THE HUNT FOR WITCHES AND JEWS: HATRED INFUSED WITHIN THE LAW

*LaSheyna T. Alexander**

I. INTRODUCTION

The law should not be a vehicle of hate, but rather an instrument of "fair judgement . . . here, as everywhere."[1] As such:

> The law demands three things: (1) that the defendant be charged with a punishable crime; (2) that he have full opportunity for defense; and (3) that he be judged fairly on the evidence by a proper judicial authority. Should it fail to meet any one of these three requirements, a trial would not be justice.[2]

Under this test, both the Salem Witch Trails of 1692 to 1693 and the court trials enforcing the Nuremberg Laws of 1935 in Nazi Germany fail.

The focus of this article will be to show how authorities may use the law as a weapon to accomplish their own ends at the expense of human lives and dignity. First, the Nuremberg Laws in Nazi Germany alongside the witchcraft laws established in Salem, Massachusetts during the Witch Trials are outlined, followed by a

---

* Associate Nuremberg Editor, Rutgers Journal of Law and Religion; Juris Doctorate Candidate May 2020, Rutgers Law School.

[1] Henry L. Stimson, *The Nuremberg Trial: Landmark in Law*, 25 FOREIGN AFF. 179, 180 (1947).

[2] *Id.*

short comparison of their origins. Then, an evaluation of how such laws were implemented in court and beyond, including a discussion of the illegality and bias incorporated therein. Lastly, the article will compare recoveries implemented after the injustice and discuss whether such recoveries are adequate.

II. BACKGROUND

A. Salem Laws During the Witch Trials (1692 to 1693)

In 1692, Massachusetts was under English rule.[3] Consequently, the majority of the laws in Salem were modeled after those within the motherland.[4] The "legal" authorities were primarily laymen with no training in the law.[5] Rather, these authorities were more versed in English common law, which mainly consisted of the Bible – particularly the Ten Commandments – and the Pentateuch.[6] The following biblical commands, then, were effectively made into law: (1) "Thou shalt not suffer a witch to live" from Exodus 22:18 and (2) "if any man or woman be a WITCH, that is, hath or con[s]ulteth with a familiar

---

[3] Frank W. Grinnell, *Obscuring American History: Reversing the Salem Witchcraft Convictions*, 43 A.B.A. J. 997, 998 (1957).
[4] Richard B. Trask, *Legal Procedures Used During the Salem Witch Trials and a Brief History of the Published Versions of the Records*, *in* RECORDS OF THE SALEM WITCH-HUNT 44, 45 (Bernard Rosenthal et al. eds., Cambridge Univ. Press, 2009).
[5] Peter J. Galie & Christopher Bopst, *Great Political Trials of the Millennium*, 27 LITIG. 39, 45 (2001).
[6] *Id.*

[s]pirit, they [s]hall be put to death" from Exod. 22. 18. / Levit. 20. 27. / Deut. 18. 10. 1 L.[7]

Witchcraft became suspect in Salem when Betty Parris, a young child, became severely ill after the weather worsened.[8] While sickness was not uncommon, Betty exhibited some disturbing symptoms, like dashing about and diving under furniture that led others to believe the Devil was at work.[9] This belief only solidified as the children who had previously come into contact with her began to show the same symptoms.[10] As the children's condition grew worse, more and more villagers became convinced that the Devil walked amongst them, for witches – his minions – were well known to target children.[11]

The start of the famous Salem Witch Trials began when Betty and Abigail, her cousin, accused three women of witchcraft – Tituba, Sarah Good, and Sarah Osborn.[12] To enforce the biblical laws, the issue became whether the accused could be classified as a "witch" within the meaning of the laws. In other words, how should witch be defined so as to not mistake the pure for the

---

[7] *Id. See also* Grinnell, *supra* note 3, at 998.
[8] Peter Charles Hoffer, *The Salem Witchcraft Trials: A Legal History* 34, 34 UNIV. PRESS OF KANSAS, 1997.
[9] *Id* at 35.
[10] *Id.*
[11] *Id* at 37.
[12] Hoffer, *supra* note 8, at 54.

wicked? To that end, various modes of evidence were brought against the accused as part of Salem's judicial procedures, yet the most telling proof of witchcraft appeared to have been established well before the court's involvement in the matter.

