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CITIZEN OUTCASTS – THE PENALTY OF ‘LOSS OF CIVIL RIGHTS’ DURING THE NORWEGIAN TREASON TRIALS, 1945-1953

This article examines the role of the penalty of ‘loss of civil rights’ during the so-called treason trials – the Norwegian authorities’ reckoning with wartime collaborators after 1945. At the beginning of the twentieth century, the penalty had grown out of fashion for being out of line with ‘modern’ punitive theory. But during the occupation, the Norwegian exile government and resistance revisited the penalty ahead of their planned ‘reckoning’ with Nazi collaborators and significantly expanded its scope. The wartime provisions concerning the loss of civil rights were draconian. However, they were never fully implemented following the liberation. This article argues that for policymakers, the penalty of ‘loss of civil rights’ had ‘two lives’: during the war, they relied on it to signal to the Norwegian population that collaborators would be punished harshly, which they hoped would help prevent popular violence following a liberation. But after the war, political pragmatism, economic necessity, and an increasing desire for national reconciliation were key motivations for the government to begin ameliorating the effects of the penalty. The article demonstrates how the official handling of the penalty of ‘loss of civil rights’ points to the ways that the rationales for the punishment of collaborators during the treason trials changed over time.

Keywords Second World War, collaboration, occupation, civil rights, political rights, citizenship

Introduction

After the liberation of Norway on 8 May 1945, the Norwegian exile government and resistance representatives set out to bring wartime collaborators to trial. In the most comprehensive reckoning with wartime collaboration in all of postwar Europe, as much as 3.2% of the Norwegian population was investigated for treason between 1945 and 1953.¹ Many of these individuals had joined the fascist party *Nasjonal Samling* (NS) before or during the war, membership of which – both active and passive – had been criminalized by the exile government in 1942. A total of 46,085 individuals received a court sentence during the trials, of whom around 18,000 were sentenced to prison terms of various durations.²

The vast majority of those who were sentenced by a court had all or some of their civil rights withdrawn, either as an accessory or as the sole form of punishment.³ As in other formerly occupied countries, the sentence of 'loss of civil rights' became a central component in Norway's reckoning with those who had collaborated. The penalty entailed the loss of the rights to vote, to hold official offices, to work in a range of professions and to own or acquire certain types of property. The use of the penalty in itself was no surprise. The Norwegian exile government and resistance forces had a strong political interest in the exclusion of collaborators from the postwar national community in physical, political and symbolic terms. In particular, they hoped that the promise of a comprehensive reckoning would forestall popular violence and lynching during the phase of political transition following a liberation. The exile government therefore frequently referenced its intention of using the penalty of 'loss of civil rights' widely against NS collaborators in its wartime communications to the public.

When put into practice after the liberation, the social implications of the penalty were profound. The 'loss of civil rights' affected not just sentenced collaborators, but also their families and even – given the broad scale at which the penalty was employed – threatened the economic and social cohesion of the nation as a whole. This was the case despite the fact that the first postwar government had significantly reduced the scope of application of the penalty within mere months of the liberation. It recognized early on that the penalty in the form adopted during the occupation brought with it a number of challenges for social reconciliation and Norway's economic recovery. But the changes it instituted proved insufficient in meeting these challenges. As a result, the government and courts continued with the difficult task of ameliorating the effects of the penalty while at the same time seeking to honour their wartime promises of an encompassing reckoning with Nazi collaborators.

While the postwar reckonings in countries occupied by Nazi Germany have attracted substantial scholarly attention, the penalty of 'loss of civil rights' tends not to be discussed in much detail.⁴ Whenever it is mentioned, it largely appears as an afterthought to the more 'central' elements of the trials, such as their constitutional bases, the use of the death penalty or the imprisonment of collaborators.⁵ In works on postwar trials and 'transitional justice', the penalty of 'loss of civil rights' is discussed mainly with regard to its more obvious functions, such as exclusion from the 'national community', without acknowledging the antecedents it drew upon, the practical challenges faced in its implementation or its changing meanings over time.⁶ In the few existing studies on the Norwegian treason trials, the penalty of 'loss of civil rights' has not been expressly problematized.⁷

This article argues that the penalty of 'loss of civil rights' had two distinct 'lives' during the treason trials: during the war, its role was to assure the broader population that collaborators would be brought to justice and would hold no key roles in postwar society. And indeed, Norway experienced a relatively smooth transition to peace. This prompted the government to change the provisions concerning the loss of civil rights, even before the trials had fully begun. The government recognized that as widespread an application of the penalty as had been promised during the war was neither desirable nor feasible. After the war, the penalty had to be gradually remoulded so as to correspond to the social and economic needs of postwar society

and to address the increasing legal concerns over the legitimacy of the ‘reckoning’. But given the many ways in which the treason trials were interwoven with the postwar government’s political legitimacy, this remoulding could never call into question the ‘reckoning’ as a whole.

The overall thesis of the article corresponds with the idea put forward by Hans Fredrik Dahl that there were, essentially, two distinct phases within the reckoning: the preparatory stage and the markedly more lenient phase of its implementation.⁸ Baard Herman Borge and Lars-Erik Vaale have recently challenged this distinction, arguing that the trials were broadly still carried out according to the framework laid during the occupation.⁹ While the argument put forward by Borge and Vaale can perhaps be defended for the treason trials as a whole, it needs to be modified when it comes to the loss of civil rights: unlike some of the modifications that were made to the scope of the trials over time, the penalty of ‘loss of civil rights’ was changed fundamentally even before the trials had fully begun, in August 1945. Moreover, the courts essentially rendered some of the provisions laid down by the exile government ineffective in their earliest rulings throughout the summer and autumn of 1945. For the penalty of ‘loss of civil rights,’ we can, therefore, argue that there was a sharp divide between wartime plans and the practical implementation of the trials, even before the gradual softening of the trials began as the occupation receded further into the past.

The article contends that the marked contrast between wartime promises and the practical handling of the penalty after the liberation lay in the penalty’s distinct temporal character. Unlike most prison sentences, the loss of civil rights was in many cases originally intended to be handed down *for life*. Where the loss of civil rights was not handed down for life, it tended to be for a period of 10 years, making it much longer than the estimated average prison terms handed down in the context of the treason trials. These timeframes reflected the bitterness of the war years, in which officials as well as public opinion expressed a demand for a permanent or long-term exclusion of collaborators from postwar society. It was precisely the long-term nature of the penalty that made it so attractive as a legal tool in the treason trials. But – predictably – social, political and economic priorities changed after the liberation. By operating on a different, much more long term, temporal plane than prison sentences, it became difficult to reconcile the consequences of the penalty with the requirements for social reconciliation in Norwegian society that became a central concern soon after the liberation. It is this marked contrast between the first and second ‘lives’ of the penalty that allows us to examine some of the fundamental tensions policymakers and legal practitioners encountered in the administration of the treason trials.

Civil rights and the ‘treason trials’

The penalty of loss of civil rights was not an invention of the treason trials. It had first been encoded in Norwegian criminal law in the seventeenth century in the form of a ‘loss of honour’, barring an individual from a range of social privileges.¹⁰ While the ‘loss of honour’ was abolished as a form of punishment in Norway with the introduction of the Criminal Code of 1842, some forms of civil rights remained revocable. As with most Western criminal codes, the Norwegian Criminal Codes of 1842 and 1902 contained a series of provisions for the withdrawal of civil rights. In

the 1902 Criminal Code, the loss of civil rights was only available as an accessory penalty, not as a sole form of punishment. For any prison term longer than one year, an individual would automatically be stripped of their rights to vote and to hold public office (together defined as 'civic rights').¹¹ If an individual had shown themselves to be 'unworthy' of holding these rights, they could also be withdrawn for sentences of less than one year's imprisonment. Loss of 'civic rights' was always handed down for a period of 10 years, regardless of the duration of the prison term. Furthermore, this ten-year period only commenced when an individual was released from prison. This reflects the distinctive temporal nature of the penalty as one aimed at long-term exclusion from society.

