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Wehrmacht Military Courts as Instruments of Occupation: The Case of German-Occupied Norway, 1940–1945

Introduction

On 23 October 1943, a German military firing squad executed eight Norwegian men outside the harbour town of Tromsø. Seven of the eight victims were from the remote barren island of Arnøya in the Barent Sea. Two months earlier they had, together with sixteen more Norwegian men and women, been arrested for having sheltered two Soviet spies. After having questioned and tortured the suspects, the German Security Police in Tromsø handed them over to the court of the 270th Infantry Division which sentenced sixteen to death and the rest to prison with hard labour. Eight men were shot the following day, the other death sentences were commuted.[1] These were the last *Norwegian civilians* executed by order of a Wehrmacht court, though not the last victims. The Wehrmacht courts continued to punish with death Wehrmacht soldiers, mostly deserters, until the end of the war and beyond. Two days after Nazi Germany had surrendered, the court of the 6th Mountain Division stationed in Kvesmenes in Northern Norway sentenced four Wehrmacht soldiers to death. They were part of a unit that mutinied and attempted to flee across the border to neutral Sweden after their regiment's commander had given the order to continue fighting despite the surrender. While most soldiers succeeded in their escape, a small number were captured and immediately tried, the remainder sentenced in absentia.[2] The four soldiers sentenced to death were executed by firing squad the following day, 10 May 1945.

These examples contrast with the image of a fair and even benign Wehrmacht justice system that was opposed to Hitler. This myth remained dominant well into the 1990s thanks to the influence of former Wehrmacht judges, but has been thoroughly dismantled since.[3] Numerous studies on the Wehrmacht justice system have documented how the courts functioned as willing instruments of

1 Kjell Fjørtoft, *Dramaet på Arnøy* (Oslo: Gyldendal, 1981),114–128; Berit Nøkleby, *Skutt blir den ... Tysk bruk av dødsstraff i Norge 1940–45* (Oslo: Gyldendal, 1996), 215–216.

2 Gericht der 6. Gebirgsdivision, 9 May 1945. Riksarkivet, RA/RAFA-2197/D/Do/L0235/0007. Accessed 20 June 2025, https://media.digitalarkivet.no/view/112123/1.

3 Joachim Perels and Wolfram Wette, *Mit reinem Gewissen. Wehrmachtrichter in der Bundesrepublik und ihre Opfer* (Berlin: Aufbau Verlag, 2011).

https://doi.org/10.1515/9783110989588-012

Nazi terror, systematically violating basic legal principles and prosecuting with particular vigour those who tried to evade military service or voiced criticism.[4] It is estimated that the Wehrmacht courts sentenced up to 30,000 Wehrmacht soldiers to death, of which 20,000–22,000 were executed, the majority deserters.[5] While the fate of these victims has received ample attention in recent years after decades of silence, the fact that also around 10,000–15,000 civilians fell victim to Wehrmacht courts is much less known.[6] In France, for instance, Wehrmacht courts sentenced at least 2,110 French civilians to death.[7] This article seeks to address this lacuna by investigating the role of military courts in German-occupied Norway.[8]

German occupation policy across the occupied European territories varied considerably but was overall more benign in Norway. This is not to say that the

4 Instead of listing the vast number of studies on the subject, I would like to draw attention to two thorough empirical studies that comprehensively examine Wehrmacht justice: Kerstin Theis, *Wehrmachtjustiz an der "Heimatfront": Die Militärgerichte des Ersatzheeres im Zweiten Weltkrieg* (Berlin: De Gruyter, 2016) and Walter Manoschek, *Opfer der NS-Militärjustiz: Urteilspraxis, Strafvollzug, Entschädigungspolitik in Österreich* (Wien: Mandelbaum, 2003).