Those accused all seemed to have one thing suspiciously in common; low social standing or a tarnished reputation. For example, of the three accused: Tituba was "a slave from Barbados," Sarah Good was a "poor and homeless outcast who lived by begging and performing odd jobs," and Sarah Osborn, while sufficiently well-off in terms of money, "was also an outcast because she had lived in sin with William [Osborn], her overseer [,] before he married her."[13] Thus, a person's reputation or standing within society appeared to be the deciding factor in determining who was accused of witchcraft; a decision further validated in the eyes of the village by even more arbitrary modes of proof at court.

Other factors in the determination of who was a witch and who was not included the examination and revelation of the Devil's mark.[14] Moles, growths, and "marks in strange or animal shapes

[13] Galie & Bopst, *supra* note 5, at 46.
[14] Bernard Rosenthal, *General Information*, *in* RECORDS OF THE SALEM WITCH HUNT 15, 33 (Bernard Rosenthal et al. eds, CAMBRIDGE UNIV. PRESS, 2009).

could . . . have diabolical implications."[15] Such marks "signified the contractual-like and consensual relationship between the witch and the [D]evil."[16] Searching for the marks on the body was far from "an expression of a spontaneous attempt at lynching, but rather a standard element of the [judicial procedures], ordered by men of authority . . . and conducted according to customary practice."[17] Customary practice consisted of invasively checking the body of accused witches, paying close attention to certain key locations, likes "the armpits, on the breasts, on the roof of the mouth, [as well as] in the rectum and on the genitals."[18]

The absence of any marks on the body, however, did not automatically exonerate the accused of the charge of witchcraft because the Devil, as a master manipulator, could have hidden the marks from mortal eyes in any number of mysterious ways.[19] Hence, the witch-hunt could not be so easily stopped once begun. In comparison, the Nuremberg Laws originated in quite a similar way.

---

[15] Orna Alyagon Darr, *Marks Of An Absolute Witch: Evidentiary Dilemmas In Early Modern England* 114-15, 118 (ASHGATE PUB., 2011).
[16] *Id* at 114.
[17] *Id* at 113.
[18] *Id*.
[19] *Id* at 118.

B. The Nuremberg Laws

Before July 1, 1943, when Jewish defendants were subjected to police suppression, criminal cases against Jews were subject to regular jurisdiction.[20] On September 15, 1935, Adolf Hitler announced the Nuremberg Laws, which were unanimously passed into law that same day.[21] The laws consisted of the Reich Citizenship Law, which robbed Jews of full citizenship and most of their associated political rights; and the Blood Protection Law, which forbade sexual activities or intimacies between Jews and German citizens, including marriage.[22] Through these laws, the "National Socialist race theories obtained judicial authority," thereby furthering the Nazis' "agenda for a 'racially pure' national community."[23]

Under the Reich Citizenship and Blood Protection laws, an issue emerged of how the term "Jew" would be defined.[24] The Reich Citizenship Law from November 14, 1935 supplies the legal method for defining a Jew in ¶ 5; § 1, which states, "[a] Jew is

---

[20] Olekandr Kobrynskyy, *Defining the Jew: The Origin of the Nuremberg Laws*, *in* NAZI LAW: FROM NUREMBERG TO NUREMBERG 35, 46 (John J. Michalczyk ed., Bloomsbury Academic, 2018).
[21] *Id* at 37.
[22] *Id*.
[23] *Id* at 35.
[24] Kobrynskyy, *supra* note 20, at 35.

anyone who is descended from at least three grandparents who are racially full Jews."[25] Additionally, § 2 of the same paragraph specifies, "[a] grandparent shall be considered as *volljüdisch*[, fully Jewish,] if he or she belonged to the Jewish religious community."[26] The determination of whether a person is fully Jewish or not, then, depended on "the membership of their grandparents in a Jewish community."[27]

Curiously, this definition "hardly met the demands of [the Nazis'] own racist ideology" because, according to Hitler's dogma, "Jewish identity should be conceived in racial rather than in religious terms."[28] Yet, this legal formula used to identify "Jews" remained in use despite its ideological inadequacy because it was deemed "practically workable."[29]

Other methods, such as Achim Gercke's "contagionism," which treated Jewish blood as contagious and "infinitely passed on throughout generations" regardless of one Jewish family member or two, failed to become law.[30] The solution to the "Jewish question," under this theory, called for "a gapless registry of all

[25] *Id* at 38.
[26] *Id*.
[27] *Id*.
[28] Kobrynskyy, *supra* note 20, at 35, 37-38.
[29] *Id* at 43, 45-46.
[30] *Id* at 42.

