# Chapter Seven: First Doubts about the Kapo Trials

**A True Nazi Visits Israel and Escapes Judgement**

A few week before the Jungster District Court verdict in late November of 1951, in an SAS airliner en route from Karachi to Copenhagen sat a well-dressed man, aged seventy-four, with his wife, thirty years younger, beside him. As the plane descended for a fueling stopover at Lod International Airport outside Tel Aviv, the woman became visibly nervous while the man struggled to maintain his composure.

The aircraft touched down and taxied to the airport terminal. Passengers disembarked and proceeded to the transit area. The two sat down in the terminal’s coffee shop and ordered breakfast. A few workers, immigrants from Germany, spotted the man and congregated around him. The man finished his coffee and the coffee-shop owner approached and asked the man if he would be kind enough to sign Israel’s international airport’s VIP visitors book. The man agreed and inscribed his signature. It was Hjalmar Schacht.[[1]](#endnote-1)

Twenty years earlier, in the early 1930s, Schacht had ensured the support of the heads of Germany’s industrial sector for the Nazi Party and its rising political star, Adolf Hitler. In return for his help, Hitler nominated Schacht to head the Reichsbank and later nominated him as the Reich’s finance minister. At the end of the war, the Allied Forces put him in the lines of defendants at the International Military Tribunal at Nuremberg alongside people like Rudolf Hess, Herman Göring, and Alfred Rosenberg. That court narrowly acquitted Schacht, but a Stuttgart denazification court sentenced him to eight years’ imprisonment, only to have a higher court overturn the verdict.[[2]](#endnote-2)

Schacht mistakenly boarded a plane that stopped over in Israel. Three journalists— from the daily *Maariv* and *Davar* and from the United Press news agency—who were awaiting the arrival of the chairperson of the Dead Sea Works, Lord Glenconner, noticed the commotion in the airport coffee shop and spotted Schacht. They conducted an impromptu news conference. Does West Germany plan to pay reparations to the Jewish state and is it capable of doing so? one journalist asked. Ever since it was revealed earlier that year that representatives of Israel and West Germany had been holding secret negotiations on possible reparation payments, the issue had created a deep divide in Israeli society. The former head of the German economy responded diplomatically that “Germany will pay if it is able to do so.” He added that “from what I see in the airport and according to what I read in the newspapers, you are progressing greatly and I believe that this country will continue to develop.”[[3]](#endnote-3)

The plane refueled and Schacht boarded again. The plane took off and disappeared on the horizon, but already that afternoon *Maariv* broke the story with the headline “Dr. Schacht, Hitler’s Adviser, Visited Israel.” And in Jerusalem, Knesset member Aryeh Ben-Eliezer, of the opposition, interrupted the Knesset session to demand that the government explain how one of the architects of Hitler’s rise in Germany had “arrived today in Lod without being arrested under the law existing in the State of Israel that requires prosecution of war criminals and murderers of a nation and a race.”[[4]](#endnote-4)

Two days later, the Knesset discussed the topic again. Another stunned opposition member, Yochanan Bader, asked how it could have happened that Schacht, Hitler’s associate, “the man who supplied him with the means for his crimes, the person who collected in the Reichsbank gold from the teeth of tens of thousands to serve as tools of murder, a person whom a denazification court in German identified as a Nazi,” was not arrested and was permitted to leave the country. How is it, he continued, that not one of the many armed guards at the airport assassinated Schacht? It was an attitude associated with the reparation negotiations that caused such complacency, Bader said in answer to his own question. The negotiations with West Germany, he declared, had led people to believe there was no reason to go on hating the Germans for their murderous actions.[[5]](#endnote-5) The greed of the country’s leaders had blinded them to the crimes committed by Schacht, wrote journalist Josef Vinizky.[[6]](#endnote-6)

Another writer wondered who made up this policy of arresting and trying the “small (and miserable) fry” from the camps “who were nothing but tools in the hands of the gestapo… who mostly wanted nothing but to save themselves from the fire, why all this commotion around them?” The true focus should be on the perpetrators, who “planed the fire [and are] enjoyably touring our country….” Members of the Jewish public, he added, had lost their sense of national dignity. In Israel “there is no pride, no honor, not nationalism and no ethics.” This member of the media distinguished between the ‘planners’ and their ‘tools,’ between Nazi architects of the crime like Schacht and their instruments in the image of the Jewish functionaries. But still, for the first year and a half of the implementation of the Nazis and Nazi Collaborators Law (1950), most made no distinction between the two.[[7]](#endnote-7)

**Overturning A Death Verdict**

On January 7, 1952, many thousands of demonstrators congregated in downtown Jerusalem to protest what they saw as the national humiliation of the reparation negotiations, a topic that the Knesset would deliberate that day. The leader of the opposition party of Herut Menachen Begin delivered an arousing speech which many saw as a direct incitement for civil war. Standing atop a balcony of a hotel in Zion Square he proclaimed that if the Knesset would approve the reparation negotiations with West Germany he would order his men in the Etzel to fight back. He accused Ben Gurion and his associates for harming the nation’s honor. “And now you have come, despot profiteers, you have come to demolish all that was achieved in our blood and again the nation will turn into mud, to [a victim of] the pogrom’s sword and annihilation.” Signing the agreement would be an international humiliation he contended. “How will we be seen in the eyes of the nations when our humiliation will be made public, because we went to the murderers of our father to receive money for their blood?”[[8]](#endnote-9)

Not only the right wing nationalists in the Knesset, like Herut, opposed the agreement but also the far left parties, such as Mapam and the Communists. They likened accepting the agreement to a betrayal of the nation with the worst of its enemies, the Nazis and their heirs. Members of Mapam, which as pointed out earlier saw themselves as the safe guards of the rebel legacy, viewed the ties of Israel with West Germany and other countries as part of a new Western fascist-capitalistic coalition opposing the Soviet Union. One of its representatives, Abraham Berman, a member of the Warsaw ghetto rebel movement told the Knesset:

No, not for this had the ghetto fighters arisen the flag of the revolt, in order that a few years after the revolt representatives of the Jewish people will sit with those who drowned the ghetto in blood, burnt it in fire! .... I gravely regret to say that the deliberations I hear in the Knesset are not new to me. I heard this spirit and these arguments also in Warsaw ghetto. There a harsh inner struggle ensued between the battling underground and those defending the ‘real politic,’… [who believe one must] reconcile with the Nazis, negotiate with them. And there were many such people, not only in the Jewish councils…. We all know to where these people’s fatalistic view can lead: Only to disgrace and shame, to betrayal and national humiliation…. Do not bring on our people and state this humiliation![[9]](#endnote-11)

Berman saw the actions of Ben Gurion in negotiating with West Germany as equivalent to the actions of the Jewish councils and other “realistic” people who advocated working with the Nazis, not against them. Collaboration had not ended with the end of World War Two, he held; it continued with Ben Gurion’s negotiations with the West Germans.

Three days before the demonstration, the Tel Aviv District Court had issued its death verdict in the case of Yechezkiel Jungster. In the controversy that arose from the reparation negotiations and the upcoming vote as well as the violent demonstration that followed the Knesset approval of the negotiations, the newspapers and public largely ignored the death sentence of the former kapo. No significant public discussion developed around this sentence and it seemed as if the Israeli public remained apathetic to the sentence of this collaborator.

The harsh verdict in Jungster’s trial, however, did not go unnoticed by the Attorney General’s Office. In the face of the potentially fatal results of its choice to charge alleged collaborators with crimes against humanity and war crimes, the Attorney General’s Office hastily altered open indictments against other defendants. Miriam Goldberg, a former kapo in Bergen-Belsen, faced one count of war crimes and another of crimes against humanity. Months earlier in October of 1951, prior to the opening of her trial at the district court level, her attorney sent a five-page letter to the attorney general requesting the immediate release of his client who was detained for ten months as she was the mother of a two-year-old, even if only on bail. There is a “psychosis that develops so often in these kinds of cases” so that over time minor offenses mushroom into much weightier charges, the attorney explained. And so in this case, accusations that began as beatings ended up with witnesses “‘recalling’ that there were also cases of death.” The attorney general, however, turned down Henigman’s request as the law stipulated that suspects who faced charges which could potentially carry capital punishment remain behind bars until the completion of their trial.[[10]](#endnote-12)

Following Jungster’s death sentence, however, with no petition from the defense the prosecution removed both counts from Goldberg’s indictment.[[11]](#endnote-13) With only minor exceptions, after the Jungster verdict prosecutors avoided the counts of crimes against humanity and of war crimes against Jewish defendants. This move marked a first major shift in the kapo trials, one that marked a distinction between functionaries and Nazis. The harshest charges of the Nazis and Nazi Collaborators (Punishment) Law would no longer apply to Jewish defendants, only to non-Jewish ones. When it came to the death punishment Jews could no longer be seen as equal to Nazis. They were Nazi collaborators who would not face these counts.[[12]](#endnote-14)

This alteration in policy did not diminish the sense of mission that drove prosecutors in their pursuit of functionaries and their quest that functionaries get harsh punishments. In arguing years later for sentencing a defendant to jail time, one prosecutor explained that the court must consider what kind of punishment the victims would have wished as payback from their oppressors. He added another justification for a severe sentence. It would help, he wrote, “to enhance the public’s trust in the justice done by the court” and “would help prevent victims from punishing the Nazis’ helpers with their own hands.” The punishment did not only serve to achieve payback from the offender but also would serve as an educational means, to enhance the public’s trust in the court system and its power to resolve social tensions.[[13]](#endnote-15)

These arguments did not persuade Judge Yitzhak Raveh, who would go on to serve on the panel of judges at the Eichmann trial. He issued the only suspended sentence, of only one month, in this set of trials. He feared that problems with memory, mixing up and seeking of revenge tainted the testimony of witnesses. The prosecutor was enraged at his failure to put the defendant behind bars. “I’m shocked [by] what happened to Raveh in this case! Of nine prosecution witnesses who all testified to the cruelty of the defendant, Raveh believes only one…. I believe we must appeal. It is not enough for a judge to say that he doubts the credibility of the prosecution witnesses. The doubt must be reasonable and rational, which is not the case here.”[[14]](#endnote-16)