5 For the calculations see Fritz Wüllner, *Die NS-Militärjustiz und das Elend der Geschichtsschreibung* (Baden-Baden: Nomos, 1997), 200–203, 297–298, 476; Manfred Messerschmidt and Fritz Wüllner, *Die Wehrmachtjustiz im Dienste des Nationalsozialismus. Zerstörung einer Legende* (Baden-Baden: Nomos, 1987), 168–172, 453.

6 Wüllner, *Die Wehrmachtjustiz*, 203, 297–298.

7 Gaël Eismann, "Das Vorgehen der Wehrmachtjustiz gegen die Bevölkerung in Frankreich. Die Eskalation einer scheinbar legalen Strafjustiz," in *NS-Militärjustiz im Zweiten Weltkrieg: Disziplinierungs – und Repressionsinstrument in Europäischer Dimension*, ed. Claudia Bade, Lars Skowronski and Michael Viebig (Göttingen: V&R unipress, 2015), 109–131, 130. The most recent study comparing the role of Wehrmacht justice in a number of European countries was published by Bade, Skowronski and Viebig in 2015. For older studies see Jürgen Thomas, *Wehrmachtjustiz und Widerstandsbekämpfung: Das Wirken der ordentlichen deutschen Militärjustiz in den besetzten Westgebieten, 1940–45 unter rechtshistorischen Aspekten* (Baden-Baden: Nomos, 1990) and Günther Moritz, *Gerichtsbarkeit in den von Deutschland besetzten Gebieten, 1939–1945,* Vol. 7 (Tübingen: Institut für Besatzungsfragen, 1955).

8 Only few studies have addressed the German courts in Norway. See Hallvard Tjelmeland, Maria Fritsche, and Fredrik Fagertun, "Tyske og norske styrings- og kontrollorganer under okkupasjonen," in *Andre verdenskrig i nord: Overfall og okkupasjon*, ed. Fredrik Fagertun (Stamsund: Orkana Akademisk, 2022), 279–333, 290–301; Magnus Koch, "Norwegische Verurteilte der Wehrmachtjustiz," in *"Rücksichten auf den Einzelnen haben zurückzutreten": Hamburg und die Wehrmachtjustiz im Zweiten Weltkrieg*, ed. Claudia Bade, Detlef Garbe, and Magnus Koch (Hamburg: Landeszentrale für politische Bildung Hamburg und KZ-Gedenkstätte Neuengamme, 2019), 95–116; Hans Petter Graver, *Dommernes krig: Den tyske okkupasjonen 1940–1945 og den norske rettsstaten* (Oslo: Pax, 2015). Geraldien von Frijtag Drabbe Künzel, "Rechtspolitik im Reichskommissariat: Zum Einsatz deutscher Strafrichter in den Niederlanden und in Norwegen 1940–1944," *Vierteljahrshefte für Zeitgeschichte,* 48.3 (2000): 461–490; Nøkleby, *Skutt blir den.*

Norwegians did not suffer hardships and violence. The German occupation authorities reacted with increasing brutality to the mounting resistance.[9] They also instigated and organised the deportation and murder of the small Jewish minority in autumn 1942, aided by Norwegian authorities.[10] The living conditions for the general population, however, were considerably better than in many other occupied territories. The difference can largely be explained by Nazi ideology which considered the Norwegians members of the superior "Aryan" race and as culturally and racially equal to the Germans. These racialised views, rooted in an older German fascination for the Nordic and heavily promoted by German propaganda, informed the aims of the Nazi leadership who planned to integrate Norway into a future Great Germanic Reich.[11] Establishing good relations with the Norwegians was thus key to reaching this aim.[12]