Jews in the Reich [or nation]" to orchestrate the "complete emigration of all Jews."[31] While such a theory may be aligned with Hitler's racist ideology, the formula was not considered as "pragmatic" of a solution as identifying Jews via the religious membership of their grandparents.[32]

Since a person's family history is not always complete or available, other factors contributed to the identification of Jews, including sight, name, and social interactions.[33] The Nazi government, as well as the courts, pressed "the German population into the process of determining who was a Jew and who was not."[34] In court, "family members were compelled to testify…and asked to explain their relative's ancestry and racial descent."[35] Outside of court, the German citizens were taught "how to separate themselves from the undesirable Jews based solely on looks, physical characteristics, and social interactions."[36] For example, the citizens were "encouraged . . . to pay extra attention" to their surroundings and ask the following questions: "if [a person] used

---

[31] *Id.*
[32] Kobrynskyy, *supra* note 20, at 35, 43.
[33] Richard D. Heideman, *Legalizing Hate: The Significance of the Nuremberg Laws and the Post-War Nuremberg Trials*, 39 LOY. L.A. INT'L & COMP. L. REV. 5, 13 (2016-2017).
[34] *Id.*
[35] *Id.*
[36] *Id.*

Jewish expressions," whether the person "portrayed 'characteristically Jewish traits,'" what was the person's appearance, does the person have any Jewish acquaintances, and does the person have any "racial-appearing physical characteristics beyond hair and eye color."[37]

Later, in the fall of 1939, the method for identifying Jews became vastly easier as Jews were forced to wear the Star of David on their person "whenever they went out in public."[38] Ultimately, the Nuremberg Laws created a "witch-hunt" of its own in Nazi Germany similar to that in Salem, Massachusetts some two hundred and forty-three years later.

C. Are Salem and Nazi Germany Really So Different: A Comparison

As shown above, both the witchcraft laws of Salem, Massachusetts and Nuremberg Laws of Nazi Germany originated from less than noble roots. Firstly, the laws' creation was primarily motivated by a single group's desire for power. For example, the Putnam clan was a major family in the village of Salem ever since their arrival in the 1640s.[39] At the time, the clan was suffering due to "their failing status in the town and their

[37] *Id.*
[38] Heideman, *supra* note 33, at16.
[39] Hoffer, *supra* note 8, at 23-24, 54.

economic failures."[40] To counteract their decline in power, the clan decided to fan the flames of witchcraft after Betty's accusation, rather than seeking reconciliation while there was still time.[41] Essentially, the clan became the real driving force behind the "first round of accusations and remained so throughout the crisis."[42]

Impatient with how slow the court system was moving, for instance, the Putnam clan "gave urgency to the proceedings" by taking notes at the trials, encouraging the court's officials in their work, putting their name and reputation behind the prosecutions and "sign[ing] depositions that they had witnessed the girls' suffering."[43] The magistrates could have, of course, changed the course of the whole incident by disregarding the accusations, "but the Putnams were not a clan to be trifled with."[44] Arguably, without the Putnam clan's desire for power and strong-arm tactics to achieve their agenda, the tragedy of the Salem Witch Trials may not have happened, especially to such a widespread degree.

Similarly, the Nuremberg Laws were formulated by the power-seeking, agenda-driven Nazis, whose primary goal was to capitalize off the fear of their believed inferiors. Analogous to the

---

[40] *Id* at 54.
[41] *Id*.
[42] *Id* at 55.
[43] *Id*.
[44] Hoffer, *supra* note 8, at 54.

