

Criminality in the Face of Life and Death: Crime and Criminal Prosecution as a Part of Everyday Life in the Warsaw Ghetto

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ABSTRACT

This article provides an overview of the criminal prosecution of Jews from the Warsaw ghetto by German court entities during the Nazi occupation of the General Government. As the title suggests, a specific focus lies on how the residents of the ghetto were pushed into a legal gray area by an increasingly dense network of anti-Jewish legal guidelines. As this article also highlights, however, committing acts that the occupiers had deemed criminal offenses also sometimes aided Jews in their survival of imprisonment in ghettos.

This article takes a chronological approach: it begins with a discussion of the history of “Jewish ghettos” from the Middle Ages onwards, leading up to the establishment of ghettos in the General Government throughout the early 1940s. Since the legal sphere is the focus of this article, it outlines the Nazi definition of a criminal offense in the Warsaw ghetto will and which social and personal changes the imprisonment in ghettos meant for Jews during occupation. Even though the Nazi restrictions made several dozen offenses legally punishable, even by death, committing these criminal offenses could ensure Jews’ survival, for example, by participating in illegal trade, smuggling, or the forging of identity cards or money. In this way, criminality became an increasingly frequent part of everyday life and survival of Jews imprisoned in ghettos.

Through the establishment of so-called German Courts and Special Courts in the district capitals of the General Government, the occupiers set up a dense and expansive legal network through which they were able to prosecute any criminal activity on a seemingly official basis. In an attempt to make this history more tangible, this article discusses cases of smuggling, illegal trade, bribery, spreading rumors, and derogatory language as brought in the German Court and Special Court in Warsaw against Jewish defendants. Even though the German Criminal Code and a plethora of continuously issued legal decrees were rigorously applied in these court proceedings, the verdicts of the German Court and Special Court in Warsaw were seldom consistent or stringent throughout the years of occupation.

KEYWORDS: Legal history, Holocaust, Warsaw Ghetto, General Government, Nazi jurisdiction, Nazi occupation of Poland, World War II

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Introduction

When German forces occupied the Second Polish Republic in September 1939 and established the General Government for the Occupied Polish Territories (*Generalgouvernement für die besetzten polnischen Gebiete*), one of the administrative areas that underwent significant changes was the judicial sphere in which Poles, ethnic Germans, and Jews now lived. The construction of designated Jewish residential districts (*Jüdische Wohnbezirke*) was a further contribution to the spatial divide between these residential groups that created a new, unprecedented legal sphere.

The occupiers themselves never referred to the “Jewish ghettos” as such in their documentation but instead declared them to be “Restricted Infected Areas” (*Seuchensperrgebiete*),¹ which also led to the first propaganda stereotype introduced by the Nazi regime about those whom they treated and labeled as “Jews.” Governor-General Hans Frank utilized this term on the information bulletins and boards set up on both sides of the ghetto walls in order to “inform the inhabitants about the mutual prohibition on the passage of these walls.”² This very euphemism played into the National Socialist propaganda stereotype that Jews were carriers and spreaders of epidemics and diseases. In this way, the regime was able to legitimize their restrictive measures against the Jewish population in the territories they occupied. The historian Monika Tokarzewska points out that the term “Jewish residential district” did not refer to the “permanent removal of Jews from the realm of human existence.”³ It did rather describe the factual exclusion of the Jewish population as something “normal and neutral.”⁴ Most importantly, though, this term did not do justice to the living conditions in the ghettos. Such linguistic euphemisms were another peculiarity of the Third Reich period, as they created a vocabulary that cloaked the events of persecution in bureaucratic official language in order to belie the destructive character of their regime and legitimize their actions with seemingly legal language.⁵

¹ See KLAUS-PETER FRIEDRICH (ed.): *Die Verfolgung und Ermordung der europäischen Juden durch das nationalsozialistische Deutschland 1933–1945*. Vol. 9: Polen: Generalgouvernement, August 1941–1945, München 2014, p. 129.

² MONIKA TOKARZEWSKA: *Das Ghetto als Ausnahmezustand*, in: OLIVER RUF (ed.): *Ausnahmezustände in Geschichte, Theorie, Medien und literarischer Fiktion*, Würzburg 2009, pp. 109–124, here p. 113.

³ *Ibid.*, p. 114.

⁴ *Ibid.*

⁵ MICHAL GRYNBERG: *Words to Outlive Us: Eyewitness Accounts from the Warsaw Ghetto*, New York 2002, p. 12. Furthermore, the German linguist and politician Victor Klemperer published a pioneering study about the newly introduced Nazi vocabulary and misuse of existing legal terms. In it he studies the language used in Nazi propaganda, how it changed the meaning of the German language and its words in order to inculcate and indoctrinate the wider population with the ideals and policies of the Na-

This article first seeks to address what the German occupying forces considered a criminal offense and which penalties they introduced in order to prosecute misconduct in the General Government. Deriving from this, it will further explore which legal guidelines and laws could apply in the Jewish ghettos in the General Government and why the German occupiers established their own justice system and jurisdiction. At the onset of occupation, they overturned the Polish Supreme Court but permitted the Polish district and local courts to continue their practice. They prosecuted cases associated with everyday crimes, as well as any cases pertaining to Polish nationals or crimes committed against them.⁶ These were primarily offenses such as theft, physical assault, assault, or unlawful conduct and were tried according to the Polish Criminal Code from 1932.⁷

This article thus concentrates on tracing the establishment of German Courts and Special Courts in the General Government and which criminal offenses they prosecuted throughout the time of occupation. Lastly, the influence of the German definitions of criminality on the Jewish ghetto communities will be investigated, as this foreign legal sphere was constantly evolving and as a result, continually restricted their everyday life, previous traditions, and customs. These aspects will be investigated through the lens of the thousands of German court files from occupied Warsaw, which survived the war years.

Through this approach, this article aims to reconsider everyday life through a legal lens, paying particularly close attention to criminal and social aspects in Jewish ghettos during the Nazi occupation of the General Government. Criminal acts committed by ghetto inmates were often decisions of life and death in these enforced communities—and became an increasing part of their lives in their quest to survive. Therefore, primary material such as court proceedings and verdicts can be treated as testimonies of ordinary ghetto inhabitants, whose voices and fates often remain unheard. In closing, a closer look at the effects and developments of Nazi occupation through the prism of the social and criminal history of the Jewish population can enable insights into their everyday life under the German legal system.

tional Socialist regime. VICTOR KLEMPERER: *Lingua Tertii Imperii: Notizbuch eines Philologen*, Berlin 1947.

⁶ JAN GRABOWSKI: “Jewish Criminality and Jewish Criminals” in the Warsaw Ghetto: German Courts, Jews and the New German Order in Warsaw, 1939–1942, in: IMKE HANSEN, KATRIN STEFFEN et al. (eds.): *Lebenswelt Ghetto: Alltag und soziales Umfeld während der nationalsozialistischen Verfolgung*, Wiesbaden, 2013, pp. 117–129, here p. 118.

⁷ *Ibid.*

State of Research on Criminality in Ghettos

In recent years, the field of Holocaust studies has begun to address German courts and criminality in those territories occupied by German forces. Barbara Engelking and Jan Grabowski took the first steps in this direction with their study of the Polish definition of criminal offenses in the Warsaw ghetto.⁸ Building on their work, this article focuses on the German definitions and methods of prosecuting criminal offenses, for these topics and their role within the Nazi regime have not been researched to date. The first foundational monographs on the Warsaw ghetto by Jacek Leociak, Barbara Engelking, Andrea Löw, and Markus Roth deliver new perspectives on life within these communities and also address the theme of ghetto-internal legal entities.⁹ Their focus largely lies on the Jewish police, however, rather than on the occupiers' court or prison system, which is the focus of the present study.¹⁰ Svenja Bethke's study of Jewish definitions of crime and criminality in the ghettos of Warsaw, Wilna, and Litzmannstadt is likewise an important contribution to the field.¹¹ Building on and influenced by Bethke's approach, a similar pattern can be adapted for the study of entire cities and their justice system under Nazi occupation. Further, Grabowski has extensively researched Jewish criminality, as well as the role of the Jewish and Polish police.¹² His approaches and results deserve to be taken into account to delve into further research avenues. Future research must understand and grasp the examined spaces as entire cities within which the ghettos are situated but not isolated. Existing studies of ghettos have neglected this step especially, focusing solely on the ghetto environment itself without considering the influence and context of occupied cities on the legal sphere inside and outside these Jewish forced communities.

⁸ BARBARA ENGELKING, JAN GRABOWSKI: *Żydów łamiących prawo należy karać śmiercią! "Przestępczość" Żydów w Warszawie 1939–1942 [Jews Who Break the Law Must Be Punished with Death! "Crime" of Jews in Warsaw 1939–1942]*, Warszawa 2010.

⁹ BARBARA ENGELKING, JACEK LEOCIAK: *The Warsaw Ghetto: A Guide to the Perished City*, New Haven 2009, and MARKUS ROTH, ANDREA LÖW: *Das Warschauer Ghetto: Alltag und Widerstand im Angesicht der Vernichtung*, München 2013.

¹⁰ DINA PORAT: *The Justice System and Courts of Law in the Ghetto of Lithuania*, in: *Holocaust and Genocide Studies* 12 (1998), pp. 49–65, deals in detail with the establishment of courts in three Lithuanian ghettos and interprets this as an attempt to establish the moral standards from the pre-war period.

¹¹ SVENJA BETHKE: *Tanz auf Messers Schneide: Kriminalität und Recht in den Ghettos Warschau, Litzmannstadt und Wilna*, Hamburg 2015.

¹² JAN GRABOWSKI: *Tropiąc Emanuela Ringelbluma: Udział polskiej Kriminalpolizei (Kripo) w "Ostatecznym rozwiązaniu kwestii żydowskiej."* [Participation of the Polish Kriminalpolizei (Kripo) in the "Final Solution of the Jewish Question"], in: *Zagłada Żydów* 10 (2014), pp. 27–57; JAN GRABOWSKI: *The Polish Police: Collaboration in the Holocaust: Ina Levine Annual Lecture*, November 17, 2016, Washington, DC 2017, https://archive.org/details/bib256980_001_001 (2021-12-13).