In the prewar era, this form of accessory penalty was rarely applied and affected less than 10% of criminal cases.¹² Despite its limited use, however, the penalty was not uncontested. When the Criminal Code of 1902 was debated in Parliament, a series of MPs strongly criticized the provisions on the loss of civil rights and the subsequent motion to exclude its automatic application to prison sentences of more than one year was decided by just 15 votes.¹³ Following a broader European pattern, some criminal law practitioners deemed it out of line with modern punitive theory, arguing that its long-term scope militated against the need to begin reintegrating individuals into society upon their release from prison.¹⁴ In Norway, a number of cases of relatively young convicts sentenced to short prison terms with an additional ten-year loss of civil rights in the 1920s and 1930s raised eyebrows.¹⁵ It was particularly the courts' use of the optional removal of rights for sentences under one year that opponents – especially criminal law experts – criticized.¹⁶

Attitudes changed after the German invasion of Norway in April 1940. After fleeing to exile in London, the Norwegian government from 1941 onwards began preparing for a 'reckoning' (*oppgjør*) with the Norwegian collaborators. This concerned in particular individuals who had joined the collaborative party *Nasjonal Samling*. The earliest preparations were made by the exile government alone. But over the course of the occupation an organized resistance formed in territorial Norway, which established communication channels with the exile government and increasingly demanded an active role in the planning of the postwar order. Towards the end of the occupation, the resistance forces – referred to as the Home Front – came to dominate the planning of the liberation and the trials of collaborators.

The exile government relied on extraordinary law-making powers during the course of the occupation given that the ordinary legislative process was hindered by the wartime circumstances. Through a series of provisional decrees, it criminalized various forms of collaboration and set out the structural and administrative bases for the treason trials. It adopted a first provisional decree concerning the treason trials on 3 October 1941. The decree expanded the existing penalty of 'loss of civil rights' for the purposes of the treason trials, allowing it to be applied *for life*. This was to be the standard procedure for any crimes committed under chapters 8 and 9 of the Criminal Code, which concerned crimes against the state, in particular treason. As we have seen, in the prewar era, the upper limit for the loss of civil rights had been 10 years. The exile government deemed the prewar provisions insufficient for 'traitors', for the state 'can no longer trust such people, which is why – even after 10 years – they should not be allowed to hold [these] rights.'¹⁷

The preparatory documents for the 1941 decree reveal the central importance placed by the exile government on the *physical* separation of collaborators from the postwar national community: the government even considered adopting a provision concerning the expulsion of collaborators and the revocation of Norwegian citizenship, but ultimately opted not to do so (presumably given the challenges this would have posed under international law).¹⁸ In the preparations for the 1941 decree, the ideas of physically removing collaborators and expanding the penalty of loss of civil rights were motivated by considerations of both safety and symbolism. In its first decree, the government did not consider the loss of rights to be a form of punishment of a similar status to prison sentences or forced labour. Rather, it considered civil rights a 'privilege' to be revoked from individuals who lacked the relevant 'qualifications'.¹⁹ For this reason, the exile government deemed it unproblematic for the penalty to be applied to acts committed before the issuance of the decree on 3 October 1941.

On 22 January 1942, the exile government adopted a further decree, the so-called Quisling Decree. Beyond establishing the criminality of NS membership, stressing that it was the party's actions after the German invasion that had turned it into a 'party of traitors',²⁰ the decree radically altered the nature of the penalty of loss of civil rights. The Quisling Decree collectively defined the following rights as 'public trust':

the right to vote in all public matters, the right of serving in the armed forces of the state, the right to carry out any trade, profession or business for which public authorisation or approval is required, and the right to hold any position, whether paid or unpaid, as the head or leading official in companies, financial societies, organisations, or other associations.²¹

The decree stipulated that these rights could only be removed *en bloc*. The rules were thus considerably less flexible than under the prewar provisions and the 1941 decree. The 1942 decree made the loss of 'public trust' a mandatory sentence for members of *Nasjonal Samling* 'or other organizations that support the enemy'.²²

In contrast to the prewar situation, the 1942 decree established the loss of public trust as a 'new penalty', which could be used *independently* of other penalties.²³ The deliberations of the 1942 decree show that the loss of 'public trust' was now seen as a form of punishment rather than a measure aimed at national safety. The exile government deemed the change of status and wide scope of the penalty necessary for a number of interrelated reasons.

First, there was a practical impetus: the penalty was meant to replace prison sentences so as to avoid overcrowding of prisons.²⁴ At this stage, it was becoming clear that tens of thousands of individuals had joined *Nasjonal Samling*, whereas the prewar criminal justice system had handled on average around 5–6,000 cases per year. In order to ensure that – in light of limited prison capacities – collaborators could still be punished, the decree therefore allowed for individuals to be sanctioned by fine and loss of civil rights in addition to or *in lieu* of prison sentences. The two forms of penalty – imprisonment and loss of public trust – were deemed to be of equal gravity. In the words of the Ministry of Justice, a loss of public trust 'hits hard, perhaps just as hard as 3 years' imprisonment, while at the same time it does not cost the state any expenses for prison stays, etc.'²⁵

But the practical handling of the trials was not the sole reason for the elevation of the loss of civil rights to a primary penalty. In a departmental memo of 10 October 1941 Paul Hartmann, a minister without portfolio in the exile government, argued that the penalty needed to be introduced so as to assure the public that NS collaborators would indeed be punished. He reckoned that it would be clear to the public that not all collaborators could be put into prison and that widespread use of the penalty of civil rights was the only way to ensure public faith in the 'reckoning' and avoid civil unrest following a liberation. This indicates that the prevention of lynch justice became a central rationale for the trials at this stage and that the loss of civil rights formed a central strategy in this. This is supported by the fact that from 1942, the exiles received more regular communications from territorial Norway, which indicated that there would be a strong collective expectation to punish 'collaborators'.²⁶

As the war continued, a shift in power took place between the exile government and the resistance forces in territorial Norway. The Home Front began pushing for a more significant influence in the planning of the trials. In early 1944, it presented to the exile government its own draft bill that it wanted to form the basis for the postwar reckoning.²⁷ This bill, drafted by the Home Front's law group – a group of individuals who were to take up key political posts in postwar Norway – drew upon both the 1941 and 1942 decrees but expanded their scope and introduced a series of new provisions.

With regard to civil rights, the Home Front's bill expanded the catalogue of rights that could be withdrawn. The Home Front stated that this expansion was necessary because the legal provisions needed to reflect the public's demands in the event of liberation. Adhering to 'public opinion' in the planning of the trials, the Home Front argued, could, in turn, prevent extra-legal violence.²⁸ The most significant change was that under the new rules, the right to hold or acquire specific forms of property could be withdrawn. § 11 Nr. 9 of the Home Front bill proposed that an individual could lose

access to owning or acquiring: a) real estate; b) such rights in real estate that, according to applicable legislation, require a licence; c) Norwegian ships subject to registration; d) shares or other interests in Norwegian entrepreneurial companies or associations.

