

# EUROPE ON TRIAL

*The Story of Collaboration, Resistance, and  
Retribution During World War II*



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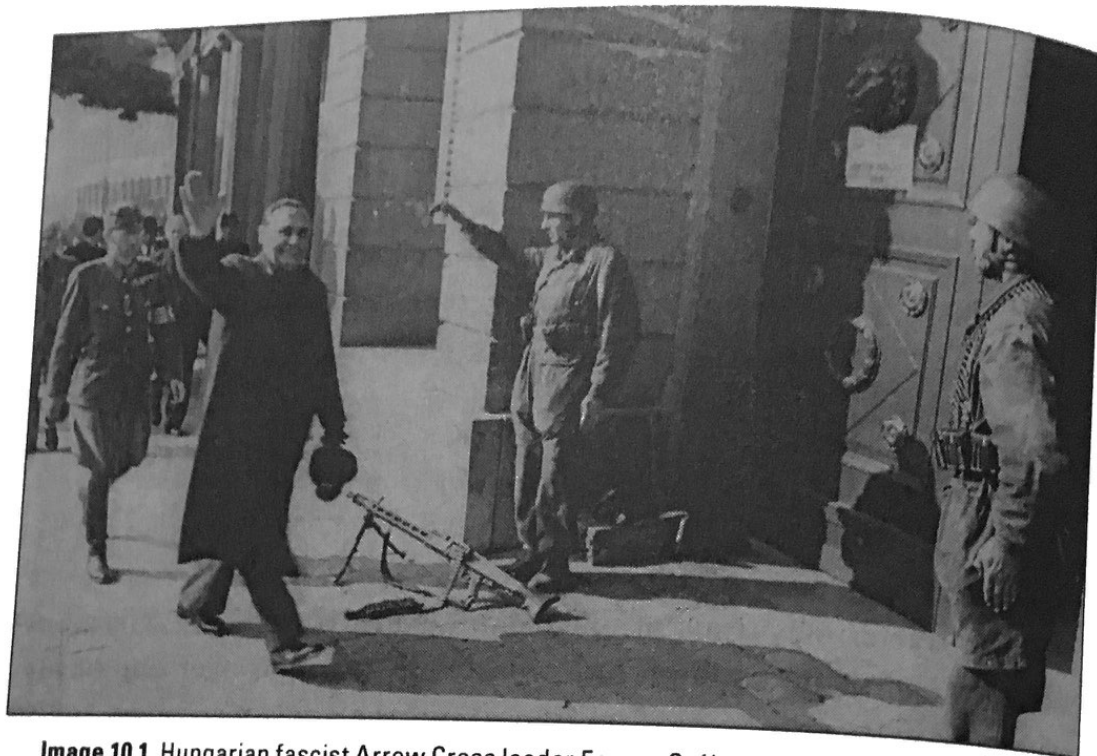
## CHAPTER TEN

# Purging Hitler's Europe

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The great war-crimes trials of 1945–1946 held in Nuremberg, Germany, marked the ultimate triumph of a worldwide coalition over one of history's most evil regimes. No less important, the trials were expected to serve as a precedent for holding the leaders of sovereign states individually and collectively responsible for their actions. For these two reasons, the proceedings of the Nuremberg Tribunal tended to overshadow the nearly simultaneous political, administrative, and judicial purges that took place in the rest of post-World War II Europe, from Norway to Greece and from France to the Soviet Union. Yet the main Nuremberg trial involved only twenty-three defendants, and even if combined with the dozen so-called Nuremberg follow-up trials, it affected only about two hundred persons. Meanwhile, judicial retribution and political purges held elsewhere in Europe, such as the trial of Marshal Philippe Pétain in France and the firing, at least in theory, of all the Dutch teachers who had belonged to the Dutch Nazi Party, amounted to one of the greatest social and demographic upheavals in history.

Those tried at Nuremberg were important German leaders, without, however, the chief culprits of Adolf Hitler, Heinrich Himmler, and Joseph Goebbels, who were dead by that time. The non-Germans brought to trial and executed outside of Germany for such crimes as treason, collaboration with the enemy, and crimes against humanity included an even more amazing number of important personalities. The heads of state or prime ministers who were executed after the war included those of Italy, France, Norway, Slovakia, Hungary, Romania, Bulgaria, and Serbia. In postwar



**Image 10.1.** Hungarian fascist Arrow Cross leader Ferenc Szálasi takes the salute of German commandos who had brought him to power through a coup d'état on October 15, 1944. Behind Szálasi is a Hungarian general. Source: Bundesarchiv, Bild 1011-680-8284A-37A / photo: Faupel.

democratic Hungary, one former head of state and four former prime ministers were either hanged or shot; the record, however, was held by Bulgaria, where, on February 2, 1945, the ruling Communists executed the last prime minister as well as twenty-four cabinet members and sixty-eight parliamentary deputies for treason and crimes against the people. Yet, as we already know, Bulgaria had never entered the war against the Soviet Union, and its declaration of war against Great Britain and the United States had been a formality. Moreover, no Bulgarian Jew was killed or handed over to the Germans during the war.

