

Belsen Trial

transcript

This document sets forth the remarks made by Dr. Cyprian, at a meeting of the Commission held on October 3rd, 1945, based upon his attendance at sessions of the Belsen trial. It is circulated for your information and for possible future consideration by the Commission.

SECRET

UNITED NATIONS WAR CRIMES COMMISSION

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THE BELSEN TRIAL IN LUNEBURG

Remarks by Dr. Cyprian

The authorities responsible for the so-called Belsen Trial, which began at Luneburg in Germany on September 17th, 1945, invited as Allied observers the representatives of the nations whose nationals had been among the inmates of Belsen and Auschwitz (Oswiecim). The following nations sent representatives: Czechoslovakia, Denmark, France, Luxembourg, Greece, Poland, Russia, Yugoslavia, Holland. The Jewish World Congress was also represented.

I do not consider it necessary to report on the progress of the trial itself, as there are official stenographers and the full transcription will be sent to the Commission; in any case, the Press reports daily on the progress of the trial.

I should like instead to make some remarks about the first two weeks of the trial which I attended (the trial is still in progress). I must stress that these remarks do not represent the point of view of the Polish Government, but are the remarks of a lawyer commenting on the trial quite unofficially.

Before I start, I would like to say that the authorities in charge of the trial did their utmost to help us by giving us every facility and every assistance in our work.

The Belsen trial is, in my opinion, an outstanding event from the historical point of view. It is the first mass-trial of war criminals, it deals with the atrocities committed in two German concentration camps, which became the symbol of German rule in occupied Europe, and it can be considered the final stage of the work we are doing in the Commission.

As every judge knows, half of the work necessary for a trial has to be done before it starts and whether the trial itself will go smoothly or not depends upon this work. Therefore we have first to consider the preparatory work of the trial.

1. The Investigation at Belsen Camp

When the British liberated the Belsen camp, they found, in an area of about half a square mile, 40,000 people alive and 13,000 corpses, and people died at the rate of one thousand daily, during the following fortnight. Under these circumstances, the work of the investigating team, consisting of very able officers and men, was certainly most difficult. This difficulty was increased by another: no one in the team could speak the language of the inmates and they therefore had to find interpreters among the inmates of the camp themselves and they had to rely completely upon them for correct and precise translation of statements as well as for finding people most suitable as witnesses.

What happened was that the interpreters brought the people they knew as witnesses, and those people were not always intelligent enough to give evidence, beyond stating the quite obvious fact that they were beaten themselves, saw other people beaten, some even unto death.

Some witnesses were extremely intelligent, but many were not and they were of no great value to the Court.

Besides, there was a rumour in the camp that everybody who was required to make a statement before the investigating team would be held in the camp until the time of the trial, with the result that many intelligent people avoided being interrogated.

The translations, although fairly accurate, often missed the point, as they did not render the subtleties of the language. That led to arguments during the trial and delayed it to a great extent.

It would be advisable to have a team of people speaking some foreign languages. I well understand that that is very difficult, especially in war-time, and taking it all into account, I must say that the investigating team did its best, working hard under really appalling conditions.

2. The Accused

Among the 44 accused, there were three different types of people:

- (a) The "main criminals", such as the Lagerkommandant Kramer, the camp doctor Klein, the S.S. men and women holding key positions in the camp;
- (b) the "minor criminals", such as the S.S. guards; and
- (c) the "Kapos" chosen among the inmates of the camp themselves.

From the point of view of criminal law, all of them ought to be indicted, as the "Kapos" killed many people in the camp, but if this trial is to go down in history as an exemplary case of punishing people responsible for the atrocities in the camps, it would be better to have these three categories of accused tried separately.

There is a great difference between Kramer and Dr. Klein - responsible for thousands of people having died in the camps as the result of their activities, and those of a few more who helped them - and the "Kapos" who can successfully be convicted for killing one or two inmates. Every one of them can be hanged only once, of course, but it would be better to try them separately.

This remark refers especially to the third category of the accused, the wretched inmates of the camps, lured by more food or some favours, who became beasts as time went by, but who had started their infamous careers as the victims of the Nazis who formed the first two categories.

There is one more point to be mentioned. The camp of Belzen held inmates of all European nationalities and those nationalities were certainly represented among the "Kapos". But if this trial had as its purpose the exposing of German brutality and the German system of exterminating different nations in concentration camps, it ought to remain a purely German affair. Every addition of non Germans destroys that purpose from that most important point of view, since among the accused we find the victims of the German system who became accused persons just because they were caught by this system themselves.

3. Belsen and Oswiecim (Auschwitz)

The indictment dealt with the atrocities committed in these two camps and it seems to me that the defence was right when asking that these two charges should be separated. It seemed expedient to combine both charges, as many of the accused committed atrocities in both camps, but in this case, I feel that the picture would be much clearer if the charges were separated and the trial limited to Belsen alone. After all, several of the accused (Kramer included) served in various other camps as well (Dachau, Mauthausen, etc.) where they certainly committed crimes of the same nature but the indictment did not go so far as to include those camps, probably because among the witnesses there were no inmates of those camps.

