

KONRAD Kalejs is greeting the dawn today in one of the shrinking number of countries prepared to give him shelter. The former Latvian and now Australian citizen is the latest octogenarian to attract world attention after being accused of being a player in the world's worst atrocity to date.

Like Messrs Polyukhovich, Berezowsky and Wagner the three Adelaide men unsuccessfully prosecuted for alleged war crimes early last decade Mr Kalejs is accused of assisting in the Nazi-led murder of Jews, Gypsies and communists in World War II.

He claims he is innocent.

His was one of about 850 names given in 1987 to the Hawke government's Special Investigations Unit which was set up in response to persistent allegations that Australia was functioning as a haven for Nazi war criminals.

The unit went through a painful conception and a short and troubled life it was disbanded in 1992 amid claims that five years of work, culminating in the failure to convict three elderly Ukrainians, was too steeply priced at nearly \$20 million.

A further perceived weakness was that these were not even "real" Nazis simply tools of a regime whose aggregate evils far outweighed the transgressions of its foot soldiers in the former Soviet provinces. The first to face trial was Ivan Polyukhovich, charged on Australia Day, 1990, with the murder of 24 Jews and complicity in the murder of 850 more in the Ukraine.

Six months later, he was found shot near his home.

After his recovery (police ruled his injuries were self-inflicted), Mr Polyukhovich faced a lengthy committal and the charges were eroded until he was eventually ordered to stand trial on two counts.

A jury quickly acquitted him on May 18, 1993 sending him home, where he was to die peacefully in 1997 at the age of 81. The other two prosecutions prepared by the unit were similarly unsuccessful.

As in the Polyukhovich case, it was traumatised and frail old witnesses who gave the most harrowing evidence at the committal hearings of Heinrich Wagner accused of slaughtering 19 children and Mikolay Berezowsky, accused of contributing to the deaths of 102 Ukraine Jews in 1942.

One elderly witness, asked at Mr Berezowsky's committal to point to the man he remembered as the head of a murderous Ukrainian police unit, overlooked the defendant and instead picked out a surprised Texan tourist in the public gallery.

NEITHER accused, in the end, was destined to stand trial Mr Berezowsky was found in 1992 to have no case to answer, while charges against the seriously ill Mr Wagner were dropped in December the following year after it was found the trial would kill him.

Critics of the unit which was established along with 1988 legislation allowing the prosecution of alleged World War II crimes through Australia's own domestic legal system felt the dropping of the last charges was a fitting end to a sorry endeavor. What was the point, they argued, of spending millions on the harassment of tired and hunted old men and the revisitation of unspeakable traumas for the families of victims long dead?

And besides, these witnesses were probing back through the scar tissue of four decades, remembering a multitude of brutalities committed by scores of oppressors, most of whom assumed the facelessness associated with a great evil.

What were the odds of identifying one face with any certainty?

Others feared criminal trials would be colored unfairly by an eagerness for results.

ASOBERING lesson was provided in the case of John Demjanjuk, a retired automotive worker from Ohio who was found by Israel's Supreme Court in 1988 to be ``Ivan the Terrible" a notoriously sadistic guard in Poland's Treblinka camp, where 870,000 died.

Demjanjuk, after a cataclysmic trial during which his defence lawyer was partially blinded by a Treblinka survivor hurling acid, was found guilty and sentenced to hang.

Five years later, his conviction was quashed the identification of Demjanjuk as Ivan found to be too weak to support the verdict.

A 1994 Attorney-General's Department report, summarising the work of the unit, cited witness fallibility as a major reason behind the lack of successful prosecutions, noting that the decision to investigate war crimes 40 years on meant witnesses and suspects were likely to be dead, dying or failing in some way. Konrad Kalejs, an old man who has been deported from three countries on the strength of the allegations against him, is now back in Australia, the country which gave him citizenship in 1957.

The unit's investigation of him nearly 10 years ago found there was insufficient evidence to prosecute, but now there are claims notably from former SIU director Bob Greenwood that the investigation was not comprehensive enough to be reliable. Justice Minister Amanda Vanstone insists all efforts have been made. Mr Kalejs's return to this land reignites the rancor between those who believe Australia's attempt at punishing war crimes was shamefully abandoned for base political and financial reasons, and those who believe it couldn't be dropped soon enough. Is it right or wrong to pursue cases like these in the face of fading memories?

In the end, the answer must be that the distinction between right and wrong becomes just as blurred over the passage of nearly 50 years as the memories of the survivors.

The importance of these trials is not the extraction of justice against an ever-shrinking number of single people it's in the reliving of what happened all those years ago.

No one who was in Adelaide in the early 1990s will forget the testimony from elderly men and women who watched babies beaten to death, whole families shot or herded like animals into shallow graves.

EVERY effort should be made to pursue charges against those still living, if only to ensure humanity makes maximum use of history's lessons.

The weakness of the Australian legislation is that it applies only to alleged war criminals from the World War II era.

As reports surface about victims of Pol Pot's regime encountering their former Khmer Rouge oppressors in Australian shopping centres and colleagues of Chile's General Pinochet seeking refuge here, the most pressing questions should be about how Australia can extend its laws to deal with more contemporary conflicts.

* Phillip Coorey is on leave.

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