The list of non-German Europeans executed for treason, collaboration, and war crimes included thousands of generals, police chiefs, city mayors, politicians, and journalists. In addition, hundreds of thousands were thrown in jail or internment camps, and millions were affected by some other punitive measure. If we now consider that those affected by the East European transfers and expulsions belonged, more often than not,

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to national minorities that had also often formed their countries' social and economic elites, then it becomes clear that, at least in Eastern Europe, the postwar political purges were closely combined with ethnic cleansing and class warfare. A simultaneous examination of the enormous extent and profound depth of these purges and of the Nuremberg International Military Tribunal's proceedings should allow us to gain some insight into this crucial period in European history. Yet we must note that neither the Nuremberg Tribunal nor the European courts recognized the unique historical significance of the Holocaust, or Shoah; instead, they tended to underplay the tragedy of the "Final Solution of the Jewish Question" while overplaying what the courts saw as the innocence, suffering, and heroism of the various European nations. Indeed, it was not until the trial of the chief administrator of the Holocaust, Lieutenant Colonel Adolf Eichmann, in Jerusalem in 1961–1962, that the Jewish Holocaust gained the supreme judicial attention it deserved. Note that similar to other German Nazi mass murderers, Eichmann had escaped to South America at the end of the war, and he could be tried only after having been kidnapped by the Mossad, the Israeli intelligence agency, from Argentina in 1960.

But why were so few tried at Nuremberg? The answer is that the victorious powers agreed to punish only those who best represented the crimes of entire groups and institutions, such as the Reich Chancellery or the leadership of the Nazi Party, the SS, the SA, the armed forces general staff, the war industry, lawyers, judges, and the medical profession. The prosecution of the other German war criminals was left to the Germans, but this never really happened in the American-, British-, and French-occupied parts of Germany. Yet it was in those occupation zones that most German war criminals settled after the war. The reason for this was the Cold War, during which the West Germans turned into valuable allies of the Western great powers and the East Germans turned into the allies of the Soviet Union.

We must also face the fact that while in many European countries the new regimes, made up of former resisters, wished to purge and to change society, the German people had no such wish. As for the Western Allies, they soon ran out of enthusiasm for a societal shake-up, whereas in Soviet-occupied East Germany, the undemocratic, even totalitarian-minded, Nazi leaders were replaced by undemocratic, even totalitarian-minded, Communists.

THE ROAD TO NUREMBERG AND TO  
THE NATIONAL COURT TRIALS

Historical precedents existed for the trial of individuals charged with crimes committed as occupiers, but these precedents were hardly satisfactory. For centuries, as we already know, attempts had been made to codify the laws of war.<sup>1</sup> The Geneva and Hague Conventions, for instance, categorically prohibited the killing of surrendering soldiers and ordered that prisoners of war receive the medical care, pay, and food normally given to one's own troops. International conventions also regulated relations between the occupied and the occupiers.

Some of these agreements were violated in World War I. The German shelling of Louvain Cathedral, for instance, was a clear violation of the 1907 Hague Convention, which had been signed by forty nations, but the same agreement did not prohibit the taking and even killing of hostages. Nor was the sinking of the American passenger ship *Lusitania* in 1915 by a German submarine illegal under international law, for only hospital ships were protected. The zeppelin attacks on London were strictly speaking legal because London was not an undefended city. Finally, The Hague Convention could not be applied to the World War I Turkish massacre of the Armenians because, according to international law, the massacre was a domestic affair.

Notwithstanding such legal loopholes, Western public opinion after World War I wanted to see the German leaders punished for their alleged crimes. Article 227 of the Versailles Treaty stipulated that five judges from the United States, Britain, France, Italy, and Japan try the kaiser for "a supreme offence against international morality and the sanctity of treaties." Articles 228 and 229 required that the German government deliver up its own citizens for trial on war-crime charges by tribunals set up by the victorious powers.

Little came of the attempt to punish German war crimes after World War I. The kaiser had fled to the Netherlands at the end of the war, and to everybody's relief the Dutch refused to surrender him to the victorious powers. Similarly, the idea of an international court of justice for German war criminals was soon abandoned; instead, a list of 854 people to be tried in court was presented to the new German republic. Again, there was great indignation in Germany, but the Supreme Court in Leipzig finally sentenced 13 German soldiers and sailors to relatively short prison terms. The accused were found guilty of crimes such as beating British prisoners of

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war, shooting wounded French soldiers, and, in the case of two U-boat officers, sinking a hospital ship as well as deliberately destroying two of the hospital ship's three lifeboats. In the absence of the U-boat commander, the Leipzig court tried two of his underlings and in its verdict rejected their excuse that they had only been obeying orders.<sup>2</sup>

Needless to say, a number of British, French, and American soldiers and sailors could have been accused of exactly the same crimes. Still, the Leipzig trials, especially the one affecting some U-boat officers, created a precedent that would have allowed the Allies, had they cared to do so, to demand again in 1945 that the Germans prosecute their own criminals.