This article takes the differences in German occupation policy as a starting point to discuss the role of Wehrmacht justice in Norway. How was the Wehrmacht courts' treatment of civilians influenced by the Nazi regime's ideological, strategic, and political aims? How did they handle offences committed by Norwegian civilians compared to those committed by Wehrmacht soldiers? To illuminate the functions and role of the military courts within the German occupation system, I believe it necessary to go beyond the courts' prosecution of resistance activities and other crimes the Nazis deemed to be of "political" nature such as criticism of the government, support for prisoners of war, or desertion. The majority of offences the Wehrmacht courts dealt with on a daily basis were of more mundane nature and concerned thefts, black market activities, traffic accidents, or altercations as well as, in the case of military personnel, absence without leave or violations of guard duty.[13] This analysis focuses on the courts' handling of assaults as well as of property offences, such as theft, misappropriation, and the handling of stolen goods. These crimes were chosen because they made up the

9 For a concise overview on Norway under German occupation see Ole Kristian Grimnes, *Norway in the Second World War: Politics, Society and Conflict* (London: Bloomsbury, 2022).

10 Bjarte Bruland, *Holocaust i Norge: Registrering, deportasjon, tilintetgjørelse* (Oslo: Dreyers forlag, 2017).

11 Andreas Eliassen Grini, "Es war ein Edelweiß: Selvforståelse og -konstruksjon i krigsmemoarer fra Wehrmachts 2., 3. og 6. Bergjegerdivisjon" (MA thesis, Norwegian University of Science and Technology, 2022); Lovisa Bergmann, "Fremstillinger av nordmenn i okkupasjonsavisa Deutsche Polarzeitung, senere Polar-Kurier (1941–1945)," *Historisk tidsskrift* 101.1 (2022): 36–50; Terje Emberland, and Matthew Kott, *Himmlers Norge: Nordmenn i det storgermanske prosjekt* (Oslo: Aschehoug, 2012), 56–108.

12 Carlo Otte, cited by Robert Bohn, *Reichskommissariat Norwegen: "Nationalsozialistische Neuordnung" und Kriegswirtschaft* (München: Oldenbourg, 2000), 57.

13 Theis, *Wehrmachtjustiz*, 195–197.

bulk of the courts' case load and illustrate both frictions between the occupiers and the occupied as well as instances of pragmatic cooperation and overlapping interests.[14]

I analysed the court files of nine army and navy courts stationed in Norway during the Second World War, in addition to military court decisions found in the prisoner files of Norwegians incarcerated in Hamburg.[15] Of key importance for my analysis were the written court decisions. These documents, usually between three and twelve pages long, name the judges and defendants, give some biographical details, describe the crime that was committed, discuss applicable laws, the defendant's actions, as well as any mitigating or aggravating aspects and conclude with the verdict and the sentence. Since the archival situation is very patchy, with many records lost, I opted for a qualitative, hermeneutic approach.[16] By closely examining the judges' rhetoric and narrative strategies, I will show which norms and expectations they formulated and identify the strategies they used to justify the Wehrmacht's – and their own – presence in Norway.

The study aims to show that the military courts' uneven handling of property and assault crimes was – at least partly – influenced by a contradictory German occupation policy that sought to foster consent whilst clamping down on any opposition to demonstrate strength. I argue that their desire to win approval in occupied society repeatedly came into conflict with their need to prove to the military and Nazi leadership that they possessed the necessary rigour to enforce Nazi Germany's aims. I will begin with a brief summary of the organisation and legal basis for the military jurisdiction. The analysis will then examine the Wehrmacht's prosecution of assaults on German soldiers, explore the handling of property offences committed by both Norwegians and Germans before discussing the findings in the conclusion.

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14 See also Maria Fritsche, "Spaces of Encounter: Relations between the Occupier and the Occupied in Norway during the Second World War," *Social History* 45.3 (2020): 360–383, 366–368; David Forster, "Die Militärgerichtliche Verfolgung von Eigentumsdelikten in der Deutschen Wehrmacht," in Manoschek, *Opfer der NS-Militärjustiz,* 319–336.