However, the largest obstacle to studying acts of criminality in the ghetto environment is dealing with the primary sources, since the majority of documents pertaining to the Nazi court system in the General Government and its activities were composed and kept by the perpetrators. This article thus by necessity explores this topic primarily from the perspective of the occupiers, largely due to the fact that there are neither testimonies nor diaries available that report about German court activity or experiences in front of court. This, unfortunately, also applies to oral history testimonies.

The History of “Jewish Ghettos” and Their Establishment in the General Government

A first approach to crime and criminality in “Jewish ghettos” can be made by reconsidering what the occupiers defined as a criminal offense within the new German legal sphere that was established during the early months of the occupation. Separate Jewish quarters have existed within cities as early as the sixteenth century, but, under the Nazi regime in the 1940s, these took on a distinctively different character and significance. For example, one of the first separate Jewish living quarters was fenced off in Venice in 1516. It isolated the city’s Jewish population from the civilian population until 1797.¹³ “The term *ghetto* originally referred to a district or a street in which only Jews resided and was a limited area, separate from the other parts of the city.”¹⁴ The aim of establishing Jewish ghettos was to limit the economic opportunities for Jews and their contact with Christians.¹⁵ At the time, the city of Venice was experiencing an influx of Jews from Frankfurt and Spain, where, starting in the late fifteenth century, they were being expelled from their hometowns or forced to convert to Christianity.¹⁶ Given the political and economic instability that prevailed in Venice during this period, the Jewish community was considered a danger and threat because of their thriving businesses and religious customs. Within their assigned quarter of the city, however, they were able to live according to their own moral standards and therefore moved to these areas “mostly out of their own free will.”¹⁷ The dissolution of such ghettos on Italian soil only took place with the end of Pope Pius IX’s rule in

¹³ RAFAEL D. ARNOLD: Duldung und Diskriminierung—Die Gründung des Ghettos in Venedig vor 500 Jahren, in: PaRDeS: Zeitschrift der Vereinigung für Jüdische Studien e. V. 22 (2016), pp. 209–215, here p. 209.

¹⁴ Ghetto, in: EBERHARD JÄCKEL, PETER LONGERICH et al. (eds.): Enzyklopädie des Holocaust: Die Verfolgung und Ermordung der europäischen Juden, Berlin 1993, pp. 535–539, here p. 535.

¹⁵ Ibid.

¹⁶ YITZHAK BAER: A History of the Jews in Christian Spain, vol. 1, Philadelphia 1961, pp. 148–149.

¹⁷ Ghetto, in: JÄCKEL/LONGERICH, p. 535.

Rome. In fact, the ghetto there was the last to be dissolved on European soil as late as 1970.¹⁸ This historic perspective approach to “Jewish ghettos” and their meaning and past purpose reveals even more so the newly destructive and racially motivated approach to separate neighborhoods for Jews as created by the Nazi regime in those territories they annexed and occupied—and how these encircled districts created “enforced societies”¹⁹ in the meantime.

The *Schnellbrief* circulated by the Chief of the Security Police, Reinhard Heydrich, on 21 September 1939 can be regarded as the first decree ordering the creation of Jewish communities in the General Government and the first instruction from the Nazi regime on how to treat Poland’s Jewry.²⁰ Heydrich ordered three immediate measures: the expulsion of all Jews from the north-west of the country to the General Government into larger cities, the establishment of Jewish councils comprised of influential persons within each Jewish community, and the introduction of “measures to ensure German economic interests.”²¹ The occupiers justified the concentration of the Jewish population by claiming that Jews had participated in pillages or were the source of diseases, which could spread throughout entire cities.²² In the second half of 1940, the internal administration of the Warsaw district stated that “in order to combat the various dangerous epidemics, the majority of which are carried by Jews, the construction of a 2.20 meter high so-called ‘epidemic wall’ was ordered by the chief of the district’s representative for the city of Warsaw to close off the epidemic area.”²³ These “epidemic walls” were henceforth described as “absolutely necessary,”²⁴ since the occupiers assumed that the Jewish population constituted a danger to the entire population of the General Government.²⁵ In fact, several typhus epidemics did break out in the

¹⁸ Ibid.

¹⁹ ANDREAS RUPPERT: Das Warschauer Ghetto und Detmold, in: Rosenland: Zeitschrift für lippische Geschichte 4 (2006), pp. 2–17, here p. 13.

²⁰ ISALAH TRUNK: Judenrat: The Jewish Councils in Eastern Europe, New York 1972, p. 1.

²¹ Polen, in: JÄCKEL/LONGERICH, pp. 1121–1150, here p. 1134.

²² Ibid.

²³ Archiwum Państwowe w Warszawie (APW) [State Archive in Warsaw], 482: Urząd Szefa Okręgu Warszawskiego [Office of the Warsaw District Chief], 1562: Bericht II der inneren Verwaltung im Distrikt Warschau, Halbjahresbericht, p. 6.

²⁴ Ibid., p. 36.

²⁵ High brick walls were primarily built in larger ghettos, such as in Warsaw, Litzmannstadt, or Wilna. In smaller ghettos, fences were erected to mark the ghetto boundaries, while others did not require any demarcations. Feliks Tych studied the various forms of the National Socialist ghettos on Polish territory in depth. FELIKS TYCH: Typologia gett utworzonych przez okupantów niemieckich w Polsce (1939–1944) [Typology of ghettos created by the German Occupiers in Poland (1939–1944)], in: PAWEŁ SAMUŚ, WIESŁAW PUŚ (eds.): Fenomen getta łódzkiego, Łódź 2006, pp. 77–89.

Warsaw Ghetto during the years of its existence due to the unsanitary conditions in which its residents were forced to live there.²⁶

After the establishment of the Warsaw ghetto in November 1940, the German occupying forces quickly tried to define the types of offenses which would now be considered a criminal offense according to the German Criminal Code and were therefore liable to prosecution in the German courts. In the eyes of the occupiers, it quickly became apparent that the pre-war definitions of criminal offenses could no longer apply under the living conditions in the ghettos. The German legal authorities therefore had to rephrase the very definition of a criminal offense. Throughout the existence of ghettos in the General Government, however, an uncertainty prevailed among the Jewish communities of which behavior was perceived as just and unjust.²⁷ This becomes apparent both in the records of the German Court and the Special Court as well as in the situation reports—*Lageberichte*—written by Nazi officials, including Ludwig Fischer, the governor for the district of Warsaw, and Heinz Auerswald, the commissioner of the Warsaw ghetto, who reported on the developments within the ghettos, with a specific focus on criminal behavior involving their inhabitants.²⁸

The Nazi Definition of a Criminal Offense in the Ghetto Space

The construction of ghettos quickly revealed the criminal offenses for which Jewish inhabitants could be prosecuted on Nazi legal grounds. The most common and frequent crimes for which Jews were prosecuted included illegal border crossings, smuggling food or goods of high value into the ghetto, bribery of police officials (especially those stationed along the ghetto borders), illegal trade of smuggled goods on the black market, and offenses against the “peace and quiet”²⁹ in the ghetto, such as not observing the curfew or the

²⁶ The first typhus epidemic broke out in the summer of 1941 and lasted until spring 1942. The epidemic reached its peak from October 1941 until January 1942, during which an average of 6,000 people died of typhus each month. Cf. APW, 482, 1559: Bericht des Chefs des Distrikts Warschau vom 10. Februar 1941 an die Regierung des Generalgouvernements für den Monat Januar 1941, p. 9.

²⁷ BETHKE, pp. 32–40.

²⁸ WOLFGANG CURILLA: Der Judenmord in Polen und die deutsche Ordnungspolizei 1939–1945, München 2011, p. 658, as well as: ANDRZEJ WRZYSZCZ: Okupacyjne sądownictwo niemieckie w Generalnym Gubernatorstwie 1939–1945: Organizacja i funkcjonowanie [German Occupational Judiciary in the General Government 1939–1945: Organization and Functioning], Lublin 2008.

²⁹ Żydowski Instytut Historyczny (ŻIH) [Jewish Historical Institute], Warsaw, 46.Ring.II/127: Przewodniczący RŻ w Warszawie A[dam] Czerniaków, Memoriał pt. [Leader of the Jewish Council A. Czerniaków, memorandum] “‘Die neuen Aufgaben der Jüdischen Gemeinde in Warschau und die Lage der jüdischen Bevölkerung’ (26.03.1940 r.),” p. 6.

darkening of windows. In addition, a certain level of hygiene was legally required in the ghetto, such as signing up for vaccinations, delousing, or cleaning apartment blocks and sidewalks.³⁰

Most of these offenses occurred within and around the ghetto walls and were punished the most severely since the occupiers wanted to reinforce their newly defined borders. The district officials interpreted any offense against these new limits as an expression of the offender's repudiation of German authority as the occupying force. For the occupiers, the ghetto walls functioned as spatial dividers between the Jewish, Polish, and ethnic German populations and therefore needed to be ingrained into the consciousness and awareness of all groups of society. In this respect, Samuel Gringauz has posited a noteworthy hypothesis concerning the extent to which a criminal offense against the German legal sphere can be considered a form of resistance—in the sense of not acknowledging the new legal order set by the occupiers.³¹ Many Jews decided to take off their armband when leaving the ghetto in order to move more freely on the so-called Aryan side, as it was often only through this visible feature that the occupants were able to identify a Jew. In the eyes of the occupiers, smuggling was categorized as an especially pernicious criminal offense, since it undermined the border they sought to establish. Nevertheless, it was also one of the most widespread criminal offenses, due to the sheer necessity for survival—especially since the Jewish offenders did not consider their actions to be criminal, for they deemed the newly drawn borders as illegitimate.³² In addition, the Jewish and Polish police units stationed along the ghetto walls played an essential part in facilitating the smuggling over the

³⁰ United States Holocaust Memorial Museum (USHMM), Washington, D.C., RG-15.480: Sondergericht Warschau, and RG-15.268: Deutsches Gericht Warschau.

