# **Chapter Four: Magistrates Courts Preliminary Examinations**

**Police Investigators Accuse Former Functionaries**

In November 1950, three months after the legislation of the Nazis and Nazi Collaborators Punishment Law, a 42-year-old woman entered a Tel Aviv police station and filed a complaint against Dr. Pinchas Pashititzky, who had immigrated to Israel just two weeks earlier. The plaintiff, Rivka Nugelman (Ugnik), accused the physician of killing her brother, husband, and three sons in the Wolanow labor camp.[[1]](#endnote-1)

Nugelman was not the only one to lodge a complaint. In the following fifteen months, some 350 Holocaust survivors did so.[[2]](#endnote-2)[[3]](#footnote-1) In the city of Netanya, a member of Kibbutz Mishmar Ha-Sharon, Yerachmiel Barkai, filed a complaint against Herschel Shapshevsky, the kapo who had overseen him in the Hasag labor camp in Skarzysko and “whose job was to harass Jews, starve them, and send them to be killed.” [[4]](#endnote-3) Late one night in September 1950, two years after encountering her former *Blockälteste* in a Tel Aviv shoe store, Tehila Amster entered a police station in Safed and filed a complaint against Miriam Goldberg for her mistreatment of inmates in Bergen-Belsen.[[5]](#endnote-4)

To handle the investigation of complaints against functionaries for alleged collaboration, the head of the Israel Police criminal division, Shlomo Sofer, appointed a veteran police officer, First Inspector Michael Avatichi. More than a year earlier, both Sofer and Avatichi had been dismissed from the newly established Israel Police on suspicion of corruption and collaboration while serving in the British Palestine Police Force. As in the case of the Jewish policemen and kapos, suspicion dominated the image of those who had served the British Mandate authorities, as seen in the dismissal of a dozen-and-a-half policemen. In this period of state establishment, the authorities searched for traitors and turncoats not only in the context of the Holocaust but also in relation to events that took place in the Mandatory Palestine (and in one case even mistakenly executed an officer, Meir Tubianski, accused of assisting Arab enemy forces in bombarding facilities in Jerusalem).

Together with sixteen other policemen, Sofer and Avatichi, who equated themselves to Jews in the Holocaust when they said that “a sign of disgrace, a yellow badge has been glued to our backs,” appealed to the Supreme Court, which ordered the police minister to rehire them all. The president of the court, Yitzhak Ulshan, praised the men as loyal and worthy policemen and harshly criticized the purge.[[6]](#endnote-5)

Now cleared of collaboration with the British, the two officers lead the investigation of those suspected of collaboration with the Germans. In the Israel Police Headquarters in south Tel Aviv, Avatichi, together with First Inspector Josef Singer and their team, assembled the evidence against the suspects. The team opened investigations based on complaints filed by survivors, who in some cases were also anonymous. The team also received letters of complaint from survivors living abroad as well as from non-Jews.[[7]](#endnote-6) They arrested several suspects but could not locate others. When the law was passed, one newspaper reported, some individuals felt “the earth was burning under their feet,” and fled the country.[[8]](#endnote-7)

Not all investigations followed from complaints by survivors. In late 1950, Moshe Puczyc applied for a job in a government ministry. The Shin Bet—Israel’s internal security service—conducted a background check that revealed that Puczyc had served as deputy of the Jewish Police in Ostrowiec. It sent the Israel Police criminal division a photo and a list of witnesses and requested that an investigation be opened.[[9]](#endnote-8) In another instance, the Tel Aviv Magistrates Court heard the case of Jacob Honigman, accused of mistreating inmates at the Grodziszcze and Faulbrück forced labor camps. On the stand, witnesses repeatedly mentioned the defendant’s name in the same breath as that of another kapo, Yechezkiel Jungster. “Is Jungster under investigation?” asked Judge Emanuel Matalon. The police contacted Jungster at Mishmar Ha-Shiv’a, an agricultural village, and called him in for questioning.[[10]](#endnote-9)

The plaintiffs leveled harsh accusations against the suspects. Accusations against kapos focused mostly on physical abuse, and those against policemen included charges of handing Jews over to the Nazis in addition to physical abuse. Abraham Hendler described to police officers how he stood in the yard of the Sagan concentration camp when Mordechai Friedman, his kapo, approached him and without warning slapped his face multiple times.[[11]](#endnote-10) Mordechai Goldstein, one complainant stated, had fiercely beaten many Jews while serving in a camp in Ostrowiec. [[12]](#endnote-11) Leib Hass and his wife, Esther, described how the Jewish policeman Shimon Zuckerberg, together with SS men, exposed Jewish bunkers in their town. Hass also observed Zuckerberg standing beside an SS man after pulling Jews out of one house. “I heard how the German, Kuper, asked Shimon Zuckerberg if those were all the people that were hidden in that house and Shimon answered that there must be one more in the house. And I saw Shimon Zuckerberg enter that house alone, and after a few moments he came out with a Jew.” In this case, as in all other cases, the plaintiffs emphasized that the functionaries and policemen had acted in circumstances that allowed their free choice and were not under immediate duress. [[13]](#endnote-12)

Another line of complaint focused on functionaries’ financial gain. Witnesses described how, at the HASAG labor camp in Skarzysko, Tsvi Shapshevsky “would not distribute the food to those who deserved it but would sell the food to other people, and we starved.” Shapsevsky also confiscated the belongings of a group of Jews that arrived at the camp from Majdanek and conducted trade with them, witnesses said. “From me,” Genia Kempinski testified, “he took… 150 zlotys with which I could have bought ten loaves of bread and eased my life in camp.” She concluded that “Shapshevsky was one of the worst kapos in camp.”[[14]](#endnote-13)

Some complainants described functionaries as cruel and sadistic. One described how in the camp Miriam Goldberg had treated an insane woman cruelly, reducing her food portion and beating her.[[15]](#endnote-14) In October 1950, Hillel Itzkovitch, a 22-year-old IDF solider, filed a complaint in the Ramle Police Station against one of his kapos in the camp, Abraham Fried, who was now a policeman at the station. One day the kapos in the camp caught a fourteen- or fifteen-year-old boy stealing soup from the kitchen pot. As punishment, lead kapo Fried ordered the teenager to be thrown into a two-meter-deep pit half-filled with freezing water. The victim stood there as Fried and the other kapos picked up frozen clods of earth and aimed them at the youngster. They stoned the boy to death, Itzkovitch stated. Fried, Itzkovitch continued, “beat and murdered many Jews and treated them cruelly… and he always used his [physical] strength and was the cruelest in camp.” [[16]](#endnote-15) While cruelty was mentioned in many complaints it was not yet a key criteria by which one determined whether or not to charge a functionary, as it would become ten years later in the case of Hirsch Barenblat.

