# Chapter Six:Can A Jewish Kapo Commit a Crime Against Humanity?

**A Physician’s Questionable Behavior**

In December of 1951 opened at the Tel Aviv district court the trial of Dr. Pinchas Pashititzky. This trial pitted against one another, on the one hand a successful individual, a physician, and on the other hand lay persons – an unskilled laborer, a seamstress, a housewife, a plumber, to whom Pashititzky referred as ‘riffraff.’ In the summation arguments, defense attorney Hegler would echo Pashititzky, evoking the negative selection theory in regards to the prosecution witnesses, stating that one must understand that “of the 3.5 million [Jews] who lived in Poland, 120,000 remained; not always the best material survived.”[[1]](#endnote-1)

Prosecutors no longer charged Pashititzky as they had in the preliminary examination for serving as a murderous physician in the service of the Nazis at the Wolanow labor camp. The district court indictment included eight counts, six counts for murder, one for surrendering Jews and one for war crimes for the combination of all previous counts.[[2]](#endnote-2) The proceeding focused on these counts, but in between the accusations and counter-accusations heard in the courtroom lay a social gap between the commanding physician and the powerless inmates. Prosecution witness, Rivka Nugelman described this relation when she stated that “in camp one hated the defendant. He lived separately in the white room. He had better clothing. People were jealous of him since he was a physician and we were simple people.”[[3]](#endnote-3)

Even Pashititzky himself acknowledged the gap between him and the other inmates. “There was jealously against me because I lived with my family in a special place. The house was called The White House…. The public thought I’m living in a magnificent palace…. I dressed in good cloths and I did not use food from the kitchen but bought food with my money from the Poles…. Hatred developed towards me.”[[4]](#endnote-4) In the trial of another physician tried in the kapo trials, Joshua Sternberg, he also stated about the prosecution witnesses “that possibly they are all angry at me [because] I had maybe a little bit more soup….”[[5]](#endnote-5) The social gaps among inmates and functionaries created resentment and anger that played a role also in the post-war trials.

To pay for his better life, witnesses contended that Pashititzky extorted exorbitant amounts of money from them. Pinchas Berkowitz described how when his wife fell ill he called in Dr. Pashititzky. “I paid [Pashititzky] at least 500 zloty per visit….” In comparison, “After the outbreak of the war, a Christian doctor received 100 zloty or more: [maybe] 150 zloty.”[[6]](#endnote-6) Two of the sons of dental technician Joseph Lindenbaum developed fevers. “I paid 10—20 zloty to the defendant and this was for the treatment of both of my sons. I did not have any money then and I gave him my [dental] machines to sell and receive money for them.” Then his wife fell ill. Having no money left, Pashititzky ignored Lindenbaum’s requests to come and treat her. He only transferred her into a broken shack isolated from other camp residents. Not only would he refuse to treat those who could not pay, they ran the risk of his putting them on the sick list.[[7]](#endnote-7)

Pashititzky disputed these accounts that he had charged patients for treatment. “I never took money from people if not for medication. Lindenbaum paid me either for medications or for the execution of a special medical treatment, such as using my syringe, the boiling of the syringe, breaking of thermometer or the use of special equipment. For my work I did not receive any payment….”[[8]](#endnote-8)

Dinari questioned this argument. “Who would believe a defendant who said he took money only for a broken syringe or something similar?”[[9]](#endnote-9)

None of the charges on the indictment dealt with Pashititzky’s charging of money for medical treatment but some asked whether, in the conditions of a labor camp, it was morally permissible for Dr. Pashititzky to receive money. The prosecution, led by the advocate Dinari, held that “the defendant is cloaking himself in pretensions of professional ethics although in at least one of these cases he demanded money for medical treatment. Demanding money and accepting money in those conditions of starving people are a huge moral crime.”[[10]](#endnote-10)

Defense attorney Hegller responded to Dinari. “It’s not morality that is on trial here but rather the defendant and the charges that appear in the indictment.” Still, Hegller went on to admit that “this is the only thing he did that might not have been correct.” And he reminded the judges that “Pashititzky, too, had to make a living, and if he received money, it was for his livelihood.”

In their eighteen–page verdict, judges Kenneth, Gavison, and Cohn went beyond their role as fact-finders to assess the defendant’s personality and moral behavior:

This is the place to point out two failed attempts, one by the defense and the other by the prosecution. The prosecution labored to convince us that the defendant oppressed the camp inhabitants on his own initiative, as a kind of conscious, cruel, and bloodthirsty collaborator, while the defense labored to convince us that the defendant had the moral personality of an exalted physician who fulfills his dangerous job for the benefit of the public. And we are convinced that neither is the defendant’s character. We believe the defendant is a selfish, average person who hoped to better his situation and save his skin, and that, without hesitation, he demanded payment from each and every patient he thought could pay. And naturally he paid more attention to those patients that paid than those that didn’t.

The judges dismissed the view of Pashititzky as a Jewish incarnation of a Nazi physician. He was not, they wrote, a “bloodthirsty collaborator.” But they found Pashititzky’s moral conduct questionable and placed a blot on his name for his charging of money for his treatment. The courts had again dismissed the view of functionaries as Nazi like but it was willing to place doubt on the moral behavior of victims. In a court based on the criminal code, unlike an honor court, they could not sentence him for his moral transgressions and at the end of the proceedings and after Pashititzky had been detained for more than a year, the police released him.

In exiting the courthouse, Pashititzky praised the judicial system in Israel and told a reporter that he planned to return to his work in the internal medicine department of Hadassah Hospital in Tel Aviv as he indeed did. Interestingly, the courts acquitted all three medical people who faced trial in the kapo trials, Dr. Pashititzky, Dr. Sternberg and nurse Raya Hanes, the most educated people who faced legal proceedings in the kapo trials.[[11]](#endnote-11)

**The Trial of Two Cruel Kapos**

“I don’t want to talk here in favor of the Germans, but I must tell the truth,” said the witness Meir Ziskovich in the trial of Jacob Honigman, a kapo from the Grodziszcze and Faulbrück camps. While German craftsmen at the two neighboring camps handed food to inmates, Jewish kapos dissuaded them from doing so.[[12]](#endnote-12) “The Aryan-Germans attempted and succeeded in supplying us with a little bit of food,” concurred Hertzkopf Gleitman. “I cannot recall a case of a Jew being murdered by a German” he continued. “On the contrary, a German saved me from the accused. There were among the Nazis those who saved Jews, and I was one of them.” After a kapo beat him, it was a German craftsman who shielded him from the Jewish kapos and helped him recuperate. According to this narrative the Jewish functionaries played the malicious role, some of the Germans that of the savior.[[13]](#endnote-13)

Repeatedly in these trials witnesses described Jewish functionaries as equal or worse than the Nazi-Germans. In one trial a witness went as far as testifying that “one feared the defendant like Hitler.”[[14]](#endnote-14) Some witnesses portrayed kapos as Nazis with the aim of brining the courts to judge them harshly, others had truly encountered more beatings and harassment from Jewish kapos than from German. In the camps, many witnesses had only seen their direct Jewish supervisors and could not see beyond them to the Nazis who stood above. For them the Germans did not beat, the Jewish functionaries did. For them the Jewish functionaries were worse than the Germans.