15 The majority of Wehrmacht court records are archived at the German *Bundesarchiv-Militärarchiv* in Freiburg (BA-MA), record group PERS 15. I also investigated the records of the court the 2nd Mountain Division at the Austrian state archive *Archiv der Republik* in Vienna, as well as the Norwegian prisoner files held at the *Staatsarchiv Hamburg* (StaHa), record group 242-1-II, Gefängnisverwaltung II.

16 For a description of the archival situation and challenges, see Theis, *Wehrmachtjustiz*, 23–32; for details of the archival holdings at the BA-MA see Thomas Menzel, "Die Bestände der ZNS im Bundesarchiv-Militärarchiv," *Mitteilungen aus dem Bundesarchiv* 1 (2007). Accessed 20 June 2025, https://www.bundesarchiv.de/DE/Content/Publikationen/Mitteilungen/mitteilungen-2007-1.html.

1 The Occupation of Norway and the Role of Wehrmacht Courts

On 9 April 1940, the Wehrmacht attacked Denmark and Norway. While the German troops quickly conquered the southern and middle part of Norway, the fight against the Norwegian troops and its allies continued in the north. After two months, the Norwegian Army surrendered on 10 June 1940, the king and his government had fled into exile to England a couple of days before. Until the end of the war, Norway remained under a German civilian administration headed by Reichskommissar Josef Terboven and supported by a Norwegian puppet government under Vidkun Quisling and his fascist party, *Nasjonal Samling*. Even though Terboven held supreme power, the Wehrmacht was a major power player, both through the strategic importance Hitler assigned to Norway as well as through the size of its troops. Up to 350,000 Wehrmacht soldiers were stationed in the country throughout the war. The German presence was strongly felt, especially along the coast and in the thinly populated Northern part where the Wehrmacht troops amassed. The building of fortifications along the Norwegian coast as well as the military's need to house, supply and transport its troops fuelled demand for Norwegian labour and created numerous points of contact between the occupiers and the occupied. The role of the Wehrmacht courts must be viewed in this context. Their role was to control and regulate these interactions and, at the same time, foster acceptance for the German occupation power.

Initially, the Wehrmacht judiciary held main jurisdiction over Norwegian civilians in all matters concerning the occupation.[17] On 21 January 1942, Reichskommissar Terboven passed an ordinance that handed over jurisdiction over civilians to the recently established *SS und Polizeigericht Nord*. Wehrmacht courts remained in charge of prosecuting civilians for crimes that targeted the Wehrmacht or its members directly or took place in spaces controlled by the Wehrmacht.[18]

17 The jurisdiction over civilians in the occupied territories was stipulated in § 4 Kriegssonderstrafrechtsverordnung (KSSVO) and § 2 Kriegsstrafverfahrensordnung (KStVO) which outlined the legal proceedings. Both ordinances were passed on 17 August 1938 and entered into force 26 August 1939. Reichsgesetzblatt RGBl. I (1939), Nr. 147, 1455–1476. The Military Penal Code, updated 10 October 1940, stipulated that crimes committed by foreigners in occupied territories should be punished on the same terms as if they had been committed in the Reich. See Verordnung über die Neufassung des Militärstrafgesetzbuches, § 161, RGBl. I (1940), Nr. 181, 1347–62. See also Oberkriegsgerichtsrat Dr. Schober, "Strafgewalt über Ausländer im besetzten Gebiet," *Zeitschrift für Wehrrecht*, 4. Band, 1942/43, 507.

18 Zweite Verordnung über die Erweiterung der Zuständigkeit des SS- und Polizeigerichts Nord, Verordnungsblatt für die besetzten norwegischen Gebiete, Oslo, 24.1.1942.