But in the whole set of trials only the defense appealed district court verdicts, not the prosecution. In the case of Jungster, the death sentence triggered an automatic appeal to the Supreme Court. Without publishing an opinion – a rare occurrence – the justices cleared Jungster on the count of crimes against humanity, but left standing the conviction for assault, an offense that carried a two-year sentence.[[15]](#endnote-17) Jungster began serving his time at the Tel Mond correctional facility, but two months into his term, his health deteriorated. The police minister, Bechor-Shalom Sheetrit, signed a release order. Two weeks later, on July 10, 1952, Jungster died of natural causes.[[16]](#endnote-18)

Following the Supreme Court’s reversal of the Jungster verdict, the editor-in-chief of *Yedioth Ahronoth*, Herzl Rosenblum, wrote an editorial praising the verdict in which he drew a line between the punishment of Nazis and Jews. “No German swine,” he contended, had been executed primarily for the mass murder of Jews. It would be unfair “to hang the few Jewish helpers in these circumstances—who did what they did under the most unbearable pressure.” Furthermore, the prominent journalist argued, a person who had not experienced the hell of the camps would never comprehend that reality. “To judge here those who were there—and precisely by our common laws, that are normal here according to *our* everyday logic—that is difficult!” Putting survivors on trial, he concluded, might result in casting a moral shadow on all survivors. It is said with regard to most survivors that they survived “not necessarily in ways that would make them eligible for the position of chief rabbi…,” he continued. “Indeed, different moral laws reigned there. For everyone! Also for *us*—had we been there!”[[17]](#endnote-19)

The view that the Holocaust took place in a different moral universe applied not only in cases in which judges issued death sentences but also in all kapo trials with lesser offenses. Yet neither Rosenblum nor others questioned the overall legitimacy of trying Jewish functionaries and the trials continued unabated.

**A Convicted Collaborator’s Changing Image**

In March 1953, the fifth legal proceeding against Julius Siegel opened in Tel Aviv District Court. In 1946, two honor courts in Italy had examined accusations leveled at him by residents of Bendzin and Sosnowiec regarding his actions as a Judenrat member and as *Judenältester* and *Lagerältester* in several labor camps. After the first honor court procedure was terminated by a higher court for administrative reasons, the next honor court proceeding found that he had acted out of “loyalty to the Germans” and barred him from filling any public position in the Jewish community.[[18]](#endnote-20) Next, in 1948, after he immigrated to Israel, the Zionist Congress honor court heard his case until the lead judge died midway through the trial. The fourth proceeding was in April 1952, in a preliminary examination in Tel Aviv Magistrates Court that cleared the way for his fifth indictment, in Tel Aviv District Court, a proceeding that ended up portraying Siegel very differently than the way he was portrayed in the honor court proceedings and judgment.[[19]](#endnote-21)

The presiding judge, Max Kenneth, administered the oath and Siegel swore to speak the truth, the whole truth, and nothing but the truth. He refuted the accusation that he was responsible for handing over Jews to the Germans for forced labor. “I received orders [to do so] from the community [council, the Judenrat],” he said.[[20]](#endnote-22) He maintained that when he worked in the Judenrat he did not manage the lists of deportees to labor camps. Ten people compiled those lists, and he was just one of those clerks. Long forgotten were Siegel’s boastful statements in his previous trials that the Germans admired his organizational abilities in managing “his Jews” and that thanks to his achievements he “was famous throughout Europe.”[[21]](#endnote-23)

In the Tel Aviv courtroom, Siegel recounted that he had failed to provide the Germans with 1,200 men. Accusing him of sabotage, the agitated German commander, Artal, pulled out his pistol, aimed it at Siegel, and ordered him to run on ice. Then the German locked him up in a local jail.[[22]](#endnote-24) But in 1946, in Italy, Siegel had stated that when he headed the employment office of the Judenrat he won the Germans’ appreciation after he delivered to them 600 Jews they had demanded.[[23]](#endnote-25)

Two counts in Siegel’s indictment were for beating inmates. “I did not beat or torture Jews,” he told Judge Kenneth. Only in one exceptional instance, he continued, did he lose his temper and strike a person. “In Auschwitz it happened that I struck [someone]. I found there a Jew who traded gold dental crowns in the black market…. My [deceased] wife and daughter also had gold teeth, and when I saw this I could not restrain myself and I struck him.”[[24]](#endnote-26) Yes, Siegel admitted on cross-examination, he carried a small stick in the camp, but “I carried it just for the heck of it, not to prove my authority.”[[25]](#endnote-27) No, he repeatedly stated, he had never struck anyone. No remnant remained of the remorseful Siegel who, while testifying a year after the end of the war, admitted that he had treated Jews harshly and had beaten them. “In retrospect I always regretted this,” he had said then.[[26]](#endnote-28)

Before the honor court in Milan he also described another assignment he had carried out for the Germans, the mission of selecting Jews. “When I worked at the [Bendzin Rossner] workshop, a few times during screening events [selections], I took out [and saved] several dozen Jews who were destined for Auschwitz, that is, for death.” He never agreed to take bribes to save people during these selections, he emphasized. “It was not my way to take money for these kinds of things. I pulled out [from among those destined for death] the people who had relatives at the Rossner workshop, where uniforms for the Wehrmacht were sewed. In this way, about 1,000 of those ordered were handed over to the Germans for transfer.”[[27]](#endnote-29) Facing an accusation in the Tel Aviv District Court of surrendering Jews to the Germans he again denied any wrongdoing. “I never informed on or handed over any Jew and I did not help the Germans search for Jews. I tried my best to save Jews.”[[28]](#endnote-30)

Unlike Siegel’s accounts that had changed drastically between Italy and Israel, that of the prosecution witnesses remained largely consistent. They accused him of having served as a close collaborator of the Germans, informing on the Jews who worked at the Rossner workshop.[[29]](#endnote-31) “He collaborated with the Germans from [the time of] their entry [to Bedzin] until the end [of the war],” one witness reported, possibly hinting that he was a gestapo agent. In Auschwitz, this witness continued, “I saw that Siegel beat Jews for minor things.”[[30]](#endnote-32) Another witness stated, “The defendant sent people to work [in labor camps] and whatever he said transpired.”[[31]](#endnote-33)

In his verdict, Judge Kenneth cleared Siegel of accusations of surrendering Jews to the Germans. He wrote that, “in fact, the testimonies point only at suspicions, and none of the witnesses testified about any concrete fact on the basis of which I can convict the defendant.” It was a view that the prosecution, too, conceded in its summation.[[32]](#endnote-34)

In examining the accusation that Siegel had systematically beaten inmates, Kenneth first analyzed the defendant’s personality. “The accused seems to me,” Kenneth wrote of the former Austrian army officer, “like a principled person when it comes to order and discipline. He required order and cleanliness wherever he took a position. It does not seem at all that he wanted to abuse people.” This was a very different outlook than that of the honor court in Italy that found that Siegel was loyal to the Germans, as one who acted out of his own initiative in abusing Jews and as one who cared only about his own prestige and power. Keeneth viewed him in a positive light as acting out with the good interest of people in mind.[[33]](#endnote-35)

Kenneth accepted, however, the testimony of one witness, Dov, who related that when he stood in line for food in one of the camps, the defendant struck him twice. Kenneth concluded that Siegel struck Dov in the belief that “it was justified and in the interest of his people,” but he was wrong. The judge, who seemed to have taken a liking to the defendant who studied engineering in a polytechnic institution did not exonerate him like other educated defendants mentioned above, but rather convicted Siegel of this instance of beating Dov. The judge also credited the defendant for voluntarily coming to Israel and subjecting himself to trial, assuming that it pointed to an inner conviction of innocence. He sentenced Siegel to a month in prison or ten days’ imprisonment and an IL 100 fine, one of the lightest sentences in the kapo trials.[[34]](#endnote-36)

**Kapos on The Theater Stage**

In late 1950, journalist Z. Klinov expressed an uncommon feeling of empathy with the alleged collaborators from among the Jews. Can we compare a Jewish and a non-Jewish collaborator, he asked. “Did the collaborators among the Christians… see their families annihilated, see millions of their brethren being led into the gas chambers, and therefore fail the moral test and lend a hand to the Nazis?” How can one judge these people? If you lived in a ghetto or camp would you withstand the difficulties and not become a policeman or kapo? Then Klinov explained that he is not attempting “to give any justification for a Jew, an individual Jew, who had collaborated with the Nazis…. I’m not intending to argue against punishing the criminals, specifically the Jewish criminals, but all I want is to express the background on which the tragedy of the Jewish individual who failed took place.”[[35]](#endnote-37)

While some journalists like Klinov expressed a mitigated empathy towards kapos, a focused questioning about the justice of trying survivors would first arise in the realm of imagination.

In 1954, during the week commemorating the eleventh anniversary of the Warsaw Ghetto uprising, the Cameri, a leading Tel Aviv theater, premiered the play *Heshbon hadash* (“New account”), by a young and aspiring Israeli writer, Nathan Shaham. In the play, Ami, an idealistic young Israeli employed at the Dead Sea Works, learns that the plant manager and engineer, Dr. Auerbach, served as a kapo in Auschwitz. Shaken by the revelation, Ami determines to take revenge and plans to assassinate Auerbach. He confides in a fellow worker, an Auschwitz survivor, who dismisses the idea. “The old account is finished,” the survivor tells Ami. “There is a new account.” The choice for those who served the Nazis in Europe, says the survivor, is between being “a human being in Sodom or a dog on Lilienblum Street,” the location of Israel’s black market. By choosing to help build the new state in a desolate outpost like Sodom, the plant manager and former kapo had changed his ways and become human. “A new account has been opened,” the survivor repeats.[[36]](#endnote-38)

However, the naïve young Israeli rejects this view and seeks revenge in the name of the nation. On a dark night, Ami, whose name literally means “my nation,” breaks into Auerbach’s home. With his pistol aimed at Auerbach, he speaks in the name of Israeli youth: “The government has proved its powerlessness in punishing the guilty and in combating those who are contaminating our country’s air. We have taken that job upon ourselves.” Legal procedures with their due process, Ami seems to believe, are not the appropriate way of dealing with collaborators. Operative actions like executions, in his view, are the right way to act.

