

The Danger of “Moral Sabotage”: Western Prisoners of War on Trial for Homosexual Relations in Nazi Germany

RAFFAEL SCHECK

Colby College

IN MAY 1944 A GERMAN MILITARY TRIBUNAL (*Feldgericht*) accused ten British prisoners of war (POWs) of having performed homosexual acts with a sixteen-year-old German boy at the Heydebreck chemical factory, not far from Auschwitz. According to the prosecutor, the POWs had lured the boy into a nearby forest and bribed him with chocolate and cigarettes. Two of the prisoners confessed, but the seven others who attended the trial denied the charges (one POW could not appear because of illness). The boy, called as a witness, identified three of the denying prisoners without hesitation but was tentative about the others. The three POWs the boy had recognized received punishments ranging from one to one and a half years in a penitentiary (*Zuchthaus*), which in German law was considered a harsher punishment than prison. The two prisoners who had confessed each received one year in prison, and the others were acquitted for want of evidence. These relatively mild sentences may seem surprising, given what we know about the draconian punishments that homosexuals suffered under the Third Reich. But as this article will demonstrate, trials against POWs for homosexual acts occurred in a complex field of tensions created by the desire of the Nazi authorities to protect German society from homosexuality, clashing with their often very low opinion of the German partners involved with the POWs and with foreign policy considerations. Given that the trials against POWs followed the legal procedures defined by the 1929 Geneva Convention on POWs, they occurred in an international limelight. The German foreign ministry sent the military tribunal sentence to the protecting power (normally a neutral country) of the convicted POW, and the POW's defense attorney usually sent the protecting power his own impressions of the tribunal process. These documents were then forwarded to the POW's home government.

The Geneva Convention placed all POWs under the laws valid in the army of the detaining state.¹ In Germany during World War II, this meant that the entire Nazi legislation applied to POWs from countries that had ratified the Geneva Convention, including France, Belgium, Britain, and the United States. Because Nazi Germany did not apply the Geneva Convention to Polish and Soviet POWs, infractions by Poles and Soviet citizens usually led to their transfer to concentration camps or to their execution by the SS (Schutzstaffel) without a trial. POWs from western countries, however, had the right to stand in front of a German military tribunal under the oversight of a neutral power and with the assistance of a defense attorney and a translator.² Some of these military tribunals dealt with violations of Nazi Germany's laws against homosexual acts.

An analysis of the trials reveals that the highest priority of military judges was to prevent homosexual POWs from contaminating the German population, especially youth. This concern fit into a larger framework of perceptions of the foreign POW as a sexual predator who aimed to carry out what a Nazi pamphlet called "moral sabotage": an effort to undermine the German family and German morality, particularly through sexual relations with German women.³ The international oversight of Nazi military tribunals laying charges against western POWs, however, motivated military judges to avoid the impression that German authorities were only concerned about German victims of POW crimes. They therefore sought to impose equal punishments on homosexual contacts whether or not the POW was involved with a

¹ Geneva Convention Relative to the Treatment of Prisoners of War, art. 45, in *Encyclopedia of Prisoners of War and Internment*, ed. Jonathan Vance (Santa Barbara, CA: ABC-CLIO, 2000), 508–27, here 517. All subsequent references to articles of the Geneva Convention will refer to this text.

² Poland had ratified the Geneva Convention, but Nazi officials refused to honor it with respect to Polish POWs because they argued that Poland did not exist as a state anymore. The Soviet Union had not signed the Geneva Convention, but Soviet POWs would have been covered by the 1907 Hague Regulations, which Nazi Germany ignored. For an overview of these issues, see Rüdiger Overmans, "Die Kriegsgefangenenpolitik des Deutschen Reiches 1939 bis 1945," in *Das Deutsche Reich und der Zweite Weltkrieg*, vol. 9/2, ed. Jörg Echternkamp (Munich: Deutsche Verlags-Anstalt, 2005), 729–875.

³ The term "moral sabotage" (*Sittensabotage*) comes from the booklet *Kriegsgefangene*, edited by the OKW (High Command) in 1939 and sent to the government of Oldenburg on 13 November 1939; a copy of the pamphlet is in Best. 135 B, Niedersächsisches Landesarchiv Oldenburg. On POW relations with German women, see Raffael Scheck, "Collaboration of the Heart: The Forbidden Love Affairs of French Prisoners of War and German Women in Nazi Germany," *Journal of Modern History* 90, no. 2 (2018): 351–82; Cornelia Usborne, "Female Sexual Desire and Male Honor: German Women's Illicit Love Affairs with Prisoners of War during the Second World War," *Journal of the History of Sexuality* 26, no. 3 (2017): 454–88; Birthe Kundrus, "Forbidden Company: Romantic Relationships between Germans and Foreigners, 1939 to 1945," *Journal of the History of Sexuality* 11, no. 1/2 (2002): 201–22; and Raffael Scheck, *Love between Enemies: Western Prisoners of War and German Women in World War II* (Cambridge: Cambridge University Press, forthcoming in November 2020).

German or a non-German. With respect to Nazi ideas about homosexuality, however, the military judges were inconsistent. While they shared the Nazi notion that considered that “congenital” homosexual offenders needed to be punished more harshly than “casual” offenders (heterosexual men believed to have succumbed to a momentary temptation), their sentencing practice was contradictory. As was the practice in tribunals against German soldiers, the judges did consider sexual need after prolonged abstinence as a mitigating factor, but they rarely made a distinction between “congenital” and “casual” homosexual offenders.⁴ Finally, the military judges showed little concern about homosexual acts between POWs unless they threatened order and discipline, an attitude that was similar to trials against German soldiers accused of homosexual offenses, as David Raub Snyder has shown.⁵ My argument also builds on the conclusions of Matthias Reiss about German POWs in the United States, who were more likely to face ostracism and attacks from comrades than prosecution for violating America’s own laws against homosexual acts.⁶

I will first summarize the Nazi approach to homosexuality and the legal framework and then explain the situation of western POWs in German captivity and analyze a series of representative cases involving French, British, and Belgian POWs, including some soldiers from the French and British colonies.

THE NAZI APPROACH TO HOMOSEXUALITY

In the early years of the movement, Nazi attitudes toward homosexuals appeared ambivalent, since the homosexuality of key leaders of the paramilitary SA (Sturmabteilung), particularly Ernst Röhm, was well known and created the mistaken impression among critics that Nazism had an intrinsic connection to homosexuality.⁷ A year after the murder of the SA leaders during the so-called Night of the Long Knives on 30 June 1934, however, the Nazi regime tightened the laws against homosexuality, and SS chief Heinrich Himmler, a notorious homophobe, became the main authority on Nazi antihomosexual policy. Yet scholars have noted that a multilayered

⁴ Unlike in the far more numerous cases of trials for forbidden relations with women, the Nazi authorities never tried to standardize punishments for POWs accused of violating the homosexuality laws. The numbers were too small; there were only a few hundred compared to at least twenty thousand trials involving forbidden relations between western POWs and German women.

⁵ David Raub Snyder, *Sex Crimes under the Wehrmacht* (Lincoln: University of Nebraska Press, 2007), 107.

⁶ Matthias Reiss, *Controlling Sex in Captivity: POWs and Sexual Desire in the United States during the Second World War* (London: Bloomsbury, 2018), 106–38, esp. 128. Reiss focuses on same-sex activities among POWs, not between POWs and civilians.

⁷ Richard Plant, *The Pink Triangle: The Nazi War against Homosexuals* (New York: Holt, 1986), 15–16.

approach persisted with respect to both Germans and foreigners. Men who committed a few homosexual infractions under the influence of alcohol or who were seduced after prolonged abstinence were thought capable of rehabilitation through hard work and punishment. On the other hand, Nazi judges argued that men they considered to be “incorrigible” homosexuals had to be removed from the people’s community (*Volksgemeinschaft*). They could face transfer to a concentration camp and in some cases execution. Homosexuals were frequently abused by guards and fellow prisoners in the concentration camps, where they had the highest death rate among non-Jewish prisoners.⁸ As historian Geoffrey Giles has demonstrated, Nazi homophobia rested on four specific and somewhat inconsistent beliefs. First, Nazi policy reflected the widespread prejudice that homosexuality was culturally degenerate and offensive. Second, the Nazis rejected homosexuality on the ideological grounds that it had a corrosive influence on “manly” virtues and therefore threatened gender hierarchies. Third, on a political level, Nazi leaders also feared that homosexuals would foster alternative ties of loyalty by being more committed to each other than to the nation or to the Führer. Finally, they feared that such relationships represented a threat to the German birth rate, which had declined particularly rapidly after the death of two million German soldiers in World War I.⁹

In his study of the Nazi persecution of homosexuals in occupied countries, Giles found that some German officials believed that homosexual activity among non-Germans might be desirable because it would weaken Germany’s enemies, as long as it occurred in relative isolation. Others, however, advocated harsh persecution because they worried that tolerance for homosexuality in the occupied territories might “infect” Germans or related “Germanic” people.¹⁰ But, as Giles admits, there is very little information on the Nazi prosecution of homosexual acts between foreigners. Although this topic is not the focus of this essay, more research into it is certainly required, but that research would have to consider the complicated legal patchwork in Nazi-occupied Europe, where local laws often coexisted with decrees issued by the German occupation authorities. As the case studies will demonstrate, however, the two contradictory approaches identified by Giles with respect to the treatment of non-German civilians in occupied countries are also evident in trials against POWs.

⁸ Plant, 167.