As we know from Chapter 1, new treaties and conventions to mitigate the cruelty of warfare, particularly for civilians and military prisoners, and even to outlaw war were signed in the interwar years. Unfortunately, only a few of these agreements were respected during World War II, and if they were, then not in the East—only in the West.

Well before the end of the war, the Allies began to discuss what to do with the German leadership. At first, Prime Minister Churchill proposed that the principal Nazis be dealt with by a political decision of the Allied powers, to which Stalin countered that fifty thousand German general staff officers be summarily shot (there had never been that many), but the Americans, who were the dominating force at Nuremberg, wanted a real trial that would show the triumph of legal fair play over terrorist methods.<sup>3</sup>

The London Agreement of August 8, 1945, established the Nuremberg Tribunal and outlined its jurisdiction. It also drew up the famous four counts of crimes for which a select number of German leaders would be tried:

1. Planning, preparing, initiating, or waging wars of aggression.
2. Participating in a common plan to accomplish any of the foregoing. (The first two categories were referred to as "crimes against peace.")
3. War crimes, a broad category including murder, ill treatment, and deportation of civilians in occupied territory to slave labor in Germany; crimes against prisoners of war; killing of hostages; the plunder or wanton destruction of cities, towns, and villages; and devastation not justified by military necessity.
4. Crimes against humanity, a new idea, applying to inhuman acts committed against civilians before or during the war on political, racial, or religious grounds.<sup>4</sup>

These crimes were to fall within the jurisdiction of the tribunal, "whether or not in violation of the domestic law of the country where perpetrated." The third count was meant to deal with crimes committed by the Nazis in occupied territory or against the slave laborers they imported from Eastern Europe. The fourth count concerned crimes committed in Germany as well as racial, religious, or other persecution in general.<sup>5</sup>

#### JUSTICE AND INJUSTICE AT NUREMBERG

With the hindsight of seven decades, it is difficult to understand how so many flaws and contradictions could have been built into the indictment of the major war criminals at Nuremberg, and even more so into the proceedings. For example, one of the indictments rightly charged the Germans with aggression against Poland in September 1939, but it failed to mention that the attack could not have taken place without the preceding Nazi-Soviet Non-Aggression Pact and its secret clause regarding the partition of Poland. On September 17, 1939, as we know, Soviet troops invaded Poland, which was already succumbing to German aggression. The Nazi-Soviet Pact was in preparation for a war of aggression, yet its breach by the Germans in 1941 was cited confidently at Nuremberg in order to indict the Germans for their unprovoked attack on the Soviet Union. Absurdly, the indictment ignored the unprovoked Soviet attacks on Poland and Finland in 1939, Bulgaria in 1944, and Japan in 1945.

The Germans were initially charged with the massacre of 925 Polish officers in the Katyń forest, even though the Western prosecutors were fairly certain by that time that the massacre had been the work of the Soviet political police. Later, at the insistence of the chief Soviet prosecutor, Roman A. Rudenko, the number of Polish victims at Katyń was increased from 925 to 11,000 (in reality, there were more than 20,000). But because the Soviets did not produce a shred of evidence against the defendants in the matter of Katyń, and because some American officials at home angrily protested such a parody of justice, Katyń was quietly dropped from the charges. It was not mentioned in the final verdict. Some forty-five years after Nuremberg, one of the last gestures of the collapsing Soviet system was to admit that it was Stalin who, in 1940, had ordered the horrifying Katyń massacre.<sup>6</sup>

Taking and killing hostages figured prominently among the crimes imputed to the Germans, yet this practice had not been outlawed before

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Nuremberg and was again declared legal in 1948 at one of the Nuremberg follow-up trials,\* on the grounds that hostage taking at least limited the number of potential civilian victims in case of guerrilla attacks on occupation forces. Without hostages, the military's thirst for revenge might threaten the entire population. The Nuremberg court simply skirted the issue of how many hostages could be executed for the murder of each occupation soldier when it stated that there ought not to be "too many" hostages or "too many" executions.

Resistance fighters regularly operated in disguise and killed their German captives; the German military tortured and executed captured partisans even if they had been "recognizable at a distance." The Allies made extensive use of resistance fighters during World War II; at Nuremberg as well as elsewhere, they condemned the Germans for repressive measures taken against partisans and their suspected helpers.

Despite such moral and legal problems with resistance activity, the Nuremberg court took the view that because of the extreme brutality of the Nazi system, violent opposition to the German occupiers had been inevitable and necessary. This made anti-Nazi resistance a justified act; it also made collaboration with the Nazis a crime.