The driving force behind this change was the head of the SS and Police, Heinrich Himmler, who was keen to expand the power of the SS in Norway, putting it in charge of eliminating Norwegian resistance. The Wehrmacht command was quite willing to hand over such "political" cases to the SS as long as Wehrmacht interests were not concerned, since the military courts were already overstretched.[19] In practice, the Wehrmacht continued to prosecute cases against civilians, at least until the end of 1943. Firstly, because many of these crimes were linked to the Wehrmacht and its properties. Secondly, because the *SS and Polizeigericht Nord* in Oslo struggled to cope with the vast territory, making it more expedient to have one of the approximately 35 Wehrmacht courts prosecute a crime.[20] According to an internal statistic, Wehrmacht courts convicted 1,940 non-German civilians in Norway in 1942 as opposed to the SS court which convicted only 398 persons.[21]

The fact that Wehrmacht (and later the SS and Police) courts held jurisdiction over Norwegian civilians did not mean that the Norwegian justice system – and Norwegian law – ceased to operate. Norwegian courts continued to handle all criminal and civil law cases of Norwegian citizens that did not affect German interests.[22] The Wehrmacht courts thus operated parallel to Norwegian courts. Only those civilians who breached a German ordinance or committed an offence that involved Wehrmacht personnel or property were prosecuted by a German military or SS court. The legal procedure and composition of the military courts was the same for civilians and Wehrmacht personnel and in fact very similar to the Japanese military courts operating in China from 1940 (see chapter by Kelly Maddox). The commander-in-chief was the master of the court (*Gerichtsherr*) who ordered the opening of a prosecution or dismissal of a case, appointed the members of the court (one presiding judge with legal training, and two associate judges, one of them a commissioned officer) and confirmed the sentence.[23] The simplified

19 Bohn, *Reichskommissariat Norwegen*, 95; Frijtag Drabbe Künzel, "Rechtspolitik im Reichskommissariat," 482–484

20 The number does not include the various branches of the navy courts. See Manfred Messerschmidt, *Die Wehrmachtjustiz, 1933–1945* (Paderborn: Schöningh, 2005), 83.

21 Stein Ugelvik Larsen, Beatrice Sandberg and Volker Dahm, ed., *Meldungen aus Norwegen 1940–1945: Die geheimen Lageberichte des Befehlhabers der Sicherheitspolizei und des SD in Norwegen*. (München: Oldenbourg, 2008), 1145–1146.

22 The German occupiers did not interfere in the court procedures but left it to their Norwegian allies to nazify the system. For the responses of the Norwegian courts and legal profession to the occupation, the Nazification of the justice system and the courts' operation see Graver, *Dommernes krig*, 32–110.

23 The details of the procedure were regulated in the KStVO which accompanied the KSSVO. See footnote 17.

and shortened procedure typical for military court trials meant that many judicial safeguards were removed. The defendants had no right to a defence lawyer unless the crime was punishable by death, although I found many cases in which the defendants had access to a Norwegian lawyer.[24] Furthermore, the accused were not allowed to call witnesses or submit evidence and had no recourse to appeal the court's decision.[25]

The legal basis was German law, i.e. the military penal code (*Militärstrafgesetzbuch*), the German penal code (*Reichsstrafgesetzbuch*) and a new, extraordinary criminal law which had entered into force on 26 August 1939, a few days before Nazi Germany attacked Poland.[26] This extraordinary law called *Kriegssonderstrafrechtsverordnung* (KSSVO), redefined and expanded the punishments for the crimes of espionage, guerrilla warfare and desertion, introduced the new crime of *Wehrkraftzersetzung* (subversion of the strength of the Wehrmacht) and stipulated that citizens in the occupied territories could be punished with up to 15 years imprisonment for breaching an ordinance, unless stated otherwise.[27]

The operation of military courts in Norway was in line with international law which stipulated that the population of a territory occupied by a foreign army was subject to military jurisdiction for the duration of the occupation.[28] At least in the early years of occupation, the Wehrmacht was keen to demonstrate to the Norwegians that it adhered to international rules of war, although its interpretation of the law was highly selective and debatable.[29] The fact that Norwegian civilians reported crimes committed by German soldiers suggests that the Wehrmacht courts, at least to some extent, succeeded in their goal to present themselves as legitimate institutions. Yet the courts' often ruthless handling of any signs of resistance, the criminalisation of acts that had previously been legal, such as leaving

24 See also Graver, *Dommernes krig*, 129–130.

25 Thomas, *Wehrmachtjustiz und Widerstandsbekämpfung*, 35.

26 Thomas, *Wehrmachtjustiz und Widerstandsbekämpfung*, 36; Schober, "Strafgewalt über Ausländer," 507.

27 § 4 KSSVO.