⁹ Geoffrey J. Giles, “The Institutionalization of Homosexual Panic in the Third Reich,” in *Social Outsiders in Nazi Germany*, ed. Robert Gellately and Nathan Stoltzfus (Princeton, NJ: Princeton University Press, 2001), 237–39. See also Günther Grau and Claudia Schoppmann, eds., *Hidden Holocaust? Gay and Lesbian Prosecution in Germany 1933–1945*, trans. Patrick Camiller (Chicago: Fitzroy Dearborn, 1995), 88–91, 103–6.

¹⁰ Geoffrey J. Giles, “The Nazi Persecution of Homosexuals in Occupied Countries: A Lenient Exception to Normal Justice against Non-Germans?,” in *Eradicating Differences: The Treatment of Minorities in Nazi-Dominated Europe*, ed. Anton Weiss-Wendt (Newcastle upon Tyne: Cambridge Scholars, 2010), 44, 50, 55.

THE LEGAL FRAMEWORK

Homosexual acts fell under Paragraph 175 of the German law code. On 28 June 1935 the Nazi parliament sharpened Paragraph 175 and introduced a new paragraph, Paragraph 175a, dealing with homosexual acts involving violence or the threat of violence and with acts involving a partner younger than twenty-one. The new formulation of Paragraph 175 significantly broadened the scope of punishable acts by speaking vaguely of “sex offense” rather than “unnatural sex act,” by which the earlier version of the law had meant oral, anal, or thigh intercourse. Any kind of self-gratification in the presence of another man now counted as a sex offense, and evidence of an act resembling intercourse was no longer required. The new Paragraph 175a allowed up to ten years in a penitentiary, which was a harsher penal institution than prison and carried a more severe stigma. This subsection of the law applied to four types of offenders:

1. a male who, with violence or the threat of present violence to body and soul or life, compels another male to commit a sex offense with him or to allow himself to be abused for a sex offense;
2. a male who, by abusing a relation of dependence based upon service, employment, or subordination, induces another male to commit a sex offense with him or to allow himself to be abused for a sex offense;
3. a male over twenty-one years of age who seduces a male person under twenty-one years to commit a sex offense with him or to allow himself to be abused for a sex offense; and
4. a male who publicly commits a sex offense with males or allows himself to be abused by males for a sex offense or offers himself for the same.¹¹

Paragraph 175a also set the age of consent for males at age twenty-one, much higher than for females (age fourteen and, under certain conditions, sixteen). It also conflated homosexuality with pederasty, reflecting the beliefs of leading Nazis such as Himmler.¹² This association made

¹¹ Descriptions of the law and its effects can be found in “(a) The National Socialist Revision of Section 175 of the Penal Code,” in Grau and Schoppmann, *Hidden Holocaust?*, 64–66; Plant, *Pink Triangle*, 206–7; John Fout, “Homosexuelle in der NS-Zeit: Neue Forschungsansätze über Alltagsleben und Verfolgung,” in *Nationalsozialistischer Terror gegen Homosexuelle: Verdrängt und ungesühnt*, ed. Burkhard Jellonnek and Rüdiger Lautmann (Paderborn: Schöningh, 2002), 167; and Andreas Pretzel and Gabriele Roßbach, eds., *Wegen der zu erwartenden hohen Strafe . . . Homosexuellenverfolgung in Berlin, 1933–1945* (Berlin: Verlag rosa Winkel, 2000), 339.

¹² Burkhard Jellonnek, *Homosexuelle unter dem Hakenkreuz: Die Verfolgung von Homosexuellen im Dritten Reich* (Paderborn: Schöningh, 1990), 328; Geoffrey J. Giles, “Why Bother About Homosexuals? Homophobia and Sexual Politics in Nazi Germany,” J. B. and Maurice C. Shapiro Annual Lecture, 30 May 2001, United States Holocaust Memorial Museum Center for Advanced Holocaust Studies, Washington, DC, 2002, 4. See also Diederik F. Janssen, “*Uranismus Complicatus*: Scientific-Humanitarian Disentanglements of Gender and Age Attractions,” *Journal of the History of Sexuality* 27, no. 1 (2018): 107.

drastic measures against alleged homosexuals easier to justify to the larger public.¹³

The persecution of homosexuals intensified over the course of the war. A July 1940 ordinance from Himmler stipulated that every man who had “seduced” more than one male partner had to be transferred to a concentration camp indefinitely, a punishment that was often tantamount to a death sentence, given the atrocious treatment of homosexual camp inmates.¹⁴ A new law promulgated on 4 September 1941 imposed the death penalty on persons deemed to be habitual criminals or dangerous sex offenders in cases where “the protection of the *Volksgemeinschaft* or the need for just atonement require it.”¹⁵ Although the law applied to a much broader spectrum of offenses, it allowed the execution of homosexuals considered “incorrigible,” reflecting the important Nazi distinction between “congenital” and “casual” homosexuals. In November 1941 Hitler, in consultation with Himmler, ordered the death penalty for members of the SS and police who had committed homosexual acts.¹⁶ When western prisoners of war came into closer contact with German and non-German civilians (beginning in late 1940), they therefore faced Nazi antihomosexual policies in their sharpest form.

THE PRISONERS OF WAR

During World War II Germany captured over two million western soldiers, including 1.8 million French, nearly 200,000 Belgian, 164,000 British, and 95,000 American servicemen.¹⁷ The vast majority of the western prisoners were held on the territory of the Reich, although Hitler decreed in July 1940 that the non-Europeans, including 90,000 soldiers from the French Empire, had to be kept in German-occupied France.¹⁸ Regardless of their location, POWs stood under the German military law code, which placed them, like German soldiers, under all laws valid in Germany (Paragraphs 3

¹³ Giles, “Homosexual Panic,” 235–36; and Geoffrey J. Giles, “The Persecution of Gay Men and Lesbians during the Third Reich,” in *The Routledge History of the Holocaust*, ed. Jonathan C. Friedman (London: Routledge, 2011), 394.

¹⁴ Giles, “Homosexual Panic,” 248.

¹⁵ Gottfried Lorenz, *Todesurteile und Hinrichtungen wegen homosexueller Handlungen während der NS-Zeit: Mann-männliche Internetprostitution und andere Texte zur Geschichte und zur Situation der Homosexuellen in Deutschland* (Berlin: Lit Verlag, 2018), 13.

¹⁶ Grau, *Hidden Holocaust?*, 193–94.

¹⁷ The Flemish soldiers from the Belgian army (a little more than half) were quickly released in 1940, albeit with many inconsistencies. Overmans, “Die Kriegsgefangenenpolitik,” 776.

¹⁸ As I have explained in detail elsewhere, the application of this decree was inconsistent, especially with respect to Indian soldiers from the British army. See Raffael Scheck, *French Colonial Soldiers in German Captivity during World War II* (Cambridge: Cambridge University Press, 2014), 53–54.

and 158 of the German military law code).¹⁹ Western prisoners therefore could be arrested and put on trial for the same offenses as Germans. For example, many POWs were surprised to find that a joke about Hitler or doubts about a German victory could lead to months or years in a military prison or even a penitentiary.²⁰ POWs caught poaching, stealing during a bombing raid, or accidentally damaging production facilities could be punished under the draconian German laws that had been promulgated at the beginning of the war. This situation also applied to antihomosexual legislation.

Nazi propaganda explicitly stigmatized foreign POWs. On the eve of World War II, the German High Command warned regional and local magistrates about POWs in a series of pamphlets and instructions. These documents suggested that POWs held on German soil during World War I had exploited the goodwill and compassion of civilians, especially women, to carry out sabotage and espionage, to spread defeatist rumors, and to undermine German morality. Through their amorous relations with German women, foreign POWs had allegedly sought to destabilize the German family and to pollute the German race, carrying out a sinister “effort to consciously bastardize the German people, disturb its family life, and destroy German custom.—Moral sabotage [*Sittensabotage*]!”²¹

In the eyes of Nazi officials, POW contacts with German civilians had contributed to the revolution of November 1918, the “stab in the back” that right-wing mythology interpreted as the cause of the German defeat.²² The Nazi regime therefore severely punished contacts between POWs and civilians and launched a relentless propaganda effort warning Germans, especially women, of the dangers of “fraternization” with enemy prisoners. Everywhere, the authorities put up posters with the message “Feind bleibt Feind!” (the enemy remains the enemy).²³ An order by the chief of the German High Command, Wilhelm Keitel, dated 10 January 1940, stated: “Prisoners of war are most strictly forbidden to approach German women

¹⁹ Georg Dörken and Werner Scherer, *Das Militärstrafgesetzbuch und die Kriegssonderstrafrechtsverordnung*, 4th ed. (Berlin: Verlag Franz Vahlen, 1943), 7, 152, 57.

²⁰ See Raffael Scheck, “Western Prisoners of War Tried by Court Martial for Insults to the *Führer* and Criticism of Nazi Germany,” *Journal of Contemporary History* (forthcoming in print, but available online at <https://journals.sagepub.com/eprint/S3G9DNBMENCETJBIP94H/full>); Scheck, “The Treatment of Western Prisoners of War in Nazi Germany: Rethinking Reciprocity and Asymmetry,” *War and History* (forthcoming).

²¹ *Kriegsgefangene*, 16. See also Walter Kallfelz, “Strafbarer Umgang mit Kriegsgefangenen,” *Deutsches Recht* 10, no. 43 (1940): 1813. For a description of the concerns about affairs of German women with POWs in World War I, see Lisa M. Todd, *Sexual Treason in Germany during the First World War* (Cham: Palgrave Macmillan, 2017), 107–16, 123–27.