³¹ CAROL BATTRICK: Smuggling as a Form of Resistance in the Warsaw Ghetto, in: *British Journal of Holocaust Education* 4 (1995), pp. 199–224, or SAMUEL GRINGAUZ: Some Methodological Problems in the Study of the Ghetto, in: *Jewish Social Studies* 12 (1950), pp. 65–72. Samuel Gringauz was a German Lithuanian American jurist who was imprisoned in the Kaunas ghetto during the war and later deported to Dachau. After the war, he became active in the Jewish Self-Help and, as a lawyer, took up the criminal defense of the leaders of the Landsberg camp uprising in 1946. He was also the chairman of the Central Committee of Liberated Jews in the US Zone, participated in their First Congress in January 1946, and achieved that the American occupying powers formally recognized the Central Committee as a negotiating partner. He eventually emigrated to the United States in 1948 and worked for the Jewish Restitution Successor Organization and its successor, the Jewish Claims Conference, in New York City. ANDREA SINN: Jüdische Politik und Presse in der frühen Bundesrepublik, Göttingen 2014, pp. 38–39; ANGELIKA KÖNIGSEDER, JULIANE WETZEL: Lebensmut im Wartesaal: Die jüdischen DPs (Displaced Persons) im Nachkriegsdeutschland, Frankfurt am Main 1994, pp. 85, 127.

³² SVENJA BETHKE, HANNA SCHMIDT HOLLÄNDER: Lebenswelt Ghetto: Raumtheorie und interpretatives Paradigma als Bereicherung für die Erforschung jüdischer Ghettos im Nationalsozialismus, in: *PaRDeS: Zeitschrift der Vereinigung für Jüdische Studien* e. V. 17 (2011), pp. 35–51, here p. 45.

ghetto walls, enriching themselves in the process by confiscating portions of the smuggled goods or accepting bribes to not turn Jews over to the German police.

Even minor criminal offenses can provide new insights into the difficulties of everyday life of Jews in ghettos, while at the same time revealing the arbitrary nature of the Nazi occupation politics for their occupied territories in the East. In late 1941, starving the ghetto population was seen as a way to weaken or even to diminish the population. Therefore, any form of smuggling across the ghetto borders—to ensure access to basic provisions—was now considered a political offense and thus punished more severely. In some cases however, neither the offender nor the prosecutor were uncertain about how to classify a criminal offense—whether selling illegal newspapers, for example, should be judged a political offense or smuggling delict.³³

For the purpose of clarifying how offenses should be treated within the German legal sphere, the district chief in Warsaw published the *Mitteilungsblatt für den jüdischen Wohnbezirk in Warschau*,³⁴ which contained all the decrees and announcements that had hitherto been published. The understanding of what constituted a criminal offense differentiated heavily, however, between the members of the Jewish council and the ordinary ghetto inmates. For the latter, such offenses usually represented their only attainable avenue to survival in the ghetto, as the German network of anti-Jewish decrees was growing exponentially.³⁵ These laws aimed to deny Jews basic human rights, while simultaneously preventing their starvation or other external causes of death in order to exploit the Jewish work force.

Meanwhile, the Jewish councils made it their quest to ensure the survival of their communities by following and fulfilling the demands of the occupiers, while also enabling some semblance of communal life and survival under these life-threatening and abnormal circumstances. The concept of a criminal offense was defined in order to create a facade of legality in these occupied territories and the ghettos, in particular.³⁶ Hans Frank and his subordinate Nazi leaders arguably established a dense legal network that included German court entities and German judges, lawyers, and state prosecutors, in order to be able to officially prosecute any misconduct and to impose a sense of “law and order” on these social and administrative circumstances. In fact, the establishment of dozens of legal institutions and the reassignment of sev-

³³ HELMUT KRAMER: Richter vor Gericht: Die juristische Aufarbeitung der Sondergerichtsbarkeit, in: HELIA-VERENA DAUBACH (ed.): “... eifrigster Diener und Schützer des Rechts, des nationalsozialistischen Rechts ...”: Nationalsozialistische Sondergerichtsbarkeit. Ein Tagungsband, Düsseldorf 2007 (Juristische Zeitgeschichte Nordrhein-Westfalen, 15), pp. 121–172, here p. 151.

³⁴ FRIEDRICH, p. 129.

³⁵ BETHKE, p. 293.

³⁶ RALF ANGERMUND: Deutsche Richterschaft 1919–1945: Krisenerfahrung, Illusion, politische Rechtsprechung, Frankfurt am Main 1996, pp. 105–106.

eral hundred German jurists from the Reich to the General Government resulted in significant additional costs for the regime. The legal grounds created under German jurisdiction enabled them to introduce their own, rigid sentencing pattern, which ultimately resulted in the justification of several thousand death penalties based on the newly introduced anti-Jewish decrees.³⁷

Through this development and the constant changes introduced within the German jurisdiction in the General Government, first and foremost through the efforts of Frank, a revised legal sphere had to be developed and defined for this novel enforced living space. The Governor-General was heavily occupied with finding an answer of how law and jurisdiction could apply to the ghetto environment.³⁸ The Jewish ghettos in occupied Poland presented a unique legal situation, since the Polish, ethnic German, and Jewish populations now experienced severe legal changes under the civil administration of Frank, who was authorized to issue his own legal regulations and decrees.³⁹ These circumstances also surfaced because the ghettos were supposed to be only a temporary solution, therefore the circumstances within the ghettos were not entirely foreseeable for those who planned and constructed them.⁴⁰ A year after the sealing of the Warsaw ghetto, the occupiers were still unsure how to deal with its hundreds of thousands of inhabitants.⁴¹ In the autumn of 1942, when the ghetto population had decreased significantly, the Reich Ministry of Justice initiated the formulation of a new criminal code for the occupied territories, but it was never finished.⁴²

Social and Personal Consequences of Life in the Ghetto

The occupying forces designed their own laws and decrees, which defined Jews as born criminals.⁴³ In addition, the district chief of Warsaw issued a decree according to which Jewish lawyers were no longer permitted to practice,

³⁷ The preserved court documents of the proceedings before the German Court in Warsaw and the Special Court in Warsaw are archived in the State Archive of Warsaw and contain approximately 6,700 cases for the German Court and around 2,000 cases for the Special Court.

³⁸ STANISLAW PIOTROWSKI: *Hans Franks Tagebuch*, Warszawa 1963, p. 30.

³⁹ For example, on 24 September 1942, Frank decreed that any non-Jewish person who assisted Jews in flight from the Jewish residential district, would be sentenced to death. See, *Verordnungsblatt für das Generalgouvernement*, 1942-10-13, p. 597.

⁴⁰ RAUL HILBERG: *The Destruction of the European Jews*, Chicago 1961, pp. 268–269.

⁴¹ CHRISTOPHER R. BROWNING: *Die Entfesselung der "Endlösung": Nationalsozialistische Judenpolitik 1939–1942*, Berlin 2006, p. 185.

⁴² ANGERMUND, pp. 105–106.

⁴³ MICHAEL BERKOWITZ: *The Crime of My Very Existence: Nazism and the Myth of Jewish Criminality*, Berkeley 2007, delves into this topic.

thus depriving the Jewish population of any legal protection.⁴⁴ The increasing cases of criminality within ghetto communities also drove a wedge between the wealthier and poorer groups of society, since the latter did not have any monetary sources to fall back on and could not appease officials for committed offenses with bribes. This was also the case for power relations within the ghetto administration, since many ghetto residents were suspicious of the relationships between the members of the Jewish councils and Nazi officials.⁴⁵

Another extreme factor for the changes in social and moral norms within ghetto populations was the prevailing hunger. Even though the occupiers had no comprehensive plan for the future of the ghettos, they started introducing food policies of an explicitly destructive character.⁴⁶ In April 1941, food rations introduced for the Jewish residential district did not even cover the necessary minimum calories for survival.⁴⁷ By July 1941, the daily ration allocated to Jews in Warsaw was only 184 calories.⁴⁸ The effects of hunger and typhus became visible in the these early months of ghettoization: In June 1941 alone, 4,290 deaths were registered. In July the number rose to 5,550, for August the number was projected to be slightly lower (5,388), declining again to 4,545 in September and 4,460 in October 1941. Even these lower figures, however, still amount to up to 149 deaths on a single day.⁴⁹

It was during this period that hunger took on a new meaning in the Warsaw ghetto. The historian Aviv Livnat⁵⁰ recounts a study conducted there from January until July 1942, in which twenty-eight Jewish doctors examined the pathological effects and long-term consequences of the prevailing malnutrition on the human body. During the same period, in January and February 1942, the typhoid epidemic peaked in the ghetto and claimed over five thousand victims a month.⁵¹ The “Hunger Study”⁵² was initiated by a doctor called

⁴⁴ Die neuen Aufgaben der Jüdischen Gemeinde in Warschau und die Lage der jüdischen Bevölkerung (as in footnote 29), p. 5.

⁴⁵ BETHKE, pp. 254–258.

⁴⁶ YISRAEL GUTMAN: *The Jews of Warsaw 1939–1943: Ghetto, Underground, Revolt*, Brighton 1982, p. 64.

⁴⁷ LEONARD THUSNET: *The Uses of Adversity: Studies of Starvation in the Warsaw Ghetto*, New York 1966, p. 23.

⁴⁸ REUBEN AINSZTEIN: *Jüdischer Widerstand im deutsch besetzten Osteuropa während des Zweiten Weltkrieges*, Oldenburg 1993, p. 279.

⁴⁹ Bericht des Chefs des Distrikts Warschau vom 10. Februar 1941 (as in footnote 26), p. 6.

