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Report on the Criminal Law Aspects of the Holocaust Problem

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- as translated from the German by Dr Patrick McNally

First of all, I would like to thank the Institute for Political and International Studies for organizing this conference and in particular I would like to take the liberty of expressing my great respect for the President of the Islamic Republic of Iran, Dr. Mahmud Admadinejad. He was the first important statesman in the world to publicly raise three facts:

1. the fact that the guilt of the Germans for the Holocaust has not yet been properly proven;
2. the fact that anyone who wants to discuss the lack of proof will be persecuted by the Western media and sometimes be subjected to criminal prosecution; and
3. the fact that in the West the freedom to express one`s opinion –at least in key matters- is a complete fraud.

His Excellency the President, Dr. Ahmadinejad, has thereby dealt a severe blow to the worldwide cartel that forbids any attempt to provide evidence questioning the Holocaust. The Holocaust Problem has historical, political, international law, human rights law, and last but not least criminal law aspects. This Report deals exclusively with the criminal law aspect and especially with the procedures in a criminal case.

I am speaking here neither as a historian nor journalist but solely as a lawyer who has come in contact with the problem of the homicidal gas chambers. The defense attorney is an integral part of the criminal law system and he should contribute to finding a decision based on facts and thereby help prevent the court from making mistakes that are hindrances to fulfilling its mandate.

The defense attorney`s personal opinion about the existence of gas chambers is unimportant. His personal opinion about the homicidal gas chamber question was and will never be expressed in any criminal proceeding. That principle applies also to the writer of this Report.

The question of proof is decisively important in criminal cases against those who deny the existence of homicidal gas chambers. The rules of criminal procedure are determined by what is understood to constitute proof in a criminal case. The laws of criminal procedure are very different from country to country.

However, one fundamental principle can be recognized worldwide: whoever has to function as a judge over a defendant will in no case want to condemn and punish without having made use of all available and relevant means of evidence and proof. In practice this means that no court in the world will sentence a defendant accused of murder and convict on the basis of mere witness statements or confessions when there exists sufficient material for a DNA analysis of clues and traces remaining from the crime.

Witness statements and confessions in and of themselves do not constitute proof. They only become evidence by the fact that the court believes the subjective assertions of the witnesses or the confession of the accused. However, witness assertions involve numerous factors of uncertainty. In many criminal cases an objective examination of factual proof is possible and even necessary. A factual proof creates clear and exact knowledge in contrast to a mere belief in the correctness of human assertions. Factual proof can absolutely and completely refute many witness assertions, but no mere assertions can ever refute factual proof. There are many types of factual proofs. In the case of holocaust accusations, there would be, for example, soil testing with radar equipment, archeological investigations, chemical tests on material, expert reports on the effects of Zyklon B and diesel engines, etc.

In courts in Western countries, expert reports from specialist areas of natural science and forensic investigations are always used to analyze and clarify factual situations, which have left behind visible traces that can be studied by the natural sciences. Only in the area of the holocaust accusations are any and all submissions of factual proof not only omitted but even forbidden.

Since 1989 I have been defending persons accused of holocaust denial in Germany and Austria. Along with Colonel Hajo Herman, I defended General Remer. In both Germany and Austria, I have defended Gerd Honsick. I am now defending David Irving in Austria and Ernst Zündel in Germany. All the courts have rejected all motions to submit proofs. There was acquittal only in Austria where eight jurors decided the question of guilt or innocence. There are no acquittals in these cases when the judge decides the question of guilt or innocence.

The courts reject all motions to submit evidence because of judicial notice about the homicidal gas chamber. ["Judicial notice" is used to translate the German word "Offenkundigkeit," which means "obviousness." If something is alleged to be "obvious," then it cannot be questioned or even discussed in the court.] It is completely wrong to use judicial notice. A fact based on judicial notice is not a real fact.

Rather it is only an opinion about a fact. This opinion can be correct but can also be false.

The ugly reality is that the courts do not demand any factual proofs. And Article 21 of the London Statue of August 8, 1945 forced the courts not to demand any factual proof. That dominates and controls all holocaust trials right up to today. There is a very long list of people who have suffered and still suffer a serious loss of freedom because they questioned the holocaust. David Irving is in Austrian prison and Ernest Zundel in German prison. Forty-two friends of Gerd Honsik spent a total of 114 years in prison because they peacefully express opinions that did not advocate violence. In Germany every year c. 10,000 people are prosecuted and persecuted for holocaust denial.

In my Report I hope to have contributed to removing the widespread ignorance about the lack of proofs in the question of the homicidal gas chambers. At this Conference in Teheran, it has been publicly established that there are no proofs for the existence of homicidal gas chambers, although sufficient evidence had been available for a long time to show that there were no proofs for homicidal gas chambers. May the public determination of the lack of proofs lead to an objective analysis and clarification by an unprejudiced international investigating committee.

In the limited time available here, the unbelievable extent of the violations of laws and human rights of revisionist researchers could only be briefly indicated. However, I would be happy to answer any of your questions.

In concluding my Report permit me a glance back into history and a reference to the fact that the forefathers of the Germans of today and the forefathers of the Iranians have already one time successfully cooperated to fight an empire. In the year 378 AD before the decisive Battle of Adrianople between the Goths and the Eastern Roman Empire, Germans established diplomatic relations with the Persian Empire and agreed on a common undertaking against Eastern Rome. As a consequence it could be simultaneously attacked from the North and the East. In this battle the Germans assured their later victory over the Roman Empire and thereby relieved the Persians from Roman pressure. Today the world sees itself once again facing a mighty empire. Therefore, the question has recently arisen of any and all possible forms of peaceful cooperation that could save the lives and freedoms of the peoples of the world.

I thank you.



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