Putnam clan, the Nazi Party needed power to make its agenda a reality. When Hitler became Reich chancellor, "the Nazis found themselves under growing self-imposed pressure to realize their party program at the operational level."[45] Without a systematic "method to define Jewishness in legal terms," the Nazi Party lacked a suitable foundation upon which to eradicate the Jewish blood within the community, as they wanted.[46]

Like the Putnam clan, the Nazi Party gathered the power they needed by effectively preying on the fears of the people to push forward laws that would enable the party to achieve their personal agenda. Rather than the whispers of the Devil walking about, the Nazi Party took advantage of the "narrow window of opportunity" afforded to them in 1935, when the question of excluding Jews from the military became a burning issue since the decision would have "direct ramifications for Germany's future military strength."[47]

Simultaneously, the cry for a "ban on mixed marriages became louder; several civil servants unlawfully refused to issue marriage certificates to mixed couples."[48] Taking this opportunity to

---

[45] Kobrynskyy, *supra* note 20, at 38.
[46] *Id.*
[47] Hoffer, *supra* note 8, at 54. *See also* Kobrynskyy, *supra* note 20, at 44-45.
[48] Kobrynskyy, *supra* note 20, at 44.

capitalize on the negative atmosphere towards the Jews, the Nazi Party made a "pragmatic decision . . . to legalize the ideologically inadequate[,] but practically workable method of identifying the 'Jewish' racial characteristic by means of the religious affiliation of grandparents."[49] In short, the creation of the Nuremberg Laws, as well as Salem's witchcraft laws, can be traced back to a particular group's need to solidify their political power to promote its own program rather than the general benefit of the public.

Additionally, the purpose underlying the two laws –the complete eradication of their target(s)[50] – hardly speaks to fair-mindedness. Rather the opposite atmosphere was encouraged, where the targets of the laws found the stakes so unfairly stacked against them that they simply surrendered to the tyranny. In Nazi Germany, for example, the Nazis came to "the determination and decision that the only answer was extermination as the final solution to the "Jewish Question"-the problem of what to do with the Jews."[51] The Nuremberg Laws, as a fundamental part of the Nazis' "final solution," were nothing more than a means of

---

[49] *Id* at 45-46.
[50] Specifically "target(s)" refers to witches for Salem, Massachusetts and Jews for Nazi Germany.
[51] Heideman, *supra* note 33, at 6, 16.

"systematic murder," as they attacked those of the Jewish faith or association at virtually every avenue of life.[52]

Comparatively, the Salem witchcraft laws fulfilled the same purpose in that they called for the death of their intended target (i.e. any supposed witches).[53] The implementation of the witchcraft laws also created an environment similar to that in Nazi Germany where the people were turned against each other.[54] Past methods to repel accusations, such as "countersuit[s] for defamation or slander," were no longer viable in Salem during the witch-hunt.[55] Instead, the accused were subject to the watchful eyes of their fellow villagers, even in their own homes, and once accused and brought before the court, they were unable to negate the testimony against them because the "Putnam clan hovered nearby" to push for the conviction or guilty plea when necessary.[56] Finding no means of escape, many of the accused chose to "confess to crimes they had not committed," which demonstrates the one-sided bias of the law reminiscent of the Nazis' Nuremberg Laws.[57] Such bias is

---

[52] *Id.*
[53] Galie & Bopst, *supra* note 5, at 45. *See also* Grinnell, *supra*, at 998.
[54] Hoffer, *supra* note 8, at 57, 69. *See also* Heideman, *supra*, at 6.
[55] Hoffer, *supra* note 8, at 60-61.
[56] *Id* at 57, 69.
[57] *Id* at 69.

further implicated in the following section, where the execution of the above laws are examined and contrasted.

