

Gabriel Bach and the Prosecution of Nazis in the State of Israel

Dr. Yehudit Dori Deston

Gabriel Bach, born in Germany in 1927, served in key positions at several critical moments of prosecuting Nazi criminals in Israel. In fact, Bach played a significant role in each of the criminal contexts in which the Holocaust and its perpetrators were prosecuted in Israeli courts. Thus, he served as the attorney conducting the Gruenwald-Kastner appeal in the Supreme Court (1957), which centered on a question of Jewish collaboration with the Nazis; he was responsible for preparing and conducting the prosecution's case in the Eichmann trial (1960-1962); in his role as justice minister, he was involved in efforts to prosecute Gustav Franz Wagner, the deputy commander of the Sobibor extermination camp (1978-1979); and he was on the panel of Supreme Court justices that rejected the petition to put Ivan Demjanjuk on trial again following his acquittal (1993).

This research examines the important contribution made by Bach in bringing Nazis to trial in the State of Israel. The main significance of the research lies in the analysis of Bach's role as a "repeat player" in all these legal proceedings. Various theories from the field of law and economics discuss the relative advantages of a repeat player — such as a large employer, an administrative authority, or a bank — in legal proceedings. The repeat player is familiar with the "rules of the game" and experienced at handling them, as compared with smaller entities encountering the legal arena for the first time. With these theories as background, the research discusses the role of Bach — as a prosecutor and as a judge — in managing legal proceedings centered on the Holocaust and its perpetrators. Do these cases share any patterns of thinking or basic assumptions? Is it possible to attribute to Bach a special expertise on the basis of the experience he accrued in earlier cases and in view of his biography as someone who escaped from Germany during the war years? What is the difference — if such a difference exists — between his ability to express his worldview as a person, a Jew, and an immigrant, and as a prosecutor, a state attorney, and a judge in these cases?

The research reviews Bach's main contributions to these legal affairs and proposes a historical and legal explanation for his actions and attitudes towards bringing Nazi criminals to trial. Through this discussion, the research also presents a credible picture of the evolution of Israel's legal efforts vis-à-vis Nazi criminals and their collaborators over the years.