#### JUSTICE AND INJUSTICE IN THE NATIONAL COURTS OF JUSTICE

The major Nuremberg war-crimes trials presented an unforgettable spectacle of superb organization, great dignity, and, frankly, often intolerable boredom. Documentary film evidence and a number of often excellent feature films testify to the sparkling uniforms of the American military police, the hordes of uniformed stenographers and translators, the grave judges, the rather forlorn German defense lawyers, and the strange group of defendants, most of them subdued, in shabby civilian clothes or in uniforms without insignia. Against this single great courthouse in a single courtroom in Nuremberg, we must imagine the thousands of war-crimes trials set up by various governments from Oslo in Norway to Athens in Greece and from Bordeaux in France to Helsinki in Finland. Many but not all were inspired by the Nuremberg example. Some of these trials were located in splendid old judicial buildings, others in shacks set up in ruined cities. Oftentimes,

\*The trial concerned the southeastern European field of military operation where Field Marshal Wilhelm List had been commander.



the courtrooms were unheated. In Budapest, for example, even at the trial of former prime ministers, the presiding judge, jurors, lawyers, defendants, and spectators all sat in their overcoats, protected by scarves, hats, and gloves. During the pauses in the proceedings, judges and war criminals ate the same soup often doled out by the Soviet occupation army.

Perhaps the splendor of the Nuremberg court, financed mostly by the American taxpayers, and the poverty of the other court proceedings can explain the enormous differences between the existing literature on these two events. The documents of the main as well as of the follow-up trials at Nuremberg together form seventy volumes, encompassing a total of 126,897 pages.<sup>7</sup> Another invaluable primary source is the interviews that several psychiatrists conducted independently of one another with the defendants and with many witnesses.<sup>8</sup> Then there are all the historical and legal studies on the subject, of which we should hold up for special praise Brigadier General Telford Taylor's *The Anatomy of the Nuremberg Trials*. It appeared in 1992 and has as its peculiarity that Taylor had been a US prosecutor at the main trial as well as the chief prosecutor at the twelve follow-up trials. The latter were, incidentally, international in name only; in reality, Americans alone sat in judgment over members of the murderous SS Einsatzgruppen, high Nazi Party functionaries, medical doctors, judges, generals, industrialists, and SS commanders. Although there is much rich historical literature on the Nuremberg trials, comparative studies of the many court trials in Europe barely exist. Yet the court trials and other punitive proceedings in countries other than Germany involved millions of people. Moreover, their nature and character differed from those at Nuremberg, where the victors sat in judgment over the defeated. In the national courts, the judges dealt mainly with fellow nationals accused of collaboration, treason, and war crimes. It is all the more surprising, then, that there are no comprehensive works on the subject and that the best essay collection exists only in German. There are a good number of studies on retribution and the purges within individual countries, but the production is very uneven: several books and articles treat the postwar purges in France, Norway, Denmark, the Netherlands, Hungary, Czechoslovakia, and Greece, but similar studies on Yugoslavia and the Soviet Union, for instance, are few and almost inevitably biased. Most valuable, primarily from the point of view of later generations, are the documentary collections, such as those of the trials in France of Marshal Philippe Pétain and Prime Minister Pierre Laval.



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**Image 10.2.** Women collaborators are marched down the street by members of the French resistance and other long-standing or newfangled opponents of the Nazi occupation.  
Source: Corbis.

During the first postwar years when the former resisters were still unwilling to make their peace with the men of the prewar regime and with wartime collaborators, strongly partisan reports appeared on the trials of such political leaders as Vidkun Quisling in Norway, Pétain and Laval in France, Marshal Ion Antonescu in Romania, Draža Mihailović in Yugoslavia, and Ferenc Szálasi in Hungary. But even in that period, there were marked differences between such countries as France, where the debate in the press, no matter how prejudiced, was often carried out on a high intellectual level, and most other countries, where the press mainly heaped insults on the defendants. Finally, in the Soviet Union and the Communist press in general, the accused were proclaimed guilty before they could have opened their mouths in court.

Studies with genuine scholarly ambition did not appear until much later. New approaches to the subject originated mainly from France, where

intellectuals had played a major role in both resistance and collaboration and where the debate over French wartime behavior and the postwar *épurations* has become a veritable national pastime. In reply to the Gaullists' celebration of the moral purity and unanimity of the French wartime resistance, apologists of the Vichy regime launched the figure of one hundred thousand victims of lynch justice at the end of the war.<sup>9</sup> (Today, we know that the number of real or alleged collaborators shot, beaten to death, or summarily executed did not exceed ten thousand, still a dizzying figure.) The appearance of such apologetic writings was made possible by the Cold War, which allowed former fascists to claim that they had been but early defenders of Western civilization against the Soviet Bolshevik menace.

But what, indeed, is one to think, for instance, of the French politicians' claim that, during the war, their nation had been overwhelmingly opposed both to the German occupiers and to the traitors at Vichy? They knew only too well that, in 1944, the people of Paris received two visiting statesmen with seemingly the same enthusiasm: Marshal Pétain, who came on April 28, and General de Gaulle, who arrived under the protection of the US Army on August 26. Looking at contemporary newsreels, one gets the impression of the same elegant motorized policemen escorting the two visitors, the same pretty *Parisiennes* throwing flowers, and the same delirious crowds singing "La Marseillaise."