III. LEGAL PROCEDURES AND ENFORCEMENTS

A. Procedure Inside the Courtroom

a. Salem, Massachusetts

Following each accusation for witchcraft, the accused were subject to a preliminary hearing.[58] There, the magistrates determined whether the accusation had any merit so as to warrant its forwarding to the later stages of procedure – the grand jury and jury trial.[59] At this stage in the judicial procedures, the accused were brought before the magistrates with the accusers placed in between them.[60] To start the hearing, there was usually a prayer said by a minister, "followed by a reading of the warrant and the accused being asked to answer the charge."[61] "If in the opinion of the magistrates there was enough information gathered from the

[58] Galie & Bopst, *supra* note 5, at 46.
[59] Trask, *supra* note 4, at 45.
[60] *Id* at 46.
[61] *Id.*

accused and/or from others present as having witnessed illegal activity, the accused could be held for trial."[62]

However, there was a lull between the pre-trial procedures and the actual jury trial, as the governor, Sir William Phips, had to first secure a "new charter reestablishing self-government" before any trials could be held.[63] Thus, those accused were mainly placed in jail for the duration of the wait, resulting in overcrowding as the wildfire of witchcraft accusations spread.[64] By early September 1692, the jails held about two hundred alleged witches awaiting trial.[65] With regards to the conditions of the jails, in addition to the uncomfortableness normally associated with overcrowding, both firewood and food had to be purchased, and so "the poor in prison suffered the most."[66] The jailers, too, were known to be negligent.[67] Since the wait for the accused's day in court could and, in some cases did, span five months or more, some died due to the living conditions *before* they actually stepped foot into the courtroom.[68]

---

[62] *Id* at 45.
[63] Galie & Bopst, *supra* note 5, at 46.
[64] *Id*.
[65] Hoffer, *supra* note 8, at 123.
[66] *Id* at 124.
[67] *Id*.
[68] *Id* at 123-24.

For those who actually made it to their trial, the hardships continued because the long-awaited trial itself was a sham. From the start, the accused were already at a serious disadvantage for three primary reasons. First, it is unlikely the "courts proceeded under the presumption of innocence."[69] Second, neither the accused nor their witnesses could "testify on oath . . . although the prosecution witnesses did."[70] The lack of an oath proved disadvantageous because the criminal system was largely "dependent upon the sacredness of oath taking and oath giving."[71] Lastly, "there were few, if any, rules of evidence before the 18th century, and counsel was not permitted."[72] The deficiency of rules of evidence was particularly felt by the accused at trial since convictions appeared to be based on the most illusionary evidence.

With regards to evidence, several abstract proofs were examined during trial, including spectral evidence.[73] Spectral evidence consists of "testimony about supernatural visitations from a demonic creature, perhaps Satan himself, who appeared in the specter (i.e., shape) of an accused witch."[74] Based on that

---

[69] Galie & Bopst, *supra* note 5, at 45.
[70] Hoffer, *supra* note 8, at 85.
[71] *Id*.
[72] Galie & Bopst, *supra* note 5, at 45.
[73] Rosenthal, *supra* note 14, at 25.
[74] Galie & Bopst, *supra* note 5, at 46.

precedence, dreams too were treated as evidence against the accused.[75] Strange behavior exhibited by witnesses accusing the alleged witches of harming them "in the form of pinching, being stuck with pins, being made mute, [etc.]" was also accepted as factual proof, especially when the witness writhed or screamed as a result of these spectral attacks in front of the accused on the stand in court.[76] At that point, the court typically took the event as viable proof that the Devil was the cause.[77] Such evidence alongside the initial accusations were nearly impossible to refute, thus "everyone who came to trial was convicted."[78]

The fact that judicial procedures were generally open to the public only added to the theatric effect.[79] Moreover, the trials themselves were actually illegal because the new charter which supposedly legalized them only authorized the election of a General Court, who would have the power to create a court to hear the witchcraft cases.[80] The governor, however, abused his authority and decided not to wait for an election, choosing to enact his own court to handle the backlog of cases instead.[81]

---

[75] *Id.*
[76] Rosenthal, *supra* note 14, at 25-26.
[77] Galie & Bopst, *supra* note 5, at 46.
[78] Hoffer, *supra* note 8, at 87.
[79] Trask, *supra*, at 45.
[80] Grinnell, *supra* note 3, at 999.
[81] *Id. See also* Galie & Bopst, *supra* note 5, at 46.

