

## **A Survivor, A Legislator and A Jurist: Joseph Lamm's Legal Legacy in relation to the Nazis and Nazi Collaborators Law (1950)**

Yehudit Dori Deston and Dan Porat

The story of Dr. Joseph Lamm is one of the rare cases where the same person enacts a law and then sits as a judge in a criminal proceeding conducted under that law. His story is even more unique, since he took part in the enactment of the criminal law after experiencing firsthand the need for such a law.

Lamm's legal and political paths were intertwined. He was born in Austria in 1899, and was licensed as a lawyer and received his doctorate degree in Law from the University of Vienna in the mid-1920s. After the events of Kristallnacht in November 1938, he was imprisoned in the Dachau concentration camp for four weeks. Following his release, in September 1939, he immigrated to Palestine. Nine years later he was appointed to the Judiciary of the Tel Aviv Magistrate's Court. But Less than five months later he relinquished his robe and was elected to Israel's First Knesset as a member of Ben-Gurion's Mapai Party. However, just two years later, Lamm resigned and returned to his judicial chair, this time at the Tel Aviv district court, where he served as a judge and later as vice president of the court until his retirement in 1969.

In his role as a Member of Knesset, Lamm served as a member of the "Constitution, Law and Justice Committee" during the deliberations of the Nazis and Nazi Collaborators Law (1950). A review of the discussions of the committee about this law shows that Lamm recognized the fundamental importance of this law even beyond his legal role, as he himself put it, "This Law is not only for practice, but also for a study, and it is also a cultural document". His legal education enabled him to be meticulous in deliberating the sections of the law and in comparing them with international legislation designed to deal with the crimes committed by the Nazis. Furthermore, his personal experience as a prisoner in the Dachau camp taught him that "there is a distinction between collaborator and collaborator"; Between "A 'Kapo' in the camp who helped maintain order" and another one who "handed people over to the Nazis".

Shortly after the law was enacted in the Knesset, Lamm judged two different trials of Jewish defendants who served as a Kapo in labor camps in Poland during World War

II, and were prosecuted in the State of Israel under this law. In one of these trials, Lamm acquitted the defendant, in a minority opinion, of committing a crime against humanity, stating that the defendant was "only an instrument in the hands of the Nazis", and that although he "facilitated the Nazis' plan to exterminate the Jewish people", he himself was not a partner to this intention.

An examination of Lamm's extraordinary legal work alongside with his personal background, provides us with a rare glimpse into the worldview of a Jewish jurist, who experienced firsthand the horrors of the Nazi regime, immigrated to Israel and had an opportunity to effect its legal policy of dealing with the Holocaust in the legislature and in the courtroom. The proposed study would seek to substantiate the claim that Lamm's experience as a prisoner in the Dachau camp shaped his legal worldview on the issue of judging Jews accused of collaboration with the Nazis, as reflected both in his role as legislator and judge.