The defendant in the 1951 trial was twenty-eight-year-old Jacob Honigman, who had been a *Vorarbeiter* responsible for awakening the inmates in the Grodziszcze and Faulbrück, sub-camps of Gross-Rosen concentration camp, both located in southwestern Poland, not far from the town of Swidnica. The two camps belonged to the Schmelt organization, an organization who exploited financial benefits from employing Jewish forced laborers in nearby German factories.

Almost parallel to Honigman’s trial ran the trial of his colleague, S*hieber* Yechezkiel Jungster, a locksmith who had also served as a kapo in these two largely self-administered camps.[[15]](#endnote-15) German Wehrmacht soldiers patrolled outside the fence, while a few dozen Jewish kapos managed life from within, a practice that grew more common as the war progressed and the Germans suffered from manpower shortages. “The [German] camp commander [of the Grodziszcze camp] entered sometimes, not every day, when food was distributed,” reported Abba Moshenberg. “There were days in which I did not see a German in the camp.”[[16]](#endnote-16)

Honigman and Jungster belonged to a handful from a total of 50-60 kapos in camp whom the inmates dubbed “the malicious kapos” for their brutal treatment. Honigman, a butcher by profession, “beat [inmates] so frequently that I do not have enough hair on my head to count the number of times he beat people,” Ziskovich testified. “And,” the witness indicated this was not beating forced upon him but rather “he chose to beat.”[[17]](#endnote-17) “Already on my first day at work the defendant punched me and broke two of my teeth,” Yehuda Holtzman testified about Jungster.[[18]](#endnote-18) “If a person did not jump from his bed with the required speed, he struck him with his stick. If he found a bed not made exactly as it should be, he would hit him with his stick…. If he found a pair of shoes not lined up precisely—he would strike,” added the witness David Levkovitch, attributing to Jungster stereotypes of punctuality and orderliness usually attributed to Germans.[[19]](#endnote-19)

Witness did not only address physical suffering inflicted by the defendants’ but also their implications to prisoner’s morale. The battering had dire consequence on their ability to survive and overcome. “In Faulbrück,” one witness asserted, Jungster “beat innocent people and would strike anywhere and everywhere; and people whose existence rested solely on the hope that the day of liberation would come, because they were beaten at a time when they were already extremely weak physically, lost their morale and died.”[[20]](#endnote-20) Another witness estimated that in their effect on prisoners’ spirits, kapos like Honigman and Jungster had brought about the death of hundreds of inmates.[[21]](#endnote-21)

Faulbrück’s estimated 2,000 inmates marched out of the camp every day and then traveled by train to their workplaces. There, watched by German inspectors, the group of malicious kapos did not dare harm inmates. At times, Moshenberg testified, Jungster—who had no authority in the workplace—would come to inmates and “comment that they were not working fast enough, but would avoid hitting because he could not behave that way in the workplace in the presence of German craftsmen.” The German craftsman guarded the Jews from their kapo. This kapo, the witness seemed to indicate, was far more German than the Germans themselves in his strictness, harming morale, and concern for productivity.[[22]](#endnote-22)

To this very stark portrayal of the kapos as equal or worse than Germans, defense attorneys responded in different ways. One tactic was to present an alternative interpretation of events, for example, that a beating resulted not from the kapo’s cruelty but from his or her goal of avoiding harsher treatment by Germans. Another was for the defense to choose complete denial. Part of this later strategy meant attacking the prosecution witnesses. “You’re lying,” defense attorney Heik accused the witness Abraham Lehrer. “You never worked under Honigman’s supervision!” The witness, grilled for hours on end, could tolerate the humiliation no longer and just as the defense had hoped he broke down. He moved from behind the witness stand and slammed his fist on the prosecution table. Two policemen jumped to their feet and blocked him from moving any closer to the defendant. The witness cried out at the defendant, “Deny that I worked for you!”[[23]](#endnote-23) District Court President, Judge Bar-Zakai interjected, warning the witness to control his anger. “After all I suffered in all kinds of camps, I have become nervous,” Lehrer explained. “But I am telling the truth.”[[24]](#endnote-24)

Challenging witnesses to the point where they lost their equanimity was part of the strategy of Honigman’s defense attorney. In the preliminary examination, Heik castigated a witness, asking him, “In what world were you living there in the camp, just in your world of soup? You were willing to murder to get soup?” The prosecutor protested. This statement is offensive to all those who lived in the camps, he said. The judge rebuked the defense attorney. Unlike the Eichmann trial that transpired ten years later in which witnesses served as storytellers whose accounts had been hardly challenged here in the kapo trials the defense at times challenged witnesses casting them at times as mistaken or as liars.[[25]](#endnote-25)

Similarly, Heik asked the witness Ziskovich whether he had seen with his own eyes the events he described. The witness erupted in anger: “Leave me alone. I’m sorry that you did not witness the defendant’s acts in the concentration camps. Jews were murdered for money and you are defending the accused for money.” For this witness, defense attorney Heik’s acted like one of the anti-Semites in Europe, attacking Jews for money.[[26]](#endnote-26)

One especially horrific event dominated the hearings in both the trial of Honigman and Jungster. Witnesses in the two trials, some of whom testified in both proceedings, accused the two of taking part in the murder of eight Jews (by some accounts ten or twelve) at the Grodziszcze camp, casting them not only as supervisors but as executioners.[[27]](#footnote-1) One evening in 1943 the prisoners returned to camp to find a small group of men leaning against each other by the camp’s gate. Some recognized acquaintances among them. For an unknown reason the Germans had transferred the group from the nearby Gadenfrei camp to Grodziszcze. A few witnesses recalled the men as being gravely ill; others remembered them as being healthy.[[28]](#endnote-27)

The Grodziszcze prisoners continued their march to the camp dining hall as the small group remained by the gate. On an ordinary evening there was time between dinner and sleep time, but on this night a loud whistle ordered them to their beds immediately after dinner. All rushed up the stairs of the three-story wheat mill that now served as their barrack. The kapos verified that all inmates remained inside the building. Then half a dozen kapos exited the building.[[29]](#endnote-28)