Startled, Auerbach orders him to place the pistol on the table. Ami continues to aim the gun at him. In an exchange between the older man and the younger, the exile and the locally born and bred men are pitted against each other and Auerbach responds, “You think you can understand everything? Kapo, not a kapo. Do you know what a concentration camp is? You are too young to judge me…. You want to judge me? What right do you have to do so?”[[37]](#endnote-39)

In this citation the playwright questions what Israeli society and what its legal system took for granted, namely, that Israelis have the right to try those who transgressed during the Holocaust. In his oversimplified answer that rebuilding the state compensates for past transgressions, Shaham ignores the complexities of the relations between past and present and evaluates the kapo’s behavior solely on the basis of his current actions and contribution to the national project of building the state. He ignores the ways that the past penetrates and shapes present societies, the manner in which humans treat each other on the basis of memories of the past. “The past is dead. A new account begins now,” one of the protagonists utters for the third time, yet Shaham’s mere questioning of the legitimacy of the trials is significant.[[38]](#endnote-40)

Watching the premier in the Cameri Theater was the former Warsaw Ghetto rebel Yisrael Gutman, who could not accept Shaham’s erasure of the past. Gutman, who would go on to become a famous historian and leading figure at Yad Vashem, wrote an angry op-ed.

In the agonizing paths of Majdanek and Auschwitz I came to know Jewish kapos. I saw them carry out their despised work of beasts of prey, hated by all. Devoured by sadism and free of any inhibitions, they were obedient tools in the hands of the murderers. We cannot invent any social or public motive that forced them to accept the ‘position.’ All they saw was the contemptible goal of assuring themselves an hour of life and entertaining themselves with the illusion of ‘authority,’ at the price of the lives of others.

Gutman continued to view the functionaries as people who had acted for selfish reasons and ignored the collective national goals.[[39]](#endnote-41)

For Gutman and his rebel friends, he wrote,

there are crimes for which there is no forgiveness and for which one is prohibited from introducing the idea of pardon and absolution. Someone who served as a kapo has removed himself from the public, and his place is outside organized society. One shouldn’t erase the mark of Cain from a kapo’s forehead, and even if he goes on living physically, we will consider him dead.

Unlike some members of Israel’s cultural elite who expressed dissenting views about judging functionaries, Gutman and others who had been “there” rejected any expression of forgiveness for collaborators, even in a play depicting an imaginary figure.[[40]](#endnote-42)

**The Kastner Trial**

In 1954, a time in which the filling of indictments almost neared zero, another proceeding began, in a Jerusalem courtroom, that touched on the alleged collaboration of a Jew with the Nazis during the Holocaust. Yet this defamation trial stood out starkly from all the kapo criminal trials that preceded it and was not part of that set of trials. Unlike the kapo trials, which focused on the brutality of alleged collaborators toward an individual or a group of a few thousand at most, the defendant, a man branded by one attorney as a worse collaborator than the French general Philippe Pétain, was accused of having taken part knowingly in the Nazi plan to rid Hungary of half a million Jews. From the moment the audience rose upon the first entrance of Judge Benjamin Halevi to the final knock of the gavel in the hand of Supreme Court Chief Justice Yitzhak Olshan, this trial lasted four years, a period that shook Israeli society. For the first time, the issue of collaboration in the Holocaust had become a major public and political topic.[[41]](#endnote-43)

The events that led up to the trial began to unfold in the summer of 1952, weeks after the overturning of the Jungster death verdict and with the controversy surrounding the reparation negotiations with Germany still raging. Malkiel Gruenwald, a seventy-year-old Jerusalemite, who had lost his son, a member of the IZL (the Revisionist underground), during the Israeli War of Independence, mailed a few hundred copies of issue No. 17 of his “Letters to Friends,” a pamphlet that regularly lambasted Israeli political figures in vicious language. Possibly inspired by the death penalty issued to Jungster, Gruenwald wrote that “the stench of a carcass is irritating my nostrils! This will be the finest funeral yet! Dr. Rudolf Kastner must be liquidated!”[[42]](#endnote-44)

Ten years earlier, in 1944, Rudulf (Reszo) Kastner was one of the heads of a Zionist organization, the Rescue Committee, in Budapest. In this position, Kastner negotiated the “blood for goods” agreement with Adolf Eichmann in which in exchange for Germany’s stopping the deportation and killing of hundreds of the thousands of Hungarian Jews, the West would transfer to them 10,000 trucks and merchandise. To prove the seriousness with which he undertook the negotiations, Eichmann ordered the release of a train, the “Kastner Train,” loaded with 1,685 passengers, including friends and fifty-two members of Kastner’s family. After a few months of internment in Bergen-Belsen, those on the “Kastner Train” would eventually arrive safely in Switzerland.

Prior to the war, the Hungarian-born Gruenwald lived in Vienna. The Nazis offered him the opportunity to collaborate with them, but he refused, and in 1938 he emigrated from Vienna to Mandatory Palestine. During the war, fifty-two members of his family perished. Gruenwald was obsessed. “How did the events in Hungary unfold?” he asked. “What happened to my brethren who were led in the last train from Hungary to Auschwitz?”[[43]](#endnote-45)

From the bits of information and quasi-rumors that he gathered, Gruenwald surmised that Kastner knew about the killing fields and the death camps and did not want to inform Hungary’s half million Jews about the danger they faced. According to Gruenwald, Kastner feared that if he informed the Hungarian Jews, they might escape to Romania, hide among non-Jews, refuse to board the trains, or even revolt, any of which actions might hinder the exit of the train loaded with his cronies. To ensure his train’s safe departure, Gruenwald continued, Kastner kept the Hungarian Jews in the dark about their fate. “Because of his criminal machinations and his collaboration with the Nazis,” Gruenwald wrote, “I regard him as implicated in the murder of my dear brethren.” The amateur journalist concluded that Hungarian Jewry’s leadership, headed by Kastner, enabled and assisted the Nazis in executing his family and the members of their community. In his view it was not that the Jewish victims reacted passively to the Nazis but rather that their leadership had mislead them into ‘going like sheep to the slaughter.’[[44]](#endnote-46)

To this weighty accusation Gruenwald added another: After the war, Kastner enjoyed a good life in Switzerland. He lived off money that he and Kurt Becher, an SS officer on the team responsible for the destruction of Hungary’s Jews who was mostly focused on looting the Jews. To prevent the exposure of this robbery, Gruenwald concluded, Kastner submitted an affidavit to the U.S. military tribunals for war crimes at Nuremberg supporting Becher, testimony that saved the murderer from facing justice.[[45]](#endnote-47)

Pamphlet No. 17 with its incendiary accusations landed on the desk of Attorney General Haim Cohn. Convinced that action must be taken he mailed a confidential letter to the minister of trade and industry, Dov Yosef, for whom Kastner served as spokesperson. “It is my view that we cannot remain silent about this publication,” wrote Cohn. “If there is an iota of truth in the accusations that appear in this article against Dr. Kastner, it is incumbent upon us to investigate them and draw conclusions; if, as I presume, there is no truth in these accusations, the man printing them should be prosecuted.”[[46]](#endnote-48)

In a meeting with Kastner, Cohn informed him of his intention to file a criminal libel suit against Gruenwald for defamation of a high-ranking government official. Kastner hesitated. Justice Minister Pinchas Rosen as well as the minister Dov Yosef, who was also an attorney, advised against such a move. However, Cohn insisted and informed Kastner that if he did not agree to a libel suit, the Attorney General’s Office would have no choice but to charge him, under the Nazis and Nazi Collaborators (Punishment) Law, as a collaborator. Kastner consulted with family members and consented that the Attorney General file a criminal libel suit against Gruenwald.[[47]](#endnote-49)

In the courtroom, Gruenwald’s maverick defense lawyer, Shmuel Tamir, turned the trial on its head, from *Attorney General v. Malkiel Gruenwald* to a case publicly known as the Kastner trial, a proceeding in which Kastner was officially neither a defendant nor an accuser became the de facto defendant. Tamir manipulated the trial so that it targeted not only the former head of the Rescue Committee in Budapest but also current political leaders in Israel. Thirty-one-year-old Tamir, a sabra who was until 1953 a member of the Revisionist party before leaving it for what he viewed as its failure to oppose the reparations agreement with West Germany, held in deep disdain the old guard of exile-born Mapai leaders that controlled the state whom he views as having illegitimately taken control of the state instead of handing it over to the members of the undergrounds who fought and risked their lives to create it. This trial was his chance to implicate them in the destruction of European Jewry during Second World War.

On the stand Tamir questioned Kastner.

Q: Is it right that the Joint and the Jewish Agency did not publicize the Holocaust and silenced it in America both before 1944 and during 1944?

Prosecutor Tal: Objection. Not relevant.

Q: Kastner actively and knowingly participated in the silencing conspiracy.

Judge Halevi: To permit the question.[[48]](#endnote-50)

In the view of Tamir, just like Kastner had kept the Jews of Hungary in the dark about the deportations to Auschwitz, so too the heads of Mapai and Jewish Agency had avoided informing world Jewry about the unfolding catastrophe of the Holocaust. While Kastner had collaborated with the Nazis to benefit his cronies, the heads of Mapai collaborated with the British in silencing the Holocaust to secure their control. In silencing the story of the Holocaust from the media, especially in the United States, they had assisted the Germans although with no intention to destruct European Jewry.[[49]](#endnote-51)

Tamir had not only an ideological dispute with the heads of Mapai but also a personal grudge. In 1946 when he was deputy head of the IZL underground in Jerusalem he had been arrested by the British. In previous years, members of the paramilitary organization of the *Haganah* that was closely affiliated with Mapai, had collaborated with the British and surrendered member of the IZL to the British. The British sent Tamir, to Kenya where he remained until May of 1948. While there he had served as the prosecutor of the Vilna Ghetto Judenrat’s head who died in the Holocaust, Jacob Gens, in a mock trial. Now, he argued, it was time to try the true criminals from the Judenrat “who had been tools in the hands of the Nazis as part of their annihilation program.” He framed the historical event to the court as a binary choice in which you either served as part of a heroic revolt or of cowardly collaboration, a structure that fit well with the prevalent Zionist ideology and one that also matched the courts binary options of conviction or acquittal. There was no place, in his view, for negotiations as a saving tactic.[[50]](#endnote-52)

To divert attention from the crimes of Mapai and the Jewish Agency’s leadership members like Kastner, Tamir held,

this learned attorney general has prosecuted dozens of people, and they have been sentenced to death, to life sentences, and to decades of imprisonment. And who has been sentenced? Small kapos, a kapo who to save his own life beat a woman in a concentration camp, a barrack commander, people with only a limited role. All the power of the state has been mobilized against them…. Is it so, your honor, that in this country laws are created in such a way that only small fry will be caught in the net? Are large holes left [in the net] to allow the whales [to escape]?[[51]](#endnote-53)

“The whales,” national leaders like Kastner who had run for the first and second Knesset at the bottom of the Mapai list, silenced the masses and in doing so prevented them from organizing a rebellion and caused them “to go like sheep to slaughter.” In Tamir’s view, Kastner—and Mapai’s heads who had covered up his actions—had blinded half a million Jews to their fate.[[52]](#endnote-54)

To prove Gruenwald’s guilt of defamation, Attorney General Cohn attempted to refute the notion that Kastner had collaborated with the Nazis. What had been Kastner’s intention? Cohn asked. “From the first moment to the last moment of his activity,” Cohn declared, “Dr. Kastner had but one sole aim in mind: to serve his people.” Contrary to members of *Herut* and *Mapam*, in the view of Cohn and the Mapai party freeing Jews via negotiations was a legitimate way of saving them.