⁵⁰ AVIV LIVNAT: “Non Omnis Moriar”: Die Forschung zu Hunger von jüdischen Ärzten im Ghetto Warschau, in: *Nurinst—Beiträge zur deutschen und jüdischen Geschichte 6* (2012), pp. 81–92, here p. 81.

⁵¹ STANISŁAW ADLER: *In the Warsaw Ghetto 1940–1943: An Account of a Witness*, Jerusalem 1982, p. 42.

⁵² The original Polish title was “Choroba głodowa: badania kliniczne nad głodem wykonane w getcie warszawskim z roku 1942” [The Hunger Sickness: Clinical Trials

Israel Milejkowski, who was a member of the Jewish council. For this purpose, one hundred adults and forty children were selected from the ghetto; participation supposedly protected them from deportations and starvation. However, as soon as the so-called “Great Deportations”⁵³ began, the study came to an abrupt end, for the doctors involved were deported, as well.⁵⁴ Despite the increasing economic benefits of the Jewish workforce for the defense industry, the ghetto was to be largely evacuated starting from June 1942.⁵⁵ Heinrich Himmler issued a decree the following month, which announced plans to resettle the Jewish population living in the General Government by the end of 1942.⁵⁶

Criminality as a Way and Means for Jewish Survival

Criminality was increasingly considered a means of survival in the ghettos. As Jan Grabowski has stated, “they turned into ‘criminals’ in order to survive,”⁵⁷ but only criminals according to the definitions of the occupiers. Grabowski in particular has studied the impact of ghettoization on the Jewish population and concludes that the steadily growing network of restrictions, prohibitions, and regulations pushed more and more Jews into a legal gray area. This supports the assumption that various types of crime can be interpreted as a choice between life and death. In addition, Grabowski concludes that every ghetto resident who survived the first year of occupation must have “committed a series of transgressions against the increasingly dense network of decrees and announcements.”⁵⁸ As a result of the newly established anti-Jewish decrees, numerous acts which had not been punishable prior to the occupation became punishable through ghettoization—in other words, under such catastrophic circumstances everyday practices became criminal acts.

on Hunger Carried out in the Warsaw Ghetto in 1942], [https://cbj.jhi.pl/documents/855132/12/\(2020-08-10\)](https://cbj.jhi.pl/documents/855132/12/(2020-08-10)).

⁵³ The term “Great Deportations,” or *Großaktion Warschau*, describes the mass deportations and murder of the Jews from the Warsaw ghetto that took place between the Jewish holidays of Tisha B’Av and Yom Kippur in the summer of 1942, namely 22 July and 21 September 1942. It is estimated that between 254,000 and 265,000 Jews were deported to the extermination camp in Treblinka, located about 80 km southeast of Warsaw. EDWARD KOPÓWKA, PAWEŁ RYTEL-ANDRIANIK: *Dam im imię na wieki: Polacy z okolic Trebłinki ratujący Żydów [I Will Give Them a Name Forever: Poles from the Vicinity of Treblinka Saving Jews]*, Warszawa 2011.

⁵⁴ LIVNAT, p. 82.

⁵⁵ WOLFGANG SCHEFFLER, HELGE GRABITZ: *Der Ghetto-Aufstand Warschau 1943 aus der Sicht der Täter und Opfer in Aussagen vor deutschen Gerichten*, München 1993, p. 134.

⁵⁶ *Ibid.*

⁵⁷ GRABOWSKI, “Jewish Criminality and Jewish Criminals,” p. 122.

⁵⁸ *Ibid.*

The Prosecution of Criminal Conduct in the Warsaw Ghetto through the Nazi Court System

In the case of sabotage or misconduct against the German laws and newly passed decrees, the occupiers threatened to take the “harshest measures”⁵⁹ against anyone, including the Polish and ethnic German population, who failed to comply with any of the newly implemented orders.⁶⁰ The variety of the specifically anti-Jewish measures throughout the years of occupation can be illustrated by a statement by Governor-General Frank from August 1942, claiming that “if the 1.2 million Jews do not die of hunger, the implementation of the anti-Jewish regulations will help facilitate it.”⁶¹ These regulations soon encompassed most areas of public and private life, and the German legal authorities over time considered them legally binding and applicable in criminal proceedings and verdicts.

Meanwhile, the administration of the General Government continued to introduce new measures, regulations, and punishments, even as the need for a revised criminal code became apparent within the ranks of the district chiefs in the General Government. In the early days of the occupation, German Courts and Special Courts were established in most larger cities in order to officially prosecute any criminal behavior in violation of the German Criminal Code from before the war, the *Reichsstrafgesetzbuch*. In relation to this development, Frank made noted the following notation in his diary after a secret working meeting on the security situation on 31 May 1940: “The General Government is, so to speak, in a latent state of emergency. This derives from the fact that we have maintained police tribunals, which, as an executive body, can carry out immediate legal enforcement.”⁶²

The Establishment of German Courts and Special Courts in Warsaw

The German Court in Warsaw—like the Special Court in Warsaw—was established on the basis of an order issued by Frank on 19 February 1940. The courts, as well as the German lawyers and judges, were supervised by Ludwig Fischer, because their judgment was final and no objection could be raised by Jewish or Polish defendants. These courts were originally established for the purpose of providing Reich and ethnic Germans with legal protection under German law enforced by German judicial authorities. Since, according to Frank, the race of the offender was crucial for the investigating legal entities, he required that these Germans should be provided with the protection of the German Criminal Code and German defense lawyers—even though they re-

⁵⁹ Polen, in: JÄCKEL/LONGERICH, p. 1134.

⁶⁰ Cf. *ibid.*

⁶¹ *Ibid.*, p. 1138.

⁶² PIOTROWSKI, p. 393.

side outside the borders of the Reich.⁶³ However, the German Courts in the General Government not only heard cases of ethnic Germans, but also of Polish and Jewish defendants, if these had committed crimes that constituted a “threat to the well-being of the German nation”⁶⁴ or violated the rights of Reich or ethnic Germans.⁶⁵

According to the vocabulary of the German judiciary, residents of German descent had to be distinguished from the Jewish population. These were citizens who had lived within the borders of the German Reich from 1937, were of “German or related blood,”⁶⁶ and had the right to vote for the Reichstag on 15 September 1935, the day the Nuremberg Laws went into effect.⁶⁷ “The rights of ethnic Germans”⁶⁸ were outlined in a decree published on 30 November 1942 as follows:

“§ 1 People of German descent (those who hold a pass for people of German descent according to the decree from 29 October 1941) are subject [...] to the German Criminal Code and jurisdiction in the General Government. [...]

§ 3 (1) The certification of the people of German descent will be carried out according to German law and through German registrars.”⁶⁹

The German Courts were charged with implementation of the new regulations, which the local authorities, first and foremost Hans Frank, introduced on an ongoing basis. In addition, these courts also processed a wide variety of criminal offenses related to other recently introduced decrees, which were therefore considered as new legally binding regulations. With the establishment of the German Courts and the Special Courts, the occupiers had created a two-tier legal system, since the pre-war Polish courts were largely retained in the municipalities. The latter mainly negotiated common pre-war offenses, considered to be less of a threat to the occupation and German authorities.⁷⁰ However, all German court entities were under the constant supervision of the respective district administration.⁷¹

⁶³ Cf. GRABOWSKI, “Jewish Criminality and Jewish Criminals,” p. 118.

⁶⁴ *Ibid.*, p. 118.

⁶⁵ Cf. *ibid.*, p. 120.

⁶⁶ “Deutsch oder anverwandten Blutes,” in: *Verordnungsblatt für das Generalgouvernement*, 1942-10-12, p. 7.

⁶⁷ CALEL PERECHODNIK: *Bin ich ein Mörder? Das Testament eines jüdischen Ghetto-Polizisten*, Berlin 1999, p. 306.

⁶⁸ *Verordnungsblatt für das Generalgouvernement*, 1942-11-20, p. 3.

⁶⁹ *Ibid.*

⁷⁰ GRABOWSKI, “Jewish Criminality and Jewish Criminals,” p. 128.

⁷¹ Bericht des Chefs des Distrikts Warschau vom 10. Februar 1941 (as in footnote 26), p. 62.

Special Courts in the General Government

In contrast to the German Courts, Special Courts drew on a legal tradition dating back to the Weimar Republic, where they had been first founded and practiced throughout the 1920s. After the National Socialists' seizure of power, Special Courts were increasingly maintained to prosecute primarily political crimes. Their proceedings were characterized by a severe restriction of the rights of the defendants, for there was no possibility to appeal their verdicts. Already in the early 1930s, they had issued particularly severe verdicts in the Reich for even minor offenses, most of which included long prison terms, imprisonment in concentration camps or penitentiaries, and even death penalties. The Nazis continued to establish Special Courts from March 1933 onwards on the basis of the "Decree of the Reich Government on the Formation of Special Courts."⁷² Their area of responsibility was defined by the *Reichsgesetzblatt*—a collection of laws of the Reich—as follows:

“§ 1 (2) The Special Courts are courts of the country. [...]

§ 2 The Special Courts are responsible for the crimes and offenses described in the decree of the Reich President for the protection of the people and the state from 28 February 1933 and the decree to ward off insidious attacks against the government of the national survey of 21 March 1933. [...]

§ 6 Unless otherwise stipulated, the provisions of the Code of Criminal Procedure and the Law on the Constitution of Courts apply accordingly to the respective proceedings.”⁷³

In contrast to the courts-martial, which decided between either a death penalty or an acquittal, Special Courts were similar to the People's Court of the 1930s. Above all, they made political judgments intended to send a clear warning to the defendants and the general public.⁷⁴ Courts-martial were also introduced in the General Government but were primarily commissioned with civil offenses.⁷⁵

The legal jurisdiction of the Special Courts was steadily expanded throughout the period of National Socialism, which in turn was accompanied by the tightening of their verdicts.⁷⁶ In the early stages, their primary task—the “protection of the people and the state” and the “defense against insidious attacks”⁷⁷—was made very clear. Jews were later subject to particularly severe punishment in the ghettos, since the occupiers perceived them to be a

⁷² ERICA A. JOHNSON: *Nazi Terror: The Gestapo, Jews, and Ordinary Germans*, New York 1999, p. 172.