In short, "the whole business was illegal."[82] Moreover, as soon as the elite of the community, like the "Reverend Samuel Sewell (the esteemed minister of [the] Old South Church in Boston), John Alden (son of the legendary John and Priscilla Alden), and even Lady Phips (wife of the new governor) [,] came under suspicion [of witchcraft] . . . further arrests 'without unavoidable necessity' [were prohibited] and . . . the court [was dismissed]."[83] This unfair bias of justice in favor of the elite is also demonstrated in Nazi Germany.

b. Nazi Germany

The famous *Katzenberger* case serves as a telling example of how the Nazi regime manipulated the courts to suit their own agenda. In *Katzenberger*, the defendant, Lehmann (Leo) Katzenberger, "was found guilty of race defilement and . . . damage to the German people, and [thus] sentenced to death."[84] During his trial, "Judge Rothaug [the presiding judge] was hardly keen to give the show trial the semblance of an orderly judicial procedure."[85] The trial was a "show" due to the "obvious lack of

[82] Grinnell, *supra* note 3, at 999.
[83] Galie & Bopst, *supra* note 5, at 46.
[84] Kobrynskyy, *supra* note 20, at 36.
[85] *Id.*

evidence" and the judge's "perverse reasoning aimed at annihilating the defendant."[86]

To be clear, Katzenberger's charge was based on the Blood Protection Law, which forbade "extramarital relations" between Jews and German citizens. In a supplementary decree, the words "extramarital relations" were narrowly defined to mean "only intercourse."[87] Yet, the case facts only established that the defendant kissed and stroked the calves of a female German citizen.[88] The defendant was only found guilty because the judge deliberately twisted the Blood Protection Law so as to expand the definition of "extramarital relations" to include such "substitute actions" as kissing and bodily contact, like that expressed in the case facts.[89]

Additionally, the application of the death penalty was disproportional to the charge of race defilement.[90] According to ¶ 5 of the law at issue, males found guilty of race defilement should be jailed as punishment.[91] However, to gain the death penalty, the presiding judge pinned an additional charge – damage to the

---

[86] *Id.*
[87] *Id.*
[88] *Id.*
[89] Kobrynskyy, *supra* note 20, at 35, 36-37.
[90] Kobrynskyy, *supra* note 20, at 37.
[91] *Id.*

German people – on the defendant.[92] This underhanded maneuver must have forced "even contemporaries brainwashed by Nazi propaganda" to recognize the disproportionality of the verdict.[93]

In short, "repulsive and bigoted per se, Nazi legislation was interpreted and applied by the Nuremberg Special Court in the harshest possible manner against the defendant."[94] Overall, the case expressed the following message to the populace: "to serve the ideals of the [Nazi] movement, the judicial system was [both] eager [and willing] to distort justice and to destroy individuals, especially if they were Jewish."[95]

c. The Legality of the Courts: A Comparison & Contrast of Procedure

The level of legal authority supporting the courts' procedures and judgments differs. First, distinguishable from the illegally constructed court in Salem, the Nuremberg Special Court was perfectly legal.[96] Second, the legal backgrounds of the courts' officials vary drastically. In Salem, for instance, "untrained judges questioned witnesses and pressured jurors."[97] Yet, the Nuremberg Special Court employed legally trained officials, such as the

---

[92] *Id.*
[93] *Id.*
[94] Kobrynskyy, *supra* note 20, at 35, 37.
[95] *Id* at 36.
[96] Grinnell, *supra* note 3, at 999. *See also* Kobrynskyy, *supra*, at 36.
[97] Galie & Bopst, *supra* note 5, at 45.

presiding judge of the *Katzenberger* case – Judge Oswald Rothaug – who was far from untrained having "passed the equivalent of the bar exam in 1925 . . . [and] served variously as a prosecutor and counsellor to various courts in Nuremberg" before presiding over the *Katzenberger* case.[98] Based on the foregoing facts, it seems apparent that the Nuremberg Special Court had the greater legal authority supporting its biased judgments against the Jews. A fact that is even more concerning than if the Nazi Party had illegally conducted the whole affair, analogous to Salem's legislation.[99]

Interestingly, this difference in legality notwithstanding, both courts in Salem and Nazi Germany manipulated the law to suit their respective masters – the Putnam clan and the Nazi Party, essentially operating under an apparent favoritism. Consequently, just as the accused witches had virtually no hope of proving their innocence, the Jews were in no better a situation, for "the courts found ways to ignore the facts and condemn the Jews to concentration camps" regardless.[100] Unfortunately, such biased manipulation of the law was further compounded by the suspect means of enforcement used outside of the courtroom.