For Cohn, unlike the small kapos who acted to better their own condition, Kastner’s intentions focused on serving his folk. Cohn argued that Kastner should *not* be viewed as one who had saved 1,685 relatives and friends at the expense of half a million others, but rather as one who had saved 1,685 people from among half a million lifeless men and women.[[53]](#endnote-55)

Kastner and the Rescue Committee may have made wrong choices, Cohn told the court, but who are we to judge? he asked.

With all due respect, I am telling the court that it has no right to judge and [it] cannot set itself up as the judge of whether they did good or did evil, whether they were right or wrong, whether they weighed seriously or decided hastily, or whether they did what they did out of panic and fear or as part of a well-considered policy. We are unable to judge. This is a matter between them and heaven.

For the first time, Cohn admitted the limitations of the binary nature of legal justice with it ‘innocent’ or ‘guilty’ verdicts to grapple with the complexities of actions taken by Jewish leadership during the Holocaust. The tragic reality that the Jewish leadership faced of saving one person at the expense of another was too complicated for the legal justice system to determine.[[54]](#endnote-56)

These words coming from Israel’s most powerful legal figure presumably represented a major shift in his view of alleged collaborators. Just four years earlier, in the Knesset Law and Justice Committee, Cohn had firmly believed that anyone who had assisted the Nazis must be prosecuted. Now he took a “who are we to judge” approach with regard to Kastner. This approach did not fully apply, however, to ordinary kapos, whom his office continued to prosecute but, as we will shortly see, in a more restrictive manner. It would take Cohn this gradual change of mind and a move from the prosecutor’s chair to a justice’s bench to conclude that one should not at all try thosewho lived under those circumstances.[[55]](#endnote-57)

In the years that passed since the enactment of the Nazis and Nazi Collaborators Law (1950) Cohn had also altered his views on the veracity of survivors’ testimony. Three years earlier in the Banik trial he had stated that witnesses who saw life changing events in the Holocaust were trustworthy because they are “testifying about things that are fixed in their soul. A person’s memory does not easily blur the face of an enemy….”[[56]](#endnote-58) In the Kastner trial he now admitted that in the Banik trial he was mistaken and that the Haifa District Court’s dismissal of testimonies, like that of Yitzhak Freiman who imagined Banik tearing open the belly of a three year old boy, was justified. Cohn told judge Halevi that “in general the court should be very cautious in accepting the testimony of witnesses who are testifying about events that took place ten years ago. Not only because of the long time that has passed since then, but also and especially because of the mental state of these witnesses.”[[57]](#endnote-59) The mental state of Holocaust survivors cast doubt on the validity of their testimonies either due to their confusion, or due to their unstoppable quest for revenge. But again this change of Cohn’s mind about the quality of witness testimony in the kapo trials did not yet translate into a policy change regarding the trials of ordinary kapos which the attorney general’s office continued to indict.

Seven hours into his closing argument defending Kastner’s actions, Cohn paused for a minute. Turning to Judge Halevi he read aloud a letter written by a rabbi in the depths of the Holocaust. “My Jewish brethren, have you gone mad? Don’t you know what kind of hell we are living in? Who has given you permission to ask him for a reckoning?” Facing Judge Halevi, Cohn asked, “Have we gone mad, your honor? Who are they who have come here to heap their obscenities upon people who have given their blood?” With these words concluded his summation in defense of Kastner ended and he sat down.[[58]](#endnote-60)

Tamir rose to deliver his closing argument. When Kastner served as the head of the Rescue Committee in Budapest, Tamir asserted, he did so “as an agent of the Nazi gang,” he was “their confidant, their ally, one of them.” The judge should not only clear Gruenwald, who remained in the shadow of the trial, but he must “also recommend that this Dr. Kastner be prosecuted under the Nazis and Nazi Collaborators (Punishment) Law.” The Attorney General’s Office, Tamir insisted, must indict Kastner for crimes against humanity and for delivering persecuted persons to the enemy.[[59]](#endnote-61)

The trial concluded in October 1954 and for nine months Judge Halevi studied the detailed protocols to determine his judgement on Kastner’s suing of Gruenwald for libel. On June 22, 1955, with the entire nation awaiting his words, the judge read out his 274-page verdict, a ruling absent any historical depth. What had caused the Jews of Hungary to board the trains obediently and not resist? Halevi asked, voicing a question that many Israelis shared. It was their ignorance about the destiny of their trip, an absence of knowledge that Kastner could have elevated but failed to do so, the judge determined. Had Kastner informed Hungary’s Jews, the judge continued, they would have either escaped or resisted. With what means they would have resisted or how they would have escaped en masse, he did not explain. Kastner’s collaboration in the annihilation of Hungarian Jewry, the judge determined, was criminal “in the full sense of the word.”[[60]](#endnote-62)

“Kastner had sold his soul to the devil,” Halevi declared, in a sentence that would reverberate in newspapers and households for years to come. He cleared Gruenwald of libel in all but one minor issue and sentenced Gruenwald to a symbolic fine of one Lira.[[61]](#endnote-63)

Some, mostly opponents from both the right and the left of the Israeli political spectrum of the ruling Mapai Party, commended the ruling. The political party of Herut published a statement that linked Kastner’s political affiliation and his criminal actions. “The court ruled: A devotee of Mapai in the Rescue Committee and its candidate for the Knesset, Y. Kastner, had sold his soul to Satan and was a quisling….”[[62]](#endnote-64) In its editorial, the Communist newspaper *Kol ha-Am* expressed relief that at last the verdict had uncovered for relatives of the deceased the role Jew leaders had played in the killing of their loved ones. The editors then added that “with the publication of the verdict, the episode has not come to an end. *First of all, one must arrest and prosecute Kastner and all those who, together with him, are responsible for collaboration with the Nazis and for indirectly murdering half a million Hungarian Jews*.” The Attorney General’s Office, some held, should file criminal charges against Kastner as a Nazi collaborator.[[63]](#endnote-65)

Instead, the Attorney General’s Office immediately filed an appeal to the Supreme Court and by so doing delayed any possible criminal prosecution of Kastner.

Angered by the trial, in 1954 the acclaimed poet Nathan Alterman, who was closely associated with the Mapai Party published a controversial poem “Between Two Paths” (*Al shete derakhim*). Earlier, both during the Holocaust and during the 1948 War of Independence, he had written some of the most iconic poems praising the heroism and valor of the fighters. Now, in the new poem Between Two Paths he questioned the sharp line drawn by members of the political parties of Mapam and Ahdut ha-Avoda between the path of the rebels and that of the Jewish councils. “’There were two paths,’—so we are used to saying—two divided and separated paths,” he wrote. “Is that so? When and where? What is the distinction between one path and the other?” Those leaders labeled as collaborators, he wrote, had also done their utmost to save lives. The critics who reproach those who negotiated with the Nazis are basing their views on hindsight. During the Holocaust, he pointed out, even the rebels had postponed the opening the revolt until the last possible moment. In some of the ghettos, such as Bialystok, he pointed out, the Jewish councils and revolt movements had cooperated.[[64]](#endnote-66)

Already half a year earlier Alterman had blurred the lines between the community leadership and the youth movement rebels. On the April 30, 1954 anniversary of the Warsaw Ghetto uprising, he published the poem “*Yom ha-Zikaron ve-ha-mordim*” (Memorial Day and the rebels). There he questioned the practice common among organizers of commemorative events of distinguishing between the rebels and the masses, between those who fought courageously and those who did not. In his poem, the rebels choose to blend in with the massacred masses and not stand out as venerated icons, and the dead rebels demand veneration also of “Jewish fathers who said, ‘the underground will bring a catastrophe upon us,’ and also of that boy or girl… who left behind nothing but a small white sock….” Those who supported the rebellious memory of the Holocaust, he argued, neglected to appreciate the memory of ordinary deceased small children and failed to empathize with the concern of a parent to preserve his child’s life as long as possible.[[65]](#endnote-67)

Alterman refused to view all Jewish councils, their leaders, and their members in the same light. At least in some instances, he asserted, their opposition to battling the Germans emanated from the goal of preserving lives. Yet, in his view some individual collaborators did not deserve any empathy or understanding whatsoever. “Those beasts of prey among these ‘collaborators,’ their helpers, who follow their commands,” there is no forgiveness, he wrote, probably hinting at kapos in concentration camps. “There are acts and occurrences that a sane human being must not ‘understand’….” In his writing, Alterman no longer looked at a collective guilt of collaborators but distinguished between individuals and their specific actions.[[66]](#endnote-68)

A few went farther than Alterman and refused to question the moral behavior not only of the Judenräte and the Jewish police but also of kapos whom Alterman did not address specifically. In the daily *Maariv* the writer Avigdor Hameiri asked, “Are we permitted to judge?” Hameiri believed that the Kastner trial was a “historic crime for which there is no atonement and no forgiveness.” Who permits us to judge them? he asked. No law can apply to people who sought “to live, to live, to live.” Under those circumstances, he wrote, one cannot judge anyone, not even a kapo.[[67]](#endnote-69)