⁷³ *Reichsgesetzblatt* (1933), part I, p. 138. All translations are the author's.

⁷⁴ KRAMER, p. 151.

⁷⁵ MAXIMILIAN BECKER: *Mitstreiter im Volkstumskampf: Deutsche Justiz in den eingegliederten Ostgebieten 1939–1945*, Berlin—Boston 2014, p. 283.

⁷⁶ *Verordnung der Reichsregierung über die Zuständigkeit der Sondergerichte*, 1934-12-20, in: *Reichsgesetzblatt* (1934), part I, p. 4.

⁷⁷ Both quotes: *Reichsgesetzblatt* (1933), part I, p. 138.

large but politically preventable threat. For this reason, a further regulation regarding the jurisdiction of the Special Courts was adopted by Adolf Hitler and the Reich Minister of Justice, Franz Gürtner, on 20 December 1934: “The Special Courts are responsible for combating political riots according to the ‘Law against Treacherous Attacks on the State and Party and for the Protection of Party Uniforms’ from 20 December 1934.”⁷⁸ The *Reichsgesetzblatt* outlined those acts, which would be considered “insidious acts”, as follows:

“§ 1 (1) Anyone who intentionally makes or spreads an untrue or grossly distorted claim of a factual nature that is suitable to seriously harm the Reich, the National Socialist German Workers’ Party [NSDAP] or any of its structures. [...]

§ 2 (1) Anyone who makes publicly hateful, inflammatory, or condescending statements about personalities of the state or the NSDAP, about their orders or the institutions they created, which are capable of undermining the people’s trust of the political leadership. [...]

§ 3 (1) Anyone who wears or carries the uniform or badge of the NSDAP or its branches when committing or threatening to commit a criminal offense without being entitled to do so as a member of the NSDAP or its branches. [...]

§ 4 (1) Anyone who commercially produces, keeps, sells, or otherwise circulates uniforms, uniform parts, fabrics, flags, or badges of the NSDAP, its branches, or its affiliated associations without the permission of the Reich Treasurer of the NSDAP.”⁷⁹

The number of Special Courts in the Reich rose rapidly after the onset of the war. By the end of 1942, 74 Special Courts were in operation, and they were primarily responsible for hearing criminal offenses within the territory of the Reich. Their legal investigations and proceedings were typically very quick, for there were no routine preliminary investigations or longer periods of court summon for the accused. The body of the evidence, as well as the calling of witnesses, were subject to the German personnel of the Special Courts. Since objections against their verdicts could not be raised, only the state prosecutor was able to file a nullity complaint, which, however, often resulted in an even more severe verdict.⁸⁰

In the General Government, Special Courts dealt with crimes that had the potential to harm the regime or the local Nazi authorities; offenses connected to fraud or the economy— including illegal trade and theft; not wearing the armband with the Star of David; spreading rumors; and bribing or insulting police officers. Around 1,700 original files from the Special Court in Warsaw survived the war years, of which only ten resulted in an acquittal. For the month of June 1942, the transfer office in Warsaw described the conditions at the Special Courts and their affiliated State Prosecution offices as follows: “In

⁷⁸ CORNELIA SCHMITZ-BERNING: *Vokabular des Nationalsozialismus*, Berlin—New York 1998, p. 302.

⁷⁹ *Reichsgesetzblatt* (1935), part I, p. 135.

⁸⁰ JOHNSON, p. 536.

the month of June 1942 alone, 414 new charges were raised. This is a significant increase over the usual average of around 150 cases. In 253 cases, Jewish defendants were sentenced to death—any appeals of pardon were rejected.”⁸¹

To further discuss the practice of the German juridical body in the General Government and the Special Courts in specific, a meeting was held in Warsaw in the early days of ghettoization. German court and police personnel, as well as representatives of the Jewish ghetto administration, discussed future proceedings against “Jewish crime.” A solution—not necessarily an agreement—was quickly put into practice. As of October 1941, up to 50 death sentences were being pronounced each week against Jews who were apprehended without an armband on the Aryan side.⁸² For example, on 12 November 1941, 17 death sentences were pronounced for illegally leaving the ghetto.⁸³ The administration of the Warsaw district reinforced the need for a rigid condemnation of such offenses and the seriousness of leaving the ghetto without a valid permit. A report from November 1941 states: “In regard to the Jewish laws, the judges lack an awareness of the political message they send. This applies both to the law on the identification of Jews leaving the ghetto unauthorized, as well as for accommodating Jews outside the ghetto walls.”⁸⁴ Therefore, the commander of the Security Police (*Sicherheitspolizei*) and the Security Service (*Sicherheitsdienst*) in the General Government, Bruno Streckenbach, recommended that “death sentences should be handed down on an ongoing basis.”⁸⁵ As an eventual result of this declaration, more than 700 executions were carried out in May 1943 alone, at a time when 46 offenses were punishable by death.⁸⁶

The occupiers used a variety of reports to provide information about their occupying politics and the implementation of the introduction of the Final Solution. In the context of criminal prosecution, these were drafted, composed, and distributed primarily by Heinz Auerswald, Hans Frank, or Ludwig Fischer. Many of them also entailed information on whether the newly introduced measures were successfully carried out and which results they registered. For example, Auerswald published a notice on 17 November 1941, in which he announced that eight Jews had been sentenced to death for leaving the Warsaw ghetto illegally.⁸⁷

⁸¹ APW, 482, 1568: Berichte des Gouverneurs des Distrikts Warschau an die Regierung des Generalgouvernements. Jahrgang 1942, Situation im jüdischen Wohnbezirk, p. 99.

⁸² GRABOWSKI, “Jewish Criminality and Jewish Criminals,” p. 125.

⁸³ MAREK EDELMAN: Das Ghetto kämpft, Berlin 1931, p. 40.

⁸⁴ Yad Vashem Archives (YVA), O.21: Weichert Collection about Jewish Welfare in the Generalgouvernement, Berichte aus dem Generalgouvernement für die Zeit vom 1. bis 30. November 1941, Verwaltung und Justiz, p. 30.

⁸⁵ Ibid.

⁸⁶ INGO MÜLLER: Hitlers Justice: The Courts of the Third Reich, Cambridge, MA 1991, p. 77.

⁸⁷ JAN GUMKOWSKI; ADAM RUTKOWSKI: Treblinka, Warszawa 1962, p. 50.

Moreover, orders and decrees were issued by Frank, Fischer, and Auerwald, or the heads of the Jewish Council—namely, in the case of the Warsaw ghetto, Adam Czerniaków—and distributed throughout the ghetto in the form of large posters or news bulletins. These documents reveal how the ghetto residents were continually shaped and influenced by the will of the occupiers. These decrees were a continuous reaction of the regime to events within the ghettos. For example: When Frank recognized that a disproportionate number of residents were surviving the first year of ghettoization even though the food shortages imposed on the ghetto should have resulted in much higher death rates,⁸⁸ measures were taken to prosecute acts such as smuggling, trading food rations, or claiming ration cards of already deceased relatives more rigorously and pass more severe court verdicts. This obviously had enormous implications for survival, given the fact that up to 80 percent of the food consumed in the ghetto had been previously smuggled there.⁸⁹ This observation will be further clarified in the following analysis of court proceedings in the Special Court and the German Court in Warsaw throughout the years of occupation.

Cases of Smuggling and Illegal Trade

In regard to the German Courts, the act of smuggling was understood to include all offenses in connection with illegal trips beyond the ghetto borders, since such actions were ultimately related to the eventual act of smuggling. Grabowski also draws attention to the fact that the “semi-legal language”⁹⁰ of the occupiers and the responsible court staff blurred such differences between committed crimes. Proceedings from the German Court in Warsaw report about offenses such as “the absence of the armband with the Star of David,”⁹¹ encountering Jews “outside the Jewish residential area,”⁹² or Jews who “tried to hide their racial origin.”⁹³ Even though these offenses were classified differently within the German legal sphere, they were punished with equal court verdicts.⁹⁴ For example, in March 1942, Chaim Wośławski was sentenced to a five months imprisonment because he had illegally stayed on the “Aryan side” “for the purpose of obtaining food.”⁹⁵ In June 1941, Raca Krajsman was

⁸⁸ PIOTROWSKI, p. 41.

⁸⁹ Cf. Polen, in: JÄCKEL/LONGERICH, p. 1134.

⁹⁰ GRABOWSKI, “Jewish Criminality and Jewish Criminals,” p. 120.

⁹¹ USHMM, RG-15.268, file 1067, p. 13.

⁹² *Ibid.*, file 1289, p. 5.

⁹³ *Ibid.*, file 1101, p. 72.

⁹⁴ GRABOWSKI, “Jewish Criminality and Jewish Criminals,” p. 120.