The suspects denied the accusers’ portrayal of them as violent and selfish. They had helped and saved Jews and paid a price for their help. Fried responded to the accusation of stoning the teenage boy, stating that “I helped Jews with food,” and for this help the Germans threw him into solitary confinement, accusing him of sabotage. He countered that the plaintiff, Itzkovitch, had himself collaborated with the Nazis. Itzkovitch had endless supplies and was repeatedly rumored to be a German informer, Fried said.[[17]](#endnote-16)

Like Fried, all the other suspects denied the accusations. Not once in these investigations or in future trials did a functionary admit any wrongdoing. “It’s all a lie, simply nonsense plucked from the air,” responded Elimelech Rosenwald to the policeman who questioned him about the death of three inmates when he served as work inspector in a shoe factory in a camp.[[18]](#endnote-17) Miriam Goldberg cast herself as the true victim, not the plaintiffs. She categorically denied that she had ever beaten inmates at Bergen-Belsen. On the contrary, Goldberg stated, she was punished by the Germans because of the laziness of inmates who did not clean their barracks.[[19]](#endnote-18)

While some denied ever having used force, others admitted the use of force but justified it as a necessary means to avoid harsher consequences. The accused Mordechai Goldstein explained that inmates laboring in a train factory stole rubber parts and that the Germans threatened that if the Jews in charge didn’t stop this wave of thefts, all Jews, both those in charge and those who served as simple laborers, would be executed. “So I thought that in order to save the lives of Jews I must beat those who had done this.” Whenever he beat someone it was in order to save them from being informed upon by the Poles or punished by the Germans. “And I did all of this with good intentions and not with bad intentions and not because I wanted to serve the Nazis.”[[20]](#endnote-19)

A common defense focused on the attempts of inmates to get a second portion of food. Hungry inmates had tried to receive two helpings. Then those who hadn’t received any food fought for their portion. To keep order, an Auschwitz kapo Elsa Trenk beat those who had taken a second portion and so ensured that all received their food portion. “I was forced sometimes to raise my hand and hit,” Trenk stated.[[21]](#endnote-20)

Others pointed to the present to explain the accusations against them, exposing attempts to exploit them. The previous summer, Jungster told Sergeant Nusblatt, an unfamiliar person came to his village, Mishmar Ha-Shiv’a, and demanded IL100 in exchange for not filing a complaint that Jungster had been a kapo. He had never served as a kapo: “I was just a foreman [*Vorarbeiter*],” he asserted, using the term kapo as a specific camp title and not in its generic meaning of anyone who served as a functionary under the Nazis. And besides, he stated, “if I did not have a clear conscience I would not have come to Israel”. This was an argument repeated by several of the accused, who stated that knowing of the hostility towards collaborators among survivors, they would not have chosen to immigrate to a state where over half a million survivors lived if they had had anything on their conscious. Their immigration proved their loyalty to the nation, they argued.[[22]](#endnote-21)

In each of the cases, the policemen heard between five and thirty witnesses. After gathering an entire set of testimonies, police officer Avatichi and his team assessed the evidence, checking mostly for consistencies or inconsistencies in the accounts. In those instances where they found the complaint merited it, they summoned the suspect again. In keeping with the spirit that dominated Israeli society, they treated those for whom they recommended face charges as major criminals. In mid-August 1950, a police officer at the Israel Police Headquarters in Tel Aviv declared to Trenk, “I, a sergeant in the Israel Police, accuse you, Elsa Trenk ... of putting a national group in living conditions that could lead to its physical annihilation… You participated in genocide.” This set of charges, which was based on the Crime of Genocide (Prevention and Punishment) Law (1950), was shortly thereafter altered to draw on the Nazis and Nazi Collaborators (Punishment) Law (1950). Also in the new set of charges the police officer accused Trenk of serious crimes, “crimes against the Jewish people,” and “crimes against humanity,” of beating inmates and of depriving them of food and clothing. Undoubtedly beating inmates in the camp was a harsh action, but the police officer attributed to Trenk no less than “an intention to annihilate the Jewish people a partial annihilation.” Here again, as pointed out earlier, the police viewed the alleged collaborators as true Nazis and charged them with counts that portrayed them as no less than responsible for the destruction of the Jewish people.[[23]](#endnote-22)

In the first six months following the legislation, from August 1950 up until April 1951, police investigators handed over at least fifteen cases of alleged collaboration for consideration by the Attorney General’s Office, all of which the prosecution would eventually indict. The different indictments included anywhere from four to 21 counts, with an average of ten counts per indictment. And in each of these fifteen indictments, Israel’s Attorney General included the harshest accusation possible, charging the defendants with crimes against humanity, an average of five such crimes per indictment which could each result in a death penalty. In their totality, the collection of indictments seemed to state that these Jewish functionaries were partners to the Nazis in their war against the Jews.[[24]](#endnote-23)

**A Preliminary Examination of a Slovak Mass-Murder**On 24 August 1950, the headline of the popular daily *Maariv* read: “First Trial in Israel Based on the Nazis and Nazi Collaborators (Punishment) Law – A Slovak Who Arrived as a New Immigrant Is on Trial on Charges of Annihilation of Jews.”[[25]](#endnote-24) The first case of collaboration with the Nazis would focus on the accused mass-murderer Andrej Banik, and was clearly chosen for the symbolic value of placing a non-Jew on trial over the persecution of Jews. One difference between the Jewish functionaries and this non-Jew did exist. While both acted as Nazis, the Slovak also identified with Nazi ideology. In the indictment submitted to the magistrate court he is described as someone who “incited hatred of Jews,” and “persecuted [Jews] for racial reason,” indicating an ideological association.[[26]](#endnote-25)

Upon his arrest, newspapers informed their readers that “a Nazi Accused of Murdering Jews was Arrested,” and “A Nazi and Jew Murderer will Face Trial.”[[27]](#endnote-26) Now Israelis and Jews would try a true Nazi suspect, not merely a functionary. While most viewed functionaries as equal to Nazis, they were not seen as ideologically identified with the Nazis. *Davar*, a daily newspaper affiliated with the political party of Prime Minister David Ben-Gurion, asserted that “It is possible that he [Banik] believes that the church has forgiven the entire Hlinka Guard and [thus has also forgiven him]. But the Jewish nation will not forgive him and his friends in the Hlinka Guard.”[[28]](#endnote-27) This writer saw the trial as much more than the trial of one individual facing a few of his victims. Banik was cast as an embodiment of the entire Hlinka Guard who was backed by “the church,” while the few victims who confronted him represented “the Jewish nation.”

The writer celebrated the anticipated verdict for “one of the most typical hangmen of the Slovakian Jewry… Under the new law, [he] is expected to receive the death penalty.”[[29]](#endnote-28) In this and similar newspapers headlines, journalists reports portrayed Banik as a central figure in the killing of Jews in Slovakia, an assertion that even by measure of the accusations leveled at him in the indictment was far from true. But for Israelis seeking revenge this was the first and only ‘real’ Nazi they had in hand, and his conviction represented payback for the murder of the entire Slovakian Jewry.

The preliminary examination of Banik opened on 10 September 1950, in the Jerusalem Magistrates Court. The legal procedure of preliminary examination which existed in Israel in the 1950s was not designed to determine the guilt or innocence of the defendant, but only to conduct an examination of evidence that would determine whether the prosecution could indict him in the district court, and if so on what charges.

Although the defendant lived in Beit Lid, halfway between Haifa and Tel Aviv, and the witnesses came mostly from Israel’s coastal area, the prosecution insisted that the hearings take place in the country’s capital, Jerusalem. The trial of a foreign mass-murderer required close oversight by the heads of the Justice Ministry in Jerusalem, and most importantly, by the Attorney General, Haim Cohn. He had put 32-year-old Miriam Ben-Porat, a rising star in his office and a future Supreme Court justice, in charge of the case. Cohn himself was also involved in the case and from time to time would take an active role in negotiations with defense attorneys.[[30]](#endnote-29)

On the opening day, the public gallery of the courtroom was packed, as was fitting for a trial cast as the first trial of a Nazi in Israel. The audience gathered in the gallery reflected the interest shown in the case by a variety of different groups. Catholic priests from the French monastery in Nazareth where the defendant now lived sat beside Holocaust survivors from Hungary and Slovakia, and representatives of the Czechoslovak Consulate shared space with journalists and photographers from Israel and abroad.[[31]](#endnote-30)