28 Andreas Toppe, "Besatzungspolitik ohne Völkerrecht?: Anmerkungen zum Aufsatz 'Rechtspolitik im Reichskommissariat' von Geraldien von Frijtag Drabbe Künzel," *Vierteljahrshefte für Zeitgeschichte* 50(1) (2002), 99–110, 103–105; Lassa Oppenheim, *International Law: A Treatise, Vol 2: War and Neutrality* (2nd ed., London: Longmans, 1912), § 172, 215. In many other German-occupied territories, jurisdiction over civilians was soon transferred from military courts to German civilian or SS and Police courts or circumvented altogether, as in the Soviet territories and Serbia. This constituted a breach of international law. See Toppe, "Besatzungspolitik ohne Völkerrecht?" 105; Messerschmidt, *Die Wehrmachtjustiz*, 239, 259, 274–275, 279.

29 See, for example, Schober, "Strafgewalt über Ausländer," 504, citing article 43 of the Hague Convention of 1907.

the country, listening to the radio, or voicing criticism of the government, and the often excessive punishments for minor offences damaged the reputation of the military courts and of the German occupier as a whole and fostered further discontent, as the following section illustrates.

2 Impertinent, Insolent, Recalcitrant – The Courts' Assessment of Norwegian Assaults on German Soldiers

The vast majority of the Norwegians were opposed to the German occupation and rejected the Quisling puppet regime. Even amongst those who supported Quisling's party *Nasjonal Samling*, which collaborated with the Germans or reaped benefits from the occupation, few desired to live under German tutelage. However, to openly express one's opposition was dangerous, as the Germans responded with severity to any acts of resistance.

The cases of assault analysed here merely represent the tip of an iceberg of discontent. Most of the examples I found had been committed by Norwegians who had verbally insulted, spat at, shoved, or occasionally punched a member of the Wehrmacht. Assaults by soldiers on Norwegian civilians were, in contrast, often dealt with by disciplinary action or abbreviated legal procedures (*Strafverfügung*). While the courts were keen to demonstrate that any attack on a German uniform met a severe response, assaults committed by Wehrmacht soldiers only went to trial if the commander-in-chief felt that the reputation of the Wehrmacht was at risk. The court records illustrate the frictions between the occupier and the occupied and show a considerable level of contempt for the occupier. Scrutinised more closely, they also reveal a deeply felt sense of humiliation, powerlessness, and frustration, especially amongst men. The verbal and physical attacks on Wehrmacht soldiers can thus be understood as attempts to reclaim some of the lost masculine power. Although alcohol played an influential role in these incidents, the assault was often triggered by an action that was experienced as humiliating. The overbearing manner of a German soldier when checking identity papers could trigger a violent reaction, but sometimes seeing a Wehrmacht uniform or hearing somebody talking in German was sufficient to cause an outburst. For Einar S., a 22-year-old Norwegian logger in the employ of the Wehrmacht, the catalyst was a German soldier whistling the "Englandlied", a Nazi propaganda song, whom he encountered on a pedestrian underpass while walking home on a Sunday night. Einar S., who had been drinking and presum-

ably felt offended by the soldier's display of self-confidence, gave him a violent shove, and tore off one of his epaulettes. The German victim spotted his assailant in town a couple of days later and reported him. He was sentenced to six-month prison for insulting the German Wehrmacht.[30]