From a corridor window, Moshenberg observed a handful of the Grodziszcze kapos gathering below in the camp yard. Then he saw one kapo, his hand clutching the leg of one of the Jews they had seen earlier by the camp’s gate, drag him fifty meters across the yard to the washroom entrance. Next, he saw Honigman grasp another yelping and screaming newcomer, pulling him to the washroom as well.[[30]](#endnote-29)

From a window hatch by his bed, Holtzman too observed the events in the yard below. Hoingman and five or six other kapos beat the new inmates and forced them into the washroom.[[31]](#endnote-30) Loud screams came from the direction of the washroom. A voice called out in Yiddish, “Let me go, I have a wife and child!”[[32]](#endnote-31) Moshenberg “heard the cries of a man being beaten.”[[33]](#endnote-32) None of the witnesses, however, observed the events inside the washroom. A few had observed German soldiers in the courtyard; most denied such a presence. Some heard shots, others did not.[[34]](#endnote-33)

An hour later, an eerie silence fell over the camp and the kapos returned to their barracks. One entered the room where Jacob Schweitzer lay, climbed into bed and wept. Schweitzer turned to the kapo named Wasserberg and asked what had happened. “Get lost,” was the response. The inmate got out of bed and happened upon another kapo named Sibel. “Leave me alone,” the kapo instructed him.[[35]](#endnote-34) Another prisoner, Jacob Neufeld, witnessed two teenage servants bring their kapo masters meat, bread, and butter, a token of gratitude from the German commanders of the camp.[[36]](#endnote-35)

Around midnight, a few inmates went out of the barrack to the washroom. There stood a pile covered in blankets. Moshenberg peeked under and saw naked, disfigured corpses, bearing signs of beating. They had been beaten with metal rods, he reckoned. He could not detect bullet entries.[[37]](#endnote-36)

Late at night someone woke Holtzman, a member of the camp’s *Chevra Kadisha* (burial society), and ordered him down to bury the murdered men.[[38]](#endnote-37) Holtzman observed that the murdered men had been “beaten and were bleeding…, so much so that I could not look at them.” “The heads were full of holes and not from gunshots,” he observed, indicating in this his view that the killers were the Jewish kapos and not Germans who would have simply shot them. Together with other members of the burial society he loaded the bodies onto a carriage and rolled them one kilometer away from the camp, where they dug graves and buried the murdered men.[[39]](#endnote-38) At the end of this night it was clear to many of the prisoners in camp that a group of Jewish kapos had murdered a group of inmates.

Jungster and Honigman denied all the accusations leveled at them. “It’s not true that I was cruel to inmates. On the contrary. Whenever I could, I always helped,” Honigman declared.[[40]](#endnote-39) Jungster asserted, “I did not torture people, I myself was persecuted [by the Germans].”[[41]](#endnote-40) He felt that those prisoners who worked for him did a good job, “and they were happy with me.”[[42]](#endnote-41) Both defendants in their separate trials made a point, as did in some cases other defendants, to stick to their exact titles as they were in camp while witnesses used the general post-war title of ‘kapo’ to describe those accused of collaboration. Wishing not to be associated with the post-war collaborationist’s title of kapo, both Jungster and Honigman emphasized that they had never served as kapos, only in other positions of *Vorarbeiter* or barrack *Shieber*. To one witness who repeatedly called him kapo, Honigman responded in court, “If you use the word kapo once more, I will kill you.”[[43]](#endnote-42) And both of the accused said that the Germans had forced them to assume the position. When Jungster wanted to quit, the German commander informed him, “We decide that, not you.”[[44]](#endnote-43)

Jungster remembered the arrival of the group of men from Gadenfrei at Grodziszcze, but he declared that he had nothing to do with their killing. After dinner and a shower he just went to sleep. When he woke up in the morning he heard about the horrific killing. “It never happened that a Jew was beaten and killed by another Jew,” Honigman stated, completely denying taking part in the murder.[[45]](#endnote-44) Jungster refuted the claim that he had repeatedly beaten inmates. “Everything that the witnesses described… is a lie.” The defendant, who had lost his wife in Auschwitz and did not know the fate of his child, said that witnesses sought someone to blame for their suffering and “I am the victim.”[[46]](#endnote-45) Honigman concluded his testimony by stating, “When I beat someone it was essential for work…. I’m innocent. My conscience is clean.”[[47]](#endnote-46)

In early December 1951, the prosecution rested its case and Jungster’s defense attorney presented his key witness, Tsvi Schlimmer, who had also served as a kapo in Grodziszcze and was one of a group that witnesses identified as ‘the good kapos.’ Here was an opportunity to learn not from the limited viewpoint of the victims but rather from a former functionary and his experience as a person positioned between the German masters and the Jewish inmates.

Schlimmer admitted that he had chosen to work for the Germans “because I knew that a *Vorarbeiter* does not need to work, and that was splendid for me….” “If I had wished not to take the job,” he added, “I could have [refused, but] I do not know of any case in which a person turned down the offer to become a kapo…. A kapo’s life was more comfortable. He did not need to work, received an additional portion of food, and had greater freedom to move about.” In these words Schlimmer reflected the historical reality which was that many Jews sought positions as policemen or kapos in order to secure their own life and at certain times also that of their families.[[48]](#endnote-47) Schlimmer countered Jungster’s earlier argument, one also repeated in Honigman’s trial, that the Germans left him no choice but to accept the position of kapo.[[49]](#endnote-48)

Schlimmer who had never been indicted by any legal authorities acknowledged that he too had beaten inmates. He slapped people on the face and even hit them with a stick. But, unlike Jungster and Honigman, who mostly beat inmates in the Jewish, self-administered Grodziszcze barracks, Schlimmer punished them only at the workplace that was overseen by Germans. He did so only when he feared that a German guard would execute a harsher punishment. “And I was elated if a day passed and I was not obliged to beat someone. If I was obliged to do so, I would take the person into the hut, hit the table and order him to scream.”[[50]](#endnote-49)

 Schlimmer’s subordinates appreciated his treatment, and back at Grodziszcze they obeyed his orders for the most part. When he commanded inmates to sleep, “they would urge each other to climb into bed so everything would be okay.” In the instances when this did not happen, Schlimmer continued, “I would roar so loudly the entire camp shook, and that would be enough.”[[51]](#endnote-50) Indeed, Ziskovich had testified earlier that the “good kapo” Schlimmer “was a devil in his roars but [he] did not hit.”[[52]](#endnote-51) This kapo even assisted people in prohibited food transactions with non-Jews. Schlimmer’s example of being a ‘good kapo’ pointed out that also the ‘malicious kapos,’ like Jungster and Honigman could have chosen to behave differently, but did not.[[53]](#endnote-52)