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For an example of postwar purges, we might turn to American historian Benjamin Frommer's monograph on retribution in Czechoslovakia. It shows, among other things, that the new democratic Czech regime proceeded with the utmost severity not only against the German and Hungarian minority populations, which had been declared collectively guilty of treason, but also against collaborationists of Czech nationality. Most of the cases involved not important political and business leaders but ordinary people who had denounced their neighbors during the German occupation and who were now sometimes denounced by the same neighbors. More often than not, the goal of the denunciation was to acquire the home, the job, or the shop of the victim. Ironically, the Czech courts experienced difficulties similar to those of the earlier Nazi courts in trying defendants in ethnically mixed marriages or those who were the children of mixed marriages. And while the Nazi courts did not quite know how to

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define a Jew, the courts of democratic Czechoslovakia had similar trouble in deciding who was a German. This was all the more important as a German defendant was likely to be expelled from the country, whereas a Czech often landed in jail.<sup>10</sup>

Some of the best balanced accounts have originated from the pens of American and British historians, who have the advantage of their countries not having been occupied by the Nazis during the war. These writers are justly critical of the European collaboration with the Nazi occupiers; the only trouble is that they tend to ignore the extent of British collaboration in the German-occupied Channel Islands and the readiness of American civilian internees to work for the Japanese in the Philippines during the war.<sup>11</sup>

Interestingly, while the Nuremberg trials are generally held to have shown the way to the national courts during the purges, retribution in many parts of Europe began well before the Nuremberg judges convened in November 1945. We have already noted that in Poland, for example, underground courts functioned throughout the war, trying and sentencing traitors in as legalistic circumstances as possible. In the Soviet Union, Yugoslavia, and elsewhere, partisan courts operated throughout the war. In France, on the other hand, judicial retribution began at the moment of liberation in 1944.

In Budapest the main people's court held its first session at the end of January 1945, while Soviet and Romanian troops, on the one side, and German and Hungarian troops, on the other, were clashing in the city. On this occasion, two former guards from a forced-labor company were accused of having participated in the torture and killing of 124 Hungarian Jewish and Communist forced laborers during the anti-Soviet campaign in Ukraine. The two guards were sentenced to death and immediately hanged in a public square. These proceedings showed that the Hungarian people's courts, just like many other tribunals in Europe, assumed a revolutionary role: they wished not only to punish traitors and war criminals but also to purge and renew society. The countries formerly within Hitler's Europe did not wait for the precedent shown by the Nuremberg International Military Tribunal to engage in retribution. In any case, the armistice agreements concluded individually between the Allied powers and the former allies of Germany had ordered Austria as well as Finland, Hungary, Romania, Bulgaria, and Italy to prosecute war criminals irrespective of their nationality. As it later turned out, Nuremberg proved to

be an occasional obstacle to prosecution in national courts. The tribunal allowed some of the major German war criminals to appear in East European courts only as witnesses; in consequence, such a monstrous murderer of Jews as the German diplomat Dr. Edmund Veessenmayer had to be returned from Hungary to Nuremberg in 1947. Freed four years later, he became a successful businessman in West Germany.

The international military tribunal was neither a catalyst nor even a model for the purge trials in Europe. We find, however, many references in court proceedings to specific aspects of the Nuremberg trial as well as statements indicating that the judges in the national courts were acting in the same manner as the great Allies at Nuremberg. Even more often, judges used the Nuremberg example to foster orderly court proceedings. In Budapest, on December 18, 1945, at the trial of the three men chiefly responsible for the deportation of the Hungarian Jews to Auschwitz, court president Péter Jankó admonished the audience to be on its best behavior, stating that "the world's attention is on us; we should make sure that the foreign press write about us that here prevailed the same cool and detached atmosphere as that which prevails at the Nuremberg trial."<sup>12</sup> In reality, there reigned anything but a cool and detached atmosphere at this trial, the judge's remarks having been provoked by spectators calling the three defendants murderers and scum. Of course, it was easier to keep cool at Nuremberg, where there was no audience but only judges, prosecutors, lawyers, interpreters, stenographers, journalists, defendants, and guards in the courtroom.

European audiences were difficult to control, made up as they often were of survivors of the Holocaust and selected left-wing followers of the new governing political parties. The trial of Pierre Laval in France, for instance, was repeatedly interrupted by shouting in which even the lay judges participated. As with the Nuremberg follow-up trials, interest in the proceedings gradually dwindled, and so did the severity of the sentences.

The Nuremberg court represented a revolutionary innovation, with the judges and prosecutors sitting in judgment in the name of the four great victorious powers. Most other European courts of the time were also revolutionary in that they were new creations, often called people's courts, and ruled on events that, before the war, had not legally risen to the level of criminal actions. Quite naturally, the people's courts proceeded on the basis of European and not Anglo-American common law, meaning that the judge examined, exhorted, admonished, and scolded the defendants, with

the prosecution and the defense playing a secondary role. The tone of the proceedings varied enormously, but in every people's court the system was basically the same: in Denmark two jurors delegated by the parties of the resistance movement assisted the single professional judge; in France there was one professional judge for four representatives of the parties originating from the *Résistance*; in Hungary the five antifascist parties, plus the association of the trade unions, delegated to every major trial all the so-called people's judges as well as the public or "political" prosecutors and the so-called people's prosecutors. Public prosecutors were usually intellectuals; people's prosecutors were workers and peasants. Lawyers for the defense were selected from a list approved by the coalition of antifascist parties.