Members of the Mapam and Ahdut ha-Avoda that as pointed out earlier had closely linked their movements with the rebel movement in Europe, strongly opposed the views of Alterman, the most prominent artist associated with the Mapai party. In May of 1954 Abba Kovner and his wife Vitka, both members of the Jewish revolt in Europe, traveled from northern Israel to Tel Aviv to meet with Nathan Alterman. They expressed their revulsion at the poem he wrote “Memorial Day and the Rebels.”The members of the Judenräte that opposed the revolt, held Kovner and Vitka, had been morally decrepit and aimed to save their own lives at the expense of others. In a newspaper associated with the left wing political party of Ahdut ha-Avoda one writer, Mati Meged, wrote that dealing with the question of collaboration was not a question of the past but rather

… our treatment today of a phenomenon such as this still determines and may determine real pointers in political circumstances and national morals, in educating the public and educating the individuals, in the shaping of the nation in its state and in shaping the image of the citizen…. The one who forgives and forgets – he may determine and already determines in which ways will the present and future citizen in Israel will be educated….[[68]](#endnote-70)

But Alterman, who between 1939 and 1945 had lived in Tel Aviv, refused to accept this generalization. Even if the Judenräte opposed the revolt, he held, they had at instances been motivated by the aim of saving lives of others and not only by selfish goals and one should not alter history for the sake of contemporary educational goals.[[69]](#endnote-71)

Unlike Alterman, however, the common view was that there was not only a right but an obligation to judge the betrayers of the nation. And some issued their own verdicts.

At the time that Kastner was waiting to hear the result of his appeal to the Supreme Court, he returned a few minutes after midnight on March 4, 1957 to his home from his work in the editorial office of the Hungarian newspaper *Új Kelet*. He parked his car outside the Tel Aviv apartment building where he lived with his wife and their only child, a daughter. As he turned the car keys in the lock, a man jumped off a Jeep and approached him. “Are you Dr. Kastner?” he asked. Upon hearing Kastner say yes, the man pulled out a pistol. Kastner ran for his life. Three shots rang out. Kastner fell down, gravely wounded. In the hospital, he gave the police details about his attacker. Ten days later, he died.[[70]](#endnote-72)

The night of the shooting, Israel’s General Security Service (also known as the Shin-beit), which had just a few weeks earlier removed Kastner’s bodyguards, arrested three suspects: Yosef Menkes, Dan Shemer, and Ze’ev Eckstein. Within days, Eckstein admitted that he had shot Kastner. The other two had served as accomplices. All three were members of a right-wing underground cell that aimed to reestablish the Kingdom of Israel from the Mediterranean Sea to the Euphrates River. The court sentenced them to life in prison, but they served only five years.[[71]](#endnote-73)

In January 1958, nine months after the murder of Kastner and two-and-a-half years after Halevi issued his harsh verdict in which he acquitted Gruenwald of the criminal libel suit, the Supreme Court ruled on the attorney general’s appeal. Before turning to their verdict, the justices indicated that the Kastner case should never have come to trial. Cohn was wrong in deciding to indict Gruenwald. In a statement never made in any of the kapo trials, Justice Agranat wrote in his opinion, which was the central one of the five opinions written, that the court lacked the ability to put itself in the position and context in which the historical protagonists had acted in Hungary ten years earlier. A committee made up of professional historians would have had more access to historical sources and a better chance to uncover the truth, he stated. This was a first acknowledgment of the court about impossibility of trying certain people who lived and decided within the circumstances of the war years.[[72]](#endnote-74)

Given that the case did come to the Supreme Court, the justices had no choice but to issue a verdict. All five justices criticized Halevi for mishandling the proceedings. He had treated rumors as facts and permitted witnesses to veer off topic and give testimony unrelated to the issues under consideration.[[73]](#endnote-75)

Four of the justices cleared Kastner of the allegation of collaboration and one justice Moshe Zilberg upheld Halevi’s verdict. In determining whether someone collaborated or not, Justice Agranat noted, the defendant’s intent is crucial. Even if a person knew that some of his actions would benefit the Nazis but his overall motivation was morally justified, one could not label him a collaborator. Kastner had clearly acted with the larger motivation of saving the Jews of Hungary.[[74]](#endnote-76) He wrote:

First, we should not run to the conclusion that if a certain person who lived under the harsh Nazi rule had taken an action that gave the later a specific benefit – he had indeed seen this benefit as his main or final goal; that assisting of the Nazis was the *motivation* that caused him to act as he acted. Second – and this is the key issue which I wish to highlight – we should not cast a blot on such a person just because he had taken knowingly an act that might assist the Nazis’ goals when it became clear [to us] that his motivations were kosher and are not morally questionable; In other words, Heaven forbid that we shall name this person in the name of ‘collaborator.’[[75]](#endnote-77)

In other words, Agranat’s verdict indicated that in the context of Nazi rule a person could have taken short term actions that benefited the Nazis if he his overall goal was to assist and save Jews.

The results of Kastner’s actions, Justice Cheshin wrote, “are miraculous. He saved not one person but… at least 1,700 Jews.” Four of the five justices all endorsed Kastner actions and sentenced Kastner’s defamer, Gruenwald, to a one year sentence on probation and a two hundred Lira fine.[[76]](#endnote-78)

**A Shift in the Kapo Trials**

For Cohn personally the Kastner trial was an illuminating experience, one that taught him the complexities of life and moral choices during the Holocaust. Learning about the events that unfolded in Hungary in 1944, Cohn wrote years later, “… [I came] to believe that none of us who did not witness the Holocaust on his own flesh, has the ability or the right to try a persona for his actions, intentions and constraints in that hell.”[[77]](#endnote-80) While Cohn’s office did continue to file charges against alleged collaborators it did so in a limited fashion. Following the end of the Kastner trial there was a small rise in the number of indictments filled to the district court. While the three years between 1955-1957 saw no fillings of indictment, the years 1958-1959 saw only five fillings of district court indictments.[[78]](#endnote-81)

Almost two years after the Supreme Court issued the Kastner verdict, in September of 1959 Attorney General Cohn would rely on this decision to alter the course of a case before a Tel Aviv Magistrates Court. This decision and the rationale behind it would mark a new stage in the kapo trials. The Attorney General office would restrict further its policy of who to place on trial beyond the already existing restriction drawn by the Attorney General Office and the Supreme Court in the Jungster case that the applicability of the first paragraph of the Nazis and Nazi Collaborators (Punishment) Law, which carried the death penalty, no longer applied to Jews.

The current case focused on Eliezer Landau. During the war, Landau, his wife, and their three young children escaped the Polish town of Bochnia to Bucharest and from there sailed to Mandatory Palestine. Upon his arrival in Haifa in August 1944, rumors circulated that Landau, who had had close relations with leading SS men in town, had extorted money from Jews in Bochnia in exchange for promises to save them from deportation. “Landau, who before the war was penniless, arrived in Bucharest with substantial amounts of money,” and now in Mandatory Palestine also had at his disposal hundreds of liras, the investigators of the Haifa Bureau of Investigations wrote in their 1945 secret report. In his position as the Jewish community’s contact man with the Germans “it seems that he took [for himself] a significant percentage of the money given to him [by Jews] as ransom for the Gestapo.”[[79]](#endnote-82)

Learning of the allegations against him, Landau turned to the chief rabbi of the Land of Israel, Isaac Halevi Herzog, and demanded a public hearing. Nothing came of that request, but more than a decade later in 1959 the police arrested the Tel Aviv based wholesaler on the charges that he had revealed to the Germans the location of one family’s jewelry cache and that he had assisted the Nazis and as a result many were sent to unknown locations.[[80]](#endnote-83)

While in the preliminary process, the Tel Aviv Magistrates Court heard testimonies, dozens of people saved by Landau’s actions, including influential rabbis, organized and approached Attorney General Cohn demanding that he withdraw the indictment. Responding to the many dozens of supporting testimonies, Cohn indeed ordered the prosecution to recede. In a lengthy letter to the court, described in one newspaper as “daring,” he explained that the Kastner ruling had taught us that the intention was crucial for determining whether a person’s actions fell under the Nazis and Nazi Collaborators (Punishment) Law.

If the defendant thought that in order to gain or maintain the good will of the Nazis (which he needed for the sake of his actions of help and rescuing) it is necessary to reveal the hiding places of Jewish money, then, even if, objectively, he was mistaken, and even if handing the money over to the Nazis was a bad action—the fact that he revealed these hiding places to the Nazis does not prove… that he intended to assist the Nazis in a manner that the Nazi collaboration laws would apply to him.[[81]](#endnote-84)

If the person acted with the motivation of saving and assisting victims and even if to maintain his good connections with the Nazis he took actions that resulted in negative consequences, according to Cohn’s new interpretation of the ruling and the law one should not prosecute him.[[82]](#endnote-85)

In contrast to Landau who aligned himself with the Nazis goals so as to assist in the saving or assisting Jews, who had built up his connection with the Nazis with that intent in mind, Cohn held, were those whose intent was “to align themselves with the Nazis to achieve their own goals.” A third stage in the kapo trials had begun. From this point on, the Attorney General’s Office would file charges only against those seen as having aligned themselves with the Nazis’ goals for their own purposes.[[83]](#endnote-86)

**Doubting the Necessity of Trials**

The shift in the kapo trials did not result only from the Kastner trial and prosecution’s change of mind but it also resulted from a social and cultural transformation that began in the second half of the 1950s. Some survivors felt it was time to put the controversies of ‘those days’ behind. Still, other survivors continued to pursue past incriminations.

We can glean this change of mind among some survivors from the case of Aryeh Praport that unfolded in the final months of 1957. Moshe Yavlonsky took the witness stand in Tel Aviv Magistrates Court and was describing how in 1941 in his apartment in the Pabianice Ghetto the Nazis uncovered a hideout and captured seven women, including two of his sisters, when district attorney Itamar Pilpel interrupted him: Are you sure that you are speaking the truth? he asked this key witness. This question coming from the prosecutor was surprising as the witness was a prosecution witness.