This would also be one of the first opportunities for Israelis to hear about the experiences of survivors in Europe. Only five years after the end of the war, “Many have already forgotten what the Amalekites of our generation have done to the Jewish nation,” reported A. Tovim in the *Yediot Ahoront* newspaper. This trial, he continued, would serve a reminder. And indeed, as the survivors described life in the death camps, the audience sat “in a state of shock, listening attentively, and completely petrified… listening to the horror stories.”[[32]](#endnote-31)

The indictment submitted to the court included eleven counts, eight of which carried the death penalty. The prosecutor, Ben-Porat, who had lost most of her family in the killing fields of Lithuania, included in the counts the incitement to hatred of Jews, the racial persecution of Jews, and another of the expulsion of Jews from their homes. Also included were the murder of a three-year-old Jewish boy, and the slaying of an unknown number of Jews. While each of the eleven counts in the indictment focused on a specific context, the different counts echoed the larger Nazi ‘Final Solution’ in all its stages, from anti-Semitic rhetoric through racial discrimination, plundering of goods, and expulsion to concentration camps; and culminating with mass murder.[[33]](#endnote-32)

The fourth and fifth counts on the indictment, based on the paragraph of the Nazis and Nazi Collaborators Law (1950) entitled “crimes against the Jewish people,” charged Banik with crimes against humanity when he caused “grave mental harm to unknown Jews in an attempt to destroy the Jewish people.” Another count accused Banik of “murdering Jews on unknown dates between November 1938 and March 1940, whose number and name remain unknown.” The word “unknown” would be repeated in many other counts in this and other indictments, pointing to a consistent attribute of Holocaust era cases brought in front of Israeli courts. Never in any of these cases did the prosecution present contemporaneous evidence, namely documents or proof produced in the camps or ghettos in the late 1930s or first half of the 1940s, but rather it relied on the recollections of witnesses. Between five to ten years after the war, these survivors frequently could not recall the scenes accurately. Basic information was lacking and indictments reflected this in the use of the word “unknown.” The use of this word also gave the impression that the counts touched on a greater scope than the specific contexts in which the events took place, and thus gave the impression that crimes related to a larger component of the Holocaust than they actually did in practice.[[34]](#endnote-33)

This complete reliance on witnesses in the Israeli kapo trials stood in contrast to the role of witnesses in the International Military Tribunal (IMT) Nuremberg trials. There, the American Justice Robert Jackson, who served as prosecutor, choose “to put on no witnesses we could reasonably avoid.” And indeed, only 94 witnesses testified in the IMT Nuremberg trials, two-thirds of them for the defense and including many of the 24 defendants themselves. Instead, the prosecution preferred to rely on the vast archival trail left behind by the Nazis. In the view of the Nuremberg prosecutor, Telford Taylor, it was preferable to use “clear and public proof, so that no one can ever doubt that they were fact and not fable.” In the end, thanks to troves of documentation, the prosecution obtained convictions for nineteen of the defendants in the IMT Nuremberg trials. But the kapo trials, in contrast to the future Eichmann trial, had no such option to use documentary evidence – almost no paper trial of significance recorded the actions of these purported Jewish collaborators; witnesses would serve as the only means to present the cases against the defendants.[[35]](#endnote-34)

After the counts in the indictment had been presented, Banik’s defense attorney Jacob Doron rose to object. No details had been given regarding mental harm caused, he stated. “Mental harm is a new kind of offense and one must give details of it,” he asserted. Ben-Porat rejected his argument: “In the same way that it is difficult for the defense, it is also difficult for the prosecution. The witnesses that will appear on behalf of the prosecution have experienced a great deal, and basic facts are blurred in their minds,” she said. The prosecution’s case had a crucial weakness. If the prosecutor proved that the witnesses on the stand had suffered “grave mental harm,” that might disqualify their testimony. And indeed, as pointed out later, the precarious mental state of some witnesses would become evident as the trial unfolded. The prosecution would end up using this count of mental harm neither in Banik’s district court indictment nor in any of the other future kapo trials.[[36]](#endnote-35)

“In light of the special circumstances of the trial [as a preliminary examination only],” Judge Moshe Perez responded to the attorney’s objection, “there is no need to demand further details from the prosecution.”[[37]](#endnote-36)

The prosecution scheduled the first witness to testify in early October. Yitzhak Freiman, the complainant who had come to the Beit Lid new immigrants’ camp police to file a complaint against Banik, arrived at court twice on the wrong dates. Then, on the scheduled date, he did not come. The police searched the kibbutz registered as his home address, but could not locate him. He had left the kibbutz and vanished. A month passed and Freiman was nowhere to be found. Hinting at a possible conspiracy, newspapers reported that “a key witness in the trial of Andrej Banik has disappeared.”[[38]](#endnote-37) If this key witness could not be found, the prosecution would be required to remove some of the weightiest charges from the indictment, including the count of murdering the three-year-old. And indeed, in late November after two months of searching for the witness, the consul of Czechoslovak Republic in Jerusalem which gave the defendant its full backing wrote to Attorney General Cohn requesting “that in light of the present circumstances, the question of [Banik’s] release might be given earnest consideration.”[[39]](#endnote-38)

Meanwhile, a new piece of evidence emerged. The military censor intercepted a letter from the local municipality of Hummene (in Slovakia) responding to a letter from Prof. Joseph Dobrobzki at the Nazareth monastery where Banik resided, asking their assistance to prove Banik’s innocence. They wrote to Dobrobzki:

In response to your letter about the investigation of Andrej Banik from Lastovce, I dispute your argument that he is innocent and I am surprised that you support such a person… whose beastly actions took place from 1939 to March 1940. Indeed, your knowledge about his innocence is mistaken… The aforementioned, who was at the time nineteen years old, participated in actions for which he was supposed to be hanged a long time ago and therefore we demand that you take a realistic view on this issue and not support a murderer, who is possibly the murderer of your fellow citizens. The aforementioned, as an enthusiastic member of the Hlinka Guard, walked in their uniform in the time of occupation and assisted the Germans in all of their brutal actions… There is no other outcome for the brutal actions of a person such as the aforementioned, but the death penalty.[[40]](#endnote-39)

The signatory, the head of the national council of Hummene, also listed in his letter the names of four of the individuals murdered by Banik.

On Ben-Porat’s initiative, representatives of Israel’s consulate in Prague traveled to Hummene to investigate more closely those who had sent this accusatory letter as well as the details they mentioned in it. The representatives identified a few potential witnesses and had them submit affidavits.[[41]](#endnote-40)

Informed about the letter, the defense attorney, Doron, turned to Attorney General Cohn and demanded that the prosecution avoid submitting this piece of evidence obtained in dubious ways. Attorney General Cohn, possibly because of ramifications for relations with Czechoslovakia, which viewed the placing of Banik and two other defendants who originated from Czechoslovakia, Elsa Trenk and Raya Hanes, as a diplomatic provocation, ordered that the letter not be introduced as evidence. Nevertheless, Ben-Porat disregarded her director’s promise and decided to submit the letter from the head of the national council of Hummene as evidence. The law’s fifteenth paragraph allowed “the court [to] deviate from the rules of evidence if it is satisfied that this will promote the ascertainment of the truth and the just handling of the case.” Ben-Porat, who refused to let a fascist murderer slip out of her hands, wrote that “this letter is currently a very important key to uncovering the truth about the most horrible actions of the defendant.”[[42]](#endnote-41)

Six weeks after Freiman’s scheduled testimony, the police finally located the witness who had vanished. No one had kidnapped or assassinated him, as some might have thought. He had moved to Tel Aviv, worked two jobs, and did not have the time to inquire about the new date on which he was scheduled to appear in court.[[43]](#endnote-42)