Kapo Schlimmer saw Jungster and other kapos constantly beat inmates in the barracks. “When I [say] that in Grodziszcze people were beaten all the time, I see the defendant among those beating,” he stated. In his view, “the defendant belonged to the bad kapos, but there were worse than him.”[[54]](#endnote-53) This testimony of a “good kapo” could hardly serve to support Jungster’s defense. Just as in the case of Trenk, here too, Jungster could hardly find any witnesses to testify in his favor. In face of the fifteen witnesses of the prosecution, he brought in addition to himself and Schlimmer three other defense witnesses, one of whom did not serve in Grodziszcze and Faulbrück, one who served in the camp after the defendant was sent to a different camp, and another who was under the defendant but for only four or five weeks and did not seem him beat. It seems as if Jungster chose to bring these witnesses just to demonstrate that the he had witnesses in his defense almost regardless of the content of their testimony.

Here we stand “with Jews attempting to put forward a version of events as if Jews themselves are responsible for their suffering in the camps…. as if the kapo alone is guilty for everything,” Honigman’s attorney, Heik, declared in his closing argument, arguing that the kapo trials portrayed Jews, not Germans, as responsible for parts of the Holocaust. Only a handful of Nazis had paid a price for their conduct, he asserted, and even they are being released from prisons in Europe. Instead, in the Jewish state former kapos are being tried and going to jail as if they were worse than the Germans, he argued.[[55]](#endnote-54)

Defense attorney Heik continued his defense arguments pointing that the view that kapos bore responsibility for the beating of inmates was based on a mistaken assumption about the relationship between a German commander and his subordinate kapo. “One tends to place the entire blame on the subordinate, especially in those abnormal conditions.” In a situation in which one person is responsible for thousands of people, “all the anger is directed against the supervisor […], and all that remains in [the victims’] memory is the memory of the kapo […]. Unlike Cohn in the opening statement of the Banik’s trial, Heik pointed that also the memory of a victim represents only a limited vantage point.

“I ask [the court] to reject out of hand the argument […] that each and every kapo—by virtue of being a kapo—was surely a murderer.” “The court,” he concluded, should reject the view that the law intended to punish “any Jew who gave a slap on the face as though, in that act, he became a ‘helper’ to the Nazi.” Through his criticism of the interpreters of the law Heik presented a veiled criticism of the law itself, indicating that it took into account even the slightest of transgressions as an act that linked actor to Nazis. The perspective that any use of force in camp was criminal, he seemed to indicate, failed to understand the historical circumstances in camp and was not socially beneficial.[[56]](#endnote-55)

 “I request that the accused be exonerated,” the attorney pleaded. “What public benefit is there in punishing the defendant? Whom do we need to deter from these kinds of actions?” he said assuming that the goal of the law and the punishment was one of deterrence. However, as the deliberations in the Knesset demonstrate that was not the dominant view. In another trial one judge pointed out that “This law has almost no intention of deterrence, not in regards to the defendant or any another person. I see the rationale of the law not in vengeance but in payback.” For his bad deeds the convicted functionary deserved a proportional punishment to his actions, the judge held.[[57]](#endnote-56)

Continuing the line as if the law aimed at deterrence Heik stated, “The tragedy is over. The Nazis are being released from prisons and all we shall remain with is the story of the Jews who misbehaved in the camps. Especially after so many years have passed! I ask that [the defendant] be fully rehabilitated for the sake of the rehabilitation of the entire Jewish people who was accused with this annihilation.” Not only had the Allies not put the killing of the Jews on the agenda of the Nuremberg tribunal, but the defense attorney argued that the kapo trials in Israel portrayed the Jews as responsible for their own killing.[[58]](#endnote-57)

In January 1952, the panels of judges issued their verdicts in the cases of *Attorney General v. Jungster* and *Attorney General v. Honigman.* The murder of the Jewish men in the washroom of the Grodziszcze camp appeared only in the district court indictment of Honigman. Conflicting testimonies, a lack of valid proof of death, and a lack of direct testimonies regarding the beatings in the washroom had instilled doubt in the minds of the judges, and they dismissed the murder charges. For the same reasons they also dismissed nine other counts of murder in Honigman’s indictment. Never in the kapo trials was there enough legal evidence to convict any defendant of killing a fellow prisoner. The judges who executed legal rules could not conclude that a murder took place, but from a historical perspective it is clear that these functionaries had murdered their fellow inmates. The many witnesses accounts are convincing in themselves and corroborate each other to a degree that one can conclude with a high degree of confidence that at least in Grodziszcze camp a group of kapos had indeed murdered inmates under their supervision.

Like in the case of Pashititzky also here, were the proceedings to have taken place in an honor court, judging based on moral law, there would have been a greater chance of convicting these murderers. Given the difficulty of proving in a criminal court a case of murder that took place in a concentration camps in Europe, an honor court such as those used in DP camps in Europe would have been a more appropriate venue than a criminal court to try these cases. But as pointed out above Israeli authorities refused to adopt that model to deal with functionaries and opted for criminal courts.[[59]](#endnote-58)

The judges who absolved Honigman of these severe charges did not spare him a harsh assessment. In Grodziszcze and Faulbrück, judges Natan Bar-Zakkai, Yitzhak Kister, and Yitzhak Zundelovitch wrote, inmates did not see Germans as malicious, but “many of the inmates saw the Jewish policeman—be his title, *Stubenalteste*, *Vorarbeiter*, *Uber*, or *Kapo*—as the enemy and source of evil.” While the judges acknowledged that the defense argument that the perspective of prisoners was limited and that they had not seen the German commanders who handed down commands but only their immediate Jewish supervisors, this limited preview did not in the eyes of the judges shift away from Jewish functionaries’ responsibility for their cruel and malicious behavior. The court added its moral assessment that “there were among the Jewish policemen not a few who, feeling a sense of power and authority in their hands, did not spare their imprisoned brethren, or did not spare them sufficiently, and oppressed their brethren, for a reason and also for no reason.”[[60]](#endnote-59)

Honigman’s behavior, the three judges concluded, was

evil and cruel; he tortured inmates and loutishly abused them, adding cheap curses and swearwords like an omnipotent tyrant. Moreover, [he] struck the frail inmates in camp with his whip—his baton of authority—in a horrific and exaggerated and unforgivable manner. He would also kick them in the belly, the genitalia, and would tread on them …. He would for no reason strike in all directions, for no reason whatsoever, just for sadistic pleasure.