Ten days earlier at the police station, Yavlonsky had described to the investigator how the Jewish policeman Praport arrived with a group of Gestapo men at an apartment building owned by his father on 5 Warszawska Street to search for young women. They searched all the building’s apartments, including his own, but found nothing. Minutes later, Yavlonsky told the police, Praport returned alone to the building. He walked directly to Yavlonsky’s apartment and searched it high and low. He stopped for only a moment to call in Gestapo men and sniffer dogs. In the apartment, Yavlonsky watched as Praport “moved the closet that hid a double wall and uncovered the seven girls,” including Sheindel and Dina, his two sisters. Yavlonsky had stressed to the police that Praport was “the one that enabled the Gestapo to take the girls and kill them.”[[84]](#endnote-87)

On the stand in the magistrates court, Yavlonsky altered his account in dramatic and suspicious ways. Just as in his police account, he recalled the first search in the building’s various apartments, a search from which the Gestapo came away empty-handed. Praport and the Gestapo left, only to return “a few minutes later…with the defendant, [and] they went directly to my apartment. I stayed on the ground floor [in his parents’ apartment] because I was afraid to go up…. Later I saw the Gestapo people leading the girls down. The Gestapo people gave orders and the defendant went with them.” Unlike his police account, Yavlonsky’s testimony in court was that Praport had only followed the Germans’ orders and not that he had summoned the Gestapo to search for the young women. Yavlonsky also stated in court that he was not present in his apartment during the search and that he did not see Praport move the closet to uncover the women’s hiding place as he had testified in his police disposition.[[85]](#endnote-88)

Yavlonsky’s wife, Tziral, who in her police disposition had corroborated her husband’s account, now also confirmed his altered court testimony. In the time that passed between the two searches, she told the court, she stood in the building courtyard. She saw the Germans assemble girls from different buildings, including the daughter of Mrs. Krotoschinsky. “Mrs. Krotoschinsky stood [in the yard] shouting—not shouting, but crying and shaking. She went up to the Jewish policeman and told him, ‘In fact, at Yavlonsky’s [apartment] there are two strong girls; if you don’t go up there, I will tell the Gestapo people.” It was Mrs. Krotoschinsky, Tziral told the court, who was responsible for giving out the women’s hiding place. Mrs. Krotoschinsky even apologized later for revealing the hideout, saying she did not realize that not two girls but seven were hidden there. To the best of her recollection, Tziral added, the Germans had ordered Praport to move the closet. It was not his own initiative.[[86]](#endnote-89)

At the request of the district prosecutor in this trial, the judge declared both Moshe and Tziral Yavlonsky hostile witnesses. This trial was the first and possibly the only one of the kapo trials to be heard behind closed doors—because both the defense lawyer and the prosecutor agreed that publication of the defendant’s name “might tarnish him before he was found guilty.” For the first time there was a sensitivity on both sides of the case to the public image of the accused collaborators.[[87]](#endnote-90)

Asked in both the magistrates court and district court to explain their altered accounts, the Yavlonskys fingered the complainant in the case, Mendel Bogonsky, a forty-five-year-old tailor. Bogonsky had sought revenge against Praport for surrendering the seven girls, one of whom was Bogonsky’s seventeen-year-old “beautiful fiancé,” Dina Yavlonsky. In the seventeen years that transpired since her capture, Bogonsky never married. He repeatedly referred to Yavlonsky as “my brother-in-law,” when in fact they were never brothers-in-law. From his home in New York, he searched continuously for Aryeh Praport. And when he learned that Praport lived in a town south of Tel Aviv and worked as a truck driver, he boarded a ship and came to Israel.[[88]](#endnote-91)

According to the Yavlonskys, Bogonsky had pressured them into filing a false account with the police. If they did not file incriminating testimony against Praport, Bogonsky threatened to tell their relatives in the United States to stop sending them money. When they met Bogonsky at the police station, he warned them not to talk about Mrs. Krotoschinsky’s having revealed the hiding place — “otherwise I will be considered a liar.” “And when I saw the defendant,” Tziral continued to explain the change in their testimony, “we again saw the past, and the horror was before us again and we did not know what we were saying. We were terrified by Bogonsky’s screams.” And Moshe Yavlonsky testified, “Bogonsky told me what to say; after all, I did not remember everything.” [[89]](#endnote-92)

In the ten days that elapsed between the police investigation and their court appearance, both Tziral and Moshe Yavlonsky recalled the true events and the role that their neighbor, Mrs. Krotoschinsky, played in surrendering the girls. Tziral still harbored deep hatred toward Jewish policemen like Praport for handing over her family members. Those who served in the police, she declared, “are not worth a penny.” Still, in one opportunity she stated that, “So many years have passed, what do we need this for?” With these words she expressed the sentiment shared by some survivors that it was time to move on and put the past to rest. A decade and a half had passed since the unfolding of events and while these survivors had deep reservations about the actions of these policemen and kapos they no longer believed it was wise to prosecute them.[[90]](#endnote-93)

The panel of judges cleared Praport. It found the testimony of all the witnesses flawed and could not determine which was true, that of the New York-based tailor Bogonsky or that of Yavlonsky.[[91]](#endnote-94)

But a year later, Israel’s Attorney General’s Office filed charges against Moshe and Tziral Yavlonsky for being witnesses who “were willing, in exchange for financial benefit, to sell their soul to the devil.” Unlike the devil in the Kastner trial who was Eichmann and his men, here the devil was the Jewish policemen who had collaborated. The prosecutors still showed a zeal to try alleged collaborators.[[92]](#endnote-95)

The Yavlonskys called to the stand the defense witness Antek Zuckerman, a leader of the underground movement in the Warsaw Ghetto, to explain their instinctive reaction while providing testimony that criminalized a Jewish policeman. Zuckerman had strongly opposed the poet Nathan Alterman’s call to blur the lines between rebels and collaborators and was one of the survivors who refused to forgive the policemen and kapos for their past actions. “Only in the lines of Nathan Alterman’s poem do the Judenrat men and the fighters live in peace. [Only] in the dead letters. But in [real] life there was a bitter fight, there was a battle, there were victims….”[[93]](#endnote-96) Seeing Praport aroused in Moshe and Tziral “a primitive response, certainly a spontaneous one, of a desire for revenge,” Zuckerman explained to the judge who would end up acquitting the couple. I too, Zuckerman pointed out, refuse to this very day to shake the hand of former policemen.[[94]](#endnote-97)

Zuckerman then added that “the Jewish police is a hostile organization and is an institution that bears guilt with regard to the Jewish people. Of course there are exceptions, [but] I would say in general that anyone who served in the Jewish police must prove his innocence, because he did despicable jobs.”[[95]](#endnote-98) The question of whether the Jewish police was indeed a hostile organization would lie at the heart of a trial that would open a few years later against one former head of a Jewish police force. That trial took place shortly after the trial of a very different commander, the head of Department IV-B4 in the Reich’s main security office (RSHA), Adolf Eichmann.

1. Hjalmar Horace Greeley Schacht, *Confessions of ‘The Old Wizard’* (Cambridge: Houghton Mifflin Company Boston, 1956), 456; *Maariv,* November 26, 1951. For more on the Schacht affair see ISA, RG/Police/L/2240/5. A detailed account of the affair is available in Yechiam Weitz, “The Passenger in Lod Airport: The ‘Schacht Affair’ and Its Significance,” *Israel: Studies in Zionism and the State of Israel—History, Society, Culture* 9 (2006): 87–107. [↑](#endnote-ref-1)
2. Weitz, “The Passenger,” 88–91. [↑](#endnote-ref-2)
3. Weitz, “The Passenger,” 91–92; *Maariv,* November 26, 1951. [↑](#endnote-ref-3)
4. *Divrei ha-Knesset,* November 26, 1951, 447. [↑](#endnote-ref-4)
5. *Divrei ha-Knesset*, November 28, 1951, 492. [↑](#endnote-ref-5)
6. *Herut*, November 28, 1951. [↑](#endnote-ref-6)
7. *Yedioth Ahronoth*, November 27, 1951. [↑](#endnote-ref-7)
8. *Herut,* January 8, 1952. [↑](#endnote-ref-9)
9. *Divrei ha-Knesset*, January 9, 1952, 944. [↑](#endnote-ref-11)
10. *Haaretz,* April 22, 1951; letter from Jacob Henigman to the attorney general, October 24, 1951, attorney general’s file, *Attorney General v. Miriam G.* ISA, RG/74/G/6879/20, pp. 1-2. In January 1952, the court found Miriam Goldberg guilty and sentenced her to ten months’ imprisonment, concurrent with her time in detention from her arrest until the district court issued its verdict (Verdict, February 2, 1952, Tel Aviv District Court, *Attorney General v. Goldberg,* ISA, RG/32/LAW/14/51, p. 9). [↑](#endnote-ref-12)
11. District Court Indictment, November 29, 1951, *Attorney General v. Miriam* Goldberg, ISA, RG/32/LAW/14/51; letter from Jacob Henigman to the attorney general, October 24, 1951 and January 20, 1952, *Attorney General File, Attorney General v. Miriam Goldberg,* ISA, RG/74/G/6879/20.

And so also in the case of a policeman from the Ostrowiec Ghetto, Mordecai Goldstein, following the Jungster verdict the Attorney General’s Office replaced a September 1951 indictment that included one count of war crimes and one of crimes against humanity with an indictment that omitted these counts but added other counts of assault. Compare the indictment of September 18, 1951, with that of March 11, 1952, *Attorney General v. Mordecai Goldstein.*, ISA, RG/32/LAW/93/52. For more about this trial see Rivkah Brot, “The Gray Zone of Collaboration and the Israeli Courtroom,” in *Jewish Honor Courts*, 342 –352.
In another case, that of Nathan Brot, following the inquiry process the Tel Aviv Magistrates Court judge permitted the submission to the Tel Aviv District Court of an indictment with two counts of crimes against humanity. The Attorney General’s Office, however, removed those two counts when it submitted the case to the Tel Aviv District Court in July 1952. Compare the judge’s decision in the preliminary process of October 23, 1951, with the district court indictment of July 27, 1952. Attorney General File, Nathan Brot, ISA, RG/74/G/6879/13. [↑](#endnote-ref-13)
12. One exception in which the Attorney General’s Office charged the defendant with four counts of crimes against humanity was the 1959 case of Abraham Tikochinsky, who was acquitted. It remains unclear why in this case the state chose to file such charges. See *Attorney General v. Abraham Tikochinsky,* ISA, RG/32/LAW/31/59.