The withdrawal of these rights was a complete novelty to Norwegian criminal law.

§ 51 of the Home Front proposal made the loss of rights as laid out in § 11 applicable to *all* crimes committed during the occupation, not just from the date of its adoption. The withdrawal of 'public trust', meaning the full set of rights listed in § 11 of the draft, was to be *mandatory* for any prison sentence of more than six months.²⁹ At the time, the exile government and the Home Front estimated that around 30,000 individuals would be prosecuted during the treason trials. A majority of these individuals were expected to receive a prison term or more than six months, meaning that at the very least tens of thousands of individuals were to be put not just outside political influence by not being able to vote or hold official posts, but would face losing their rights to own property and run businesses.

Although the exile government's law committee had some reservations about the Home Front's draft and feared that the provisions could be deemed retroactive, and

thus violate the prohibition of retroactive laws in § 97 of the Constitution, it felt that it could not object to it. Towards the end of the war, the dynamics between the exile-government and the Home Front had changed significantly. The Home Front's activities in territorial Norway had given it considerable legitimacy and greater confidence in its dealings with the exile-government. It had also become clear that the Home Front would have to hold a central position of power in the event of liberation or capitulation before the exile government could return. The Committee entrusted with reviewing the Home Front's draft deemed it necessary to agree to provisions so as to 'meet public needs in compliance with the particular sentiment that has emerged during the occupation'.³⁰ This was a direct reference to the concerns for lynch justice officials held at the time. The exile government therefore adopted the Home Front's bill as a provisional decree on 15 December 1944, with only 'marginal and non-invasive changes' made to the original draft.³¹ This decree would become known as the 'Treason Decree' (*Landssvikanordningen*).

In terms of the removal of civil rights for collaborators, the wartime provisions in their final form were draconian. From being motivated out of a perceived need for protection against NS collaborators (as signalled by the 1941 decree), the penalty of loss of civil rights had changed meaning closer to the liberation and become a new and comprehensive primary penalty in criminal law. In contrast to prison sentences, the loss of 'public trust' and 'civil rights' operated on a much longer timescale, offering little prospect for rehabilitation or reconciliation for at least a decade. Given the resentment against collaborators felt by large parts of the resistance, the exile government, and, both groups assumed, the population at large, this desire for exclusion was understandable. Moreover, in order to prevent lynch justice during the period of transition from war to peace, it was deemed to be of central importance to assert the message publicly that collaborators would not be treated mildly or be able to have any influence in the postwar order. But few of these new provisions would prove practicable in peacetime.

Official practice after the liberation

Upon the liberation, the returning exile government and resistance forces in territorial Norway faced a challenging power constellation. Jubilant crowds took to the streets to celebrate the new-won freedom of their country. At the same time, they expressed contempt for 'traitors' and demanded they be put on trial swiftly and punished harshly. The threat of lynch justice put pressure on the authorities, who frequently reasserted their intention to bring collaborators to trial. In the weeks following the liberation, officials repeated like a mantra in public speeches and news outlets that a comprehensive reckoning would be carried out according to wartime plans.³² However, this ultimately proved a difficult promise to live up to.

The trials were an enormous undertaking, and significant administrative challenges had to be addressed in the first period following the liberation. Evidence had to be gathered, institutions reinstated, adequate judges, prosecutors and advocates found, and tens of thousands of bills of indictments written. But in legal terms, too, the trials had a number of hurdles to overcome. The provisional decrees of the exile government had first to be firmly grounded in the Constitution and accepted as valid by the Supreme Court of Norway before the trials could commence with 'full force'.³³

As it turned out, however, the provisions concerning the loss of civil rights were only implemented in their original form for a very short period. When the treason trials had only just begun, and before the first case concerning civil rights had reached the Supreme Court, the government changed the relevant provisions. Only a few weeks into the trials, on 3 August 1945, the government adopted a provisional decree changing the Treason Decree of 1944 to the effect that a loss of 'public trust' would no longer be a mandatory consequence of a prison sentence of more than six months. The Ministry's official argument for the change was that the provisions in the Treason Decree were too 'inflexible' and that courts should not be prevented from handing down the judgments they felt appropriate in each individual case.³⁴

With the decree of 3 August 1945, the Ministry of Justice distanced itself from the wartime provisions. It is worthwhile reflecting in some detail on the reasons for this shift. In the volatile social climate of the summer of 1945, announcing a more lenient treatment of collaborators was a high-risk strategy. And predictably, the press responded with condemnation.³⁵ The country had only just come out of the occupation, and the reinstated authorities had yet to live up to their promise of bringing collaborators to trial. Yet Justice Minister Johan Cappelen managed to secure full Cabinet support for the measure. The reasons for the modifications were primarily legal and social in character. For one, Cappelen's Ministry was concerned that some of these provisions could be deemed unconstitutional.³⁶ What is more, the Ministry had begun to consider the more long-term social consequences of the trials, in particular as NS membership figures turned out to have been much higher than wartime estimates.³⁷ The provisional decree of 3 August was an attempt to curb the most serious social ramifications of the wartime provisions.

Anticipating a public backlash against these more lenient provisions, the Ministry sought to carefully word its reasons in the bill. It emphasized that it was 'not in disagreement' with the provisions of the Treason Decree, and that a full loss of 'public trust' was still the appropriate penalty for 'senior figures of the NS administration'.³⁸ The Ministry of Justice referred to the 'extraordinary circumstances' of the time the 1944 decree had been adopted. But critically, it offered a new official interpretation of the Treason Decree by stating that it had primarily had a *symbolic* function.³⁹ The principal purpose of the decree, it argued, had been to convey the broader message that traitors would be punished harshly and comprehensively.⁴⁰ In light of the demands of postwar society, its specific contents now had to be reassessed. By way of this narrative, the Ministry sought to retain its authority, despite the introduction of such fundamental changes. Implicitly, officials thereby acknowledged how the penalty had 'two lives' in the context of the reckoning. The modifications significantly changed the course of the treason trials, and in particular, spared many of the smaller 'traitors' and their families the harsh consequences of the wartime decrees.

The Ministry's early changes also reflect a further aspect of the situation in the summer of 1945: the political transition had been relatively smooth and institutional power had been restored. The wartime provisions had served one of their key purposes, namely to prevent lynch justice. But with relative social and political stability in place, the principle of resocialization began to replace the full exclusion of sentenced collaborators from public life as the guiding principle of the trials. The

government still had the intention of applying the penalty of loss of civil rights and of seeing the trials through. The trials were a central policy for the postwar government, and it was vital for the government that they could be presented as a 'success'. But in order to pre-empt criticism and accusations of 'victor's justice', they now had to be realigned to fit the broader interests of the postwar political agenda. Internal documents from the drafting process reveal that these changes to the provisions regarding civil rights were uncontroversial among government representatives.⁴¹ Excluding individuals from all paths of public life, as stipulated by the wartime decrees, now seemed too far-reaching a measure, with the potential of generating unnecessary friction in society.