Nuremberg imported its judges from the victorious great powers; the national governments had to face the problem that many trained and experienced judges, if not the majority, had collaborated with the enemy or had at least faithfully served the defunct and despised wartime and pre-war regimes. In Austria, in 1945, there was scarcely a sitting judge who had not belonged to the Nazi Party. As a result, judges who were untrained or politically tainted (or both) had to be engaged.

The traditionalist and nationalist training of the judges often clashed with the revolutionary goals of the resistance movements that had created the people's courts. In Poland, where the Communists had come to power almost immediately, judges inherited from prewar times tended to mete out inexcusably mild sentences to those who had denounced Jewish fugitives or had even killed Jews. As historian Andrew Kornbluth has demonstrated, courts in Poland punished traitors harshly but were gentle with those guilty of anti-Jewish crimes, especially if the defendants could claim some resistance merits.<sup>13</sup> We also learn from the 1946 pogrom at Kielce and in some other Polish towns that the Polish public tended to associate Jews with communism and consequently boycotted such Poles who had saved Jews during the war. Not only in Poland but also in other East European countries with a good number of Jewish survivors, many in the public perceived the murder of a Jewish Communist as an act of national resistance.

Even in Western Europe, there were many with good reason to worry that the Jewish survivors would claim their stolen belongings. All this should remind us how difficult it often was to distinguish between former resisters and former collaborators.

The Nuremberg court could mete out only death sentences and imprisonment; the people's courts had an array of measures at their disposal. Punishment of the guilty included death sentences, imprisonment, hard labor, condemnation to national disgrace, the loss of civic rights, fines as well as such administrative measures as expulsion, police supervision, loss of the right to travel or to live in certain desirable places, dismissal, and the loss of pension rights.

Amazingly, the harshest sentences were pronounced in Norway, Denmark, and the Netherlands, countries that exist in Western lore as examples of heroic resistance to the German occupiers and as the brave saviors of Jews. The courts in these countries knew better, however, and thus in Norway more than 90,000 people were tried after the war, nearly 4 percent of the population.\* This would be equivalent to roughly 12 million persons of the present-day US population of 300 million being tried for treason and similar crimes. Because most of those tried were adult males, a very high proportion of Norwegian men were tried for collaboration with the enemy. Nearly similar proportions existed in Denmark, while in the Netherlands 150,000 people were detained after the war under the suspicion of collaboration and treason; about 60,000 of them were subsequently convicted, 152 were condemned to death, and 40 were actually executed. That not all the guilty were caught at that time is attested by the scandals of the 1970s when it turned out that a number of war criminals, among them a Jewish con man who had denounced his fellow Jews to the Gestapo, had never been punished.<sup>14</sup>

Norwegian courts dealt harshly with women who had had sexual relations with German soldiers. Worse even, the new laws denied citizenship to their children; thousands of these "half-breeds" accordingly spent their lives as virtual nonpersons.

The long-term discrimination in Norway against the children of German soldiers was actually an exception; all the Western countries made great efforts to rehabilitate the condemned collaborators, in part so as to relieve overcrowding in the prisons, in part to increase the workforce. In the Netherlands, for instance, the institution of Voluntary Monitors was created whose task was to supervise and to reeducate the released convicts. Because this amounted to frequent house visits, one wonders who suffered

\*More precisely, 92,805 Norwegian citizens were tried after the war in Norwegian courts for treason; of them 30 were executed and 17,000 were sent to prison.

more, the collaborators who were subjected to frequent preaching on the value of democracy or the volunteers who had to sermonize their wards.<sup>15</sup> Obviously, the great majority of those tried in the people's courts and similar institutions were not generals or government ministers. In Hungary 300,000 persons, or about 3 percent of the total population, suffered some kind of punishment, such as loss of employment or pension, interdiction to live in the capital, loss of civil rights, or imprisonment. At the other end of the spectrum was capital punishment: in Hungary between 1945 and 1948, 146 persons were executed for treason, war crimes, and "crimes against the people." One can assume that they were all major war criminals and traitors. Later, there were even more executions, but their statistics defy categorization because they took place in the period of extreme Stalinist terror, when those executed as "fascists," "former Gestapo agents," "Titoist henchmen," or "American spies" were often democrats or even loyal Communists. Of the 300,000 Hungarians punished after the war, about two-thirds were ethnic Germans whom the democratic Hungarian government expelled for real or alleged treason.<sup>16</sup>

In Austria people's courts initiated proceedings against 137,000 persons, a figure that does not include the many hundreds of thousands of civil servants, including teachers, postmen, railway workers, and others who were dismissed from their jobs because they had been members of the Nazi Party. Needless to say, these judgments and decisions were quashed within a few years, and so, ultimately, the proportion of Nazi killers punished in Austria was even lower than in Germany. And because in Austria almost everybody who was anybody had belonged to the Nazi Party, after the war the democratic parties now governing the republic, especially the Social Democrats, had no choice but to lure former Nazi Party members into their ranks. This they did with abandon, and so it came that in the 1970s, the Social Democratic chancellor Bruno Kreisky, who was of Jewish origin, took several confessed former Nazis into his cabinet.