In two other cases, of Alter Fogel and Hanokh Baiski, the indictments included such counts as crimes against humanity; however, because in both cases a plea bargain (an uncommon practice at the time) was reached, this seems to have been part of a negotiating tactic. See *Attorney General v. Alter Fogel,* ISA, RG/32/LAW/159/56 and *Attorney General v. Hanokh Baiski*, ISA, RG/32/LAW/59/137. [↑](#endnote-ref-14)
13. Attorney General File, *Elimelech Rosenwald*, ISA, RG/74/G/6860/6. [↑](#endnote-ref-15)
14. Verdict, March, 4, 1956, Sentence, May 11, 1956, *Attorney General v. Elimelech Rosenwald*, ISA RG/32/LAW/990/53; Attorney General File, *Elimelech Rosenwald*, ISA, RG/74/G/6860/6. [↑](#endnote-ref-16)
15. The court promised to publish its opinion on the case at a later date, but it seems that the justices never did so. See *Yechezkiel Jungster v. Attorney General*, April 4, 1952, ISA, RG/30/LAW/7/52. [↑](#endnote-ref-17)
16. *Herut* and *Yedioth Ahronoth*, July 18, 1952; letter from Tel Mond Central Prison to Investigation Department, Israel Police, June 21, 1952, Attorney General File, *Jungster,* ISA, RG/74/G/6879/17. [↑](#endnote-ref-18)
17. *Yedioth Ahronoth*,April 8, 1952. [↑](#endnote-ref-19)
18. Honor Court Verdict in the case of Julius Siegel, July 19, 1946, CZA, S5/10.099. [↑](#endnote-ref-20)
19. For an account of the previous legal proceedings against Siegel see chapters one and three; Also see Rivka Brot “Julius Siegel: Kapo in Four (Legal) Acts,” *Dapim Journal: Studies on the Holocaust* 25 (2011): 65–127. [↑](#endnote-ref-21)
20. Testimony of Julius Siegel, June 11, 1953, in *Attorney General v. Siegel*, ISA, RG/32/LAW/475/52, 54. [↑](#endnote-ref-22)
21. Testimony of Julius Siegel, June 26, 1946, CZA, S5/10.099, p. 2. [↑](#endnote-ref-23)
22. Testimony of Julius Siegel, June 11, 1953, in *Attorney General v. Siegel*, ISA, RG/32/LAW/475/52, p. 55. [↑](#endnote-ref-24)
23. Protocol of honor court, Cremona, Italy, testimony of Julius Siegel, June 29, 1946, CZA, S5/10.099, p. 1. [↑](#endnote-ref-25)
24. Testimony of Julius Siegel, June 11, 1953, ISA, RG/32/LAW/475/52, p. 62. [↑](#endnote-ref-26)
25. Testimony of Julius Siegel, June 11, 1953, ISA, RG/32/LAW/475/52, p. 68. [↑](#endnote-ref-27)
26. Protocol of honor court, Milan, Italy, testimony of Julius Siegel, July 18, 1946, CZA, S5/10.099, p. 3 [↑](#endnote-ref-28)
27. Protocol of honor court, Milan, Italy, testimony of Julius Siegel, July 18, 1946, CZA, S5/10.099, p. 3. [↑](#endnote-ref-29)
28. Testimony of Julius Siegel, Tel Aviv District Court, June 11, 1953, *Attorney General v. Siegel,* ISA, RG/32/LAW/475/52, p. 64. [↑](#endnote-ref-30)
29. See testimonies of Zvi Fogel, Preliminary Process, March 3, 1953, *Attorney General v. Siegel,* ISA, RG/32/LAW/475/52, 17; Abraham Fischel, Tel Aviv District Court, May 7, 1953, *Attorney General v. Siegel,* ISA, RG/32/LAW/475/52, p. 25. [↑](#endnote-ref-31)
30. Testimony of Tsvi Fogel, Tel Aviv District Court, March, 13, 1953, *Attorney General v. Siegel,* ISA, RG/32/LAW/475/52, p. 16. [↑](#endnote-ref-32)
31. Yitzhak Presman, *Attorney General v. Siegel*, July 16, 1953, ISA, RG/32/LAW/475/52, p. 0. [↑](#endnote-ref-33)
32. Verdict, *Attorney General v. Siegel,* July 16, 1953, ISA, RG/32/LAW/475/52, p. 1. [↑](#endnote-ref-34)
33. Verdict in the case of Julius Siegel, July 19, 1946, CZA, S5/10.099. [↑](#endnote-ref-35)
34. Sentence, *Attorney General v. Siegel*, July 16, 1953, ISA, RG/32/LAW/475/52. Unlike the procedure in the honor court in Italy, the prosecution of Siegel in Tel Aviv District Court was based on criminal code and required a much stricter standard of evidence for conviction than the moral code used by the court in Italy. Although the different judicial frameworks permitted different rules of evidence, it still seems that the gap between the procedures was not limited to these rules; it resulted also from the diminishing of accusations and testimony as time passed and from the judge’s favorable assessment of the defendant. [↑](#endnote-ref-36)
35. *Ha-Dor,* September 29, 1950; *Maariv*, May 4, 1951. [↑](#endnote-ref-37)
36. Nathan Shaham, *Heshbon hadash* (Tel Aviv: Or-Am, 1989), 46. Another famous Israeli writer, Yigal Mossinsohn, published a play that was never performed about a kapo who immigrates to Israel and establishes a new life there: *Adam beli shem* (Tel Aviv: Friedman, 1953). For more on these plays see, Ben-Ami Feingold, *The Theme of the Holocaust in Hebrew Drama* (Tel Aviv: Hakibbutz Hameuchad, 2012), 44–59. [↑](#endnote-ref-38)
37. Shaham, *Heshbon hadash*, 87. [↑](#endnote-ref-39)
38. Shaham, *Heshbon hadash*, 106. [↑](#endnote-ref-40)
39. *Al ha-Mishmar,* July 9, 1954. [↑](#endnote-ref-41)
40. *Al ha-Mishmar,* July 9, 1954; *Davar,* May 7, 1954. For other, mostly negative, critiques of the play see *Herut*, April, 30, 1954, and September, 27, 1954; *Ha-Tzofeh*, May 14, 1954; *Maariv,* May 26, 1954; *Yedioth Ahronoth,* April 26, 1954. [↑](#endnote-ref-42)
41. Shalom Rosenfeld, *Tik Plili 124/53*, 326. [↑](#endnote-ref-43)
42. Pamphlet No. 17, cited in Rosenfeld, *Tik Plili 124/53*, 16. [↑](#endnote-ref-44)
43. Yechiam Weitz, *The Man Who Was Murdered Twice: The Life, Trial and Death of Israel Kastner* (Jerusalem: Yad Vashem, 2011), 85; Rosenfeld, *Tik Plili 124/53*, 261. [↑](#endnote-ref-45)
44. Rosenfeld, *Tik Plili 124/53*, 261–262; Weitz, *The Man Who Was Murdered Twice*,85. [↑](#endnote-ref-46)
45. Pamphlet No. 17, cited in full in Rosenfeld, *Tik Plili 124/53*, 16–20. Gruenwald began his attack on Kastner in pamphlet No. 15. [↑](#endnote-ref-47)
46. Weitz, *The Man Who Was Murdered Twice*, 89. [↑](#endnote-ref-48)
47. *Yedioth Ahronoth*, March 17, 1963; Haim Cohn, *Mavo Ishi: Otobiyografiya* (Or Yehuda: Kinneret Zemora-Bitan Dvir, 2005), 322-323; Weitz, *The Man Who Was Murdered Twice*,92. In footnote 48, Weitz contends that it is unlikely that Cohn threatened Kastner that if he refused to sue Gruenwald he would be obliged to prosecute Kastner under the Nazis and Nazi Collaborators (Punishment) Law. Given the prevalence of such trials in the early 1950s it seems to me completely plausible that Cohn threatened Kastner with such a trial. It should also be pointed out that in 1946 Kastner filed a libel suit against Krausz in the Zionist World honor court. This may indicate that Kastner was motivated not only by a Cohn’s warning that he would place him on trial but also from his wish to clear his name. See Weitz, *The Man Who Was Murdered Twice*, 49-52. [↑](#endnote-ref-49)
48. *The Man Who Was Murdered Twice,* 133. [↑](#endnote-ref-50)
49. Weitz, *The Man Who Was Murdered Twice,* 118, 122, 232. [↑](#endnote-ref-51)
50. Rosenfeld, *Tik Plili 124/53*, 322; Weitz, “The Law of Punishment of the Nazis and their Collaborators: Legislation, Implementation and Attitudes*,*” *Cathedra* 82 (December 1996): 163; Bilskey, *Transformative Justice*, 22-25. [↑](#endnote-ref-52)
51. ISA, Tamir Summary, September 21, 1954, *Attorney General v. Malkiel Gruenwald,* ISA, RG/LAW/31/124/53 p. 10. Rosenfeld, *Tik Plili 124/53,* 313. [↑](#endnote-ref-53)
52. Rosenfeld, *Tik Plili 124/53*, 315. [↑](#endnote-ref-54)
53. Weitz, *The Man Who Was Murdered Twice,* 47, 199, 201; Rosenfeld, *Tik Plili 124/53*, 276. [↑](#endnote-ref-55)
54. Rosenfeld, *Tik Plili 124/53*, 280, 278. See also, Bilsky, *Transformative Justice,* 24-25. [↑](#endnote-ref-56)
55. In his autobiography, Haim Cohn presents the legislation of the Nazis and Nazi Collaborators (Punishment) Law as more of a symbolic practice against Nazis than one aimed at Jewish collaborators. Haim Cohn, *Mavo Ishi*, 332–336. See also the epilogue to this book. [↑](#endnote-ref-57)
56. Cohn, opening statement, May 14, 1951, Haifa District Court, *Attorney General v. Banik*, ISA, RG/33/LAW/121/51*,* p. 5. [↑](#endnote-ref-58)