A further factor for the changes of 3 August 1945 was that the government was concerned that the provisions might not hold up in court. Having one of the central decrees at the centre of the trials struck down by the Supreme Court would have been a major embarrassment to the government. And indeed, the Supreme Court proved highly sceptical towards the loss of civil rights and in particular the full loss of 'public trust'. While the Court did not declare the 1944 decree unconstitutional, it only extremely rarely handed down this punishment in full. Court practice thus further altered the role of the punishment of loss of civil rights in postwar Norway. Before the changes of 3 August 1945 had been adopted, the lower courts had used the sentence of full loss of 'public trust' widely, in line with the original commands of the Treason Decree. However, when the first cases to concern the loss of civil rights reached the Supreme Court, the Court overruled these earlier judgments, handing down a selective loss of civil rights only.

The Supreme Court deemed § 11 Nr. 9 of the 1944 Treason Decree, according to which individuals would not be allowed to own or acquire various forms of property, to be particularly problematic. A judge first discussed the topic in a dissenting opinion in one of the first cases to reach the Supreme Court in late August 1945 (the 'Stephanson'-case). The case concerned a sixty-eight-year old 'generalkonsul' who had held leading positions in Norwegian society before the war. He had signed up for *Nasjonal Samling* in September 1940 and had primarily been a passive member during the occupation. However, the Court of First Instance in Aker had handed down a harsh sentence, including a full loss of 'public trust', considering it of particular gravity that the defendant had received a good education and arguing that his senior position prior to the war would have conferred a degree of legitimacy to *Nasjonal Samling* as a party.

The Supreme Court amended the penalty to a loss of selective rights only, restoring the defendant's right to own and acquire property under § 11 Nr. 9 of the 1944 Treason Decree.⁴² In the ruling, Supreme Court Justice Edvin Alten made a strong argument against the use of the loss of the right to own or acquire property as a penalty.⁴³ He stated that it was a deeply unjust form of punishment, affecting individuals very differently depending on their professional and economic status.⁴⁴ Moreover, he argued that there was

no reason to believe that a legal penalty of this nature is in line with the general legal consciousness [of the population]. [...] A penalty of this kind is, as far as I know, unknown in other civilized countries, and it violates common criminal law principles.⁴⁵

On 1 September 1945, a case reached the Supreme Court in which § 11 Nr. 9 of the 1944 Treason Decree was tested against the Constitution for the first time. The case concerned five men between the ages of 25 and 44.⁴⁶ The men had been members of *Nasjonal Samling* as well as paramilitary organizations such as the *Hird*. The lower court had sentenced them to a loss of civil rights for life, in accordance with the 1944 Treason Decree. The Supreme Court was divided on the question of whether or not § 11 Nr. 9 of the 1944 Treason Decree was covered by the extraordinary law-making powers of the exile government. The majority admitted that § 11 Nr. 9

entails a considerable extension of the rules on rights loss under the older legislation [...] and that the provision also has a somewhat different character to the rules on rights loss that applied before the Treason Decree.⁴⁷

But at the same time, they argued that the provision was within the scope of the Constitution, for they could not see that it was ‘so far-reaching that it would deviate in such a way from established legal beliefs that it can be considered to be outside the extraordinary legislative authority [held by the exile government] during the war’.⁴⁸ Justice Alten on the other hand disagreed and reiterated the point he had made in the earlier *Stephanson* judgment, arguing that the provisions were not covered by the law-making powers of the exile government because of the fundamental ways in which they ‘violated the convicted person’s legal status and opportunities in life’ and departed from established principles of criminal law.⁴⁹

But in the case at hand, the majority ruled that a sentence under § 11 Nr. 9 of the Treason Decree would not be apt, given its profound consequences for the individuals concerned. The Presiding Justice reasoned that it was

justified to hand down a penalty with which the convicted persons will not find all roads closed once they have served their sentences – a consideration which, not least, applies to those of the convicts who are very young [...].⁵⁰

The majority’s reasoning in the Supreme Court ruling of 1 September 1945 again points to what I refer to as the ‘two lives’ of the penalty of ‘loss of civil rights’: during the occupation, it was meant to have a strong deterrent effect. The Court recognized this need by accepting that the exile government had had the authority to adopt the provision. But upon the liberation, courts were reluctant to apply it, recognizing the profound consequences it would have upon an individual’s life. The provision became remoulded so as to fit the political and social needs of the postwar nation. Moreover, the court actively restrained the scope of the penalty by looking at an individual’s prospects of reintegration.

Despite sparing the government the embarrassment of having § 11 of the Treason Decree declared unconstitutional, the Supreme Court therefore showed a strong unwillingness to sentence individuals to a full loss of public trust: in fact, it only ever handed down the sentence in *one* case.⁵¹ Including sentences from lower courts, a total of only 48 individuals had the full set of rights defined as ‘public trust’ removed. Most of these judgments had been handed down based on the original Treason Decree. By late 1945 it was established Supreme Court practice that the full

removal of civil rights would be overturned and a selective removal of civil rights handed down instead.⁵² In reaching its decisions, the court considered it necessary to carefully balance the individual's professional outlook against the public interest in the removal of the rights in question.⁵³ Moreover, the court took into consideration the age of the defendants and withdrew rights carefully depending on what this meant for their life course and prospects of social reintegration.⁵⁴

By way of this practice, the court significantly reduced the effect of the penalty of 'loss of civil rights' in postwar society. However, the Supreme Court's sentencing practice was not always uncontroversial. Dissent within the Court arose in some of the more high-profile cases involving former NS Ministers. In these cases, a minority of the Supreme Court deemed it appropriate to uphold a loss of 'public trust' for life.⁵⁵ Some Supreme Court judges pointed out that the Ministry of Justice in its recommendations for the 3 August 1945 decree had considered full withdrawal of civil rights appropriate for those who had been at the top of the NS order. In a case against two NS Ministers, a dissenting judge framed his reasoning as follows:

Both convicts have so fundamentally violated Norwegian society that they should be regarded as dead in civic terms and the right expression of this is in my opinion to sentence them to the loss of public trust.⁵⁶

Another minority judge felt that the overall practice of handing down sentences of loss of 'public trust' was much too lenient.⁵⁷ But the Court's majority ensured that the penalty of loss of 'public trust' was repealed also in cases against such high-profile members of the NS elite.

We thus see in the early months following the liberation that the scope of the penalty was radically reduced in both legislative and judicial terms. This is a marked contrast to France, for example, where the penalty of loss of civil rights was in fact *expanded* several times after the liberation in 1944. This reflected the complexity of the French 'reckoning' in view of the fact that the French state in itself had collaborated. After the liberation, the resistance continued to push for a broad 'purge' of Vichyists through the penalty of loss of civil rights, aimed at the 'renewal' of the state.⁵⁸ But in Norway, the situation was more straightforward: the resistance's drive for political influence was satisfied quickly when it obtained key cabinet positions through a consensus-based politics in the spring and summer of 1945. And while Norway did set out to exclude its collaborators from society, this measure was mainly intended to satisfy the public's demands that collaborators be punished in order to secure a swift return to stability and the 'ordinary' prewar order.

Once the period of transition had passed, the punishment of collaborators came to be increasingly seen as a project that had to live up to 'peacetime' law. This meant that the more problematic provisions, such as § 11 Nr. 9, were contained and aligned with ordinary criminal law principles of resocialization. The broader political narrative of the time was less one of 'political renewal' than of a 'return to peacetime'. In Norway, therefore, the penalty of 'loss of civil rights' had a dual life: one before the liberation, which concerned the symbolic exclusion of collaborators from the postwar community and the practical prevention of lynch justice, and one after the liberation,

in which the government and the courts realigned the wartime provisions with established criminal law and the needs of postwar society.