But the charges concerning Oswiecim (Auschwitz) can only contain a small fraction of what happened in that huge camp; those responsible for Belsen can be convicted without taking into account what they did in Auschwitz. In my opinion, therefore, it would perhaps be better to have a separate trial for the Auschwitz camp, which would be more complete and quite independent from Belsen.

4. The Indictment

If one reads the charge sheet, one is shocked by the fact that it formally indicts the accused of causing the death of twelve people mentioned by name at Belsen and of three named persons at Auschwitz, and, in addition, of "other Allied nationals". If we consider that, at Belsen, something like 50,000 or more people died, and, at Auschwitz, between two and four million, we cannot help feeling that there is something wrong in the wording of the charge sheet. I well understand that it was impossible to list one million or more names of victims but, in my opinion, the indictment should underline that there were that many victims and perhaps give some names as examples, - and not vice versa.

Fortunately, however, the Prosecuting Officer, Colonel Backhouse, in his opening speech, reversed the situation in the most able way, thus giving the trial the right start.

5. The Court

The Court consists of five high ranking officers and a civilian barrister, whose task it was to advise the Court on legal matters.

The task of the Court was not an easy one. Without knowledge of the language of the accused and the witnesses, and having to deal sometimes with intricate matters of international law and procedure, the President and the members of the Court are working hard and with the greatest devotion.

But would it not be easier if the tribunal itself consisted of officers - lawyers - well acquainted with international law and having a knowledge of the German language? As things are, the tribunal has to rely on the learned barrister in matters of law and on the interpreter for everything that is said in the Court.

6. The Interpreters

They did their best, but as they were not lawyers, it happened quite often that they missed the point and there were long drawn out arguments between them and the defence or the prosecution as to the meaning of a statement made by a witness and its more or less precise translation.

Speaking all three languages used in the Court, I was able to follow those arguments and see how often the real meaning of what the witness wanted to say was distorted in the translation.

I had some talks with the interpreters themselves and they agreed that they were not able to cope with their task, especially when the witness was unintelligent.

It would be better if for a trial of such importance some lawyers could be found who spoke the necessary language, especially German.

7. The Defence

The defence did their best to fulfil their duty, but they were greatly hampered by the necessity of relying on the interpreters.

In addition, some of the remarks of some of the Counsel went a bit too far in my opinion, as for instance the statement that all that the witness told the Court was "pure lies and invention". It aroused the indignation of the witnesses and they often reacted very sharply.

I am afraid the mistake was that the witnesses were treated like normal people which they are not after several years in a concentration camp. I am even prone to suspect that some of the statements of the witnesses border upon fantasy in some details, but I am absolutely sure that they were not conscious of it, as in their sufferings the terrible reality often became distorted in their tormented minds.

8. The Procedure

The British law and procedure made the trial even more difficult, as that law has been developed throughout the centuries for decent, law-abiding people who generally pleaded guilty if justly indicted.

But here, on German soil, it seemed to me sometimes an instrument too delicate for such a job; its fairness, I am afraid, was not fully understood by the Germans themselves who often confound fairness with weakness.

But this remark is rather a philosophical one as obviously a British Military Court had to adopt British law.

9. The Belsen Camp

The Belsen Camp was burned down by the Military Authorities several months ago, as we were told, for sanitary reasons (spreading of disease). If it had to be done (the site of the camp is still surrounded by barbed wire and nobody is allowed to enter), it is a pity that there were no pictures taken showing in all detail the inside of the huts, the baths, the sanitation, as well as the condition of the inmates, their bodies in different stages of emaciation. There was no such thing as a documentary film, and if it existed, it was not shown to the Court. The film we saw was of extremely poor quality, much less important from the documentary point of view than the films we saw in London cinemas.

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10. Final Remarks

The Belsen trial will go down in history as the first great attempt to try and punish people responsible for war crimes in Western Europe. This historical character of the trial is in my opinion much more important than its legal-criminal side which, after all, means murder, manslaughter and ill-treatment.

It is the size of this crime, the numbers of the victims affected, the hitherto unknown brutality of the accused and, above all, the German plan to kill and massacre whole nations, that make this trial so important. But it is the crime against humanity, rather than the pure crime against some written law which matters here.

The United Nations War Crimes Commission did the preparatory work which led to this trial, since it established the legal basis, prepared the opinion of the world and helped to list and indict the accused. Now the work is in the hands of the Court and I can only express my full confidence that this trial - whatever the verdict may be - will go down in history as a terrible example of human degradation and exemplary punishment meted out by the violated humanity through the hands of British justice.