Whilst they had not convicted him of murder, they portrayed his personality as one of a true sadist, possibly even capable of murder.[[61]](#endnote-60)

Similarly, judges Pinchas Avishar, Yisrael Levin, and Josef Lam found that when the exhausted and starving inmates returned to the camp after a day’s hard labor, Jungster greeted them with a stick or a fist.[[62]](#endnote-61) Yet both courts dismissed the charges of war crimes. In the case of Jungster, the judges explained that “one cannot convict a person for a war crime when both he and his victims are members of the same persecuted people.” If the defendant had identified with the occupier, even though he was a member of the persecuted people, the judges continued, it might have been possible to convict him of war crimes, but “in this case, that is not the situation.” The court dismissed the prosecution’s claim of the defendant’s identification with the Germans.[[63]](#endnote-62)

The verdicts also focused on charges against Jungster and Honigman of committing crimes against humanity. In the case of Honigman, the judges dismissed all such counts because they believed that to convict a person for crimes against humanity one needed to show that he identified with the oppressor in his actions and that he committed them against a population and not against several individuals. Still, the judges in Honigman’s case concluded that the defendant had “acted as a cruel, vicious and brutal Jew against his brethren who were in jeopardy and distress.” The judges found him guilty of fourteen separate counts of “common assault” and “assault causing actual body harm” to individual inmates, sentencing him to eight and a half years’ imprisonment, which was reduced upon appeal to six and a half years, the longest imprisonment time handed down by the Supreme Court in the kapo trials.[[64]](#endnote-63)

In the case of Jungster, however, the judges were divided over whether to convict him on the count of crimes against humanity. Judges Avishar and Levin distinguished between war crimes where there was a need for a person to identify with the goals of the perpetrator and crimes against humanity where in their view there was no such need. To convict a person for crimes against humanity, the two judges determined, one needs two elements. First, “the action has to be of a severe nature that might make a person miserable, humiliate him, and inflict on him grave physical or mental torments.” Second, “the action must be committed against civilians in a wide-scale and in systematic manner… [and] in a way that arouses a revolt of conscience and of human emotion.”[[65]](#endnote-64)

In his consistent acts of beating inmates, the two judges concluded, Jungster had committed a crime against humanity. Although the acts had been committed against individuals they had been committed on a wide scale and thus qualified in the view of these judges as a crime against humanity. “The defendant had allowed himself to be used as a tool in the hands of the barbaric Nazi regime [to carry out] its plan to annihilate the Jewish people, and because his actions took place under the Nazi regime in an enemy country, he committed a crime against humanity as defined in the first paragraph of the law.” These two judges confirmed the interpretation of the crimes against humanity which the prosecution had held all along. The attorney general’s office persistence of charging defendants with crimes against humanity, even in cases against individuals, had resulted with the desired result.[[66]](#endnote-65)

Judge Josef Lam, who was a survivor of Dachau and before resigning his post was one of the Knesset members who formulated the law, dissented. On the basis of the Convention on the Prevention and Punishment of the Crime of Genocide (1950) which was adopted into law by the Knesset, he determined that “for the defendant to be convicted of a crime against humanity his actions must be: (a) aimed at annihilating a population, in its entirety or in part…. (b) inhuman actions.” These conditions did not apply to the case of Jungster, he determined. Most of his actions could not be considered as ‘inhuman,’ and he surely did not *aim* to annihilate the Jewish population.[[67]](#endnote-66)

After the majority judges convicted Jungster of crimes against humanity, the court faced the question if the law required sentencing someone convicted for an offense of paragraph one of the Nazis and Nazi Collaborators Law (1950) to death. In his opening statement at the Banik trial, attorney general Cohn pointed out his view that conviction in paragraph one did not require the death penalty and it was only a maximum sentence. Others, such as a senior legal figure, differed in view from Cohn and criticized the law. In a newspaper report that did not specify the name of this person, he was cited as saying that “The Knesset presented the judges… with a difficult choice. Those convicted [in the first paragraph of the law] can only be sentenced to death, and those exonerated can only be sentenced for release. There is no middle ground.” Had he been a Knesset member, the speaker professed, he would have allowed for a third option for judges who believed a person is guilty but are uncertain as to how a normative person would have acted in such circumstances, a suggestion that had been raised by a minority in the discussions of the Knesset Law and Justice Committee that suggested the option of convicting a person but relived him or her from legal responsibility.[[68]](#endnote-67)

The panel of judges split again in determining the sentence. Judge Lam cited paragraph 11 of the law, the Extenuating Circumstances paragraph, which allows a court to consider “as grounds for mitigating the punishment…that the offence was committed with an intent to avert, and was indeed calculated to avert, consequences more serious than those that resulted from the offence.” Because Jungster was convicted of crimes against humanity on the basis of several individual cases of beating and harassment, there was a possibility that at least in some instances Jungster had attempted to avert harsher consequences, Lam wrote. Consequently, one cannot sentence him to death. Lam proposed a sentence of ten years.[[69]](#endnote-68)

The other two judges, Avishar and Levin, did not share Lam’s view that the evidence showed that Jungster had attempted to avert harsher results. The judges did not spare the crippled defendant who suffered from the Buerger disease, the ultimate punishment.[[70]](#endnote-69) “We approach the sentencing in this case with dread….” Indicating their unhappiness with the law and its meaning, they went on to explain that “it is quite clear that it is not the same [to order the death penalty] in the case of a Nazi criminal who identified as a Nazi or identified with the barbaric Nazi regime and in the case of this defendant who himself was a persecuted person and lived in inhuman conditions like his victims.” Unlike many of the witnesses who saw no distinction between the Jewish collaborators and Nazis the judges in this as well as all other courts clearly distinguished between the two. But the law, Avishar and Levin believed, left them no options. “As we come to issue the sentence in this trial our heart trembles…. Since we convicted the defendant for crimes against humanity the law does not leave any choice but to sentence the defendant to death. This result is to our discontentment.”[[71]](#endnote-70)

The prosecutors achieved a victory. The district court, much against its inner belief, had equated functionaries to Nazis. Even before Jungster’s appeal to the Supreme Court that would overturn this ruling, this ‘achievement’ would cause the prosecution to impose on itself a first distinction between Jewish functionaries and Nazi perpetrators, determining that war crimes and crimes against humanity could not apply to Jewish functionaries.