When we look at the use of the penalty of loss of civil rights in other Western European countries, we can see that while the penalty was relied upon in all of the legal purges of collaborators, its use and meaning varied enormously. As we have seen, the provisions were expanded several times in France following the liberation. In Belgium, a similar expansion of the scope of the penalty was introduced in September 1945. Both countries therefore began expanding the scope and meaning of the penalty (or administrative sanction) at a time when Norway had already begun reducing it. But the meaning of the penalty differed between France and Belgium. While it was part of a process of 'political renewal' driven by the resistance in France, in Belgium, it was primarily used to ensure 'law and order' and a 'return to normality'.⁵⁹ It was the volatile political climate in Belgium after the war that led to the penalty being expanded rather than reduced. In the Belgian purges, a withdrawal was mostly handed down for life and extended to a wide range of rights.⁶⁰ The severity of the penalty gives us an idea of the strong social tensions it was meant to appease.

A different picture emerges for the Netherlands and Denmark. While being used extensively in the Netherlands, the sanction was largely restricted to loss of voting rights for 10 years and did not become a central concern for policymakers in their (substantial) reintegration efforts for collaborators.⁶¹ The Danish case more closely resembled that of Norway.⁶² This is perhaps no surprise, given that officials in Denmark monitored the situation in Norway closely. The provisions in Denmark did differ from the Norwegian ones in one crucial regard, however: they did not contain a clause corresponding to § 11 Nr. 9 of the Treason Decree.⁶³ Nevertheless, the Danish provisions concerning the penalty were very rigid in that they stipulated the loss of the rights defined as 'public trust' *en bloc* for a series of crimes, leading several judges to describe them as 'foolish'.⁶⁴ The penalty was amended in June 1946 to allow for greater flexibility in its application by the courts.⁶⁵

The penalty of loss of civil rights thus featured in all purges of collaborators across Western and Northern Europe. But when we examine the penalty more closely and trace its use and meaning over time in the different national contexts, we can see that its role and practical implementation immediately following the respective liberations varied significantly from country to country.

Unwanted Side Effects

Despite the government's August intervention and the courts' restrictive application of a full loss of 'public trust', the penalty of loss of civil rights was not without consequence. The partial loss of civil rights was almost universal for sentences of collaborators, with 44,406 out of the 46,085 individuals sentenced by a court for treason having some of their rights removed.⁶⁶ This had broad consequences for the individuals concerned. The penalty often directly affected an individual's access to a range of professions. A penalty of loss of civil rights therefore significantly hampered convicts' reintegration into society, even after a prison sentence had been served. This lay in the different time frames applied for these penalties and was in line with the original idea of excluding collaborators from postwar society.

But it was not just their legal status that affected treason convicts once released from prison. A treason conviction came to be perceived as a 'stigma' in wider society, leading to hostile reactions against NS convicts upon their release that went far beyond the effects intended by the penalty itself. In large parts of Norwegian society, a treason conviction was seen as a legitimate reason for continued exclusion, even long after individuals had served their prison sentences. Throughout the summer and autumn of 1945, the government grew increasingly concerned over the hostile climate that former NS members were facing in society. Strikes took place across the country with workers demanding a 'patriotic workplace'.⁶⁷ The families of NS members were frozen out of their social environments.⁶⁸ On one occasion, a housing company sent a request to the Ministry of Social Affairs insisting that it was necessary that 'treason' tenants be removed from its properties in the interest of all other tenants and inquiring what provisions could serve as a legal basis for such a measure.⁶⁹ Attitudes were so hostile that they soon became a topic among the countries' intellectuals, with one warning that 'he who the court deems shall get away with a fine and loss of civil rights must not by the wider public be sentenced to lifelong unemployment and social ruin'.⁷⁰

All this made it clear to the government that, beyond the trials, the reintegration of sentenced collaborators would pose a significant challenge. The government soon undertook a number of initiatives to counter the long-term collateral damage to society. On 16 October 1945, it established a 'Study and Work Committee on the Traitor Problem'.⁷¹ The Committee held meetings throughout the autumn and investigated the socio-economic and professional backgrounds of individuals under investigation for treason, before proposing a variety of measures for their successful reintegration into the workforce.⁷² The fact that the government formed such a committee within six months of the liberation indicates an early awareness of the long-term social effects of the trials. At around the same time, the Director of Public Prosecutions sent out a letter to prosecutors across the country urging them to be 'cautious' in applying for the loss of such rights that could affect an individual's prospects for employment.⁷³

As time went on, it became clear that a number of legal side-effects further hampered the prospects of those who had lost their civil rights. Several laws from the prewar era attached legal consequences to a loss of civil rights. This meant, for example, that individuals were unable to receive a pension under the 1936 Pensions Act. Many elderly people found themselves in severe financial hardship as a result of this.⁷⁴ Students were taken off university registers and barred from re-enrolling. But most significantly, the sub-laws governing a range of professions ruled out access to occupational licences, including those for tradesmen and hoteliers. The loss of civil rights therefore affected individuals' rights to work in a range of professions, even when these professions had not been specifically targeted by the wartime provisions.⁷⁵

In the prewar era, these had been minor provisions, governing the comparatively few cases in which an individual lost their rights under §§ 29 and 30 of the 1902 Criminal Code due to a criminal sentence. They had not been drafted with such widespread withdrawal of civil rights in mind as Norway came to experience after 1945. Moreover, there are no indications in the preparatory materials for the wartime decrees that the exile government or resistance had taken into account

these secondary consequences. The strong social condemnation that convicts faced, in combination with these secondary legal consequences, ultimately made the effects of a sentence for collaboration – in particular for ‘smaller traitors’ – much harsher than the authorities deemed desirable or necessary.⁷⁶ Moreover, the stripping of civil rights spurred resentment among sentenced collaborators, generating new social tensions in the postwar nation.

From the perspective of judicial logic, however, the question of how to address the social problems the trials were generating was a difficult one. To publicly change course while the trials were ongoing would have been problematic both legally and politically. When the Ministry of Justice proposed its bill for a Treason Act in late 1946 – a measure that was constitutionally necessary in order to turn the wartime decrees into valid law – it saw little scope to change the legal framework of the trials. In line with his Supreme Court opinions, Justice Alten had sent a letter to the *Storting*'s Justice Committee on 23 June 1946 stating that he would deem it preferable if the penalty in § 11 Nr. 9 of the 1944 Treason Decree were abolished altogether. But the Committee agreed with the government that it would be desirable to retain the provision concerning full loss of public trust for those ‘gravest, rare, cases’ that warranted the harshest penalties.⁷⁷ The *Storting* followed the Committee's recommendation and made only marginal changes to the legal framework concerning the loss of civil rights in the Treason Act of 1947.

Receding anger and normalization

Predictably, the reintegration of sentenced collaborators into the workforce and wider society proved a long and challenging task. The fact that the trials were taking much longer than anticipated also delayed the time at which individuals would regain their rights, further prolonging the reintegration process. As the anger generated by the occupation receded into the background over the years, however, the authorities in charge of the trials increasingly felt able to change course.⁷⁸ From 1948 onwards, the Ministry of Justice became more proactive and proposed a number of pieces of legislation by which sentenced collaborators could gradually regain their civil rights.⁷⁹ The purpose was to unite the nation at the outset of the Cold War and to utilize labour and resources in as efficient a manner as possible. But each legislative measure aimed at bringing about a further normalization of the status of sentenced collaborators also posed a difficult political and legal balancing act for the government.