⁹⁵ USHMM, RG-15.268, file 1497, p. 14.

sentenced to a fine of 200 Złoty,⁹⁶ which could be replaced by a 40-day prison sentence. She was detained outside the ghetto walls without her armband while attempting to transport food across the ghetto borders.⁹⁷ In the latter case, Krajsman had been caught by Jewish police officers, who had confiscated her smuggled goods. This might explain the reduced court verdict for Krajsman in comparison to Woślawski, however, both verdicts were based on paragraph 3 of the “Decree on the Labeling of Jews from 23 November 1939.”⁹⁸

The court documents of the Special Court in Warsaw, on the other hand, do not use the term “smuggling” but refer instead to “the attempt to move materials into the Jewish district”⁹⁹ or “carrying food past the ghetto borders.”¹⁰⁰ Cases of illegal trade were, however, brought to the Special Court on a regular basis, in which smuggled goods had been traded outside the permitted marketplaces or the prices of these goods had been forced up. In January 1941, the Jewish merchant Emil Nirenberg was sentenced to six months in prison and a fine of 100 Złoty for selling pickle “at a higher price than in pre-war times.”¹⁰¹ A particularly harsh verdict was pronounced against four Jews in April 1942: Abram Borowski, Icek Lejwand, Abram Grynbaum, and Icek Lugener were charged with the illegal transfer of cows into the ghetto, with the addition that they had collectively “hoarded products essential to the vital needs of the ghetto population and thereby maliciously endangered the coverage of their needs.”¹⁰² After a year of investigations, during which the defendants sat in custody, they were sentenced to five years of penitentiary prison because of “smuggling into the Jewish residential area must be stopped, as this could result in considerable damage to the quantities of essential products as they are withdrawn from the general population.”¹⁰³ Borowski, the main defendant, received a considerably more severe verdict because the court members considered him to have been the initiator of the smuggling activities and to have helped facilitate it on a larger scale. As a result, he was sentenced to eight years in a penitentiary. The jury stated that they regarded this punishment as a “necessary atonement”¹⁰⁴ for committing such crimes. Usually,

⁹⁶ The average income of a Polish butcher was 162 Złoty per month. See, Archiwum Państwowe w Radomiu [State Archive in Radom], 522: Sad Specjalny w Radomiu [Special Court in Radom], file 69, p. 8.

⁹⁷ Cf. USHMM, RG-15.268, file 1769, p. 7.

⁹⁸ ŻIH, 22.Ring.II/323, 02.1942, Mitteilungsblatt für den jüdischen Wohnbezirk in Warschau, nr 1 z 1.02.1942, p. 2; USHMM, RG-15.268, file 1497, p. 10; *ibid.*, file 1769, p. 9.

⁹⁹ USHMM, RG-15.480, file 356, p. 99.

¹⁰⁰ *Ibid.*, file 334, p. 9.

¹⁰¹ *Ibid.*, file 1834, p. 16.

¹⁰² *Ibid.*, file 645, p. 172.

¹⁰³ *Ibid.*, p. 178.

¹⁰⁴ *Ibid.*

the time spent in custody was deducted from the overall prison sentence, however, “because the defendants were in no way confessional at the trial,”¹⁰⁵ their twelve months in custody were not considered in their overall sentence. The final verdict was based on paragraph 1 of the “Decree on the Wartime Economy” from 4 September 1939,¹⁰⁶ according to which offenses were handled as a political and economic threat. On the contrary, Nirenberg’s verdict was based on paragraph 302 of the German Criminal Code, which punished crimes which undermined local economic competition.¹⁰⁷

In a direct comparison between both courts, it can be concluded that cases of illegal trade were punished with greater severity by the Special Court than acts of smuggling before the German Court. The last case cited above displays another intriguing characteristic regarding German jurisdiction in the General Government: in late April 1942, the court personnel decided on a verdict of eight years in a penitentiary prison, at a time when the Final Solution had been decided upon for several months and would be implemented just three months later. Announcing such long prison sentences reveal an inconsistency within the occupying force’s politics and future vision. Even though they were actively planning the deportation of the non-essential residents of the Warsaw ghetto and the eventual mass murder of the European Jewry, they sentenced this resident to a prison sentences that was to last until April 1950. Thus, such extensive prison verdicts against Jewish defendants arguably contradicted the core politics of the Nazi occupation of the General Government.

Illegally Entering or Leaving the Ghetto and Its Consequences

In many cases, the offense of leaving the ghetto unauthorized or without a valid permit was linked to two additional criminal offenses: illegally staying on the “Aryan side” of a city and not wearing the armband with the Star of David. Therefore, such cases were brought before German legal entities on a near daily basis and were the most often prosecuted offenses. The respective verdicts of the German Courts usually consisted of two to three months of imprisonment.¹⁰⁸ Icek and Moszek Borenstein were sentenced to two and three months in prison respectively because they were caught on the Aryan side of Warsaw without a valid permit or the armband with the Star of David. Their verdict was announced in January 1941. Judka Erlich was sentenced to four months in prison in April of the same year for the same offense. In her

¹⁰⁵ Ibid.

¹⁰⁶ Ibid., p. 172.

¹⁰⁷ Ibid., file 1834, p. 16.

¹⁰⁸ See, for example, the court verdict against Uszer Baran on 11 March 1941, in: USHMM, RG-15.268, file 1588, p. 9; Danuta Artman in April 1941, *ibid.*, file 1590, p. 13; Rechla Judelejb in March 1941, *ibid.*, file 1799, p. 8.

hearing, she stated that she had lost her armband on her way to work, however, these circumstances were not considered in the eventual verdict.¹⁰⁹ In later cases, several verdicts amounted to a fine of 150 Złoty, even though the same offenses were committed, for example in the trials of Bin Zyś in July 1941,¹¹⁰ Sura Braun in February 1942,¹¹¹ and Hersz Fuchs in June 1942.¹¹² In all cases the defendant could also serve a prison sentence of 30 days instead of paying the 150 Złoty fine. In more severe circumstances, when the illegal stay outside the ghetto walls was connected with an additional offense, the case was handled cumulatively. For example, in March 1941, Icek Gelbach was sentenced to five months in prison because he was detained while not wearing an armband or having a valid permit and had been using the tram and carrying smuggled goods on his way back into the ghetto.¹¹³ All the verdicts mentioned here were solely based on paragraph 3 of the “Decree on the Labeling of Jews,”¹¹⁴ which originally called for a fine of 150 Złoty. However, many verdicts called for longer imprisonments, sometimes even in combination with a 150 Złoty fine as seen in the proceedings against Erlich and Gelbach.¹¹⁵

Leaving the ghetto unauthorized was punished more severely over the course of the occupation, for the occupiers classified illegal trips into the “Aryan side” of the city as a political offense during the later years of the war. In the early months of the Warsaw ghetto, a fine of 150 Złoty was introduced against any misconduct, such as against Hersz Goldberg in May 1941,¹¹⁶ Gitla Herszkowicz in May 1941,¹¹⁷ and Dankowska Ruchla in April 1941.¹¹⁸ However, even higher verdicts were released although no harsher circumstances were invoked in the indictment. In May 1941, Chana Danziger was sentenced to a fine of 300 Złoty because she was caught leaving the ghetto without a valid permit.¹¹⁹ Moreover, in all of the mentioned proceedings the German legal personnel stated that any evidence was “dispensable”¹²⁰ as part of the indictment. These court verdicts were based on Fischer’s decree from 24 November 1939, concerning the “Labeling of Jews in the Warsaw

¹⁰⁹ Ibid., file 1289, p. 12.

¹¹⁰ Ibid., file 2093, p. 21.

¹¹¹ Ibid., file 2094, p. 27.

¹¹² Ibid., file 2153, p. 9.

¹¹³ Ibid., file 2147, p. 6.

¹¹⁴ ŻIH, 22.Ring.II/323, 02.1942, Mitteilungsblatt für den jüdischen Wohnbezirk in Warschau, nr 1 z 1.02.1942, p. 2

¹¹⁵ USHMM, RG-15.268, file 1289, p. 12; *ibid.*, file 2147, p. 23.

¹¹⁶ Ibid., file 1893, p. 4.

¹¹⁷ Ibid., file 1892, p. 6.

¹¹⁸ Ibid., file 1780, p. 6.

¹¹⁹ Ibid., file 1645, p. 8.

¹²⁰ Ibid.

District,¹²¹ which stated that “all Jews over the age of twelve who live in the Warsaw district must wear a visible mark outside of their own home¹²² and that any misconduct will be “severely punished.”¹²³

The offense of leaving the ghetto unauthorized was often directly tied to not wearing the “prescribed armband with the Zion star¹²⁴ in order to pass as Polish on the “Aryan side.” Maria Kukulska, for example, was sentenced to a fine of 150 Złoty in November 1941 because she had been approached on the “Aryan side” of Warsaw without an armband, based on paragraph 3 of the Decree on the Labeling of Jews.¹²⁵ However, the Special Courts punished the offense of not wearing the armband more strictly than the German Courts, especially at the onset of occupation. In April 1941, a partial sentence of six months in prison was issued against Sura Honiksmann based on paragraphs 3 and 113 of the German Criminal Code because she was caught without an armband among a larger group.¹²⁶ In contrast, proceedings before the Special Court in Warsaw, such as against Paulina Grenbacz¹²⁷ and Ela Krost¹²⁸ in December 1941, were concluded with a fine of 150 Złoty. Thus, German court verdicts against the so-called “armband offense¹²⁹ were neither treated uniformly nor were they based on the same legal footing.

The offense of “leaving the Jewish residential area without authorization¹³⁰ was assigned a higher priority through a decree by Ludwig Fischer on 15 October 1941. From this point forward, Jews who left the ghetto without a valid permit were subject to the death penalty. The respective proceedings were heard by the Special Courts, which were soon overloaded by steadily increasing “Jewish matters of crime.”¹³¹ Within the next few months, the State Prosecution Office in Warsaw had already received 774 criminal charges on the basis of this offense, 405 of which had resulted in the pressing of charges against the defendant. At that point, and only 82 verdicts had been pronounced.¹³²

Convictions issued by the German Court and the Special Court in particular for this violation reveal major inconsistencies and contradictions within

¹²¹ YVA, O.53: Ludwigsburg USSR Collection, file 104, decree from 1939-11-24, p. 4.

¹²² Ibid.

¹²³ Ibid.

¹²⁴ USHMM, RG-15.480, file 339, p. 3.

¹²⁵ Ibid., p. 17.

¹²⁶ Ibid., file 414, p. 21.

¹²⁷ Ibid., file 340, p. 23.

¹²⁸ Ibid., file 341, p. 14.

¹²⁹ Ibid., file 339, p. 2.

¹³⁰ APW, 482, 1570: Berichte des Gouverneurs des Distrikts Warschau an die Regierung des Generalgouvernements, Jahrgang 1941, p. 12.