Now in court, Freiman testified in Hungarian – after he refused to respond to the defense attorney’s questions in the language of the German perpetrators – that in 1939 he was stationed on the Slovakian side of the border with Hungary, near Betliar, not far from Roznova.[[44]](#endnote-43) There he saw the defendant stop a three-year-old boy as he attempted to cross the border with his grandfather. Although Freiman had previously told the police that he had seen the defendant choke the child with his boot, in court he testified that Banik had pushed the child to the ground and stepped on his belly. “I saw the belly of the child naked and covered in blood. I saw that one of the Jews took the boy and ran with him into the forest.” Also, contrary to his previous testimony in which he stated that the boy had died, he now stated, “I do not know if the child was still alive.” Asked to elaborate, he was unable to state the exact fate of the child. After the war, he had heard that the mother could not find the boy, and so Freiman assumed that he had died.[[45]](#endnote-44)

As this was only a preliminary examination, the inconsistencies in the witness’s testimony and the fact that no other witnesses reported seeing the defendant in the area of Betliar and Roznova did not cause Judge Perez to disqualify those counts against Banik that were based on Freiman’s testimony alone. In early January 1951, the judge handed down a decision that permitted the prosecution to file the indictment against Banik in the district court.[[46]](#endnote-45)

**Magistrates Courts’ Definition of Crimes Against Humanity**

In late September 1950, the newspapers informed their readers that a “War Crimes Trial Begins Today in T.A. [Tel Aviv],” and that “The Affair of Auschwitz Prisoners Abuse Unveiled Yesterday in Tel Aviv Courthouse.” As in the case of Banik, these titles gave the impression that the forthcoming trials would uncover a slew of crimes that took place in Auschwitz, not only those by camp functionaries. While these headlines may have resulted from the wish to sell more newspapers, they also reflected a quest for revenge on those responsible for the events that had unfolded in Europe. These trials, the newspapers seemed to indicate, represented a reckoning for what had occurred in Auschwitz specifically and in the Holocaust in general.[[47]](#endnote-46)

On 17 September 1950, and shortly thereafter, on 4 October, the Attorney General’s Office in Tel Aviv charged two women, Elsa Trenk and Raya Hanes, both of whom had served as kapos in Auschwitz-Birkenau, of collaboration with the Nazis. In the first year following the enactment of the law, the authorities presented thirty cases to the magistrates court, mostly in Tel Aviv but also a few in Haifa and Jerusalem, for preliminary examination; seven of the cases involved women.[[48]](#endnote-47) The choice to place two women among the first, if not *the* first, Jewish defendants in these trials, may have resulted from the perception that their crime was especially abhorrent, because they had crossed two lines. They had not only betrayed the nation in collaborating with the Nazis, but had also shown ‘infidelity’ to the image of a ‘proper’ woman. Those women, in some people’s opinion, had corrupted their inner innocent womanly self in serving as kapos. Historian and survivor Mark Dvorzhetski dismissed the public outcry on how a woman could have collaborated with the Nazis, and in so doing confirmed the higher moral standard demanded from women than their male counterparts. “So they have found a female Jewish traitor. Two female Jewish traitors. Three. Because of them – shall this clamoring sensation distort our view of the Hebraic woman in the days of the Holocaust…?”[[49]](#endnote-48)

Some of the prejudice against female kapos was implicit. Unlike a report of the arrest of a male kapo, which did not focus on the suspect’s gender, one newspaper headline informed its readers of the arrest of “A woman accused of supporting the Nazis.”[[50]](#endnote-49) In a few other cases sexism was explicit. Responding to the news of the upcoming Hanes hearings, David Ghiladi pointed out in *Maariv* that one could view female kapos in one of two extreme ways. One could see them as “impure vermin” or “as victims, who deserve great mercy,” he wrote. After these women had watched tens of thousands of humans murdered, their emotions were blunted. “As they tortured their victims, they accused them: ‘We were here when you danced at balls and had fun in night clubs and made love.’ No human spark remained in them, except the animal instinct to live one more day and even at the expense of the lives of others… Undoubtedly, were it not for the catastrophe of annihilation, these women would have stayed in their towns, would have married and borne children and continued their familial chain from one generation to another.” The crime of the Nazis against these women was also twofold. They caused them to collaborate, he asserted, and they had crippled their womanly attributes, preventing them from fulfilling their familial duties.[[51]](#endnote-50)

In the Tel Aviv Magistrates Court, prosecutor Eliezer Liebson, the Tel Aviv deputy district attorney in charge of Trenk’s case, and prosecutor Max Chernobilski, who was in charge of Hanes’s case, indicted them on similar charges. According to the indictment, the two had punished and harassed the prisoners under their supervision.

On the first day of testimonies in Hanes’s case before Judge Tsvi Waldman, Idit Leizerovich testified that in April of 1944 a group of men was brought for a brief time into the women’s camp. Among them, Leizerovich identified her father and ran to him. Hanes ran after her, caught her by the ear, pulled the shaven-headed woman to the ground and beat her back and face. It is forbidden to go near men, Hanes screamed at her. For Leizerovich’s transgression, Hanes ordered the entire block of 1,000 women to kneel for two hours.[[52]](#endnote-51)

In their indictment, prosecutors contended that this action constituted a crime against humanity. They also accused Hanes of another crime against humanity for causing a sick inmate, Rena Weiss, to stand during roll call, holding a brick in the air for hours on end. These two charges of crimes against humanity exposed two different views of what constituted a crime against humanity. In the case of the 1,000 women who kneeled for two hours it was cruelty against a group, whereas in the case of Rena Weiss it was cruelty against an individual. Even the case of a supervisor treating one woman cruelly, the prosecutors contended, should be viewed in the context of the concentration camps as a crime against humanity.[[53]](#endnote-52)

The question of whether crimes against humanity should apply only to cruelty against a group or also to that against an individual (or individuals) was also raised in the trial of Trenk. Her indictment included a charge of crimes against humanity for an action taken against a group when she “abused inmates under her supervision. She woke them up three hours before the official 7 a.m. roll call and forced them to kneel until the start of the roll call.”[[54]](#endnote-53) The inmates clustered close to each other to warm up in the cold Polish dawn, but then Trenk ordered them to kneel in the soggy ground to prevent them from getting warm. “When anyone stood up from kneeling,” Shoshana Bloch testified, “the defendant would beat her so harshly that the woman would collapse.” At times “after the Germans went, only because the defendant wanted it, we would remain standing… for two hours, sometimes for three to four hours. We had to defecate right there.”[[55]](#endnote-54)

Witnesses described to Magistrate Court judge Mina Shamir how Trenk punished individual prisoners by ordering them to hold bricks in the air while kneeling, a case that also ended up in her indictment as a crime against humanity. It was a cold dawn when Truda Lustig and her sister stood behind each other awaiting the morning roll call. The sister hugged Truda to help her warm up. “It was still dark, but Elsa [Trenk] noticed it. She came over and slapped Truda’s sister,” Berta Wosner testified. “The sister said that Truda is weak, that Elsa should allow her to warm up, but the defendant slapped Truda as well” she testified, pointing at the supervisor’s lack of any empathy towards her subordinates. Then, Wosner continued, Trenk “chose a very deep puddle of water, and ordered Truda on her knees” with two bricks in the air. The witness could not recall how long Truda knelt in the puddle, but she knew that “when they seated her [there] it was dark and when they got her up it was light.” She concluded that she “had never seen a single instance of kindheartedness toward inmates on the part of the defendant.”[[56]](#endnote-55)

The cases concluded and the Tel Aviv Magistrates Court judges Shamir and Waldman had to decide whether to indict the respective defendants in the district court on several counts of crimes against humanity in addition to other counts. In her decision, Shamir criticized the law, which “in its formulation and presentation is unlike any other law. Instead of clearly defined terms, here the legislator uses flowery words with a very broad meaning.” She described her dilemma over the count of crimes against humanity for Trenk’s having ordered Truda Lustig to kneel in a puddle with bricks in her hands:

One condition for constituting a crime against humanity is that the offense be against a group of people and not against individuals as such—the frequency or infrequency of the separate actions does not add or subtract, as long as each incident is a separate event with no connection between one event and another.