By 1948, the government had begun to pardon individuals sentenced during the treason trials. The background for this policy was that the courts' sentencing practice had become significantly more lenient than it had been in the early months following the liberation. The penalty of loss of civil rights, too, had been handed down unevenly over time. The Ministry of Justice had instituted an expert Pardons Committee entrusted with reviewing cases to even out the differences in sentences.⁸⁰ However, with regard to the penalty of loss of civil rights, a case-by-case revision was not practically feasible for the Pardons Committee due to the high number of cases concerned.

The Ministry therefore opted instead to propose a broader and ‘more efficient’ change through an act of legislation.⁸¹ The main rationale was that the many thousands

who were still excluded from their professions due to a loss of civil rights should be able to return to the workforce. The ‘workforce bill’ proposed that anyone with a sentence of less than 8 years would regain the rights regulating access to their profession. The exceptions were attorneys, vets, pharmacists, midwives, pastors and teachers, as these required public authorization as defined under the prewar legislation.⁸² The draft also proposed to remove the secondary legal consequences of the loss of civil rights, such as the prohibition to work in certain professions or to receive pensions.⁸³

For the government, the most central concern was that professional expertise would remain unused to the detriment of the national economy if individuals could not return to their previous professions.⁸⁴ But there were other factors at play, too. The Ministry of Justice noted internally that with regard to loss of civil rights, the public considered officials to have ‘overshot the mark’ and that changes were necessary.⁸⁵ This suggests that, beyond mere economic rationale, the public perception of the trials was a key rationale behind the changes. But the concern for the social re-inclusion of sentenced collaborators was a further motivation for the Ministry. As a civil servant in the Ministry noted: ‘The loss of rights makes convicts feel like they are being placed outside society. This increases their bitterness and complicates their reintegration into our democratic society’.⁸⁶

The Ministry’s main challenge was to balance any changes to the legal framework of the treason trials with the government’s interest in presenting the trials as a coherent, legitimate and successful project. The Ministry’s bill therefore made sure to emphasize that the changes in legislation

will hardly be perceived as an expression of any changed opinion regarding the legal principles on which the treason trials are based, or of society’s view on the punishment of the actions of traitors.⁸⁷

This passage reflects how, from the late 1940s, the main challenge for the government was to convey to the public that the trials at all times remained in line with public demands. Minister of Justice Oscar Christian Gundersen, who was much sterner than his predecessor Cappelen when it came to the treason trials, remained very reluctant to introduce changes to the legal framework of the trials that could make previous practices appear as a mistake – or, worse, unlawful. Given the hostilities of the early liberation period, he was also wary of introducing changes that could spark a public backlash. But by this time, the public mood had changed considerably.

The debate on the ‘workforce bill’ in the *Storting* on 22 July 1949 signalled a considerable desire among a majority of MPs for ‘normalization’ after the upheavals of occupation and its immediate legacy.⁸⁸ In fact, the *Storting* went beyond the government’s proposal and opted also to regularize the political status of sentenced collaborators with regard to voting rights and military law, in addition to advancing their prospects for workforce reintegration as proposed by the bill.⁸⁹ This demonstrates that to a majority of MPs the symbolic reinclusion into society was a central motivation, reaching beyond the predominantly economic rationales of the government’s bill. The symbolic dimension is also highlighted in the dates chosen for the official regranting of civil rights: the provision introduced by parliament enabled

individuals with a prison sentence of no more than *one year* to regain the right to vote and to join the military from 9 May 1950, the fifth anniversary of the liberation. Moreover, no new sentences of loss of 'civic rights' or loss of the right to join the armed forces were to be handed down after 8 May 1950. MPs were agreed that the symbolism of these dates would facilitate social reconciliation.⁹⁰ During the debate, Justice Minister Gundersen was initially opposed to the idea of granting treason convicts special status and allowing them to regain their rights earlier than 'ordinary' criminals. But he emphasized that the symbolic dates chosen made it clear that it was an act of forgiveness and reconciliation; of 'society reaching out towards those who committed the crimes'.⁹¹

By the late 1940s, the penalty of loss of civil rights was beginning to be questioned more broadly. One reason for this was that Norway's neighbour (and rival) Sweden had abolished the penalty in 1936. Changes were also being considered in Finland and Denmark. The government appointed a committee to investigate the question of loss of civil rights and to propose new laws not just within the context of the treason trials, but for Norway's criminal law in general. The Norwegian experts met with their Scandinavian colleagues on a number of occasions and also looked closely at developments in other European countries. In criminal law circles, there was a growing opinion that the loss of the right to vote in particular was outdated and served no sensible punitive purposes.⁹²

These changing attitudes towards the penalty of loss of civil rights also shaped the final stages of the treason trials. By the beginning of the 1950s, the question emerged as to what the social status should be of those longer-term prisoners who had not been included in the provisions of the 1949 act (those with a prison sentence of more than one year). During a reflective *Storting* debate on the treason trials as a whole in 1952, many MPs called on the government to grant all remaining collaborators their civil rights back.⁹³ John Lyng, the leader of the conservative *Høyre* party, had early on criticized the scope of the trials, arguing in 1946 that the legal framework adopted during the war was much too broad and would severely affect the cohesion of postwar society.⁹⁴ In 1952, he made a strong case for a further revision of the laws concerning the civil rights of collaborators before the *Storting*:

It is primarily the purely psychological consequences of such a measure that I have in mind. I think it will facilitate the social assimilation of those who have served their sentence. That such an assimilation in itself is highly desirable is probably something we all agree on. I also believe that such an official action may, in many ways, ease the difficulties that currently exist in returning these people to work. There are other speakers who have already addressed the [social] obstacles that exist. The *Storting* cannot by law or other decisions directly clear these obstacles away, but by a statutory decision that grants civil rights back to a greater extent than before, the *Storting* can at least symbolically express the fact that the authorities want to include these people into society as full citizens again.⁹⁵

In light of changing expert attitudes on the topic of civil rights as well as the many arguments for bringing the trials to conclusion, Minister of Justice Gundersen agreed

to put forward a bill concerning the civil rights status of treason prisoners serving a sentence of more than one year. But the bill made sure to stress that it 'does not imply any distancing from decisions or measures taken at an earlier time. This is an amnesty measure based on social and humanitarian considerations'.⁹⁶ The Ministry was also not prepared to go further with regard to individuals who had a prison sentence of more than three years. That, the bill stated, was to be left to 'a later time'.⁹⁷ The government's repeated reluctance to change policy on the trials was a result of its wish to present the trials as a coherent project. In the *Storting* debate on the bill, the Minister of Justice revealed a high degree of concern over public backlashes to any changes in policy.⁹⁸

But again, the *Storting* decided to go further than the government, and introduced provisions in the 1953 law for those sentenced to more than three years' imprisonment. Those with a sentence of three years or more were to regain their right to vote five years after their release or pardon had been granted, but not before 8 May 1955 for those with a prison sentence of five years or more – the tenth anniversary of the liberation. Again, the politics of reconciliation were self-consciously symbolic. In effect, the new provisions meant that only very few people had now not regained full voting rights (by 1 January 1958, there remained only sixty-five such individuals). By 1 January 1963, all sentenced collaborators in Norway had regained their full voting rights.

Beyond the treason trials, the new law of 1953 also made broader changes to the provisions on the loss of civil rights contained in the Criminal Code of 1902. Based on the expert committee's findings, the government proposed that individuals would no longer lose their civil rights *automatically* in the case of a sentence of more than one year, but that those rights would now have to be withdrawn expressly and on a case-by-case basis. Moreover, the loss of the right to enter public office and the loss of the right to own or acquire property were abolished altogether as penalties.