²² For an overview, see George S. Vascik and Mark R. Sadler, eds., *The Stab-in-the-Back Myth and the Fall of the Weimar Republic: A History in Documents and Visual Sources* (London: Bloomsbury, 2016).

²³ *Feind bleibt Feind*, pamphlet in Best. 135, Niedersächsisches Landesarchiv Oldenburg.

or girls without authorization or to enter into communication with them.”²⁴ While this order referred only to POW contacts with “German women and girls,” Nazi laws severely restricted all civilian contact with POWs. The “Complementary Decree for the Protection of the German Will to Resist,” promulgated on 25 November 1939, stipulated that any relations with prisoners of war that “crudely violate the healthy feeling of the Volk” would be punished with prison sentences and, in severe cases, with the penitentiary. The maximum penalty was fifteen years in the penitentiary.²⁵ An additional decree signed by Hitler on 11 May 1940 even stated that all communication with a POW that went beyond what was strictly necessary for work was forbidden to *jedermann* (everybody).²⁶ Propaganda and the texts of legal prosecution made no significant distinction between POWs from countries that had signed an armistice and were German-occupied and those from countries still at war with Germany.

While the Nazi authorities were most concerned about POW relations with German women, propagandistic fears about POWs perpetrating moral sabotage also arose in reference to homosexual relations between foreigners and Germans. This propaganda followed the model of the four common homophobic beliefs described by Giles in that it focused on how homosexual relations between POWs and Germans promoted decadence, undermined “manly” virtues, and distracted German men from their duty to procreate. Such relationships were also thought to undermine German men’s loyalty to the *Volksgemeinschaft* and to therefore weaken national solidarity in wartime—a concern also frequently voiced in trials against POWs for forbidden relations with German women.²⁷

The Nazi effort to treat the POWs as pariahs coincided with a rapid increase in their contact with civilians when they were moved from big camps to smaller work detachments in order to compensate for a shortage of guards after the German attack on the Soviet Union on 22 June 1941. Ninety-five percent of French and Belgian POWs had been placed into these smaller work detachments by the end of 1940, and the methods of guarding them were relaxed in the summer of 1941.²⁸ German authorities took this risk because France and Belgium were occupied and had collaborationist governments or state administrations. British POWs were comparatively

²⁴ Thomas Werther, “Kriegsgefangene vor dem Marburger Militärgericht,” in *Militärjustiz im Nationalsozialismus: Das Marburger Militärgericht*, ed. Michael Eberlein (Marburg: Geschichtswerkstatt Marburg, 1994), 255.

²⁵ “Verordnung zur Ergänzung der Strafvorschriften zum Schutz der Wehrkraft des deutschen Volkes. Vom 25. November 1939,” *Reichsgesetzblatt*, no. 238, 30 November 1939, p. 2319, sec. 4; and Kallfelz, “Strafbarer Umgang mit Kriegsgefangenen,” 1813.

²⁶ “Verordnung über den Umgang mit Kriegsgefangenen. Vom 11. Mai 1940,” *Reichsgesetzblatt*, no. 86, 17 May 1940, p. 769.

²⁷ Scheck, *Love between Enemies*, 115–16, 380, 385–86.

²⁸ Yves Durand, *Les prisonniers de guerre dans les Stalags, les Oflag et les Kommandos, 1939–1945* (Paris: Hachette, 1987), 79–94, 241–46.

more strictly guarded because Britain remained in the war, but in 1943 even British rank-and-file prisoners received more freedom as a consequence of worsening personnel shortages.²⁹ The vast majority of western POWs, who were working on farms, in public services, in small businesses, or in factories, were therefore in daily contact with civilians. Many prisoners lived and worked as the only POW on a farm, and they were surrounded by the farmer and farm workers. They were guarded only in the sense that an older soldier on a bicycle would stop by once a month to check whether the prisoner was still there and whether he or the farmer had any complaints. This everyday reality of rank-and-file working prisoners in Nazi Germany is not well known, because scholarly literature and popular accounts about POWs all too often draw from the testimonies of officers, who did not have to work and therefore remained in the camps.³⁰ The loose guarding and relative freedom of many POWs meant more opportunities for breaking the law, especially in contacts with civilians.

The total number of POWs ordered to stand in front of German military tribunals for homosexual relations is hard to estimate because the records are incomplete and often in bad material condition. I found approximately one hundred cases involving French, Belgian, and British POWs, with French cases representing the majority.³¹ Most charges for violating Nazi anti-homosexual laws concerned contacts between POWs and civilians under age twenty-one. The accused POW had to stand in front of a German military tribunal, which was chaired by a military judge and two assistants, one of whom had to be the same rank as the accused—in the case of most POWs, a rank-and-file soldier. The judgment was decided after secret deliberation

²⁹ "Auflockerung der Bewachung kf. gef. Franzosen," memo of the German High Command (OKW), 3 October 1941, Best. 135 B, Niedersächsisches Landesarchiv Oldenburg; and *Handbuch für Arbeitskommandoführer Wehrkreis XIII*, F9, 3644, Archives nationales (AN), Pierrefitte-sur-Seine.

³⁰ Scheck, *Love between Enemies*, 44–50. Popular memory in the United States and Britain is dominated by popular films such as *The Great Escape*, *The Colditz Story*, and *Stalag Luft* and by the British television drama *Colditz*, which all focus on officers. See Simon Paul MacKenzie, *The Colditz Myth: British and Commonwealth Prisoners of War in Nazi Germany* (Oxford: Oxford University Press, 2004), 1–25.

³¹ I found these files in French, Belgian, British, Swiss, American, Austrian, and German archives while researching heterosexual love relations between western POWs and German women. The French records at the AN in Pierrefitte-sur-Seine are extremely rich but in such bad material condition that they are difficult to consult. I have gained access to around 10 percent of military tribunal records against French POWs in Pierrefitte and Berlin (where the Foreign Office has a much smaller collection), or 1,750 out of a total of over 17,000 preserved files. Some files were lost in the war. The Belgian court-martial records are very incomplete and scattered. For the British prisoners on trial, I used the records of the Swiss legation in Berlin (the protecting power agency), housed at the Schweizerisches Bundesarchiv (BAR) in Bern. Although incomplete, this collection contains close to five hundred trial records, of which two dozen concern homosexual acts. For American POWs, I have not yet seen trial records for homosexual acts, but Americans came to Germany late in the war and were more isolated from civilians.

and a majority vote among the three judges, although the presiding judge played the dominant role because he was usually the only member of the tribunal with legal training.³² Another military judge served as prosecutor, and the prisoner had the assistance of a translator and a local defense attorney, who had to be approved by the protecting power.³³ At the beginning of the war, the protecting power for the French, British, and Belgian POWs was the United States, but at Hitler's request, the collaborating Vichy government agreed to take over the protection of its own prisoners in December 1940. Marshal Pétain appointed the blinded World War I veteran Georges Scapini as ambassador for the POWs, and Scapini set up offices in Paris and Berlin.³⁴ When the United States entered the war in December 1941, Switzerland took over the protection of the British and later the American POWs, while Belgium set up its own POW commission, similar to the Scapini Mission. In what follows, I will present a number of representative cases and consider the factors influencing military judges in order to evaluate how they balanced worries regarding the potential corruption of German youth with international concerns.

ABDELKADER BEN RAHMAN AND ABDELLAH RAHIMI

Some of the first German military tribunals held to enforce Paragraphs 175 and 175a against POWs concerned Algerian French POWs. As mentioned, most non-European POWs from the French army were held in France, although as POWs they stood under German law. Similar to French POWs in Germany, the colonial prisoners often experienced lax guarding and had considerable unsupervised contact with civilians. In the cases of ben Rahman and Rahimi, who both had to stand trial in October 1941, this relative freedom was allegedly abused to perpetrate the rape or attempted rape of French boys.³⁵ Both cases reflected German and to some extent French prejudices about sexual practices of non-European men, specifically North African Arabs. The judges recognized the notion that sex between men and boys was more widespread in North Africa as a mitigating factor in one of the cases but not in the other. The two tribunals took place in a context of intense German pro-Islamic propaganda, which started in the summer of 1940 and which aimed to stoke North African resentment against the British and French colonial powers while winning over collaborators.

³² *Kriegsstrafverfahrensordnung (KStVO)*, 17 August 1938, published in *Reichsgesetzblatt*, no. 147, 26 August 1939, pp. 1457–76, secs. 9 and 62; for a summary of rules for military tribunals, see Snyder, *Sex Crimes*, 39–40.

³³ Geneva Convention, art. 62.

³⁴ Raffael Scheck, "The Prisoner of War Question and the Beginnings of Collaboration: The Franco-German Agreement of 16 November 1940," *Journal of Contemporary History* 45, no. 2 (2010): 364–88, here 374–77.

³⁵ For legal reasons, I have changed all the last names of the POWs and their partners while trying to preserve the regional and ethnic flavor of the names.

