**A Survivor, A Legislator and A Jurist: Joseph Lamm’s Legal Legacy in Relation to the Nazis and Nazi Collaborators Law (1950)**

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Introduction

In a terse item, the newspaper *Haboker* reported on May 3, 1951, an unusual job switch: a Member of the Knesset who had moved from the legislature to the bench of Tel Aviv District Court. A festive ceremony was held place in honor of the appointment of the judge—Dr. Joseph Michael Lamm—with the participation of District Court judges, representatives of the Attorney General, jurists, and lawyers, all delivering congratulatory remarks.[[1]](#footnote-1) Even if the newspaper piece did not say so, it would have been more correct to report that Lamm had *returned* to his position as judge at this occasion, because he had been a magistrate judge in Tel Aviv before he became a member of Israel’s First Knesset. Lamm’s term as an MK, as a judge in two different instances, and later on as rotating president of the District Court were additional stops on a rich and lengthy career path of public and political action that began back in his early adulthood in Vienna. Lamm saw nothing exceptional or problematic about transitioning from court of law to parliament and back. With rare candor, he opined that a judge should not be expected to skirt public activity or political involvement totally. On the contrary, he believed: Even while wearing the robes of the office, judges cannot free themselves of their social or political views.[[2]](#footnote-2)

To an outside observer, Lamm’s transition seems to have been an anomaly that might have caused him much difficulty in practicing the judge’s craft. Indeed, it was the most extraordinary crossing of lines in the history of the State of Israel. One conceivable difficulty, a serious one, concerns the court’s duty in relation to the legislator’s work: to interpret statute and subject it to judicial review. Lamm himself, interviewed on the occasion of his retirement from the bench, admitted that one affair presented to him for adjudication taught him “how hard it is to interpret laws that you yourself helped to legislate.”[[3]](#footnote-3) He was referring to the trial of Yehezkel Enigster, a Jewish Kapo who had been convicted of grave offenses under the Nazis and Nazi Collaborators Punishment Law (1950)[[4]](#footnote-4) and sentenced to death. Less than a year and a half before the trial, Lamm had been one of those who had ushered this very bill into law. The debate over the bill in its various incarnations was one of the first contexts in which the question of Jewish collaborators during the Holocaust had come up for public discussion, and it triggered questions of principle that straddled the seam between criminal law and moral judgment. Lamm had taken a very active part in this debate. He had summoned his personal experience as a prisoner at Dachau to validate his stances on issues that arose as the bill was discussed—the uniqueness of the offenses that it specified, the identity of those to be charged under it, and the punishment that those convicted on its account should face. Subsequently, Lamm would have to apply the same issues of principle in practice, in accordance with the interpretation that he had given to the provisions of the law, in the verdict against Enigster and in his sentencing and in the exoneration of another defendant, Moshe Puczyc, in a subsequent trial.

This article unpacks the judicial and historical aspects of the unique role of Lamm, as a Holocaust survivor himself, in passing the Nazis and Nazi Collaborators Bill into law and his interpretation of the law as manifested in the Enigster and Puczyc trials. Lamm’s singular contribution to the history of this law has to do with the three “hats” that he wore during the lifetime of this statute: those of a Holocaust survivor, a legislator, and a judge in the most serious trial held under its provisions. An exhaustive reading of the minutes of the Knesset committees and painstaking analysis of verdicts that Lamm delivered will show that Lamm’s personal experience as a survivor of Dachau influenced the way he perceived the function of the Nazis and Nazi Collaborators Law and, accordingly, the way he determined its content (as a legislator) and its meaning (as a judge).

The article joins various important studies in recent years on the enactment of the Law and the trails held under its provisions in Israeli courts of law, in which Jews who had been Kapos or members of the Jewish police—Holocaust survivors themselves—were brought to justice.[[5]](#footnote-5) These studies examined the judicial methods that the fledgling State of Israel invoked to cope with the phenomenon of Jewish collaboration in the Holocaust. In many senses, they blew the dust off a fascinating historical affair that, until recently, was denied the platform it deserves in the historiography of Israel’s judicial dealing with the Holocaust and, more broadly, of how Israeli society coped with the Holocaust in the country’s first decade. However, in contrast to the foci of these studies—defendants who had been brought to trial and the judicial system that heard their cases—this article centers on the role of one person in the affair and his definitive contribution to shaping and implementing the Law, from diverse angles: survivor, legislator, and judge. By so doing, the article makes a unique and important contribution to historical and judicial research on the Nazis and Nazi Collaborators Law and the Kapo trials in Israel.

The article has four sections. In Section 1, Lamm’s biography is presented. Section 2 takes up Lamm’s role in passing the Law in 1949–1950. Lamm’s interpretation of the Law as manifested in the trials of two Jews accused under the Law of having collaborated with the Nazis—Enigster and Puczyc—is discussed in Section 3. After these three parts of the puzzle are placed on the board, the broad tableau is offered in the Conclusion, showing that Lamm’s personal experience in each tier of reference to the Law influenced his actions in regard to the Law in the tier above it.

1. [↑](#footnote-ref-1)
2. [↑](#footnote-ref-2)
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4. [↑](#footnote-ref-4)
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