¹³¹ ŻIH, 22.Ring.II/323, 02.1942, Mitteilungsblatt für den jüdischen Wohnbezirk in Warschau, nr 1 z 1.02.1942, p. 2

¹³² Ibid.

the German judicial system. Proceedings were initiated by both juridical entities on the basis of Fischer's decree, in spite of the responsibility for these proceedings having been originally delegated solely to the Special Courts. Moreover, both courts continued treating such misconduct, despite Fischer's decree, almost identically, with short imprisonments or relatively modest monetary fines. In June 1942, the Special Court in Warsaw sentenced Herz Fuchs to a fine of 150 Złoty or a one-month prison sentence—at a time when Fischer's decree had been in effect for over seven months.¹³³ The same can be observed in proceedings against Maria Kukulska,¹³⁴ Paulina Grenbacz,¹³⁵ or Ela Krost,¹³⁶ all of whom were sentenced to one month in prison or a fine of 150 Złoty between November and December 1941. Their verdicts were passed on the basis of paragraph 3 of the "Decree on the Labeling of Jews"¹³⁷ with no reference to Fischer's decree from October 1941.

However, Heinz Auerswald published an announcement on 17 November 1941 to clarify that the Special Courts would henceforth apply Fischer's decree in any cases of illegal border crossings and that death penalties will be enforced.¹³⁸ This announcement can be read as a direct threat on the part of the occupiers toward the Jewish population and as a declaration that the German court system was strictly working in accordance with their newly introduced decrees. However, this development is not traceable in the files of either the Special Court or the German Court in Warsaw—any official reasoning for this development and the changes within their decision-making was not clarified by the court jury. In addition, Sakowska points out that from early 1942 on, the relevant court verdicts were not based on Fischer's decree, since the SS police officials were ordered to fire "at anyone who approached the ghetto walls."¹³⁹ Proceedings in both courts were still opened regarding unauthorized border crossings throughout 1942 and 1943.

The introduction of the death penalty can be regarded as another reason why verdicts of the Special Courts were not uniform. On 16 December 1941, Herbert Hummel, who at the time acted as the vice governor of the Warsaw district under Ludwig Fischer, stated the following details "on the practical

¹³³ USHMM, RG-15.268, file 2153, pp. 9, 11.

¹³⁴ USHMM, RG-15.480, file 339, p. 17.

¹³⁵ *Ibid.*, file 340, p. 23.

¹³⁶ *Ibid.*, file 341, p. 14.

¹³⁷ ŻIH, 22.Ring.II/323, 02.1942, *Mitteilungsblatt für den jüdischen Wohnbezirk in Warschau*, nr 1 z 1.02.1942, p. 2.

¹³⁸ ŻIH, 23.Ring.II/143 *Warszawa-getto*, *Der Kommissar für den jüdischen Wohnbezirk in Warschau. Komisarz, Obwieszczenie z 17.11.1941 r. o wykonaniu wyroku śmierci na 8 Żydach za przekroczenie granicy getta* [Commissioner, Announcement of 17 November 1941 of the Execution of the Death Sentence for 8 Jews for Crossing the Ghetto Border].

¹³⁹ RUTA SAKOWSKA: *Menschen im Ghetto: Die jüdische Bevölkerung im besetzten Warschau 1939–1943*, Osnabrück 1999, p. 57.

impact of the death penalty for illegally leaving the ghetto”¹⁴⁰ at a government meeting in Warsaw:

“So far, despite the addition of a third chamber in Warsaw, only 45 death sentences have been passed, only eight of which have been executed, since the Board of Pardons and Parole made the final decision on each case individually. Moreover, more than 600 requests for convictions are pending. This is because the proceedings are too lengthy and are burdened with too many formalities and need to be simplified.”¹⁴¹

Hummel’s report highlights the difficulties of the practical implementation of the orders of the occupiers, issued purely on the bounds of racial oppression, and reveal that not enough consideration had been given to the additional administrative processes that the introduction of the death penalty would create.¹⁴² The decree on the use of firearms became effective on 10 December 1942 and permitted the immediate execution of Jews who were caught outside of the ghetto walls without a valid permit—no further criminal investigation was required in such cases.¹⁴³ The German Court files reveal, however, that this decree was rarely applied in their investigations or final verdicts.

The Spreading of Rumors, Derogatory Language, and Bribery as Criminal Offenses

The Special Courts were the only German legal entities responsible for prosecuting those who spread rumors in ghettos. Even though such cases were seldomly opened, two incidents about the spreading of rumors or “derogatory remarks”¹⁴⁴ made about the occupiers will be briefly outlined. The reason why such cases were prosecuted and why they posed a threat to the occupying forces was described by the commissioner of the Warsaw ghetto. As part of a weekly report from March 1942, he described the “situation in the Jewish residential district”¹⁴⁵ in relation to the rise of rumors as follows:

“In the Jewish residential district, news from the General Government and the eastern regions were met with greater resonance. People still talk about the supposedly difficult situation of the Jews in Litzmannstadt. In addition to the high in-

¹⁴⁰ PIOTROWSKI, p. 343.

¹⁴¹ Ibid.

¹⁴² The fact that the Special Court in Warsaw was constantly understaffed was regularly stated by Hans Frank in government meetings throughout 1941 and 1942. Ibid., pp. 243, 251, 321.

¹⁴³ A report had to be submitted by the German court personnel on the 30th of each month, listing all Jews who had been shot according to this decree. However, the number of victims soon exceeded the bureaucratic capacities, GRABOWSKI, *The Polish Police*, p. 19.

¹⁴⁴ USHMM, RG-15.480, file 29, p. 17.

¹⁴⁵ APW, 482, 1568, p. 17.

flation, it is particularly the alleged relocations that are causing great concern in Warsaw. In connection with the allegations that the respective persons had been resettled with an unknown destination, a persistent rumor has circulated that they have been gassed. [...] All these rumors are in the foreground of attention and fill the population with the greatest concern and worry.”¹⁴⁶

As a result, the occupiers took any occurrences of new rumors or derogatory comments about them much more seriously in order to control tensions within the ghettos and avoid outbreaks of panic at any cost. The subsequent court verdicts were thus relatively severe and clearly intended to send a warning to the defendant and anyone else who might mimic his actions. In June 1941, Zajwel Szpindel was sentenced to nine months in prison for “making a derogatory remark about the German national emblem and the German occupation of the General Government.”¹⁴⁷ In December 1940, Selik Glattstein was sentenced to a fine of 1,000 Złoty for listening to an unauthorized radio station and “spreading information with the potential to harm the Third Reich.”¹⁴⁸ Both verdicts were based on paragraph 185 of the German Criminal Code, which punished “insult, libel, and slander”¹⁴⁹ but was applied differently in the respective proceedings, albeit without further explanations.

Bribing a police officer was another offense that was regularly tried by the German Court in Warsaw. During a house search in December 1940, goods were found in Chaskiel Miernik’s house for which a registration was required, specifically, fur coats or hats. When German police officials confiscated these goods, Miernik was accused of having offered them 600 Złoty in exchange for being permitted to keep his belongings.¹⁵⁰ After one and a half years of investigation, he was eventually sentenced to five months in prison in June 1942.¹⁵¹ Similar proceedings were initiated against Szulim Grünspan, who had tried to bribe a Jewish policeman when trying to re-enter the ghetto. In May 1941, he was sentenced to six months in prison. Both verdicts were based on paragraph 333 of the German Criminal Code, in the latter case in combination with paragraph 164, which punished granting advantages and wrong suspicion.¹⁵²

The Special Court in Warsaw, in contrast, punished bribery much more severely: in most cases, the minimum sentence was one year in prison, whereas in the German Courts, most verdicts did not impose prison sentences longer than five months. In August 1941, an SS official detained Ludwik Kon on the “Aryan side” of Warsaw without his armband and ordered him to follow him to the German police station. The defendant allegedly tried to “promise the

¹⁴⁶ Ibid.

¹⁴⁷ USHMM, RG-15.480, file 29, p. 4.

¹⁴⁸ Ibid., file 106, p. 29.

¹⁴⁹ Ibid., file 29, p. 19.

¹⁵⁰ USHMM, RG-15.268, file 1529, p. 9.

¹⁵¹ Ibid., p. 110.

¹⁵² Ibid., file 925, p. 81.

police official such benefits that would have resulted in a breach of his duty.”¹⁵³ As a result, Kon was sentenced in February 1942 to two years and six months in prison.¹⁵⁴ In March 1941, Sura More was sentenced to a year in prison because she had tried to bribe her way out of the Warsaw ghetto.¹⁵⁵ In all these cases the German judges declared that “bribing German state officials violates German interests”¹⁵⁶ and therefore had to be “severely punished.”¹⁵⁷ Cases involving defendants’ attempts to bribe their way in or out of the ghetto were perceived as legal violations and a threat to German interests on the basis of paragraph 333 of the German Criminal Code.¹⁵⁸ However, verdicts also differed depending on the person to whom the bribe was offered: Kon had attempted to bribe an SS official, whereas Grünszpan bribed a Jewish policeman. Kon was sentenced to two and a half years in prison, Grünszpan to only six months. Arguably, court verdicts were particularly high if representatives of the occupiers were involved, especially in regard to the sentencing pattern of Special Courts.

Lastly, more common crimes, such as theft or physical assault, were processed on a continuous basis by the German Court and Special Court in Warsaw. A weekly report of the Jewish council in Warsaw from 24 March 1942 remarked on the increasing number of thefts in the ghetto: “Thefts in the ghetto are increasing to an alarming extent. Everything gets stolen: banisters, entire stairs, doors, steps. Door handles are unscrewed in broad daylight.”¹⁵⁹ Among many others, Fajwel Zajdelman was sentenced to three months in prison for stealing clothing from an ethnic German in August 1940.¹⁶⁰ During the first one and a half years of the Warsaw ghetto’s existence, hardly any cases of theft or physical assault were brought before the German Court and the Special Court. Among the few cases heard by the Special Court was that against Abraham Markowiecki in April 1941. He had been caught by a Polish railroad worker trying to steal window straps from a car and inciting other Jews to commit a similar offense. He was found guilty of “railway theft and sabotage” and should therefore receive a severe court sentence to “avoid further thefts.”¹⁶¹ Within just three months, he was sentenced to four months in

¹⁵³ Ibid., file 378, p. 18.