---

[98] Stephen J. Sfekas, *The Enabler, the True Believer, the Fanatic: German Justice in the Third Reich*, 26 J. JURIS 189, 201 (2015).
[99] Grinnell, *supra* note 3, at 999.
[100] Hoffer, *supra* note 8, at 87. *See also* Heideman, *supra* note 33, at 14.

B. Enforcement Outside the Courtroom

Both the Nazis and Putnams used hysteria and intimidation to enforce their ill begotten laws. These tactics had such an affect as to even influence the actions of ordinary citizens. For example, Erna Petri, a German citizen and mother during the Nazis' reign in Germany, saw some ragged children on the way home from grocery shopping one day.[101] Believing these children to be the Jewish children that ran away from a train headed to an extermination camp, Erna lured the children into her home and killed them.[102] When asked why she did such a thing, she answered, "I had been so conditioned to fascism and the racial laws, which established a view towards the Jewish people. As was told to me, I had to destroy the Jews. It was from this mindset that I came to commit such a brutal act."[103]

The Nuremberg Laws brainwashed the people so completely as to create an epidemic of hysteria, pushing the people to act against the Jews for fear of being subjected to communal disapproval themselves.[104] The atmosphere in Salem was similarly tense, as

---

[101] Gregory S. Gordon, *The Propaganda Prosecutions at Nuremberg: The Origin of Atrocity Speech Law and the Touchstone for Normative Evolution*, 39 LOY. L.A. INT'L & COMP. L. REV. 209, 209 (2016-2017).
[102] *Id.*
[103] *Id.*
[104] Heideman, *supra* note 33, at 10-11.

proof of old grudges between the accused and the plaintiff alongside misfortune on the behalf of the plaintiff were treated as evidence of guilt within the courts.[105]

Sarah Osborn's case, for instance, was a "dispute over land," in which the Putnam clan decided to settle via accusing Sarah of witchcraft after the Osborns refused to sell their son's inheritance (i.e. the land) to the Putnams.[106] For this, Sarah died in jail, under the false accusation and belief that she was a witch.[107] Justice, then, became synonymous with personal vendetta and the witch trails a mere show – "a theater of accusation."[108] Ultimately, both power-seeking groups sought to influence the people through fear, enabling them to carry out their ideals of a Jewish-free nation and a witch-free state.

IV. CONCLUSION: AMENDS ARE GIVEN, BUT IS IT TOO LATE?

Both the Nazi and Salem regimes failed in their duty to "protect the people from cruel and discriminatory laws" by enacting and enforcing such bias laws as those described above.[109] Following this failure, each respective regime attempted to make amends. First, the Massachusetts legislature passed a resolve that

---

[105] Galie & Bopst, *supra* note 5, at 46.
[106] Hoffer, *supra* note 8, at 62.
[107] *Id* at 99.
[108] *Id* at 65.
[109] Heideman, *supra* note 33, at 19.

pardoned the witchcraft victims, effectively absolving them of any criminal record.[110] Second, the perpetrators of crimes against the Jewish community within Germany were brought to justice in the Nuremberg Trials, which "established genocide and aggression as international crimes . . . enable[ing] the world to have the legal ability to deter and punish perpetrators for acts of hatred, genocide, and attempted annihilation."[111]

Nonetheless, these attempts at redemption seem meaningless, as the dead care not for sorry or "any futile paper resolutions."[112] Neither tragedy, after all, can be wiped clean from history nor can blood once shed be undone. Despite being "far from complete or perfect," these attempts at reconciliation are meaningful in the sense that many important lessons can be learned from their tragic origins.[113] Ultimately, both the Salem Witch Trials and the Nuremberg Laws in Nazi Germany act as "example[s] of how dangerous the abuse of the rule of law can be when there is no system of justice protecting *all* people."[114]

---

[110] Grinnell, *supra* note 3, at 997.
[111] Heideman, *supra* note 33, at 20.
[112] Grinnell, *supra* note 3, at 997.
[113] Heideman, *supra* note 33, at 23.
[114] *Id* (emphasis added).