In France, as we have already said, nearly 10,000 real or alleged collaborators were lynched during the last months of the war, or at the moment of liberation, and about the same number were summarily shot in Italy. Thereafter, however, the courts were relatively mild in their judgments in France and even milder in Italy.

Both the former collaborators and the former resisters primarily blamed the Germans for the tragedy of their nation and for the genocide of the Jews. The courts listed crimes against the Jews under the category of "crimes



against the people," even if the crimes against the Jews had been committed mainly by the people themselves. Few courts admitted that it was their country's own administration that had handed over the Jews to the Germans, often with the silent approval or even active participation of the citizenry.

In France the prosecutors tended to single out actors, actresses, cabaret singers, journalists, writers, poets, and philosophers. In Western and northern Europe, women accused of having consorted with the German soldiers were a special target for retribution. But once their shorn hair had grown back, the women were generally reaccepted into society. In Soviet-dominated Eastern Europe, the main targets were the old nobility and the former officers and officials, especially if their members belonged to an ethnic minority. The harshest treatment was reserved for the ethnic minorities. In several decrees promulgated in 1945, the Beneš government, first in London and then at home, declared the German and Hungarian minorities, constituting nearly 30 percent of the prewar Czechoslovak population, collectively guilty of treason. Members of the two ethnic groups were officially denationalized and, with the exception of the proven antifascist fighters, were to be expelled from the country.

The three main charges at Nuremberg were crimes against peace, war crimes, and crimes against humanity; in the people's courts, the same charges could be found, although often under different names. Field Marshal Ion Antonescu in Romania was condemned for having waged aggressive war against the Soviet Union; the similarly aggressive behavior of the Soviet Union between 1939 and 1941 was quietly ignored both at Nuremberg and in the Romanian courts.

Just as at Nuremberg, in the national or people's courts there occurred, inevitably, many awkward situations and illogical proceedings. For example, pre-World War II members of the fascist Nasjonal Samling in Norway were judged more harshly than those who had joined the party during World War II. Considering that the party had been perfectly legal in the prewar years, it is strange that the courts considered commitment to a cause a greater crime than opportunism. In Hungary presiding judge Ákos Major scolded former prime minister László Bárdossy for trying to reannex Hungarian territories lost after World War I, yet, according to Major's memoirs, he himself agreed with Bárdossy that Hungary had had justified territorial ambitions and that Bárdossy's pro-German policy was a "historical necessity."<sup>17</sup> These considerations did not prevent Judge Major from sentencing Bárdossy to death. Such examples of illogical proceedings

could be listed ad infinitum. In view of the political chaos and the ideological confusion in Europe as well as the beginning of the Cold War, it is a miracle that justice was served at all. Yet justice was indeed served.

The Nuremberg military tribunal tried and sentenced not only individuals but also institutions, such as the SS and the Nazi Party leadership; the people's court in Hungary declared the Arrow Cross regime that had seized power on October 15, 1944, as well as the country's gendarmerie collectively guilty. The preceding regime under Regent Miklós Horthy was not considered automatically guilty, even though it had been the Horthy regime and not the Arrow Cross that deported nearly a half-million Hungarian Jews to Auschwitz. Collective guilt meant that a former German SS leader or a Hungarian gendarme was considered guilty unless proven otherwise. In reality, such judgments and rules were only selectively enforced.

Just as at Nuremberg, in most people's courts the defendants pleaded innocent, their usual defense being that they had remained at their posts during the occupation to prevent someone more radical from taking over. Marshal Pétain's defenders argued that he had acted as the shield of France, whereas General de Gaulle had been the country's sword during the war. The court did not buy the argument and condemned Pétain to death; General de Gaulle, however, who was then president of the republic, commuted the sentence to life imprisonment, during the course of which Pétain died.

In general, the defendants intimated that the nation owed them thanks for having shouldered such a thankless assignment. Only a few stubborn fanatics, such as ferociously anti-Semitic French writer and journalist Robert Brasillach and the Hungarian self-appointed führer, Ferenc Szálasi, proudly proclaimed their fascist beliefs in court. What is important is that, except for the trials held in the Soviet Union, these were not show trials. Whereas in the Soviet Union real or alleged traitors invariably confessed to their crimes and asked for exemplary punishments, even in Yugoslavia the defendants were allowed to claim innocence. All this made little practical difference in Yugoslavia, where thousands of suspected collaborators as well as members of the Albanian, German, and Hungarian minorities were routinely killed after the war, but at least not even the Yugoslav Communist courts could be accused of having set up show trials. Even the most cowardly defense lawyer in that country or elsewhere in Europe brought up some mitigating circumstances for his client; only in Soviet courts did the public defender heap further abuse on the victim.