Moreover, the fact that the victims were French underlined the stakes of Franco-German collaboration.³⁶

The first case, against Abdelkader ben Rahman, was held in front of the German military tribunal in Rouen (Normandy) on 6 October 1941. Ben Rahman, who worked at a plant nursery, had lured the eight-year-old grandson of the shop owners into a shed and tried to convince him to engage in anal intercourse in return for a payment of twenty francs. The boy defended himself and started to cry. During the ensuing brawl, ben Rahman ejaculated and then let go of the boy. In his defense, he claimed that he had been aroused when the boy took down his pants after being stung by nettles. The boy, however, claimed that he had only been stung while running away because the prisoner had pulled down his pants, and the judges believed him. The tribunal acknowledged the traumatizing effects on the boy but also expressed empathy for the prisoner, stressing that he had been drafted against his will and that he must have felt strong sexual need after having already spent fifteen months in captivity. The judges argued that homosexual acts involving boys were less objectionable in North Africa than in Europe, and they therefore imposed the relatively mild sentence of two years in prison, sparing ben Rahman from the penitentiary, which would have been a typical sentence for an attempted rape.³⁷

A few weeks later, the German military tribunal of Nancy (Lorraine) considered the case of Abdellah Rahimi. On 7 August 1941 Rahimi was cleaning the barracks in Longuyon in northeastern France when a ten-year-old French boy approached him and asked him for a piece of bread. Rahimi told the boy that he would give him bread and cigarettes if he followed him to a nearby forest. There, Rahimi took out a knife and anally raped the boy while holding his mouth shut with one hand. The facts were not disputed, because Rahimi confessed, confirming the information the boy had given to the police. On 30 October 1941 the military tribunal sentenced Rahimi to death on the basis of the law of 4 September 1941, arguing that his crime had terrorized the local population and required the death penalty as atonement. Aside from temporary anal pain, the boy had suffered no physical damage, but the judges argued that he had suffered psychological trauma, and, reflecting the common belief that homosexuality was contagious, they speculated that the experience might have turned the boy into a homosexual.³⁸ Their judgment also stated that Rahimi had “offended the dignity of the European race in the most ignominious manner.”³⁹ Although the crime had occurred before the promulgation of the law of 4 September

³⁶ Raffael Scheck, “Nazi Propaganda toward French Muslim Prisoners of War,” *Holocaust and Genocide Studies* 26, no. 3 (2012): 447–77.

³⁷ Feldurteil, Rouen, 6 October 1941, R 40889, Politisches Archiv des Auswärtigen Amtes, Berlin (PAAA).

³⁸ Giles, “Why Bother,” 8; Giles, “The Nazi Persecution,” 50.

³⁹ Feldurteil, Nancy, 30 October 1941, R 40912, PAAA.

1941, the judges followed a precedent established with other harsh Nazi wartime laws by allowing retrospective application.

German military law did not grant the defendant and his attorney the right of appeal, but all sentences required confirmation by a higher military authority—in Rahimi's case, the German military commander in France (*Militärbefehlshaber in Frankreich*). Article 66 of the Geneva Convention also stipulated in cases of the death penalty that the execution could only take place three months after communication of the confirmed sentence to the protecting power of the POW, which in the case of Vichy France was the Scapini Mission.

Rahimi's sentence was challenged by various interested parties. His defense attorney, Maître Laverny, immediately requested that the German military commander refuse to confirm the sentence, arguing that the death sentence would be understandable for a European, "but for an *indigène* [a non-European from the colonies] homosexuality does not have the unnatural character that the European man ascribes to it." Laverny therefore demanded commutation of the death sentence into a penitentiary sentence. In the German penal system, the penitentiary was the typical punishment for rape, and Paragraph 175a specifically recommended a penitentiary sentence up to ten years for homosexual rape. An official from the military commander's office responded to Laverny's request with the argument that a penitentiary sentence would not seem harsh to an Arab because he would feel privileged to be housed and fed. The German official compared the case to an imagined cannibal from Fiji who might be doing the right thing according to local law but who would still have to be sentenced for manslaughter under German law. No matter what the mores of the convict, he stressed, "it is important to defend Europeans against savages." The letter pointed out, moreover, that Rahimi had accepted the death sentence with "an indifferent smile."⁴⁰ On 12 January 1942 the German High Command informed the German Foreign Office that the military commander in France had confirmed the judgment and asked the Foreign Office, which handled communications between the High Command and the protecting power, to notify the Scapini Mission.⁴¹

The German Foreign Office, however, expressed serious legal and political reservations and refused to communicate the sentence to the French. Alfred Lautz, the legal expert in the Foreign Office, argued that Rahimi was sentenced under a law that was meant to protect the German people, not the French people. Lautz also feared that the publication of the sentence would have undesirable foreign policy consequences for Germany. In particular, he objected to the passage about the offense to "the dignity of the European race" because, he argued, "French racial policy has so

⁴⁰ Laverny to Scapini, 31 October 1941 and 1 June 1942, case file number 123, F9, 2560, AN.

⁴¹ OKW to Auswärtiges Amt, 12 January 1942, R 40904, PAAA.

far aimed to erase racial differences and to overcome distinctions between people of different color.” Moreover, Lautz believed that this passage would invite lamentable conclusions about a future German racial policy in the colonies and harm German colonial ambitions.⁴² Lautz, in essence, argued that the racial solidarity of Europeans against Africans implied by the objectionable passage did not exist in view of France’s tolerant prewar racial policies and that appealing to this solidarity would stiffen international resistance against a desired restoration of German colonialism in Africa while making the future colonized peoples wary of German policies toward them.

Lautz’s position reflected a racist motif of German anti-French propaganda from the spring of 1940, namely, that France had caused its own decadence and racial decline through tolerance toward non-European races and through mixing with non-Europeans. The Nazi propaganda newspaper, *Der Stürmer*, which often resorted to sexual sensationalism, had repeatedly spoken of “negroized France.”⁴³ Lautz implicitly drew on such imagery when he referred to German colonial aims, and he affirmed the racial prejudice inherent in the sentence. But he also insisted that the judgment should not become public knowledge because it would make German military justice appear less understanding toward an Algerian prisoner than the French authorities might have been. Any reference to the need to protect Europeans from “savages,” he argued, would be counterproductive for a revived German colonialism in Africa.⁴⁴

There were many phone conversations and written communications between the Foreign Office and the High Command while Rahimi was waiting to learn the date of his execution. In the end, the military authorities simply redacted the judgment, cutting out the passage Lautz had found most objectionable but leaving the death penalty in place. On 24 April 1942 the Foreign Ministry sent the Scapini Mission the redacted judgment, thereby initiating the three-month waiting period required by the Geneva Convention before the execution could be carried out.⁴⁵

⁴² Lautz to OKW, 28 January 1942, R 40904, PAAA, and further interoffice communications in R 40911 and 40912, PAAA. The French documents are in Frontstalags, no. 123, F9, 2560, AN. Rahimi also figures on a list of French POWs sentenced to death compiled late in the war, with a note that his sentence had been commuted to the penitentiary. See F9, 2358, AN. Lautz also challenged the retrospective application of the law of 4 September 1941, but he should have had enough familiarity with Nazi legal practices to know that this was common practice.

⁴³ Raffael Scheck, “La victoire allemande de 1940 comme justification de l’idéologie raciale nazie,” in *La Guerre de 40: Se battre—subir—se souvenir*, ed. Stefan Martens and Steffen Prauser (Villeneuve d’Ascq: Presses universitaires du Septentrion, 2014), 143–53.

⁴⁴ On German colonial planning, see Karsten Linne, *Deutschland jenseits des Äquators? Die NS-Kolonialplanungen für Afrika* (Berlin: Links, 2008); and, specifically on German plans for the French empire, Chantal Metzger, *L’empire colonial français dans la stratégie du Troisième Reich (1936–1945)* (Frankfurt: Lang, 2002).

⁴⁵ Foreign Office to Scapini Mission, 24 April 1942, R 40912, PAAA.

Confirmed sentences against POWs, especially death sentences, were usually reviewed by one of the two highest military justice officials, General Friedrich Fromm, the chief of the reserve army, or Field Marshal Wilhelm Keitel, the chief of the High Command. In a surprising development, Keitel commuted Rahimi's sentence into a penitentiary sentence of twelve years on 1 June 1942. There is no documentation illuminating the reasons for his decision, but it is likely that the Nazi pro-Muslim propaganda campaign was on Keitel's mind.⁴⁶ It is also plausible that he was impressed by Lautz's argument that the law of 4 September 1941 was meant to protect the German people and not the French people. The text of the law specifically called for "the protection of the [German] *Volksgemeinschaft*."⁴⁷ We know very little about Rahimi's fate within the German penitentiary system. His service cards in the French military archives confirm only that he received a death sentence but was liberated on 15 April 1945.⁴⁸ POWs sentenced to terms in a penitentiary were normally sent to a civilian institution in Germany because there were no military penitentiaries. These prisoners therefore dropped off the radar of the POW protection agencies (in this case, the Scapini Mission) because they had no channels of communication with the German Ministry of Justice, which was in charge of penitentiaries.

The judgments against ben Rahman and Rahimi reflected conflicting German foreign policy objectives. Sentencing Rahimi to death because of the rape of a French boy appealed to those who supported Franco-German collaboration because it represented equal treatment for French and German victims and it constructed a common front of "Europeans" against non-European "savages." Yet this approach contradicted the pro-Islamic propaganda of the German army, and it ignored the widespread Nazi belief that the French had compromised their racial purity by mixing with non-European races—that they had already undermined the very idea of a common European front.

JEAN LEFÈBVRE

The protection of the German *Volksgemeinschaft* was clearly at the forefront of prosecutors' minds in the trial against Jean Lefèbvre, a teacher born in 1914. Lefèbvre was working on a farm in the village of Letzlingen, north of Magdeburg, in 1941. He became popular with the local farm boys by telling them of nasty (*schweinisch*) acts he had performed with boys in France. Gradually, he assembled a group of nine boys around him, some

⁴⁶ The German army operated a propaganda camp for Muslim prisoners outside Berlin and sent Arabic-speaking officers to various camps in occupied France to win over collaborators, spies, and recruits for Muslim units fighting under German command. See Scheck, "Nazi Propaganda."