1. Testimony of Pashititzky, December 26, 1951, *Attorney General v. Dr. Pashititzky*, ISA, RG/32/6/51, p. 44; Defense summation, December 30, 1951, Tel Aviv District Court, *Attorney General v. Dr. Pinchas Pashititzky*, ISA, RG/31/LAW/6/51, p. 169. [↑](#endnote-ref-1)
2. While The judge in the preliminary examination permitted the prosecution to present the district court with two counts of crimes against humanity, the prosecution chose, possibly for lack of evidence, to omit these counts. [↑](#endnote-ref-2)
3. Testimony of Rivka Nugelman, December 17, 1951, *Attorney General v. Dr. Pinchas Pashititzky*, ISA, RG/31/LAW/6/51, p. 10. [↑](#endnote-ref-3)
4. Testimony of Pashititzky, December 26, 1951, *Attorney General v. Dr. Pashititzky*, ISA, RG/32/LAW/6/51, p. 45. [↑](#endnote-ref-4)
5. Testimony of Moshe Rosenthal, February 26, 1952, *Attorney General v. Yehoshua Sternberg,* ISA, RG/32/LAW/276/51, p. 28. [↑](#endnote-ref-5)
6. Testimony of Dr. Pinchas Berkowitz, December 18, 1951, Tel Aviv District Court, *Attorney General v. Dr. Pashititzky*, ISA, RG/31/LAW/6/51, pp. 43–44. [↑](#endnote-ref-6)
7. Testimony of Joseph Lindenbaum, December 26, 1951, Tel Aviv District Court, *Attorney General v. Dr. Pashititzky*, ISA, RG/31/LAW/6/51, pp. 30–31. [↑](#endnote-ref-7)
8. Testimony of Pashititzky, December 26, 1951, *Attorney General v. Dr. Pashititzky*, ISA, RG/32/LAW/6/51, p. 47. [↑](#endnote-ref-8)
9. Summary of prosecution, Dinari, December 31, 1951, Tel Aviv District Court, *Attorney General v. Dr. Pinchas Pashititzky*, ISA, RG/31/LAW/6/51, p. 183. [↑](#endnote-ref-9)
10. Summation of prosecution, Dinari, December 31, 1951, Tel Aviv District Court, *Attorney General v. Dr. Pinchas Pashititzky*, ISA, RG/31/LAW/6/51, pp. 181–182. [↑](#endnote-ref-10)
11. Verdict, January 8, 1951, Tel Aviv District Court, *Attorney General v. Dr. Pinchas Pashititzky*, ISA, RG/31/LAW/6/51, p. 3, 18; *Herut*, January 9, 1952. It should be pointed out that also in other cases the courts acquitted educated people, for example Moshe Puczyc who had studied economics and political science at Warsaw University and during the Nazi rule served as deputy commander the Ostrowiec Jewish police. Yet, it is difficult to come to any conclusion on this issue due to the small sample of trials. *Attorney General v. Puczyc*, Tel Aviv District Court, ISA, RG/31/LAW/10/51; *Ha-Boker*, February 1, 1952. [↑](#endnote-ref-11)
12. *Herut*, January 12, 1951. [↑](#endnote-ref-12)
13. Testimony of Hertzkopf Gleitman, July 23 and July 29, 1951, *Attorney General v. Honigman*, Tel Aviv District Court, ISA, RG/31/LAW/3/51, p. 140, 147; see also *Ha-Boker*, January 12, 1951; *Davar*, December 1, 1950, and January 21, 1951. [↑](#endnote-ref-13)
14. Testimony of Rivka Ugnik in Tel Aviv District Court, December 16, 1951, *Attorney General v. Dr. Pashititzky*, ISA, RG/32/LAW/6/51 p. 4. Regarding the actions of Jews as worse than those of Germans see also *The Jerusalem Post,* July 1, 1951, which includes the statement that “many of them [the Jewish kapos] were notorious for their cruelties, which often exceeded that of the Germans.” [↑](#endnote-ref-14)
15. The two vehemently rejected the title of ‘kapo’ to describe their position as *Vorarbeiter*, *kolonenshieber*, or *shieber*, but in the end, both the court and, in the case of Honigman, even the defense attorney used the term ‘kapo’ as a generic term to describe their actions in camp; testimony of Jungster, December 10, 1951, *Attorney General v. Jungster*,ISA, RG/31/LAW/9/51, p. 82. See *Herut*, December 1, 1950. See also testimony of Tsvi Schlimmer December 11, 1951, *Attorney General v. Jungster*, ISA, RG/31/LAW/9/51, p. 90, which explains that a *kolonenshieber* in labor camps was named kapo in concentration camps. [↑](#endnote-ref-15)
16. Testimony of Abba Moshenberg, December 3, 1951, *Attorney General v. Jungster*, ISA, RG/31/LAW/9/51, p. 38. [↑](#endnote-ref-16)
17. Testimony of Meir Ziskovich, January 11, 1951, Tel Aviv Magistrates Court, within the Tel Aviv District Court file, *Attorney General v. Honigman*, Tel Aviv District Court, ISA, RG/31/LAW/3/51, p. 58; See also *Ha-Boker*, January 12, 1951. [↑](#endnote-ref-17)
18. Testimony of Yehudah Holtzman, December 6, 1951, *Attorney General v. Honigman*,Tel Aviv District Court, ISA, RG/31/LAW/3/51, p. 62. [↑](#endnote-ref-18)
19. Testimony of David Levkovitch, November 28, 1951, Tel Aviv District Court, *Attorney General v. Jungster*, ISA, RG/31/LAW/9/51, p. 7. [↑](#endnote-ref-19)
20. Testimony of Jacob Schweizer, December 4, 1951, Tel Aviv District Court, *Attorney General v. Jungster,* ISA, RG/31/LAW/9/51, p. 55. [↑](#endnote-ref-20)
21. Testimony of Mendel Kleider., July 11, 1951, Tel Aviv District Court, *Attorney General v. Jungster,* ISA, RG/31/LAW/9/51, p. 86. [↑](#endnote-ref-21)
22. Testimony of Abba Moshenberg December 3, 1951, Tel Aviv District Court, *Attorney General v. Jungster,* ISA, RG/31/LAW/9/51, p. 40. [↑](#endnote-ref-22)
23. *Haaretz,* July 30, 1951; testimony of Abraham Lehrer, July 29, 1951, Tel Aviv District Court, *Attorney General v. Honigman,* ISA, RG/31/LAW/3/51, p. 146. [↑](#endnote-ref-23)
24. Testimony of Abraham Lehrer, July 29, 1951, Tel Aviv District Court, *Attorney General v. Honigman,* ISA, RG/31/LAW/3/51, pp. 145-146. [↑](#endnote-ref-24)