A crime against humanity is only an action taken against a group as a group, she reiterated. Therefore, she rejected two of the counts of crimes against humanity, including the one for Trenk’s punishment of Truda Lustig, and allowed Trenk to be tried for crimes against humanity only for ordering 800-1,000 women to kneel for hours on end.[[57]](#endnote-56)

Judge Waldman, too, rejected the counts of crimes against humanity leveled against Hanes for her actions against individuals, and allowed the charges only in instances in which she had acted against a group.[[58]](#endnote-57)

In a move that reflected the determination of prosecutors to try Jewish functionaries in the harshest possible way, the count of crimes against humanity against individuals which was rejected by the magistrate courts at the preliminary examination was replaced with a count of war crimes in the district court level indictments in Trenk’s case, as well as in seven other cases. The prosecution refused to back down from the view that in their harsh treatment of individual inmates, these kapos had joined the Nazi forces in committing horrendous crimes: if not crimes against humanity, then war crimes.[[59]](#endnote-58)

**A Physician Faces Former Inmates**

In November 1950, Dr. Pinchas Pashititzky emigrated with his wife and twelve-year-old son from Bratislava to Israel. They had survived the Holocaust and now moved to Israel with the hope of leaving behind their experiences in Europe and making a fresh start in a new state. At first, things seemed to go well. The family moved into an apartment on Ben-Yehuda Street in central Tel Aviv. Within days, Pashititzky, a physician, found a job at the Hadassah Hospital in Sarona.[[60]](#endnote-59)

Three weeks after his arrival, on 5 December 1950, the police turned up at 42-year-old Pashititzky’s home carrying a warrant for his arrest. They took him to police headquarters, where First Inspector Michael Avatichi ushered him into an interrogation room. “I, first inspector Michael Avatichi, accuse you, Pinchas Pashititzky, of the premeditated murder of a persecuted person… On an unknown date in 1942 in the Wolanow concentration camp in Poland, a hostile country, you injected a lethal injection to Moshe Lindenbaum with the intention of killing him and after an hour or two he died as result of the injection.” Avatichi continued to accuse Pashititzky. “On November 28, 1942, in the… Wolanow concentration camp, when you acted as the camp’s physician, you selected 120 men and women, among them Abba Boymann and a child, Aharonic Boymann… knowing that they were going to be shot.” He then charged him of crimes against humanity stating that “… when you acted as the camp’s physician, you committed an inhuman acted against a civilian population… when you sent the persecuted [people] in the winter to bath in a public bath in Radom… and the people remained outside all night there, wet. As a result of that many of the people fell ill and died.” Avatichi leveled a total of eleven charges at Pashititzky and in a five-page summary report submitted to the Attorney General’s Office, police sergeant Tsvi Nusblatt wrote that Pashititzky “was responsible for the death of many Jews interned in camp.” These police officers and later the prosecutors portrayed Pashititzky as equivalent to a Nazi physician who had no concern for the health of Jews, selected them for life or death and injected them with deadly medications.[[61]](#endnote-60)

Pashititzky categorically denied all accusations. “I did not send any people to the public bath in Radom and wasn’t even asked and I did not know anything of it.” It was the German commanders of camp, Breckmann and Rube, not Pashititzky, who selected Jews for death. To the contrary, when he diagnosed people with typhus he always concealed it from the German commander, and only listed them as having angina. In so doing he saved them from execution. He admitted he had administrated several injections in the camp. He could not remember if he injected Moshe Lindenbaum, “But I’m 100% sure that I gave no one an injection to kill.” In the difficult conditions of a labor camp, he served as best as he could as a physician to “insure that nothing happened to any sick person because of the Germans, and from a medical standpoint I always gave the best help I could.”[[62]](#endnote-61)

One month later, Pashititzky’s case came before judge Waldman in the Tel Aviv Magistrates Court for a preliminary examination. The indictment which at the police station included eleven counts had risen to sixteen, seven of which charged him with crimes against humanity—one more than Adolf Eichmann would face a decade later. Despite the rulings of Waldman and Shamir in the cases of Hanes and Trenk, that an individual who had committed a crime against individuals could not be charged with crimes against humanity, the prosecution refused to abandon its view and indicted him for crimes against humanity against individual prisoners.[[63]](#endnote-62)

The witnesses Shalom Lindenbaum related that he had called on Pashititzky to treat his ailing brother, Moshe. Recounting conduct that could match that of a Nazi physician, Lindenbaum described how Pashititzky injected a substance; minutes later, the sick man lay dead. “I found my brother dead; he was as black as if he had been electrocuted,” the witness recalled.[[64]](#endnote-63) In the camp sickroom, Esther Tugdman saw Pashititzky administrate an injection to a patient and overheard an exchange between him and the sick person. “He [Pashititzky] said that within 24 hours he would feel better. The day after he came to the sick person and said ‘what a strong heart you have.’ The sick person answered him ‘this time you did not succeed.’”[[65]](#endnote-64) Another witness peeked inside a barrack and saw Pashititzky inject a patient. “When he came out, he said to himself with a smirk ‘he won’t laugh anymore.’” As a result of descriptions like this, many in camp did not trust Pashititzky and avoided asking his advice.[[66]](#endnote-65)

Miriam Boymann reported other deadly actions on the part of the Nazi-like physician. Her mother had dysentery, and Dr. Pashititzky prescribed eight pills that he told Boymann to give her mother all at once. Despite her young age, Boymann feared giving such a large dose and she dissolved only a portion of it in water. “My mother drank the solution and at 4:30 p.m. my mother told me that she wanted to sleep. She asked that I turn her around toward the wall because she was tired. I turned her. She did not speak to me again. My relatives arrived back from work. We saw that mother had died. It was 4:45 p.m. Everyone said that the defendant had poisoned her.”

Other witnesses in the Tel Aviv courtroom described the role of Pashititzky in the selection of Jews. At midday on 28 November 1942, the camp management ordered both men and women to assemble in the men’s camp for a medical examination. There, “the defendant and the German commander conducted a selection,” Miriam Boymann testified, portraying the defendant as one who colluded with the perpetrator to send Jews to their execution. She and most of her family were sent to one side; her father and 120 others were sent to the other. “Me and my group ran towards the other camp and remained alive. My father and his group ran in the other direction. They were shot by the Ukrainians. They all died.”[[67]](#endnote-66)

Enhancing the image of the defendant as a conspirator in the killing of camp inmates, Shalom Lindenbaum testified that the selection was “based on lists prepared by the management of the camp. The most active in preparing these lists was the defendant.” In this account, the Jewish management of the camp of which the defendant was a member was seen as the culprit responsible for the selecting Jews for death. Another witness stated that “We would be horrified when we saw Dr. Pashititzky walking around camp with a list… as it was a sign that soon there would be a selection.”[[68]](#endnote-67)

Pashititzky was one of two physicians to face charges in the kapo trials. Witnesses also described the other physician, Joshua Sternberg, as a Nazi coconspirator in selecting and executing Jews. During one selection in Auschwitz, one witness testified, he saw Sternberg stand by Joseph Mengele in a selection and overheard Sternberg tell him that he should send him to the crematorium. He had also heard from an attendant at the Auschwitz hospital that Sternberg administrated lethal injections. Other witnesses recalled that Sternberg refused to give them medication, telling one of them that “you will die like a dog anyway, Jewish leper.”[[69]](#endnote-68)