⁴⁷ Lorenz, *Todesurteile*, 13.

⁴⁸ The cards are preserved in the Service historique de la Défense in Caen, France.

under the age of fourteen, who wanted to hear his stories and, according to the military tribunal, fell under his spell. Lefèbvre showed the boys sexual practices that he claimed were common in France, and he gave them a variety of gifts. Two boys became particularly fond of him. He repeatedly performed thigh intercourse with them. With the other boys, Lefèbvre performed mutual masturbation. The contacts continued during the entire summer of 1941 without coming to the attention of the authorities. Lefèbvre was then transferred to a different work detachment, one hundred kilometers to the south, where he seems to have conducted himself in a manner beyond reproach. The court files do not indicate how his contact with the farm boys came to be known. It is possible that the boys only identified the prisoner as a source of inspiration after they were themselves caught performing the acts he had taught them, but we cannot know. Lefèbvre was arrested sometime in early 1943 and came in front of the military tribunal in Magdeburg on 2 March 1943.

Lefèbvre's attorney, Dr. Andrae from Magdeburg, argued that he had been overcome by sexual need, but the judges countered that if this had been the case, then he would have been satisfied with his two "favorite" boys. Relying on the law of 4 September 1941, the tribunal pronounced a death sentence for the contact with the boys who had been younger than fourteen when the relations started and imposed a fifteen-year penitentiary sentence for the acts performed with the boys who were older than fourteen. The second sentence, of course, was theoretical, because the death sentence (if confirmed) took precedence. None of the boys accused Lefèbvre of having used any kind of pressure, but the judges saw evidence for an outrageous sex crime that clearly merited a death sentence and found that all nine boys had suffered significant psychological damage. The case seemed to them to represent clear evidence that POWs were carrying out moral sabotage in Germany, as the judgment stressed: "One could even assume that the accused was striving to systematically poison German youth. . . . The aim of keeping the *Volk* pure requires the elimination [*Ausmerzung*] of such people, who represent a danger to the youth and to the preservation of the *Volk*." Neither the German Foreign Office nor the Scapini Mission challenged the sentence, although Dr. Andrae made further efforts to save Lefèbvre's life. The higher military authorities confirmed the sentence, and Lefèbvre was sent to the penitentiary in Halle and beheaded there on 7 September 1943. He was buried in a local cemetery.⁴⁹ His case most clearly exemplified the concern of German military authorities about moral sabotage by prisoners of war, evident here in the homosexual "corruption" of innocent German youths. It is clear that the tribunal considered Lefèbvre to be a congenital homosexual because it talked about the need to eliminate people like him. The severity of the sentence also resulted from the fact that some boys were under fourteen years of age when the contacts started and from the number of young Germans involved.

⁴⁹ Feldurteil, Magdeburg, 2 March 1943, F9, 2382, AN.

LOUIS LEROCHER

The concern for the protection of German youth was also evident in the case against the twenty-eight-year-old POW Louis Lerocher, an artist and photographer in civilian life. In the summer of 1943 Lerocher worked as a paramedic in the French army and was assigned to a military hospital in Lingen (near the Dutch border). Both guards and comrades considered his behavior effeminate. His comrades called him “aunt,” and he had received six minor disciplinary punishments because of “sloppy” (unmilitary) appearance before he came to trial on the basis of Paragraph 175a. Lerocher could go out freely between 2:00 and 5:00 p.m. every day. In August 1943, while walking through town, he noticed a young German whose bicycle had a flat tire. Lerocher helped him fix the bicycle and proposed a rendezvous. The German youngster, the painter’s apprentice Hans Zeiler, did not accept, but a few days later, Lerocher saw him again, this time in the company of his younger brother Heinz (fourteen) and his sister. Lerocher greeted them, gave them chocolate, and somehow convinced Heinz to meet him alone the following day. It was a sunny afternoon, and Lerocher took Heinz on a stroll along the local canal. In a remote place, he took off his clothes except for his underwear and lay down on a towel with Heinz, pretending to be sunbathing. Lerocher then had anal sex with Heinz. Heinz was clearly a little bit shocked and ran away. Lerocher threw chocolate after him and asked him to come again the following day. Heinz did appear two more times, and they engaged in mutual masturbation in the same place. Lerocher gave Heinz more chocolate, but after the third time, Heinz told Lerocher that he did not want to meet him anymore. How the affair came to the attention of the police is unclear, but it is likely that somebody observed one of the encounters, which happened in broad daylight, and notified the police. Random witnesses who observed indecent behavior in public often denounced couples to the authorities, as I have argued elsewhere about romances between POWs and German women.⁵⁰

During the police interrogation, Heinz emphasized that Lerocher had never used violence, although he said that he was surprised when Lerocher started anal intercourse during their first private encounter. Asked why he had returned twice to see Lerocher, Heinz answered that he was driven by an overwhelming desire for chocolate (he spoke of an addiction). Lerocher defended himself in court against the charge that he had a “homosexual predisposition,” but he explained that his sexual need had built up during the long captivity and that the boy had provided an irresistible outlet. The tribunal respected his defense and acknowledged his “soft” character, but the judges also stressed the lifelong consequences of the seduction of a young person, stating: “These children very easily remain attached to the pernicious life and activity of a homosexual and are very difficult to preserve for

⁵⁰ Scheck, *Love between Enemies*, 247.

a natural life.” The prisoner “may have corrupted the boy for his entire life, and he would therefore also have caused significant damage to the German *Volksgemeinschaft*, because one has to fear that this boy will be a lost cause for the German people. Moreover, the prisoner has dealt a heavy blow to the family of the boy.” The tribunal sentenced Lerocher to four years in the penitentiary on the basis of Paragraph 175a but without invoking the law of 4 September 1941, which could have led to a death sentence.⁵¹ The case for the prisoner’s sexual need and probably also the boy’s decision to meet Lerocher again counted as mitigating factors. That the judges respected the prisoner’s sexual need is remarkable in light of the fact that they seem to have considered him to be a “congenital” homosexual. But in contrast to Lefebvre’s judges, Lerocher’s judges did not count that against him.

THE KATTOWITZ TRIAL OF TEN BRITISH POWS

The largest trial to invoke Paragraph 175 against POWs in the Nazi period is the one with which I opened this article. It occurred in Kattowitz (eastern Upper Silesia) on 26 May 1944. The ten accused British POWs worked in the construction battalion (Bau- und Arbeitsbataillon, BAB) 20 at the Heydebreck chemical factory complex and were accused of having bought sexual favors from the sixteen-year-old German worker Seraphin Körbler in May and June 1943. According to the prosecutor, the POW Maldwyn Cole twice offered Körbler cigarettes to entice him into a nearby forest. In the woods, Cole asked Körbler to pull down his pants and then performed thigh intercourse with him. Two other prisoners, Walter Yates and Desmond Eden, did approximately the same thing, except that Eden also asked Körbler to masturbate him. After a while, the POWs John McNeal and Daniel Dickinson followed the example of their comrades, with McNeal even performing anal intercourse on Körbler. More POWs started to use the boy in similar ways, always paying him with chocolate and cigarettes. Western POWs, in particular the British, had access to chocolate, cigarettes, and other luxury items such as real coffee and good soap from Red Cross aid parcels, goods that were of much better quality than what was available on the severely rationed German wartime market.⁵²

Questioned by the military tribunal, Cole, Yates, and Eden denied all accusations, arguing that the forest in which they had allegedly hidden with Körbler had been cleared and therefore provided no hiding places. A guard testified, however, that the clearing of the forest had occurred only recently

⁵¹ Feldurteil, Münster, 16 November 1943, no. 10811, F9, 2521, AN.

⁵² British chocolate also played an important role in POW relations with German women, and I tried to find out what brand the POWs received. The British Red Cross kindly informed me that the chocolate distributed to POWs was Meltis chocolate (milk or plain chocolate), a brand that was later bought by the Swiss company Suchard in the 1970s. The brand name still exists but belongs to a different company now. Mehzebin Adam to the author, email, 19 September 2018.

and that during the relevant period the forest had contained enough underbrush to offer ideal cover for illicit activities. Körbler, moreover, immediately admitted to recognizing the three prisoners when he appeared as a witness. The judges sentenced Cole to a year and a half and Yates and Eden to one year in a penitentiary. They pointed out that Cole had started the abusive pattern and therefore deserved harsher punishment than the others. MacNeal and Dickinson confessed, and they were therefore sentenced to only one year in prison rather than in a penitentiary. Four other accused POWs were acquitted because Körbler was hesitant to identify them, although the judges noted that a strong suspicion against them remained. The tenth accused POW could not appear in front of the tribunal because he was seriously ill. I was unable to determine what punishment Körbler received.

The sentences appear relatively mild, for example, if one compares them to the sentence against Lerocher (four years in a penitentiary), although one has to consider that Lerocher was involved with a fourteen-year-old boy. The military tribunal in Kattowitz put much emphasis on the sexual neediness of the POWs as a mitigating circumstance. All ten POWs had been captured in the spring of 1940, one in Norway and the others in France, and they had spent over three years in captivity by the time of the offense. The judges considered it to be an aggravating factor that the POWs, especially Cole, had given the boy cigarettes, which would likely damage his health, though this did not seem to carry much weight in the sentencing.