25. *Herut, Davar,* December 1, 1950; testimony of Mendel Kleider, November 30, 1950, Tel Aviv Magistrates Court, *Attorney General v. Honigman,* ISA, RG/31/LAW/3/51, p. 118. [↑](#endnote-ref-25)
26. Testimony of Meir Ziskovich, November 19, 1951, Tel Aviv Magistrates Court, *Attorney General v. Honigman,* ISA, RG/31/LAW/3/51, pp. 166–167; *Haaretz*, November 20, 1951. [↑](#endnote-ref-26)
27. In the case of Honigman the details of the event unfolded both in the preliminary examination in the magistrates court and in the district court, whereas in the case of Jungster the magistrates court judge heard the accounts in the preliminary examination but did not permit their inclusion in the district court indictment. Still the case did come up in the testimonies given in the District Court hearing but the court did not weigh in on them. [↑](#footnote-ref-1)
28. One who remembered them healthy was Yehudah Holtzman, April 19, 1951, Preliminary examination, Tel Aviv Magistrates Court protocol in Tel Aviv District Court, *Attorney General v. Jungster*, ISA, RG/31/LAW/9/51 p. 13. He also reported that no guard oversaw them. [↑](#endnote-ref-27)
29. Testimony of Yitzhak Masrodnik, December 5, 1951, *Attorney General v. Jungster*,ISA, RG/31/LAW/9/51 p. 59. Testimony of Yehudah Holtzman, February 1, 1951, Preliminary examination, Tel Aviv Magistrates Court within Tel Aviv District Court file, *Attorney General v. Honigman*, ISA, RG/31/LAW/3/51, p. 86;testimony of Jacob Neufeld, July 15, 1951, *Attorney General v. Honigman*, ISA, RG/31/LAW/3/51, p. 104. [↑](#endnote-ref-28)
30. Testimony of Abba Moshenberg July 9, 1951, *Attorney General v. Honigman,* ISA, RG/31/LAW/3/51, pp. 65–67. [↑](#endnote-ref-29)
31. Testimony of Yehudah Holtzman, December 2, 1950, Preliminary examination, Tel Aviv Magistrates Court, *Attorney General v. Honigman*, ISA, RG/31/LAW/3/51, pp. 44–45. [↑](#endnote-ref-30)
32. Testimony of Meir Ziskovich, December 2, 1951, *Attorney General v. Jungster* ISA, RG/31/LAW/9/51 p. 31; Abba Moshenberg July 4, 1951, Tel Aviv District Court, *Attorney General v. Honigman,* District Court, ISA, RG/31/LAW/3/51, p. 50. [↑](#endnote-ref-31)
33. Testimony of Abba Moshenberg, July 9, 1951, Tel Aviv District Court, *Attorney General v. Honigman*, ISA, RG/31/LAW/3/51, p. 67. [↑](#endnote-ref-32)
34. Meir Ziskovich stated that no German was present at the killing of the Jews; January 11, 1951, Preliminary examination, Tel Aviv Magistrates Court, *Attorney General v. Honigman*, ISA, RG/31/LAW/3/51, p. 60. Abba Moshenberg testified that the German commander Kiska was present; July 9, 1951, Tel Aviv District Court, *Attorney General v. Honigman,* ISA, RG/31/LAW/3/51, p. 65. Yehudah Holtzman testified that following the beating the German shot the inmates; February 1, 1951, Preliminary examination, *Attorney General v. Honigman,* ISA, RG/31/LAW/3/51, p. 86. One of those who heard shots was Yehudah Holtzman; December 6, 1951, Tel Aviv District Court, *Attorney General v. Jungster,* ISA, RG/31/LAW/9/51, p. 64. Jacob S. asserted definitively that there were no shots and that the inmates died from the beating by the Jewish kapos; December 2, 1950, Tel Aviv Magistrates Court, *Attorney General v. Honigman,* ISA, RG/31/LAW/3/51, p 57. [↑](#endnote-ref-33)
35. Testimony of Jacob Schweitzer, December 5, 1951, *Attorney General v. Jungster,* ISA, RG/31/LAW/9/51, p. 53. [↑](#endnote-ref-34)
36. Testimony of Jacob Neufeld, December 14, 1950, Preliminary examination, Tel Aviv Magistrate Court, *Attorney General v. Honigman,* ISA, RG/31/LAW/3/51, p. 36. [↑](#endnote-ref-35)
37. Abba Moshenberg January 18 1951, Preliminary examination, Tel Aviv Magistrates Court, *Attorney General v. Honigman,* ISA, RG/31/LAW/3/51, p. 68. [↑](#endnote-ref-36)
38. Testimony of Jacob Schweitzer December 5, 1951, Tel Aviv District Court, *Attorney General v. Jungster,* ISA, RG/31/LAW/9/51, p. 53. [↑](#endnote-ref-37)
39. Testimony of Yehudah Holtzman, December 6, 1951, Tel Aviv District Court, *Attorney General v. Jungster* ISA, RG/31/LAW/9/51, p. 68. See also Holtzman, April 19, 1951, Preliminary examination, Tel Aviv Magistrates Court, *Attorney General v. Jungster* ISA, RG/31/LAW/9/51, p. 12. [↑](#endnote-ref-38)
40. Testimony of Honigman, December 9, 1951, Tel Aviv District Court, *Attorney General v. Honigman,* District Court, ISA, RG/31/LAW/3/51, p. 224. [↑](#endnote-ref-39)
41. Testimony of Jungster, December 10, 1951, Tel Aviv District Court, *Attorney General v. Jungster,* ISA, RG/31/LAW/9/51, p. 81. [↑](#endnote-ref-40)
42. Testimony of Jungster, December 10, 1951, Tel Aviv District Court, *Attorney General v. Jungster,* ISA, RG/31/LAW/9/51, p. 77. [↑](#endnote-ref-41)
43. *Herut*, December 1, 1950. [↑](#endnote-ref-42)
44. Testimony of Jungster, December 10, 1951, Tel Aviv District Court, *Attorney General v. Jungster,* ISA, RG/31/LAW/9/51, p. 74. [↑](#endnote-ref-43)
45. Testimony of Jungster, December 9, 1951, Tel Aviv District Court, *Attorney General v. Jungster,* ISA, RG/31/LAW/9/51, pp. 77–78; testimony of Honigman, November 28, 1951, Tel Aviv District Court, *Attorney General v. Honigman,* ISA, RG/31/LAW/3/51, p. 221. [↑](#endnote-ref-44)
46. Testimony of Jungster, December 10, 1951, Tel Aviv District Court, *Attorney General v. Jungster*, ISA, RG/31/LAW/9/51, p. 83. [↑](#endnote-ref-45)
47. Testimony of Honigman, December 9, 1951, Tel Aviv District Court, *Attorney General v. Honigman,* ISA, RG/31/LAW/3/51, p. 224. [↑](#endnote-ref-46)