57. Shalom Rosenfeld, *Tik Plili 124 – The Gruenwald–Kasztner Trial* (Tel Aviv: Karni, 1955),290 [Hebrew]. [↑](#endnote-ref-59)
58. Weitz, *The Man Who Was Murdered Twice,* 202–203. [↑](#endnote-ref-60)
59. Rosenfeld, *Tik Plili 124/53*, 311; see also Rosenfeld, *Tik Plili 124/53*, 371, 400–401. Tamir even offered the prosecution specific paragraphs that could serve as the basis for the indictment; see Rosenfeld, *Tik Plili 124/53*, 372, 401. [↑](#endnote-ref-61)
60. Rosenfeld, *Tik Plili 124/53,* 423. [↑](#endnote-ref-62)
61. Cited in Weitz, *The Man Who Was Murdered Twice,* 219. [↑](#endnote-ref-63)
62. Cited in Weitz, *The Man Who Was Murdered Twice,* 295. [↑](#endnote-ref-64)
63. *Kol ha-Am*, June 23, 1955 (emphasis in the original); *Herut*,June 28, 1955. In the Knesset, a member of the Communist Party, Esther Vilenska, made an almost identical call, *Divrei ha-Knesset*, June 28, 1955, 2109. [↑](#endnote-ref-65)
64. Nathan Alterman, *Ha-tur ha-shevii* (Tel Aviv: Hakibbutz Hameuchad, 1972), 422–423; Weitz, *The Man Who Was Murdered Twice*, 265–266; Dan Laor, *Al shtei ha-Drakhim: dapim min ha-pinqas* (Tel Aviv: Ha-kibutz ha-meuhad, 1989), 114-155; Stauber, *Ha-Lekah la-Dor*, 123; Gali Drucker Bar-Am, *“*Revenge and Reconciliation: Early Israeli Literature and the Dilemma of Jewish Collaborators with the Nazis,”in *Jewish Honor Courts*, 282-289; Leora Bilsky, *Transformative Justice,* 69-74. [↑](#endnote-ref-66)
65. Nathan Alterman, *Al shete ha-derakhim: dapim min ha-pinkas*, ed. Dan Laʼor (Tel Aviv: Hakibbutz Hameuchad, 1989), 19–22. [↑](#endnote-ref-67)
66. Nathan Alterman, *ha-tur ha-shevii* (Tel Aviv: Hakibbutz Hameuchad, 1972), 416–417. As pointed out by Leora Bilsky and Hemda Gur-Arie, unlike the legal system, which sees things in a binary mode—guilty or innocent—the cultural mode has the ability to view events in dispute in a more complex manner. For more on Alterman’s blurring of the lines between rebels and collaborators see Leora Bilsky and Hemda Gur-Arie­, “What Role Did Israeli Courts Play in Developing the Historical Understanding and Collective Memory of the Holocaust?” (in Hebrew) *Mishpat Umimshal* 12 (2009): 63, 68–70; Bilsky, *Transformative Justice,* 71-74. [↑](#endnote-ref-68)
67. *Maariv*, August 28, 1955. [↑](#endnote-ref-69)
68. *La-Merhav*, July 1, 1955. [↑](#endnote-ref-70)
69. Nathan Alterman, *Al Shete ha-Derakhim: Dapim Min ha-Pinkas,* ed. Dan Laʼor (Tel Aviv: ha-Kibuts ha-meʼuhad, 1989), 19-22; Nathan Alterman, *ha-Tur ha-Shevii* (Tel-Aviv: Ha-Kibuts Ha-Meʼuhad, 1972), 416-417. See for example an analysis of view of cultural critics such as Meir Ben Gur and David Kenaani in Bilsky, *Transformative Justice,* 78-79; Laor, *Al shtei ha-Drakhim,* 135-140. [↑](#endnote-ref-71)
70. Segev, *The Seventh Million,* 308. [↑](#endnote-ref-72)
71. Segev, *The Seventh Million,* 308. [↑](#endnote-ref-73)
72. Verdict of Supreme Court, Criminal Appeal, *Piske Din*, vol. 12, 232/55, 2057–2058. [↑](#endnote-ref-74)
73. Verdict of Supreme Court, Criminal Appeal, *Piske Din* vol. 12, 232/55, 2021–2317. [↑](#endnote-ref-75)
74. Verdict of Supreme Court, Criminal Appeal, *Piske Din* vol. 12, 232/55, 2073 –2076. [↑](#endnote-ref-76)
75. Verdict of Supreme Court, Criminal Appeal, *Piske Din* vol. 12, 232/55, 2075. [↑](#endnote-ref-77)
76. Verdict of Supreme Court, Criminal Appeal *Piske Din*, vol. 12, 232/55, 2302. For more on the verdict of Agranat see Bilsky, *Transformative Justice,* 61-66. [↑](#endnote-ref-78)
77. Cohn, *Mavo Ishi,* 327. [↑](#endnote-ref-80)
78. The numbers I mention here are based on the files I was able to locate in the Israeli National Archive. Due to the difficulty of locating all the kapo trial files, which I mentioned in the opening of this book, these numbers are mere estimates. The five cases I reference here are *Attorney General v. Alter Fogel,* ISA RG/32/LAW/377/58 (an indictment in this case submitted in 1956 was canceled for unknown reasons); *Attorney General v. Aryeh Praport*, ISA, RG/32/LAW/377/58; *Attorney General v. Yisrael Zilberberg* ISA, RG/32/LAW/492/58; *Attorney General v. Hannoch Beiski* ISA, RG/32/LAW/137/59; *Attorney General v. Abraham Tikochinsky,* ISA, RG/32/LAW/31/59. [↑](#endnote-ref-81)
79. Haifa Bureau of Investigation, Report 276, January 10, 1945, CZA, S25/7828. [↑](#endnote-ref-82)
80. Haifa Bureau of Investigation, Report 276, January 10, 1945, CZA, S25/7828; *Davar,* September 27, 1959; *Maariv*, December 16, 1959. [↑](#endnote-ref-83)
81. Cited in *Maariv*, December 16, 1959. [↑](#endnote-ref-84)
82. *Kol ha-Am*, December 17, 1959. [↑](#endnote-ref-85)
83. Cited in *Maariv*, December 16, 1959. [↑](#endnote-ref-86)
84. Testimony of Moshe Yavlonsky, Tel Aviv Magistrate Court, November 4, 1957, in *Attorney General v. Aryeh Praport*, ISA, RG/32/LAW/377/58, pp. 9–10; police disposition of Moshe Yavlonsky October 24–25, 1957; police disposition of Tziral Yavlonsky October 28,1957, in *Attorney General v. Praport*, ISA, RG/32/LAW/377/58. [↑](#endnote-ref-87)
85. Testimony of Moshe Yavlonsky, Tel Aviv Magistrate Court, November 4, 1957, in *Attorney General v. Praport*, ISA, RG/32/LAW/377/58, 9–10; police disposition of Moshe Yavlonsky, October 24–25, 1957; Police disposition of Tziral Yavlonsky, October 28, 1957 in *Attorney General v. Praport*, ISA, RG/32/LAW/377/58. [↑](#endnote-ref-88)
86. Tziral Yavlonsky, November 4, 1957, Tel Aviv Magistrate Court, in *Attorney General v. Praport*, ISA, RG/32/LAW/377/58, pp. 13–14. [↑](#endnote-ref-89)
87. Testimony of Moshe and Tziral Yavlonsky, Tel Aviv Magistrates Court, November 4, 1957, ISA, RG/32/LAW/377/58, 9, 14. See the preliminary process indictment for an indication that the trial was held behind closed doors. Also, for the judge’s decision in district court see, *Attorney General v. Praport*, July 30, 1958, ISA, RG/32/LAW/377/58, p. 2. [↑](#endnote-ref-90)
88. Police disposition of Mendel Bogonsky, October 21, 1957, in *Attorney General v. Praport*, ISA, RG/32/LAW/377/58. [↑](#endnote-ref-91)
89. Testimony of Moshe Yavlonsky, November 4, 1957, in *Attorney General v. Praport*, ISA, RG/32/LAW/377/58, 10. Testimony of Tziral Yavlonsky, April 13, 1959, in *Attorney General v. Praport*, ISA, RG/32/LAW/377/58, p. 36; testimony of Tziral Yavlonsky, April 13, 1959, in *Attorney General v. Praport*, ISA, RG/32/LAW/377/58, p. 41. Testimony of Moshe Yavlonsky, April 13, 1959, in *Attorney General v. Praport*, ISA, RG/32/LAW/377/58, p. 36. [↑](#endnote-ref-92)
90. Testimony of Tziral Yavlonsky, Tel Aviv District Court, October 25, 1960, *Attorney General v. Moshe and Tziral Yavlonsky* ISA, RG/32/LAW/53/60, 4–5; testimony of Michael Avatichi, Tel Aviv District Court, April 13, 1959, *Attorney General v. Praport*, ISA, RG/32/LAW/377/58, p. 31. [↑](#endnote-ref-93)
91. Tel Aviv District Court Verdict, May 22, 1959, *Attorney General v. Praport*, ISA, RG/32/LAW/377/58, p. 5. [↑](#endnote-ref-94)
92. Prosecution summary, May 11, 1959, *Attorney General v. Praport*, ISA, RG/32/LAW/377/58, pp. 59–60. [↑](#endnote-ref-95)
93. Cited in Yechiam Weitz, “The Law for Punishment of the Nazis and their Collaborators: Legislation, Implementation and Attitudes,” *Cathedra* 82 (December 1996), 158. [↑](#endnote-ref-96)
94. Testimony of Antek Zuckerman, Tel Aviv Magistrates Court, October 25, 1960, *Attorney General v. Moshe and Tziral Yavlonsky* ISA, RG/32/LAW/53/60, 3; Verdict, Tel Aviv Magistrates Court, January 26, 1961, *Attorney General v. Yavlonsky* ISA, RG/32/LAW/53/60, p. 2. [↑](#endnote-ref-97)
95. Testimony of Antek Zuckerman, Tel Aviv Magistrates Court, October 25, 1960, *Attorney General v. Yavlonsky,* ISA, RG/32/LAW/53/60, p. 3. [↑](#endnote-ref-98)