In updating the provisions, the Norwegian authorities looked both abroad and to their own experiences in recent years.⁹⁹ The government opted to retain the possibility to suspend an individual's voting rights for offences under chapters 8 and 9 of the Criminal Code (crimes against the state). A removal of voting rights, the Ministry argued, was what the public would expect, should such widespread treason as that which occurred during the Second World War ever happen again.¹⁰⁰ It was in the interests of the nation, the Ministry continued, that it should be able to protect itself from enemies of the state by suspending their right to vote. In the face of the new threat from the Soviet Union, this was not just an abstract statement.¹⁰¹

In the *Storting*, there was general agreement that the use of the penalty of loss of civil rights should be radically reduced, and the government's proposal was passed.¹⁰² While some MPs criticized the government's move to retain the loss of the right to vote for crimes against the state, the government emphasized that such a loss would not be automatic, but only used selectively when courts deemed it necessary. The effect of the 1953 act was thus to lower to a minimum the meaning of the loss of civil rights in the postwar order. One MP credited the experience of the treason trials for the insights that had led to this measure, arguing that the more individuals had their rights removed 'the greater the damage to the community was'.¹⁰³

The treason trials had demonstrated how damaging the penalty of loss of civil rights could be. But conversely, the experience of the occupation had shown the

profound dangers emanating from organizations aiming to undermine the state's constitutional basis. The legislators therefore allowed for a defence mechanism by retaining the penalty of loss of civil rights for crimes that threatened the state order. The 1953 act therefore has to be seen as having been shaped by Norway's dual experience of widespread wartime collaboration and the subsequent painful process of reconciliation with those who had collaborated.

Conclusion: civil rights and national belonging

The penalties of 'loss of rights' and 'loss of public trust' were of great significance during the preparatory stages of the Norwegian treason trials. One of their key purposes was to convey to the public that collaborators would be brought to trial and excluded from the national community. In signalling that a comprehensive reckoning would be carried out, officials hoped that lynch justice and civil unrest could be avoided. And indeed, Norway came through the liberation period comparatively unharmed.

In the postwar order, however, the penalty of loss of full public trust was handed down only very rarely. The loss of civil rights had broad social ramifications that soon came to affect the individuals concerned as well as social cohesion and the nation's economic recovery. Following the liberation, authorities and courts were required to carefully balance the social demand for punishment with the long-term effects on the families concerned and society as a whole. Moreover, the courts found it difficult to reconcile specific aspects of the penalty with pre-existing legal doctrine (in particular the loss of the right to own or acquire property). Yet the government's hesitation to change the legal framework, and the fact that the *Storting* opted for the anniversary of the liberation as a symbolic date at which to grant individuals their rights back, shows that the re-inclusion of individuals into the national community was more than a mere act of pragmatism. It marked a step also in a complex process of national reconciliation with sentenced collaborators.

By the late 1940s, the penalty of loss of civil rights had grown increasingly out of fashion nationally and internationally, and it was no surprise that Norway followed its neighbours in largely abolishing it from its criminal justice system. More than any other event in the country's history, the treason trials had shown the long-term detrimental effects that accompanied a loss of civil rights. Yet at the same time, the postwar government opted to retain this very form of punishment for crimes against the state. In doing so, it directly referred to the wartime experience and the strong social demands for punishment that might again arise in a similar situation. This indicates how close the harrowing experience of the occupation still felt in 1953. And it signals that if this penalty still retained any purpose in the postwar order, it was to exclude those individuals from democratic participation who attempted to undermine its very principles.

Notes

1. For full studies of the trials, see: Andenæs, *Det vanskelige oppgjøret*; Borge/Vaale, *Grunnlovens største prøve*; Dahl/Sørensen, *Et rettferdig oppgjør?* and Seemann, *Law and Politics in the Norwegian 'Treason Trials', 1941-1964*.
2. *Statistikk over Landssvik 1940-1945*. Oslo: Statistisk Sentralbyrå, 1954, 16, 30.

3. For convenience, ‘civil rights’ in the context of this article refers to ‘civil’, ‘political’ and ‘social’ rights interchangeably, such as the right to vote, the rights that govern an individual’s access to certain professions and the right to own property.
4. Elster (ed.), *Retribution and Repatriation in the Transition to Democracy*; Novick, *The Resistance versus Vichy*; Rouso, *The Vichy syndrome*; Conway, *The Sorrows of Belgium*; Romijn, *Snel, streng en rechtvaardig*; Frommer, *National Cleansing*; Tamm, *Retsopgøret efter besættelsen*.
5. The only articles to expressly engage with the topic are: Simonin: “L’indignité nationale: un chatiment républicain” and Luyten: “Dealing with Collaboration in Belgium”.
6. Elster, *Closing the Books*, 58, 233.
7. The existing studies (see note 1) analyse the Norwegian treason trials in their breadth rather than examining the distinctness of the penalty of ‘loss of civil rights’.
8. Dahl, “Innledning: Oppgjøret som rystet Norge”, 25.
9. Borge/Vaale, *Grunnlovens største prøve*, 67-72.
10. Ot.prp. nr. 39 (1952), 4.
11. §§ 29 and 30 of the Criminal Code of 1902.
12. “PM om gjernervervelse av rettigheter som er fradømt i henhold til landssvikloven” of 7 May 1948, in: RA/S-1043_1/J/Jb/Jba/L0003.
13. Ot.forh. 1901/02, 493-499, referenced in Ot.prp. nr. 39, 5.
14. Omsted: “Fradømmelse av statsborgerlige rettigheter”; Anne Simonin, “L’indignité nationale: un chatiment républicain”, 45.
15. Rt-1924-856; Rt-1934-788.
16. Omsted: “Fradømmelse av statsborgerlige rettigheter”.
17. “Provisorisk anordning om tillegg til den alminnelige borgerlige straffelov og den militære straffelov, begge av 22. mai 1902” of 3 October 1941, printed in Ot. prp. nr. 141 (1945-46), 3.
18. *Ibid.*, 5.
19. *Ibid.*, 4.
20. St.meld. nr. 17 (1962-63), 41.
21. “Justisdepartementets tilrådning til provisorisk anordning om tillegg til straffelovgivningen om forrederi av 22. januar 1942”, printed in Ot.prp. nr. 92 (1945-46), 69.
22. *Ibid.*, 69, 75.
23. *Ibid.*, 67.
24. Johannes Andenæs, *Det vanskelige oppgjøret*, 115f.
25. Ot.prp. nr. 92 (1945-46), 67.
26. Statsråd Hartmann’s PM “Straff for Forræderne under krigen og okkupasjonen”, dated 10 October 1941, cited in: Ot.prp. nr. 92, 71.
27. Notat “Forslag til anorning om straff og andre åtgjerder mot N.S. medlemmer og andre landssvikere” of 12 May 1944 by Andreas Aulie, in: RA/S-3212/D/De/L0299.
28. Samling av diverse provisoriske anordninger 1945, I-V, 107f.
29. Ot.prp. nr. 92, Bilag 4, 83.
30. Report to the Ministry of Justice, presented on 26 September 1944 by the Committee appointed on 8 September 1944, in: RA/S-3212/D/De/L0299.
31. Andenæs, *Det vanskelige oppgjøret*, 53;