48. Testimony of Tsvi Schlimmer, December 11, 1951, Tel Aviv District Court, *Attorney General v. Jungster,* ISA, RG/31/LAW/9/51, pp. 85–87. [↑](#endnote-ref-47)
49. For the claims of Jungster and Honigman that they were forced to take their position as kapos, see testimony of Jungster, December 9, 1951, Tel Aviv District Court, *Attorney General v. Jungster,* ISA, RG/31/LAW/9/51, pp. 72–73; testimony of Honigman, November 28, 1951, Tel Aviv District Court, *Attorney General v. Honigman,* District Court, ISA, RG/31/LAW/3/51, p. 210. [↑](#endnote-ref-48)
50. Testimony of Tsvi Schlimmer, December 11, 1951, Tel Aviv District Court, *Attorney General v. Jungster,* ISA, RG/31/LAW/9/51, p. 87. [↑](#endnote-ref-49)
51. Testimony of Tsvi Schlimmer, December 11, 1951, Tel Aviv District Court, *Attorney General v. Jungster,* ISA, RG/31/LAW/9/51, p. 87. [↑](#endnote-ref-50)
52. Testimony of Meir Ziskovich, January 11, 1951, Tel Aviv District Court, *Attorney General v. Jungster,* ISA, RG/31/LAW/9/51, p. 29. [↑](#endnote-ref-51)
53. Testimony of Tsvi Schlimmer, December 11, 1951, Tel Aviv District Court, *Attorney General v. Jungster,* ISA, RG/31/LAW/9/51, p. 87. [↑](#endnote-ref-52)
54. Testimony of Tsvi Schlimmer, December 11, 1951, Tel Aviv District Court, *Attorney General v. Jungster,* ISA, RG/31/LAW/9/51, p. 90. [↑](#endnote-ref-53)
55. Some in Israel’s intellectual elite shared Heik’s concern that trying Jews in Israel for collaboration would point at Jews as responsible for their own catastrophe and allow non-Jews to claim innocence. In a 1951 gathering of intellectuals, a debate developed over the appropriate handling of alleged collaborators. Some participants argued that if Jews do not try their own criminals, how can one expect other nations to pursue justice with their criminals? Others opposed. Conducting trials in Israel against “Jews who participated in the murder of their people will achieve the opposite effect in the non-Jewish countries. If the Jews committed such crimes, why do you complain about the Nazis?” the non-Jews will argue. *Maariv*, May 4, 1951; see also *Ha-Boker,* December 16, 1951. [↑](#endnote-ref-54)
56. Honigman defense summation, December 23, 1951, Tel Aviv District Court, *Attorney General v. Honigman,* ISA, RG/31/LAW/3/51, pp. 282–284. [↑](#endnote-ref-55)
57. Verdict, March 24, 1954, *Attorney General v. Meir Shmuel Zoltan* ISA, RG/32/LAW/398/53, p. 3. [↑](#endnote-ref-56)
58. Honigman defense summation, December 25, 1951, Tel Aviv District Court, *Attorney General v. Honigman,* ISA, RG/31/LAW/3/51, pp. 282-283, p. 307. For a discussion of the possible goals of war crime trials see Douglas, “Crimes of Atrocity,” 278-281. See also Dori Deston, *Demjanjuk's Israeli Trial*, pp. 15-39. [↑](#endnote-ref-57)
59. Verdict, *Attorney General v. Honigman,* ISA, RG/31/LAW/3/51, pp. 29–30; verdict, *Attorney General v. Jungster*, *Piske Din*, vol. 5, 9/51*,* 161. [↑](#endnote-ref-58)
60. Verdict, *Attorney General v. Honigman,* ISA, RG/31/LAW/3/51, p.12. [↑](#endnote-ref-59)
61. Verdict, *Attorney General v. Honigman,* ISA, RG/31/LAW/3/51, p. 31. [↑](#endnote-ref-60)
62. Verdict, *Attorney General v. Jungster,* *Piske Din*, vol. 5, 9/51,157–158, 166. [↑](#endnote-ref-61)
63. Verdict, *Attorney General v. Jungster Piske Din*, vol. 5, 9/51,153, 164. For an opposed view see in the verdict of the *Attorney General v. Elsa Trenk, Piske Din*, vol. 5, 2/52, 142. [↑](#endnote-ref-62)
64. Verdict, *Attorney General v. Honigman*, ISA, RG/31/LAW/3/51, pp. 8–9, 34; *Ha-Boker,* March 24, 1953. [↑](#endnote-ref-63)
65. Verdict, *Attorney General v. Jungster*, *Piske Din*, vol. 5, 9/51, 164–165. [↑](#endnote-ref-64)
66. Verdict, *Attorney General v. Jungster*, *Piske Din*, vol. 5, 9/51, 165. [↑](#endnote-ref-65)
67. Verdict, *Attorney General v. Jungster.*, *Piske Din*, vol. 5, 9/51, 174–175; The judges in Honigman’s case wrote that crimes against humanity consist of a “spiritual partnership… with the Nazi leadership in their satanic plan to annihilate peoples in general and the Jewish people in particular” (Verdict, *Attorney General v. Honigman,* ISA, RG/31/LAW/3/51, p. 9). [↑](#endnote-ref-66)
68. Maariv May 4, 1951; Knesset Constitution, Law, and Justice Committee, July 12, 1950, Knesset Archive, pp. 6–7; Cohn, opening speech, May 14, 1951, Haifa District Court, *Attorney General v. Banik*, ISA, RG/33/LAW/121/51, p. 6.; On the punishment required by paragraph one of the Nazis and Nazi Collaborators Law (1950) see Dori-Deston, *Demjanjuk's Israeli Trial,* pp. 221-230. [↑](#endnote-ref-67)
69. The Nazis and Nazi Collaborators Punishment Law 1953, paragraph 11. [↑](#endnote-ref-68)
70. Testimony of Dr. Shimon Keli, December 17, 1951, *Attorney General v. Jungster,* ISA, RG/31/LAW/9/51, p. 94–95. [↑](#endnote-ref-69)
71. Verdict, *Attorney General v. Jungster*, *Piske Din*, vol. 5, 9/51, 174–175. This view was not shared by some of those who helped draft the law, such as attorney general Haim Cohn, who was cited in chapter five as having argued in the opening trial of Banik that the law did not require the death penalty. In the Eichmann trial, justice Landau, expressed a similar view to that of Lam that paragraph 1 of the law did not require a death penalty (Deborah E. Lipstadt, *The Eichmann Trial* (New York: Nextbook, 2010), 145.
 [↑](#endnote-ref-70)