together with the director of J.O.I.N.T., Joe Schwartz, to meet Becher and Kastner in Lisbon. All the preparations for that meeting were made, but at the last moment it was cancelled since the Allies forbade their citizens to meet with a representative of the Nazis. Therefore, by the way, the dealing with Becher was transferred from Dobkin and Schwartz to Sally Meyer, who was a Swiss citizen. In addition, Dobkin was, with Greenbaum, also the head of the central relief and rescue committee in Jerusalem, one of whose main duties was to meet Kurt Becher and follow the progress of the negotiations with the Nazis. The name of SS Colonel Becher was one of the names mentioned more than others and Dobkin was one of those who knew more than most. I myself spoke to him on the day of my release by the British [having been arrested on bringing Eichmann's offer of 'lorries in exchange for Jews', in 1944] in his office and flat in Jerusalem. He offered me then to come with me to Lisbon to meet Becher. Dobkin's testimony, that he had never heard the name Becher, strengthened my doubts, about whether the central institutions, despite the fact that the Attorney

General personally took over the defence of Rezso, were really interested in clearing him.<sup>41</sup>

Brand mentions in his book that when Tamir met him privately, to ask him to testify in the Kastner trial, he replied:

Mr. Tamir, I have such horrifying and incriminating material against the heads of the [Jewish] State – who were the heads of the Jewish Agency at the time – that would shock the entire state. They simply cannot afford to allow such material to become public knowledge. If I testify blood will flow in the streets of Tel-Aviv, therefore I doubt whether it is desirable from a national point of view.

Tamir smiled with sad irony and said:

You don't know the Jewish community Mr. Brand. Not a single window will be smashed as a result of your testimony. That is perhaps the worst tragedy that has happened to us, the senses have been dulled, the national body doesn't respond normally even to the most painful blows.<sup>42</sup>

Eventually Brand testified, and not a window was smashed. On one occasion he was driving home with Ehud Avrieli, the representative of the Political Department of the Jewish Agency, headed by M. Sharett during 1944, and who was instrumental in handing Brand over to the British when he arrived from Budapest. Avrieli commented on Brand's book: 'I understand that you wish, and even must, tell the truth, but bear in mind that it is the tone which makes the music. It is not necessary to tell everything. In fact, we should all have been put up against the wall [and shot].'<sup>43</sup>

In the 1980s a campaign to rehabilitate Kastner started in Israel. It culminated, on 26 July 1993, in a decision proposed by Mayor Shlomo Lahat to the Tel Aviv city council, to name a street after Kastner. The resolution was passed by a considerable majority.

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