32. “Rettsoppgjøret med landssvikene skal gjennomføres strengt men på en måte som kan være et fritt Norge verdig”, *Aftenposten*, 22 May 1945; “Krigsforbryterne vil bli dømt etter norsk lov og rett”, *Dagbladet*, 22 May 1945; “Rettssakene mot krigsforbryterne på trappene”, *Friheten*, 23 May 1945, “Strengt rettsoppgjør med landssvikene – Men på en måte som er en rettsstat verdig Quisling antagelig for forhørsrett alt i denne uken.”, *Nationen*, 23 May 1945.
33. Manuscript for DPP’s speech on the status of the treason trials; “Rettsoppgjøret inntil nå”, in: RA/S-1558/D/L0020.
34. Ot.prp. nr. 92, 83.
35. “Landssvikanordningen mer elastisk”, *Dagbladet*, 4 August 1945; “Var den nødvendig?”, *Arbeiderbladet*, 6 August 1945; “Gråtekonenes seir”, *Dagbladet*, 6 August 1945; “Oppgjøret med landssvikene og deres hjelpere”, *Friheten*, 14 August 1945.
36. “Notat for Statsråd Gundersen” by J. Chr Mellbye to O.C. Gundersen of January 1946, in: RA/S-1042/D/Dh/L0010.
37. “Landssvikene som samfundsproblem” of 31 July 1945 by Jens Chr. Hauge; in: RA/S-1005/D/Db/L0131.
38. Ot.prp. nr. 92, 83.
39. *Ibid.*
40. *Ibid.*, 10.
41. Binder “Prov. anordn. 3/8-45” in: RA/S-3212/D/De/L0301.
42. Rt-1945, 26, 29.
43. The majority of judges did not address this question as it was not relevant to the case, given that the Supreme Court overturned the penalty of § 11 Nr. 9.
44. Rt-1945-26, 34ff.
45. *Ibid.*, 34ff.
46. Rt 1945-43.
47. Rt 1945-43, 45.
48. *Ibid.*
49. Rt-1945, 26, 33f.
50. Rt 1945-43, 46.
51. St.meld. nr. 17 (1962-63), 426-29.
52. Rt-1945-173.
53. Rt-1945-187.
54. Rt-1946-23.
55. Rt-1946-75.
56. *Ibid.*
57. Rt-1946-613.
58. Simonin: “L’indignité nationale: un chatiment républicain”, 58; Luyten: “Dealing with Collaboration in Belgium”, 74.
59. Luyten: “Dealing with Collaboration in Belgium”, 73
60. Huyse, “Belgian and Dutch Purges after World War II Compared”, 168.
61. *Ibid.*, 168, 171.
62. Tamm, *Retsopgjøret efter besættelsen*, 80-81, 119, 129, 262.
63. *Ibid.*, 755-756.
64. *Ibid.*, 119, 243.
65. *Ibid.*, 262, 771-772.

66. St.meld. nr. 17 (1962-63), 426.
67. Andenæs, *Det vanskelige oppgjøret*, 64.
68. *Ibid.*, 64.
69. Letter by residents to A/S Tøyenparkens Boligselskap of 14 June 1945, and letter by A/S Tøyenparkens Boligselskap to Ministry of Justice of 10 July 1945; both referenced in undated and untitled departmental memo; in: RA/S-3212/D/De/L0302.
70. Andenæs, "Omkring Rettsoppjøret III", printed in *Arbeiderbladet*, 17 October 1945.
71. Officially appointed 16 October 1945; see note to Foreign Ministry of 16 October 1945; in: RA/S-1005/D/Db/L0131.
72. P.M. "Landssvikerne som sosialt problem" Fra Jens Chr. Hauge, 4 September 1945; informal meeting notes, of meeting on 1 October 1945; "Referat fra møte i 'Koordinasjonsutvalget'" fn 15 October 1945; letter from Committee to Ministry of Justice of 16 October 1945: Letter by Prime Minister's Office to Ministry of Justice of 16 October 1945 entitled "Ad: Mentalundersøkelse av landssvikere i fengsel"; cf. also report by Håkon Bingen of 15 January 1946 on "Landssvikerutvalget"; in: RA/S-1005/D/Db/L0131.
73. Rundskriv L. nr. 39 Fra Riksadvokaten: "Rettighetstap etter Landssvikanordningen § 11 nr. 3-4.", in: RA/S-1042/D/Dh/L0010.
74. Memo "Landssviksak [...] – Lov om alderstrygd av 16 juli 1936 § 3)" of 23 November 1946, in: RA/S-3212/D/De/L0302.
75. St.meld. nr. 17 (1962-63), 426.
76. Memo by Byråsjef Breder of 7 May 1948 "PM Om gjenervervelse av rettigheter som er fratømt i henhold til landssvikloven", in: RA/S-1043_1/J/Jb/Jba/L0003.
77. Innst. O. I. – 1947, 5.
78. Ot.prp. nr. 92 (1947), 31; Universitetsloven of 9 October 1905 § 40; Håndverksloven of 25 July 1913 § 6, Handelsloven of 18 March 1935 § 18; Old age pension law of 16 July 1936 § 3.
79. Similar developments could be observed in France, Belgium, Denmark and the Netherlands. However, the legal routes chosen by the different countries varied to some extent, with Belgium, for example, being very slow with reinstating rights and only doing so on a larger scale from the 1960s. In France, Denmark and the Netherlands, most individuals had their rights reinstated by the mid-1950s.
80. St.meld. nr. 17 (1962-63), 418.
81. Cf. Referat fra Regjeringskonferanse 10 February 1949, sak 3, in: Riksarkivet - RA/S-1005/A/Aa/L0006; Ekspedisjonssjef Halvorsens notat av Januar 1949 om rettighetstap", in: RA/S-1042/D/Dh/L0010.
82. St.meld. nr. 17 (1962-63), 71.
83. *Ibid.*, 72, 427.
84. Memo by Byråsjef Breder of 7 May 1948 "PM Om gjenervervelse av rettigheter som er fratømt i henhold til landssvikloven", in: RA/S-1043-1/J/Jb/Jba/L0003.
85. P.M. "Benådning – løslatelse på prøve" by byråsjef Breder of 9 September 1947, in: RA/S-1043_1/J/Jb/Jba/L0002.
86. Memo by Byråsjef Breder of 7 May 1948 "PM Om gjenervervelse av rettigheter som er fratømt i henhold til landssvikloven", in: RA/S-1043_1/J/Jb/Jba/L0003.
87. Ot.prp. nr. 14 (1949), 4.
88. O.tid. (1949), 657ff.

89. The reason the government had not included the loss of the right to vote in the bill was that it was considering abolishing this penalty altogether, and wanted to wait for the conclusions of the expert committee it had appointed, see St.tid. (1949), 665.
90. O.tid. (1949), 657.
91. *Ibid.*, 666.
92. Ot.prp. nr. 39 (1952).
93. *Ibid.*, 30-31.
94. O.tid. (1945/46), 33.
95. St.tid. (1952), 99.
96. St.meld. nr. 17 (1962), 73.
97. Ot.prp. nr. 39 (1952), 31.
98. O.tid. (1949), 667.
99. Ot.prp. nr. 39 (1952), 1.
100. O.tid. (1953), 299, 301.
101. The relationship between the occupation experience, the treason trials and the legal measures adopted in the context of the Cold War is explored in detail in: Graver, *Dommernes Krig*, 206-216.
102. *Ibid.*, 296.
103. *Ibid.*, 298.

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