¹⁵⁴ Ibid., file 106, p. 39.

¹⁵⁵ Ibid., p. 25.

¹⁵⁶ USHMM, RG-15.480, file 338, p. 12.

¹⁵⁷ Ibid.

¹⁵⁸ USHMM, RG-15.268, file 106, p. 18. These offenses related in particular to the ghetto border and its non-recognition, which was expressed from the perspective of the occupying power through the unauthorized crossing of the borders. BETHKE, pp. 283–291.

¹⁵⁹ APW, 22: Der Kommissar für den jüdischen Wohnbezirk in Warschau, Getto – Mauer 1941–42, p. 20.

¹⁶⁰ USHMM, RG-15.268, file 66, p. 38.

¹⁶¹ USHMM, RG-15.480, file 104, p. 5.

prison.¹⁶² The verdicts against Zajdelman and Markowiecki were based on paragraph 242 of the Criminal Code, which punished theft with either monetary fines or imprisonment.¹⁶³ Neither the Special Court nor the German Court in Warsaw prosecuted cases of murder committed by Jews,¹⁶⁴ nor did they open investigations against Jews who forged money. They did, however, prosecute Jews who forged official documents—for example, *Kennkarten*, which were identity documents introduced by the occupiers with which Jews could conceal their Jewish origin. Most of these cases were opened by the Special Court in Warsaw and were punished with penitentiary sentences of up to five years.¹⁶⁵

From these legal proceedings in front of Special Courts and German Courts, it can be concluded that the decrees introduced by the occupiers had assumed legal status within the Nazi jurisdiction in the General Government. According to Tokarzewska, however, these newly created regulations could not create a suitable legal system for everyday life in the Jewish ghettos because they were “not worth anything” in certain situations due to the “innumerable ways to circumvent these rules.”¹⁶⁶ This instable, “porous system”¹⁶⁷ thus offered new possibilities—which were vital for most of the ghetto inhabitants to enhance their living circumstances. In regard to this development, Chaim Kaplan—who lived in the Warsaw ghetto and later perished in the Treblinka extermination camp—noted the following thoughts in his diary: “The system is based on a lack of system. The guiding principle is the annihilation of a certain number of Jews every night.”¹⁶⁸ As a result, an arbitrariness prevailed in the way these regulations punished violations and even compliance. One such example came to light from the Lublin ghetto:

“Recently (in December 1940) it was announced in Lublin that Jews should not greet the Germans by taking off their hats. Posters were distributed on this matter. However, some Jews were still beat when they did not greet Germans, whereas other German officials, when greeted by Jews, would drag them to the posters and show that greetings are forbidden.”¹⁶⁹

¹⁶² Ibid.

¹⁶³ Ibid, p. 20.

¹⁶⁴ Throughout the period of Nazi occupation, 20 Polish defendants and six Ethnic German defendants were prosecuted on the basis of murder or homicide.

¹⁶⁵ USHMM, RG-15.480, file 567, pp. 17–20. Moritz Auerbach and Alfred Lewinsonn were sentenced to five years in a penitentiary because of forging *Passierscheine*, which were curfew passes necessary to be allowed to pass the ghetto borders.

¹⁶⁶ Both quotes: TOKARZEWSKA, p. 121.

¹⁶⁷ Ibid.

¹⁶⁸ CHAIM KAPLAN: *Scroll of Agony: The Warsaw Diary of Chaim A. Kaplan*, New York 1973, p. 338.

¹⁶⁹ EMANUEL RINGELBLUM: *Kronika getta warszawskiego* [The Warsaw Ghetto Chronicles], Warszawa 1983, p. 232.

These observations exemplify the predicament of the Jewish communities in the General Government; they were faced with an “insurmountable dilemma and remained powerless.”¹⁷⁰ especially in the first years of ghettoization. The work and behavior of the local legal authorities and police were all the more vital, as well as any support from the non-Jewish population of the respective city and organized resistance—a factor that would eventually apply during the armed uprisings, such as those in Warsaw¹⁷¹ or Częstochowa.¹⁷² Furthermore, Christoph Dieckmann and Babette Quinkert conclude that it was “only through the support of these external factors that there could be any chance of survival.”¹⁷³

Conclusion

This article has aimed to show how the increasingly tightly knit network of anti-Jewish regulations affected and criminalized everyday life and acts within Jewish ghettos in the General Government. First and foremost, ghettoization limited the freedom of movement for its residents, ultimately turning most forms of interaction with the outside world into criminal acts. The occupiers thus continuously published new decrees in response to developments in the ghettos, further limiting the sphere of action for the Jewish communities and steadily pushing them into a legal gray area.

The occupiers quickly established a dense network of German Courts and Special Courts, operated by German lawyers and judges, who worked on the basis of their own legal regulations. Their sentencing patterns lacked consistency and stringency, even when men and women were charged for similar criminal offenses. Through the establishment of their own jurisdiction and courts in their occupied space, the Nazi regime was able to create a façade of legality, while giving the Jewish population rules to adhere to but no rights to protect them. At the same time, however, the German legal sphere created a veneer of protection and normalcy by prosecuting crimes committed within

¹⁷⁰ SAUL FRIEDLÄNDER: Überlegungen zur Historisierung des Nationalsozialismus, in: DAN DINER (ed.): *Ist der Nationalsozialismus Geschichte?*, Frankfurt am Main 1987, pp. 34–50, here pp. 45–46.

¹⁷¹ The Warsaw Ghetto Uprising lasted from 19 April until 16 May 1943. Cf. BERNARD MARK: *Powstanie w Getcie Warszawskim* [The Warsaw Ghetto Uprising], Warszawa 1976; TOMASZ STRZEMBOSZ: *Akcje zbrojne podziemnej Warszawy 1939–1944* [Armed Actions in Underground Warsaw], Warszawa 1983.

¹⁷² The Częstochowa Ghetto Uprising broke out on 25 June 1943 and lasted for five days. JOSEPH TENENBAUM: *Underground: The Story of a People*, New York 1952, pp. 111–124.

¹⁷³ CHRISTOPH DIECKMANN, BABETTE QUINKERT: Einleitung, in: CHRISTOPH DIECKMANN, BABETTE QUINKERT (eds.): *Im Ghetto 1939–1945: Neue Forschungen zu Alltag und Umfeld*, Göttingen 2009 (Beiträge zur Geschichte des Nationalsozialismus, 25), pp. 9–29, here p. 24.

and among ghetto inhabitants. These developments reveal what John Smith points out in his analysis of the Assyrian law, that “no community could exist without some degree of [...] justice”¹⁷⁴—meaning that the Nazi regime excluded the Jewish communities from receiving just treatment under their laws.

The legal records from the German Court and Special Court in Warsaw allow a novel insight into and reflection on the lives of those living in the General Government under Nazi-imposed laws. By their sheer volume and geographic scope, these records enable new avenues of research, for they contain hitherto hidden experiences of members of society whose stories have thus far remained largely unheard. Their cases go beyond the relations between the Nazi regime and their treatment of Jews or Poles as conditioned by the war or Nazi propaganda, but also the relations to their fellow countrymen. These proceedings need to be more carefully considered and researched to understand the complexities of the Nazi regime’s multi-faceted instrumentalization of law and justice. Moreover, bearing in mind how a dictatorship can use and misuse the rules of law not only in their own territory, but arguably in an even more brutal way in their occupied space, can reveal the importance and significance of the German jurisdiction for the Third Reich as a whole—even though the regime was, arguably, characterized by several diversions in their ideologies and eventual practice as Ernst Fraenkel has pointed out in his study on the “Dual State.”¹⁷⁵

These hundreds and thousands of legal decisions, inevitably, lay in the hands of German judges who were transferred to occupied territories to conduct proceedings based on newly formed and unlawful decrees. What turned them into men willing to commit war crimes and render the juridical sphere a political instrument to advance the destructive Nazi regime still remains heavily under researched. But, as Stephan Lehnstaedt so poignantly points out, “these men and women of the German administration made a significant contribution to the implementation of the Holocaust, challenged, promoted, and largely organized it themselves. Without them, the genocide of the Jews [and Poles] would not have been possible.”¹⁷⁶

Lastly, and why the study of Jews prosecuted by the Nazi legal sphere during World War II is so crucial, is Hans Wüllenweber’s claim in his book about Special Courts during the National Socialist period. He states that the

¹⁷⁴ FREDERICK WILLIAM GEERS: *The Assyrian Code*, in: JOHN M. POWIS SMITH (ed.): *The Origin and History of Hebrew Law*, Clark, NJ 2005, pp. 223–245, here p. 232.

¹⁷⁵ ERNST FRAENKEL: *The Dual State: A Contribution to the Theory of Dictatorship*, New York et al. 1941.

¹⁷⁶ STEPHAN LEHNSTAEDT: “Ostnieten” oder Vernichtungsexperten? Die Auswahl deutscher Staatsdiener für den Einsatz im Generalgouvernement Polen 1939–1944, in: *Zeitschrift für Geschichtswissenschaft* 9 (2007), pp. 701–721, here p. 701.

Holocaust made “criminal justice against Jews largely superfluous.”¹⁷⁷ However, as this article has attempted to clarify, the German judicial system supported the Holocaust in the General Government with its patterns of severe prosecution, especially against Jewish defendants, while imprisoning them in ghettos for years before their eventual annihilation.

¹⁷⁷ HANS WÜLLENWEBER: *Sondergerichte im Dritten Reich: Vergessene Verbrechen der Justiz*, Frankfurt am Main 1990, p. 24.

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