Despite this relative leniency, the punishments of the POWs drew multiple challenges. On the day of the tribunal, attorney Dr. Hans Kirsch, a very dedicated defender of POWs, asked the higher military authorities to refuse to confirm the sentences because he considered the evidence hazy. Fellow prisoners also protested. BAB 20 was a tight-knit group, and in contrast to French POWs, who often denounced each other in cases involving homosexual acts, the comrades of the sentenced British POWs tried to help them. The prisoner representative of BAB 20 sent Dr. Kirsch a letter pointing out that there must be an error in the cases against Yates and Dickinson because these comrades could not possibly have committed the offense of which they were accused. The prisoner representative also wrote to the Swiss legation in Berlin (the protecting power for the British POWs), claiming that he knew Yates very well and that there was absolutely no trace of homosexual leaning in him. The letter was signed by twenty-six other prisoners.⁵³

A few months after the trial, the High Command reversed the verdicts against seven of the prisoners, including two of the acquitted ones, and ordered retrials. The paper trail does not reveal what led to this surprising decision. McNeal, Eden, and Dickinson had to stand trial again in Kattowitz on 24 November 1944. They received slightly milder sentences this time:

⁵³ Swiss Legation to Dr. Kirsch, 7 August 1944, 83a, Bestand Vertretung Berlin, BAR Bern.

one year in prison for McNeal and Eden and nine months in prison for Dickinson. Cole and Yates had already been transferred to a penitentiary near Berlin. They had a defense attorney and were supposed to be retried on 25 February 1945 in Berlin-Charlottenburg, but the timing makes it unlikely that this ever happened, because by this time heavy bombing was forcing many trial postponements, and transportation difficulties often prevented the attorney or witnesses from attending hearings. If the tribunal did meet, its records are likely among the many that were destroyed in the last weeks of the war.⁵⁴

Another case of accused British POWs came before the military tribunal of Villingen (Baden) on 28 September 1944. It involved the British Indian POWs Haider Ghazini and Shah Malik, who worked in the Daimler-Benz factory in Gaggenau near Baden-Baden. They had allegedly lured a sixteen-year-old German boy into a bunker and performed various sexual acts with him in exchange for cigarettes. The defense attorney, Dr. Bauer, tried to cast doubt on the boy's testimony and reputation, but the judges dismissed the attorney's arguments. Unlike in the trial of ben Rahman, in which the judges had used the belief in greater acceptance of homosexuality in Muslim North Africa as a mitigating factor, in this case the judges used the fact that the two defendants were Muslims as an aggravating factor. They claimed that the prisoners must have known that they were doing something forbidden, because Islam forbids homosexuality. They sentenced Ghazini, the more active of the two prisoners, to two years in a penitentiary (the prosecutor had demanded three years) and Malik to one year.⁵⁵

THE IMPORTANCE OF REPUTATION:

LÉO BEAUREGARD, HENRI CHAILLOT, AND FERNAND PIERRARD

As the trials against the British POWs in Kattowitz and Villingen suggest, the reputations of the prisoner and sexual partner could influence the verdict. Military tribunals usually requested letters of reference from employers or town mayors, and prisoners who were known to be good workers received milder punishments and sometimes avoided a penitentiary sentence. French POW Léo Beauregard, for example, came to trial in Münster on 16 April 1942 because he had convinced a sixteen-year-old farm worker to perform mutual masturbation with him. In front of the tribunal, Beauregard, like many accused POWs, claimed that he was not a homosexual "by nature"

⁵⁴ Feldurteil, Kattowitz, 26 May 1944; Dr. Kirsch to Swiss Legation, 26 May and 24 November 1944; Feldurteil, Kattowitz, 24 November 1944; Swiss Legation to Dr. Wergin (attorney), 16 December 1944, and other material, all 83a, Bestand Vertretung Berlin, BAR Bern.

⁵⁵ Feldurteil, Villingen, 28 September 1944, and Dr. Paul Bauer to Swiss Legation, 29 September 1944, both 81b, Bestand Vertretung Berlin, BAR Bern. Dr. Bauer, who had to intervene at the last moment for a colleague, worked pro bono and defended the prisoners quite effectively despite his failure to undermine the credibility of the boy.

but had been suffering from long sexual abstinence. The judges were less impressed by his excuse than by his good conduct in captivity and his reputation as a diligent worker. They therefore sentenced him to two years in a military prison, not a penitentiary.⁵⁶

In the case of POW Henri Chaillot, the military tribunal of Amberg (Bavaria) was less forgiving. Chaillot had worked in a bakery in Dobritschau (Sudetenland) until July 1944. Two months after his transfer to another bakery, a fifteen-year-old apprentice from the first bakery accused him of sexual harassment. Allegedly, Chaillot had taken out his penis and touched the apprentice with it, and he had promised him chocolate and canned goods if he allowed him anal penetration. During the trial in October 1944, the defense attorney requested acquittal for want of evidence because there was no other testimony and because the apprentice could not explain why he had waited two months to denounce Chaillot. Yet the tribunal sentenced Chaillot to one year in a penitentiary. The motive for this sentence was that Chaillot had a reputation for making anti-German comments, as the mayor of Dobritschau told the judges. The French judicial observer present during the hearing even suspected that the mayor had incited the boy to make the denunciation as a way to get back at Chaillot because of his anti-German comments.⁵⁷

French POW Fernand Pierrard, a waiter in civilian life, benefited from the bad reputation of the sixteen-year-old apprentice locksmith Peter Hartmann, whom Pierrard had met in a restaurant in Aussig (Sudetenland) while he was celebrating his name day over a bottle of wine. Feeling lonely, Pierrard invited Hartmann to drink with him. After a few glasses, Hartmann asked Pierrard to come to his hotel room to drink another bottle. In the room, Pierrard began kissing Hartmann and fondling his penis. Just then, the police appeared and arrested them, possibly alarmed by a porter. (As Giles stresses, the Nazi regime in its efforts to clamp down on homosexual relations had advised hotel porters to alert the police if two men went to a room together.)⁵⁸ Pierrard admitted everything but said that he had considered Hartmann to be significantly older than sixteen and that he had acted under the influence of alcohol. He denied having homosexual urges under normal circumstances. The military tribunal of Teplitz-Schönau believed him and sentenced him to only six months in prison. The reason for this very mild sentence was that Hartmann already had a criminal record because of theft and counted as a “work-shy” person. As the tribunal concluded: “He is therefore not a valuable member of mankind.”⁵⁹

⁵⁶ Feldurteil, Münster, 16 April 1942, no. 2813, F9, 2417, AN.

⁵⁷ Guy Rellay, Rapport de l’avocat-conseil Guy Rellay sur la session du Conseil de guerre d’octobre 1944, Stammlager XIII-B, 1 November 1944, F9, 2745, AN.

⁵⁸ Giles, “Homosexual Panic,” 243; “Practical Implementation of the Secret Directive, Guidelines of the Kassel Police Authority, 11 May 1937,” in Grau and Schoppmann, *Hidden Holocaust?*, 97, 98.

⁵⁹ Feldurteil, Teplitz-Schönau, 13 November 1944, and attorney to Scapini Mission, 15 November 1944, both F9, 2783, AN.

JAMES GALLAGHER AND OTHER PRISONERS
INVOLVED WITH NON-GERMANS

In 1944 there were nearly six million foreign civilian laborers in Nazi Germany, most of them deported from eastern Europe and many of them below the age of twenty-one. They often worked next to POWs, and close contacts did occur despite linguistic barriers.⁶⁰

In September 1943 British POW Jack Gallagher, a painter and plumber in civilian life, worked alone on an airfield outside of Neisse (eastern Upper Silesia). When the seventeen-year-old Soviet slave worker Arkadi Kulajev walked by to fetch a spade, Gallagher called him. Kulajev, who knew neither English nor German, thought Gallagher needed help and ran over to him. According to Kulajev, Gallagher suddenly grabbed him and pulled down his pants. Gallagher then rubbed his erect penis on Kulajev's thighs and buttocks and attempted anal intercourse. The boy started to cry and ultimately managed to run away. Gallagher ran after him, gave him six cigarettes, and asked him not to say anything. It is not clear how the event came to the attention of the military judges, but Gallagher had to stand trial in front of the military tribunal in Neisse (eastern Upper Silesia) on 3 May 1944. Gallagher admitted the charges but claimed that Kulajev had deliberately aroused him and that Kulajev had offered no resistance. The military tribunal, however, dismissed Gallagher's defense because it considered Kulajev (who also testified) entirely trustworthy and sexually inexperienced. The judges stressed that even eastern workers had a right to be protected from abuses, and they reproached Gallagher for having left Kulajev with lifelong psychological scars. The sentence said, somewhat disingenuously, given that Kulajev was a slave laborer, that Gallagher had "ruthlessly raped a boy who works in the armaments sector as a guest of the German people" and therefore needed to be punished harshly. Gallagher's attorney, Dr. Nehlert, asked for a mild sentence and claimed that Gallagher had been corrupted during his deployment in France between 1939 and 1940, when he had visited many French brothels. The prosecutor countered that pretrial psychological and physical examinations had found Gallagher to be healthy and normal. Nonetheless, the judges considered the strong sexual need he had developed after more than three years in captivity to be a mitigating circumstance. They also weighed in Gallagher's favor that he was a good worker and that he had made an extensive confession. Viewing this incident as an isolated error in judgment, the judges sentenced him to only two years in a penitentiary.