On 4 March 1951 on the last day of the hearings, after 24 prosecution witnesses had testified, the tension in the courtroom peaked as Pashititzky himself approached the stand. As was customary in preliminary examinations, the defense did not present its case, and the defendant did not take an oath so as to avoid cross-examination that might incriminate him or her in any future proceeding in the district court. Pashititzky spoke in a quiet voice and in his final words declared that “I state that throughout the entire period of my work as a doctor and throughout the entire period of my work as the doctor in Wolanow I did not commit any act against humanity or against the Jewish people. I have never collaborated with the Nazis; and never did I act contrary to the Hippocratic Oath.” In his view he had remained loyal to his moral conscience at all levels: as a human, as a Jew, and as a physician. In fact, he asserted, during his entire eight months in the camp a typhus epidemic had raged there, “and I as the only physician treated the sick with dedication and according to the best of my knowledge and conscience, and thanks to this the patients recovered.” Only ten of the camp prisoners died due to complications, “which is less than the general statistics.” He concluded by stating, “I wish to emphasize again that I have taken no acts against humanity or against the Jewish people, and that never did I collaborate with the Nazis and never did I act against medical ethics.”[[70]](#endnote-69)

In late March 1951, Tel Aviv Magistrates Court judge Waldman pronounced his decision. Of the sixteen counts he permitted the submission of eight to the Tel Aviv District Court. For lack of evidence he dismissed all counts of administrating lethal injections and prescribing deadly doses of medication. He did permit the progression to the district court of two counts of crimes against humanity, one of them for selecting 120 Jews to death. Just as he had held six months earlier in the case of the Auschwitz supervisor Raya Hanes, judge Waldman wrote that crimes against humanity can be committed only against a “population,” and that most events described in the Pashititzky trial “did not constitute an act with respect to a ‘civilian population’.” It would take nine additional months, in which Pashititzky remained behind bars, before his trial opened in December of 1951 in the Tel Aviv District Court.[[71]](#endnote-70)