It is another question whether the sentence of the main defendants was the outcome of a genuine debate among the professional and the lay judges or the result of a governmental decision. There is no doubt, for instance, that the execution of Vichy prime minister Laval was decided by General de Gaulle and the French government. All in all, it is impossible to generalize about the courts and the judges involved in the great European retribution.

The American goal at Nuremberg was to outlaw aggression and to make clear that thenceforward all those committing aggression, be they heads of state or commanding generals, would be ruthlessly prosecuted. The main goal of the people's courts was to bring about a great catharsis and to create a more progressive, social, or even socialist Europe. Yet within a few years, the Cold War changed everything.

Many negative things have been said and written about the post-World War II national purges, and many of these criticisms are not without foundation. However, the fact remains that never before had the peoples of Europe attempted, on such a large scale, to deal with the political criminals in their midst. Nor had there ever been such a continent-wide soul-searching; those who were punished for good reason far outnumbered those who had been innocent.

## NOTES

1. See Telford Taylor, *The Anatomy of the Nuremberg Trials* (New York: Alfred A. Knopf, 1992), 6–11; and W. Michael Reisman and Chris T. Antoniou, eds., *The Laws of War: A Comprehensive Collection of Primary Documents on International Law Governing Armed Conflict* (New York: Vintage Books, 1994).
2. Taylor, *Anatomy of the Nuremberg Trials*, 17–18.
3. Churchill's and Stalin's proposals are discussed in *ibid.*, 29–30.
4. See Eugene Davidson, *The Trial of the Germans: An Account of the Twenty-Two Defendants Before the International Military Tribunal in Nuremberg* (New York: Collier Books, 1966), 19–20.
5. Judith N. Shklar, *Legalism* (Cambridge, MA: Harvard University Press, 1964), 174.
6. Taylor, *Anatomy of the Nuremberg Trials*, 466–471. The most recent documentation is *Katyń, Documents of Genocide: Documents and Materials from the Soviet Archives Turned over to Poland on October 14, 1992*, selected and edited by Wojciech Materski (Warsaw: Institute of Political Studies, Polish Academy of Sciences, 1993).
7. The Nuremberg documents are most easily accessible in the form of *The Nuremberg War Crimes Trials Online [Electronic Resource]*, compiled by James Joseph Sanchez et al., Anthony Hursh, Bdexx developer (Seattle: Aristarchus Knowledge Industries, 1995).

8. G. M. Gilbert, *Nuremberg Diary* (New York: Farrar, Straus, and Giroux, 1947); Leon Goldensohn, *The Nuremberg Interviews*, edited by Robert Gellately (New York: Alfred A. Knopf, 2004).
9. On this issue, see the precise calculations of Peter Novick in *The Resistance Versus Vichy: The Purge of Collaborators in Liberated France* (New York: Columbia University Press, 1968), 202–208.
10. Benjamin Frommer, *National Cleansing: Retribution Against Nazi Collaborators in Postwar Czechoslovakia* (Cambridge: Cambridge University Press, 2005).
11. British collaboration with the German occupiers on Jersey, Guernsey, and the other Channel Islands during World War II is discussed in, among others, Madeleine Bunting, *The Model Occupation: The Channel Islands Under German Rule, 1940–1945* (New York: HarperCollins, 1995). American collaboration in the main Philippines internment camp under Japanese rule at Santo Thomas is analyzed by James Ward in “Legitimate Collaboration: The Administration of Santo Tomás Internment Camp and Its Histories, 1942–2003,” *Pacific Historical Review* 77, no. 2 (2008): 159–201.
12. László Karsai and Judit Molnár, *Az Endre-Baky-Jaross Per* (Budapest: Cserépfalvi, 1994), 101.
13. See Andrew Kornbluth, “‘There Are Many Cains Among Us’: Polish Justice and the Holocaust,” in *Holocaust: Studies and Sources* (Warsaw: Polish Center for Holocaust Research, 2013), 9:157–172.
14. See Gerhard Hirschfeld, *Nazi Rule and Dutch Collaboration: The Netherlands Under German Occupation, 1940–1945* (Oxford: Oxford University Press, 1988).
15. L. Huyse, “How Government in Belgium, France, and the Netherlands Organized the Return into Society of Wartime Collaborators,” paper presented at the Conference on the Legacy of World War II in Europe, New York University, April 24–27, 1997.
16. See László Karsai, “The People’s Courts and Revolutionary Justice in Hungary, 1945–46,” in *The Politics of Retribution: World War II and Aftermath*, edited by István Deák, Jan. T. Gross, and Tony Judt (Princeton, NJ: Princeton University Press, 2000), 233–251.
17. Ákos Major, *Népbíraskodás—forradalmi törvényesség: Egy népbíró visszaemlékezései* [People’s justice—revolutionary legality: The reminiscences of a people’s judge], edited by Tibor Zinner (Budapest: Minerva, 1988), 203.