Dr. Nehlert asked the higher military authorities not to confirm the sentence, arguing that Gallagher was not fully normal and needed to be

⁶⁰ The authoritative study of foreign laborers in Nazi Germany is Ulrich Herbert, *Hitler's Foreign Workers: Enforced Foreign Labor in Germany under the Third Reich*, trans. William Templer (Cambridge: Cambridge University Press, 1997).

evaluated by a psychiatrist. He also stated that Kulajev appeared to be very trusting, which could have inspired Gallagher's desire for physical intimacy. Dr. Nehlert further stressed that Gallagher certainly was not a "congenital" homosexual, because he admitted having had extensive contact with French prostitutes at the beginning of the war. The archival documentation does not reveal whether the higher military authorities agreed to a supplemental test or whether they agreed to lower the sentence.⁶¹ But the extensive correspondence about the case demonstrates that the military tribunal of Neisse went out of its way to prove that German judges took such crimes seriously even when they were committed against non-German youths.

Other cases provide confirmation of these concerns. Take, for example, the trial of French POW Jean Bastin, who was working in the Henschel tank factory in Kassel between 1941 and 1942. Bastin was denounced by several workers who claimed that he had intimately touched a Polish forced laborer and a German worker, both of whom were over the age of twenty-one. The military tribunal in Kassel found the accusations credible and sentenced Bastin to eight months in prison for each of the two cases. According to German law, the two related sentences were amalgamated into an overall sentence of one year in prison. In this case, the offense against a Polish worker was punished just as harshly as the offense against a German.⁶² Similarly, British POW Frederick Stewart received the same sentence as Bastin (one year in prison) for having hugged two young Czech workers in a cement factory during the fall of 1943. Witnesses ascribed clear sexual intentions to Stewart. Although both workers were under the age of twenty-one, the judgment of the military tribunal of Neisse (Upper Silesia), which convened on 15 February 1944, accepted Stewart's argument that he had believed the men to be older. The judges therefore chose not to impose the harsher penalty dictated by Paragraph 175a, section 3, despite the fact that they clearly considered Stewart to be a congenital homosexual. As in the other cases I have described, the judges chose not to view Stewart as an incorrigible offender despite his sexual orientation, and they argued that his irreproachable behavior in the previous three and a half years called for some leniency.⁶³

Despite this legal flexibility, it is also clear that forced laborers were aware of the possibility of harsh sentences for homosexual behavior, and they occasionally used a charge of homosexuality to revenge themselves against POWs who had angered them. British POW John Finch, for example, was accused by a fourteen-year-old Polish boy of having anally raped him. Finch worked on a farm south of Danzig together with three Polish youths. One of the boys (age fifteen) claimed to have witnessed the scene,

⁶¹ Feldurteil, Neisse, 3 May 1944, and Nehlert to Swiss Legation, 3 May 1944, both 85, Bestand Vertretung Berlin, BAR Bern.

⁶² Feldurteil, Kassel, 30 April 1942, Dossiers Bab-Baz, F9, 2361, AN.

⁶³ Feldurteil, Neisse, 15 February 1944, 79b, Bestand Vertretung Berlin, BAR Bern.

and the boy who had allegedly been raped testified that he had suffered from so much anal pain that he had gone to see a doctor the following day to get some ointment. Finch denied the accusations and claimed that the boys had denounced him as revenge for his having scolded them for being lazy and having beaten one of them for refusing to work. Things initially looked bleak for Finch. The prosecutor argued that the testimony of the boys provided enough evidence for a conviction and demanded twelve years in a penitentiary. But the military tribunal of Danzig, guided by the prisoner's defense attorney, found too many discrepancies in the testimonies of the boys to believe them. It emerged, for example, that the alleged victim had gone to the doctor not to get an ointment against anal pain but to acquire pills for a stomachache. Finch was acquitted.⁶⁴ As in some other cases, it seems that young civilians, German and non-German, were aware that the accusation of homosexual offenses could lead to severe punishment and used them to settle scores with POWs with whom they worked daily.

JOSEPH COLETTE AND AUGUST BACHMEIER

Trials for consensual homosexual contacts between prisoners and adult men over the age of twenty-one were very rare. In these cases, prisoners were punished in the same way that they would have been if they had been involved with a German woman, while German civilians seem to have suffered harsher punishment. The 1941 case of the Belgian POW Joseph Colette, who worked on a landed estate in the region of Regensburg (Bavaria) and began an amorous relationship with the thirty-five-year-old German milker August Bachmeier, provides one example. In 1942 Colette was transferred to a transport business in the small town of Kelheim, and Bachmeier took a job at a brewery in the same town so that they could continue to see each other. Bachmeier gave Colette generous gifts, including money, cigarettes, food, a fine suit, and a pistol. When Colette became worried about discovery and considered ending the relationship, Bachmeier joined a monastery. Bachmeier was soon dismissed for unspecified behavioral issues, and he and Colette resumed their relationship. They had sex on many occasions both before and after Bachmeier's stay in the monastery, usually in either Colette's or Bachmeier's room and sometimes outdoors. The files do not disclose what led to the discovery of their relationship, but Colette and Bachmeier were arrested on 27 April 1943. The military tribunal in Amberg sentenced Colette to three years in a penitentiary on 30 June 1943, a sentence that would also have been typical for a POW involved with a German woman married to a soldier.⁶⁵ A week later the *Sondergericht* (special court) at

⁶⁴ Feldurteil, Danzig, 17 February 1944, 84a, Bestand Vertretung Berlin, BAR Bern.

⁶⁵ Scheck, *Love between Enemies*, 125–26.

Nürnberg sentenced Bachmeier to five years of penal servitude.⁶⁶ The fact that he had given the prisoner a pistol and a suit, both useful for escape, accounted for the harsher sentence. Analogous to many similar trials against women, the special court claimed that Bachmeier's behavior had seriously offended the "dignity of the German man,"⁶⁷ yet the sentence was only slightly harsher than those that the Nürnberg special court, which was staffed by die-hard Nazi judges (two of whom were put on trial for Nazi crimes after the war), typically handed down to women who had consorted with POWs in Bachmeier's area.⁶⁸

There is no evidence in Bachmeier's file that he had a track record of homosexual activities with other men. Had the police found more evidence of homosexual activities, he might have been transferred to a concentration camp after having served his sentence. Bachmeier's file shows that he spent time in various penitentiaries and that his last employer, the brewer in Kelheim, desperately tried to get him at least a temporary release because he was a very good worker. After many rejected appeals, the prosecutor's office finally granted Bachmeier a temporary release in March 1945, but American troops arrived at the penitentiary before he was able to leave. It is unclear what happened to him after this. While women sentenced for relations with POWs were released and had their convictions overturned immediately after the war, men sentenced on the basis of Paragraphs 175 and 175a could not receive amnesty because these paragraphs remained in force under German law until 1994 (after some reforms in 1969 and 1973 that canceled the Nazi intensifications).⁶⁹ Colette, who also experienced the harsh conditions in several German penitentiaries, tried to get indemnification payments after the war, but in October 1951 the Belgian office handling such claims rejected his application on the grounds that he did not count as a politically persecuted victim.⁷⁰

⁶⁶ Special courts were institutions set up by the Nazis initially for the ruthless and rapid prosecution of opponents. During the war, they were meant to be the "court martials of the inner front," as the Nazi judge Kurt Freisler called them, and they tried a broad range of war-related offenses. For an overview, see Hans Wüllenweber, *Sondergerichte im Dritten Reich: Vergessene Verbrechen der Justiz* (Frankfurt am Main: Luchterhand, 1990).

⁶⁷ Feldurteil, Amberg, 30 June 1943, folder Joseph C., Service Archives des victimes de la guerre, Brussels; 2174, Akten der Anklagebehörde beim Sondergericht, BStA Nürnberg. A week later, in Dresden, a German employee who had engaged in homosexual acts with a Soviet POW and with many German men received a sentence of six years in the penitentiary. See Fout, "Homosexuelle," 163–64.

⁶⁸ Nina Lutz, "Das Sondergericht Nürnberg 1933–1945: Eingespielte Justizmaschinerie der gelenkten Rechtspflege," in *Justizpalast Nürnberg: Ein Ort der Weltgeschichte wird 100 Jahre; Festschrift zum 100. Jahrestag der feierlichen Eröffnung des Justizpalastes in Nürnberg durch König Ludwig III. am 11. September 1916*, ed. Ewald Behrschmidt (Neustadt an der Aisch: VDS Verlagsdruckerei Schmidt, 2016), 250–63.

⁶⁹ Giles, "Why Bother," 18.

⁷⁰ Communication of veterans' bureau Liège to Joseph C., 12 October 1951, folder Joseph C., Service Archives des victimes de la guerre, Brussels.