1. **Chapter Four**

   Police deposition of Rivka Ugnik (Nugelman), November 19, 1950, *Attorney General v. Dr. Pinchas Pashititzky,* ISA, RG/32/LAW/6/51. [↑](#endnote-ref-1)
2. Testimony of Josef Singer in District Court, November 29, 1951, *Attorney General v. Elsa Trenk,* ISA, RG/32/LAW/2/52, p. 56. [↑](#endnote-ref-2)
3. The number 350 is an estimate given by one of the officers in the investigations team, Josef Singer, in testimony in November 1951. One of the officers on the team, Tsvi Nusblatt, estimated that in the entire period of the kapo trials they conducted 400 investigations (Sharon Geva*, El ha-Ahhot halo Yeduah: Giborat ha-Shoah ba-Hevrah ha-Yiśreʼelit* [Tel Aviv, 2010] p. 250). The exact number remains unknown. [↑](#footnote-ref-1)
4. Police deposition of Yerachmiel Barkai, February 1, 1951, *Attorney General v. Tsvi Shapshevsky* ISA, RG/32/LAW/486/52. [↑](#endnote-ref-3)
5. Police deposition of Tehila Amster, September 25, 1950, Police investigation file, ISA, RG/79/IP/3713/3. See also *Yedioth Ahronoth*, June 14, 1948. [↑](#endnote-ref-4)
6. *Law, Passions and Politics – Judges and Lawyers Between the British Mandate and the State of Israel* (Tel Aviv: Steimatzky Publishing House, 2014), 229. For more on the dismissal of the policemen see Ibid. 193-240. [↑](#endnote-ref-5)
7. *Haaretz,* January 4, 1951. [↑](#endnote-ref-6)
8. *Haaretz,* October 2, 1950. For one such case of a doctor who fled Israel for Canada see, Erik Ehrlich, ISA, RG/IP/L/2200. See also the movie *Kapo* (Daniel Ben-Simon, Director), in which a woman testifies that as a result of the legislation of the Nazis and Nazi Collaborators (Punishment) Law she decided to leave Israel. [↑](#endnote-ref-7)
9. Shlomo Sofer, Israel Police Headquarters to criminal division, Tel Aviv district, September 10, 1950, ISA, RG/IP/L/2200; For another case in which the Shin Bet is updated about the status of a suspect see, Criminal Division, Israel Police Headquarters to the Shin Bet, Case of Moshe Shiff, March 23, 1954, ISA, RG/IP/L/2200. See also Levin, “‘The Witnesses Accuse and Demand,’” p. 97 ftn. 6 who reports about ten files of investigations by the Shin Beit which are still under gag order. [↑](#endnote-ref-8)
10. Testimony of Police Sgt. Tsvi Nusblatt, November 30, 1951, *Attorney General v. Yechezkiel Jungster* ISA, RG/32/LAW/9/51 p.22-24; arrest warrant of Yechezkiel Jungster, February 18, 1951, police investigation file, ISA, RG/IP/L/2200. [↑](#endnote-ref-9)
11. Police complaint of Abraham Hendler, March 8, 1951, *Attorney General v. Mordechai Friedman* ISA, RG /32/LAW/7/51. [↑](#endnote-ref-10)
12. Summary of police investigation in the case of Mordechai Goldstein, January 2, 1951, in the police investigation file of Mordechai Goldstein ISA, RG/IP/L/2200; letter from Horowitz to the officer in charge, March 19, 1950, in the police investigation file of Mordechai Goldstein ISA, RG/IP/L/2200. [↑](#endnote-ref-11)
13. Police deposition of Leib Haas, March 1, 1951, *Attorney General v. Shimon Zuckerberg,* ISA RG/33/LAW/168/52; police deposition of Esther H., March 5, 1951, in *Attorney General v. Shimon Zuckerberg,* ISA RG/33/LAW/168/52. [↑](#endnote-ref-12)
14. Police deposition of Yerachmiel Barkai, February 1, 1951, *Attorney General v. Tsvi Shapshevsky* ISA, RG/32/LAW/486/52; police deposition of Genia Kempinski, February 15, 1951, in *Attorney General v. Tsvi Shapshevsky* ISA, RG/32/LAW/486/52; police deposition of Josef Rosenbaum, May 15, 1951, *Attorney General v. Tsvi Shapshevsky* ISA, RG/32/LAW/486/52. [↑](#endnote-ref-13)
15. Michael Avatichi to head of investigation department, December 4, 1950 *Attorney General v. Miriam Goldberg*, ISA, RG/32/LAW/14/51 [↑](#endnote-ref-14)
16. Police deposition of Hillel Itzkovitch, October 29, 1950, and April 14, 1951, *Attorney General v. Abraham Fried*, ISA, RG/32/LAW/8/51. [↑](#endnote-ref-15)
17. Police deposition of Abraham Fried, May 21, 1950, in *Attorney General v. Abraham Fried*, ISA, RG/32/LAW/8/51. [↑](#endnote-ref-16)
18. Police deposition of Elimelech Rosenwald, January 29, 1952, *Attorney General v. Elimelech Rosenwald,* ISA, RG/32/LAW/990/53. [↑](#endnote-ref-17)
19. Police deposition of Miriam Goldberg, December 4, 1950, *Attorney General v. Miriam Goldberg,* ISA, RG/32/LAW/14/51. [↑](#endnote-ref-18)
20. Police deposition of Mordechai G., January 27, 1950, *Attorney General v. Mordechai Goldstein,* ISA, RG/32/LAW/93/51. [↑](#endnote-ref-19)
21. Police deposition of Elsa Trenk, August 18, 1950 *Attorney General v. Elsa Trenk,* ISA, RG/32/LAW/2/52. [↑](#endnote-ref-20)
22. Police deposition of Yechezkiel Jungster, February 14, 1951, *Attorney General v. Yechezkiel Jungster*,ISA, RG/32/LAW/9/51. [↑](#endnote-ref-21)
23. Police deposition of Elsa Trenk August 18, 1950. The other official warning was issued on September 7, 1950, in *Attorney General v. Elsa Trenk,* ISA, RG/32/LAW/2/52. On the view of the survivor community see Rivka Brot, *Between Community and State: The Trials of Jewish Collaborators with the Nazis* (Tel Aviv University, Ph.D. Thesis, 2015), pp. 183-195. [↑](#endnote-ref-22)
24. These fifteen indictments all made their way to the district court level. As pointed out below, in the first year since legislation the magistrate court heard thirty cases and it seems likely that in some instances it blocked the cases from proceeding to the district court level. I was unable to locate in the archives cases in which the magistrate court blocked a case from reaching to the district court level. [↑](#endnote-ref-23)
25. *Maariv*, August 24, 1950; *Davar*, August 16, 1950; *Kol Ha-Am,* August 17, 1950; Jerusalem 25, 1950. The only discussion of the Banik trial is in a seminar paper of Lahan Sarid, “The Trial of Andrej Banik: The First Trial Based on the Nazis and Nazi Collaborators Punishment Law,” Hebrew University of Jerusalem, Law Faculty, 2012. [↑](#endnote-ref-24)
26. Counts 8-10, Indictment of Andrej Banik, September 7, 1950, case 3827/50 Jerusalem Magistrates Court, in: Czechoslovak Embassy in Tel Aviv, Box No. 8, Archiv MZV. [↑](#endnote-ref-25)
27. *Davar,* August 14, 1950. See also *Kol Ha-Am,* August 17, 1950. [↑](#endnote-ref-26)
28. *Maariv*, August 24, 1950; *Davar*, August 16, 1950; *Kol Ha-Am,* August 17, 1950; *The Jerusalem Post*, August 25, 1950. [↑](#endnote-ref-27)
29. *Davar*, August 16, 1950; *Kol Ha-Am,* August 17, 1950; this article has been discussed only in a seminar paper by Lahan Sarid, “The Trial of Andrej Banik: The First Trial Based on the Nazis and Nazi Collaborators Punishment Law,” Hebrew University of Jerusalem, Law Faculty, 2012. [↑](#endnote-ref-28)
30. Miriam Ben-Porat, *Mi-Baʻad La-Gelimah* (Jerusalem: Keter, 2010), 73–74 (in Hebrew). Attorney General Haim Cohn to Czechoslovak Consul General, April 19, 1951, ISA, MFA/130/1884/7. She also worked on other cases, see, Levin, “‘The Witnesses Accuse and Demand,’” 116. [↑](#endnote-ref-29)
31. *Ha-Boker*, September 27, 1950. [↑](#endnote-ref-30)
32. *Yediot Ahoronot*, October 4 1950. [↑](#endnote-ref-31)
33. Indictment of Andrej Banik, September 7, 1950, case 3827/50 Jerusalem Magistrates Court, Czechoslovak Embassy in Tel Aviv, Box No. 8, Archiv MZV. [↑](#endnote-ref-32)
34. *Attorney General v. Andrej Banik*, September 7, 1950, case 3827/50 Jerusalem Magistrates Court, Archiv MZV, Czechoslovak Embassy in Tel Aviv, Box No. 8. [↑](#endnote-ref-33)
35. Patricia M. Wald, “Dealing with Witnesses in War Crime Trials: Lessons from the Yugoslav Tribunal,” *Yale Human Rights and Development Journal,* 2014, vol. 5(1), 217-218; Telford Taylor, *The Anatomy of the Nuremberg Trials* (New York: Knopf, 1992), 148; Marie Bénédicte Dembour and Emily Haslam, “Silencing Hearing? Victim-Witnesses at War Crimes Trials,” *European Journal of International Law*, 2004 15(1), 167. [↑](#endnote-ref-34)
36. *Attorney General v. Andrej Banik*, September 7, 1950, case 3827/50 Jerusalem Magistrates Court, Archiv MZV, Czechoslovak Embassy in Tel Aviv, Box No. 8; Nazis and Nazi Collaborators Punishment Law, paragraph 15. Another defense attorney in the case of Bank was Alfred David Levhar, but since Doron is the one who appeared in front of the court, I mention only him. [↑](#endnote-ref-35)
37. *Attorney General v. Andrej Banik*, September 7, 1950, case 3827/50 Jerusalem Magistrates Court, Archiv MZV, Czechoslovak Embassy in Tel Aviv, Box No. 8. [↑](#endnote-ref-36)
38. *Haaretz,* November 17, 1950; *The Jerusalem Post*, November 23, 1950; State Attorney to the legal adviser of the Foreign Ministry, November 23, 1950 ISA, MFA/130/1884/6. [↑](#endnote-ref-37)
39. Letter from Consul Necas to Attorney General Haim (Herman) Cohn, November 22, 1950, Archiv MZV, Czechoslovak Embassy in Tel Aviv, Box No. 8. [↑](#endnote-ref-38)
40. Copy of a letter from Hummene, the local national committee, to Prof. Joseph Dobrobzky, 23.10.1950, ISA, MFA/130/1884/6. [↑](#endnote-ref-39)
41. See for example cable sent from the Prague based Israeli diplomatic mission to the foreign ministry in Jerusalem legal advisor on May 18, 1951. When the local authorities in Czechoslovakia learned of these affidavits they sent a lengthy letter to Israel’s attorney general arguing that the witnesses’ testimony pertained to a different person, Antow Banik, who had already been sentenced to twelve years of imprisonment in Czechoslovakia. Consulate General of the Czechoslovak Republic to Haim (Herman) Cohn, Attorney General, April 17, 1951, ISA/130/1884/7. [↑](#endnote-ref-40)
42. Ben-Porat, *Mi-Baʻad la-Gelimah* 73–74. State Attorney to the legal advisor of the Foreign Ministry, November 23, 1950, ISA, MFA/130/1884/6. See also *Haaretz*, December 12, 1950. About the view that the placing of Banik, Hanes, and Trenk, all former citizens of Czechoslovakia on trial was a diplomatic provocation see, MFA/130/1884/7 (no dates, no names referenced). In Israel the foreign ministry’s legal advisor questioned the reasons that Czechoslovakian authorities made such effort to assist Banik. This may result from their concern to their country’s “prestige” as well as the tendency “in this country, as in other countries in Eastern Europe, to occlude the crimes against Jews in these countries during the world war...,” he wrote. See foreign ministry legal advisor to Israel Attorney General, May 15, 1951 MFA/130/1884/7. [↑](#endnote-ref-41)
43. *Haaretz,* November 17, 1950, and November 22, 1950; *Ha-Boker*, November 17 & 21, 1950. [↑](#endnote-ref-42)
44. *Haaretz,* December 20, 1950. [↑](#endnote-ref-43)
45. J. Doron to the Czechoslovak consul, Jerusalem, January 26, 1951, Archiv MZV, Czechoslovak Embassy in Tel Aviv, Box No. 8; For Hebrew version see: December 19, 1951, ISA, RG/33/LAW/121/51. [↑](#endnote-ref-44)
46. *Ha-Boker*, January 10, 1951; *Herut*, January 10, 1951. [↑](#endnote-ref-45)
47. *Jerusalem Post,* September 17, 1950; *Ha-Boker*, September 28, 1950. See also for example the headline of the opening trial of Jacob Honigman, *Ha-Boker*, October 26, 1950 “Began the Investigation of the Accused of Murdering Jews in the Camps.” [↑](#endnote-ref-46)
48. It has proven impossible to locate all cases that went before the Magistrate Court as it seems that those cases that had been cleared my have been disposed by the archives. I therefore rely for these numbers on the newspaper. See *The Jerusalem Post,* July 1, 1951. For an analysis of the trial of Elsa Trenk see Rivka Brot, “The ‘Gray Zone’ of Collaboration in Court,” *Teoria Ubikoret,* vol. 40 (summer 2012), 157-187. [↑](#endnote-ref-47)
49. Mark Dvorzhetski, *Ha-Dor,* November 3, 1950. See more detail on the issue of the image of women as collaboraters in Sharon Geva, *El ha-Ahhot halo Yeduah: Giborat ha-Shoah ba-Hevrah ha-Yiśreʼelit* (Tel Aviv: Migdarim, 2010) 251-269; Brot, *Between Community and State*, 297-298. [↑](#endnote-ref-48)
50. *Davar*, March 11, 1951. [↑](#endnote-ref-49)
51. *Maariv*, May 4, 1951. [↑](#endnote-ref-50)
52. Testimony of Idit Leizerovich, Tel Aviv Magistrates Court, October 8, 1950, *Attorney General v. Raya Hanes,* ISA, RG/32/LAW/140/51, pp. 8–9; See also testimony of Shoshana Fogel, Tel Aviv Magistrates Court, October 26, 1950, *Attorney General v. Raya Hanes,* ISA, RG/32/LAW/140/51, pp. 28–29. [↑](#endnote-ref-51)
53. Fourth and first count, Indictment of Raya Hanes, *Attorney General v. Raya Hanes,* ISA, RG/32/LAW/140/51. [↑](#endnote-ref-52)
54. First count, indictment of Elsa Trenk, *Attorney General v. Elsa Trenk,* ISA, RG/32/LAW/2/52. [↑](#endnote-ref-53)
55. Testimony of Shoshana Bloch, Tel Aviv Magistrates Court, September 27, 1950, in *Attorney General v. Elsa Trenk,* ISA, RG/32/LAW/2/52 pp. 13-14; See also Frida Schwartz, Tel Aviv Magistrates Court, September 27, 1950, *Attorney General v. Elsa Trenk,* ISA, RG/32/LAW/2/52 p. 15–16. [↑](#endnote-ref-54)
56. Testimony of Berta Wosner, Tel Aviv Magistrates Court September 27, 1950, *Attorney General v. Elsa Trenk,* ISA, RG/32/LAW/2/52, pp. 18–19; See also testimony of Dvora Ashkenazi and Frida Schwartz, Tel Aviv Magistrates Court, September 27, 1950, *Attorney General v. Elsa Trenk,* ISA, RG/32/LAW/2/52, p. 12, p. 15. [↑](#endnote-ref-55)
57. Decision of Magistrates Court judge Shamir, October 16, 1950, ISA, RG/32/LAW/2/52, pp. 35–36. [↑](#endnote-ref-56)
58. Decision of Magistrates Court judge Waldman, November 7, 1950, *Attorney General v. Raya Hanes,* ISA, RG/32/LAW/140/51, pp. 1–4. In one instance, judge Joseph Maguri ruled to replace two counts of crimes against humanity leveled against Miriam Goldberg with two counts of crimes against the Jewish people, a count never brought in the case of a Jewish defendant. In his verdict the judge offered no explanation for this choice and it is difficult to understand why the judge had made this change which pits the defendant against her own ethnicity. And indeed in the district court indictment the prosecution chose to charge the defendant with crimes against humanity. See Verdict, April 20, 1951, *Attorney General v. Miriam Goldberg* ISA, RG/74/G/6879/20, pp 11; also see District Court indictment, November 29, 1951, Ibid. [↑](#endnote-ref-57)
59. These cases include the cases against Dr. Pinchas Pashititzky, Yechezkiel Jungster, Mordechai Goldstein, Moshe Puczyc, Abraham Fried and Mordechai Friedman. [↑](#endnote-ref-58)
60. Testimony of Dr. Pinchas Pashititzky, December 26, 1951, *Attorney General v. Dr. Pashititzky*, ISA, RG/32/LAW/6/51, pp. 40–42. [↑](#endnote-ref-59)
61. Police investigation of Dr. Pinchas Pashititzky, December 5, 1950, *Attorney General v. Dr. Pashititzky*, ISA, RG/32/LAW/6/51; Police summary report, Dr. Pinchas Pashititzky, December 8, 1950, ISA, RG/IP/L/2200, p. 1, 5. [↑](#endnote-ref-60)
62. Police investigation of Dr. Pinchas Pashititzky, December 5, 1950, *Attorney General v. Dr. Pashititzky*, ISA, RG/32/LAW/6/51. [↑](#endnote-ref-61)
63. Decision of Tel Aviv Magistrates Court judge Waldman, November 7, 1950, *Attorney General v. Raya Hanes,* RG/32/LAW/140/51, pp. 1–4; decision of Tel Aviv Magistrates Court judge Shamir, October 16, 1950, *Attorney General v. Elsa Trenk,* ISA, RG/32/LAW/2/52, pp. 35–3; Indictment of Dr. Pinchas Pashititzky, January 3, 1951, *Attorney General v. Dr. Pashititzky*, ISA, RG/32/6/51. [↑](#endnote-ref-62)
64. Testimony of Shalom Lindenbaum, Tel Aviv Magistrates Court, January 15, 1951, *Attorney General v. Dr. Pashititzky*, ISA, RG/32/6/51, p. 6. [↑](#endnote-ref-63)
65. Testimony of Esther Tugedman, in Tel Aviv Magistrates Court, February 1, 1951, *Attorney General v. Dr. Pashititzky*, ISA, RG/32/6/51, p. 12. [↑](#endnote-ref-64)
66. Testimony of Meir Waxberg, March 4, 1951, *Attorney General v. Dr. Pashititzky*, ISA, RG/32/6/51, p. 17; Testimony of Miriam Tagari, January 28, 1961, *Attorney General v. Dr. Pashititzky*, ISA, RG/32/6/51, p. 8. [↑](#endnote-ref-65)
67. Testimony of Miriam Boymann in Tel Aviv Magistrates Court, January 28, 1951, *Attorney General v. Dr. Pashititzky*, ISA, RG/32/6/51, p. 6. [↑](#endnote-ref-66)
68. Testimony of Shalom Lindenbaum in Tel Aviv Magistrates Court, January 15, 1951, *Attorney General v. Dr. Pashititzky*, ISA, RG/32/6/51, p. 5; *Ha-Boker*, February 2, 1951. [↑](#endnote-ref-67)
69. Testimony of Haim Sandrowitz, February 21, 1952, *Attorney General v. Joshua Sternberg,* ISA, RG/32/276/51, pp. 6, 12-13; Testimony of Moshe Rosenthal, February 26, 1952, ISA, RG/32/276/51, p. 23. [↑](#endnote-ref-68)
70. Statement of Pinchas Pashititzky, March 4, 1951, *Attorney General v. Dr. Pashititzky*, ISA, RG/32/6/51, pp. 18-19. [↑](#endnote-ref-69)
71. Decision of Tel Aviv Magistrates Court judge Waldman, March 28, 1951, *Attorney General v. Dr. Pashititzky*, ISA, RG/32/6/51, p. 20. [↑](#endnote-ref-70)