HOMOSEXUAL RELATIONS BETWEEN POWs

In contrast to the harsh prison sentences for relationships with civilians, homosexual relations between two POWs generally led only to disciplinary punishments (up to thirty days of arrest at the orders of the camp commander).⁷¹ These cases were not judged by a military tribunal and therefore left behind no records. Relationships that led to altercations and therefore endangered discipline and order among the POWs were the exception. In the fall of 1940, for example, the Moroccan POW Jonas Benjelloun grabbed his comrade Gustave Pelletier, rubbed his penis against Pelletier's thighs, and tried to pull his pants down. Pelletier apparently resisted furiously and denounced Benjelloun, leading the military tribunal at Stuttgart to sentence him to six months in prison. The fact that Pelletier was only eighteen and that the incident had triggered a fight contributed to what was a relatively harsh punishment for homosexual acts between POWs.⁷²

Altercations could also call otherwise consensual relationships to the attention of the authorities. French POWs Jacques Arnaud and Louis Gallet, who were working with German employees in a tailor workshop in East Prussia, had been engaged in a consensual relationship for some time when Gallet went to a guard and accused Arnaud of having forced him to have oral sex by threatening him with a knife. Arnaud denied the charges, and circumstantial evidence indicated that Gallet, who was a tailor in civilian life, resented Arnaud's poor craftsmanship (Arnaud was a railroad employee) and wanted to get him out of the workshop. After hearing from the two German employees who slept in the same room with the French men, the military tribunal of Königsberg concluded that there had been no threat and that the POWs should serve only thirty days of arrest for having engaged in a consensual homosexual relationship.⁷³

In another case, a tribunal punished POWs for a violent incident but ignored evidence of the homosexual relationship that had triggered the violence. On 10 November 1943 four British Indian POWs severely injured their comrade Abdul Azic in the small branch camp Annaburg (northeast of Leipzig) by attacking him with sticks and iron bars. Azic was able to flee but passed out later. The reason for the altercation was that Azic had reported a homosexual relationship between two of his attackers to an Indian NCO, who had then confronted the two men. The four attackers, who had already been transferred to a POW camp for British colonial soldiers in occupied France, received prison terms ranging from two to five years. The military tribunal issued this sentence only for the violence and

⁷¹ Stéphane Delattre, *Ma guerre sans fusil, décembre 1942–avril 1945* (La Rochelle: Rumeur des Ages, 1991), 65.

⁷² Feldurteil, Stuttgart, 19 December 1940, R 40865, PAAA.

⁷³ Feldurteil, Königsberg, 16 June 1941, R 40870, PAAA.

did not even examine the allegations against the two prisoners rumored to be having a homosexual relationship.⁷⁴

A case that came in front of the military tribunal of Münster in March 1944 illustrates how differently homosexual relations between prisoners and those involving POWs and young Germans were punished. Two French prisoners, Didier Perleau and Marius Bergerac, were accused of having had sexual relations with each other starting in 1941. Perleau also faced charges of having tried to seduce a sixteen-year-old German youth, Ludger Koszyk. The first charge rested on extensive and detailed eyewitness reports from four French comrades who obviously resented the two prisoners. When these eyewitnesses were called to testify in Münster, however, they presented contradictory information and partly retracted their earlier accusations. The tribunal therefore dismissed the charge of homosexual relations between the two POWs even though the judges noted that a strong suspicion remained. However, the tribunal found that there was compelling evidence to believe that Perleau had indeed attempted to seduce Koszyk. Despite the fact that the evidence for a sexual relationship between the two prisoners was by no means weaker than the evidence for Perleau's seduction of Koszyk, Bergerac was acquitted, and Perleau was sentenced to one and a half years in a penitentiary. Had the judges been concerned about homosexual relations between prisoners, they would have questioned the witnesses' conflicting reports and probed more deeply into the initial accusations. We might speculate that the POW witnesses secretly agreed to retract their testimonies after having learned about the harshness of German punishments for homosexual acts, which were not punishable in France except in cases of indecent exposure. But the case also demonstrates that military judges were much more likely to harshly punish attempts to seduce German youngsters than they were to convict POWs of committing homosexual acts with each other.⁷⁵

CONCLUSION

The various examples I have presented lead to the conclusion that German military courts faced with infractions against Paragraphs 175 and 175a were most likely to impose harsh punishments in cases involving consensual or nonconsensual relationships between foreign POWs and German adolescents, except in cases where the POW had established a reputation for good behavior or when the reputation of the civilian partner or victim was already tarnished. The practice of military tribunals reflected the Nazi belief that homosexuals often took a particular interest in "spoiling" adolescents and that foreign prisoners who violated Paragraph 175a did so in order to weaken German youth, manliness, and military power. Such beliefs conformed to the propaganda image of the POW as an implacable

⁷⁴ Feldurteil, Épinal, 15 April 1944, 79a, Bestand Vertretung Berlin, BAR Bern.

⁷⁵ Feldurteil, Münster, 28 March 1944, Jugements de PG, no. 11765, F9, 2533, AN.

enemy who always wanted to damage his host country and carry out moral sabotage. Given this image, presented in countless brochures and posters and reiterated in the trial transcripts of those convicted, it is surprising that the military tribunals punished homosexual offenses against non-Germans with similar harshness. As the tribunal against Jack Gallagher suggests, the relatively equal treatment of non-Germans to Germans in such cases may have acted as propaganda by trying to reassure the neutral and western governments that reviewed the sentences that Germany was not discriminating against foreign workers.

Trials for homosexual acts between POWs and German civilians over twenty-one were very rare, most likely because they were fairly easy to hide. They did not lead to pregnancy, which frequently led to the discovery of heterosexual relationships.⁷⁶ Given rural mores dictating the separation of the sexes, prevalent both in Germany and in the homelands of foreign laborers and POWs, the companionship of men was less suspicious and objectionable than secret rendezvous between men and women. The fact that Colette and Bachmeier could carry out an intense love affair for two years provides evidence that consensual homosexual relationships between adults could be kept secret even when one of them was a prisoner. German communities had been primed to detect and denounce relationships between POWs and women. Clearly, the fear of sexual relations between prisoners and German women always took center stage in Nazi propaganda. Official notices conjured up the danger that the seduction of allegedly gullible women represented for national security and for “unwanted mixtures of the blood.”⁷⁷ Propaganda claimed that prisoners might use women for espionage, sabotage, or escape (although neither espionage nor sabotage appeared as a motive in any of the over twenty-two hundred cases of such relationships I have investigated). Sentences against women, with full names and shameful details, were published in the newspapers and on posters displayed prominently on walls and billboards.⁷⁸ Guards were under strict orders to investigate rumors of any forbidden heterosexual relationship and to report the rumors to their superiors or the police. Except in the case of very young men, there just was no comparable concern about homosexual relations between POWs and civilians, not in the media and not in the instructions to guards.

This discrepancy confirms earlier conclusions with respect to the crucial role of women as the symbolic guardians of the home front and of national integrity and honor during wartime, as highlighted in works by Fabrice

⁷⁶ Scheck, *Love between Enemies*, 316–19.

⁷⁷ See, for example, Feldurteil against Armand S., Nürnberg, 11 November 1941, R 40912, PAAA.

⁷⁸ For a collection of these posters, see the Plakatsammlung in the Steirisches Landesarchiv Graz, for example, Pl-P-1945-0589, 91, 92, <https://egov.stmk.gv.at/archivinformationsystem/>.

Virgili and Mary Louise Roberts.⁷⁹ Virgili examines the cases of French women who were accused of “horizontal collaboration” and whose heads were publicly shaved after the occupation. He points out that women’s sexual relations with the enemy are endowed with a powerful symbolic value for the nation and that these women therefore counted as traitors. A related dynamic, albeit here between allies (liberating men and liberated women), appears in Mary Louise Roberts’s study of the contacts between American soldiers and French women during and after the liberation of France. The sexual submissiveness of often hungry and desperate French women confirmed in American soldiers a view of France as effeminate and weak, while the aggressive American behavior toward French women nurtured anger and resentment in much of the French population, particularly French men.

The military tribunal cases concerning homosexual acts of POWs nevertheless show that the German authorities were concerned about a homosexual “infection” of Germans by non-German prisoners, a special form of moral sabotage highlighted by Nazi propaganda against POWs. But the judges’ low opinion of German youths seduced by POWs often led to greater leniency. Moreover, the judges faced a contradiction, because the legal prescriptions of the Geneva Convention held the POWs to German laws on homosexuality, while the fundamental aim of these laws was to eradicate homosexuality among Germans. It was therefore not a priority to prosecute homosexual acts between prisoners or to consider the differences between “congenital” and “casual” homosexuals among the prisoners. It also made no sense to punish prisoners with equal harshness regardless of whether they “corrupted” foreign or German boys, as the Rahimi case revealed after long discussions. Yet the military justice officials dealing with POWs and the German foreign ministry, which communicated with the protecting powers and, through them, with the governments of the POWs, wanted to suggest a universality of Nazi laws in cases where POWs committed offenses against non-Germans. All of these factors contributed to making the sentences against POWs based on Paragraphs 175 and 175a rather inconsistent.

ABOUT THE AUTHOR

RAFFAEL SCHECK is Katz Distinguished Teaching Professor of modern European history at Colby College in Waterville, Maine (United States), where he has taught since 1994. After growing up in Germany, Israel, and Switzerland, he received his master’s degree at the University of Zürich and his PhD at Brandeis University in 1993. In 2003 he completed a *Habilitation*

⁷⁹ See Fabrice Virgili, *La France “virile”: Des femmes tondues à la Libération* (Paris: Éditions Payot & Rivage, 2004); Mary Louise Roberts, *What Soldiers Do: Sex and the American GI in World War II France* (Chicago: University of Chicago Press, 2013).

at the University of Basel. Scheck is the author of six books and more than thirty articles and chapters on German history between 1871 and 1945. Among other works, Scheck has published *Hitler's African Victims: The German Army Massacres of Black French Soldiers in 1940* (Cambridge University Press), which was translated into French (2007) and German (2009). He has completed a new book, *Love between Enemies: Western Prisoners of War and German Women in World War II* (Cambridge University Press, 2020), and has started a book about the western campaign of 1940.