Because contesting German power openly was very dangerous, assailants often resorted to concealed attacks, for instance by "accidentally" bumping into their adversaries or forcing them off the pavement. An incident on the island of Titra, in which a German soldier taking pictures in the harbour was suddenly hit by a piece of wood, illustrates such an "accidental" assault. A group of three fishermen unloading firewood had thrown the log in his direction. While the soldier first suspected carelessness and asked the men to be more careful, another log thrown at him made it clear that he was the intended target. A German military court sentenced each of the three to a four-month prison term.[31]

The Wehrmacht courts considered such attacks as unprovoked and thus as particularly heinous. What constituted a provocation was, of course, a matter of perspective. For some Norwegian, the mere presence of a German soldier in a public space was sometimes enough to cause a fierce reaction, especially if alcohol was in the mix, as this example illustrates. On a summer evening in 1942, 38-year old Trygve K., who had been drinking heavily, walked down a street in the Oslo city centre and thereby deliberately barged into a German uniform. The non-commissioned officer confronted his assailant and grabbed him by the collar, ordering him to leave. According to witness testimonies, Trygve K. then adopted a "threatening posture" and angrily shouted: "[w]hat do you Germans actually want here? We have not wished for you to be here. Shove off! We don't need you and want nothing to do with you." In his outburst of fury, K. disputed the claim put forward by the German occupiers that they had come as friends to protect the Norwegians. His shouting sparked some commotion and attracted a large crowd, which the court viewed as a challenge to German authority. It was for this reason that it punished the assailant with a hefty three-year prison term.[32]

30 Gericht der 163. Inf. Div., 16.4.1941. StaHa, 242-1, II, Abl. 17, Stø.

31 Gericht des Kommandierenden Generals und Befehlshabers im Luftgau Norwegen, Trondheim, 15.7.1941. StaHa, 242-1, II, Abl. 17, San.

32 Gericht des Kommandierenden Generals und Befehlshabers im Luftgau Norwegen, Oslo, 15.9.1942. StaHa, 242-1, II, Abl. 17, Knu.

As argued elsewhere, these minor altercations in public spaces reflected the larger political conflict.[33] The Germans now controlled Norwegian territory, barred Norwegians from entering certain areas or removed them at will. The large number of uniforms populating public and semi-public spaces demonstrated the occupier's power, as did the sound of German troops singing and marching through the streets, or the flags and signposts that demarcated the public space as German territory.[34] Streets and pavements became both stage and subject of power struggles, in which gender played a key role. German soldiers would demonstrate their power by walking side by side on the pavement, deliberately forcing male Norwegians to step aside or to walk on the kerb. The occupiers could react quite aggressively when Norwegian men reciprocated. In one case, three drunken navy soldiers attacked two Norwegians with stones and an empty bottle, because their sleeves had brushed against those of the Germans as they passed them.[35]

What differentiated the handling of assaults committed by Germans from those committed by Norwegians was that many German assaults were resolved by disciplinary measures or not investigated at all. If the matter was handed to a Wehrmacht court, a German assailant was usually treated more leniently. The three navy soldiers mentioned above received several weeks' detention; by comparison, a Norwegian who had deliberately bumped into a group of soldiers as they were talking to Norwegian women received a one-year prison term.[36] In the following section, I will examine the courts' discussion of *Norwegian* assaults, as it provides important insights into their understanding of their own role.

Although they showed some variation, the courts' arguments can be divided into three dominant narratives. One narrative was that of the uncivilised Norwegian, whose lack of cultural sophistication was contrasted with the exemplary conduct of German soldiers. Another narrative emphasised the supposedly benevolent attitude of the Wehrmacht (and Nazi Germany) towards the Norwegians, highlighting their disloyalty and ingratitude. Finally, to justify a severe sentence, the courts frequently cited a hostile or recalcitrant Norwegian population in a specific region, sometimes exemplified through a recent increase in hostile actions.[37] The latter argument was different in that it justified the excessive punishment of an individual with the conduct of a larger group. On 18 November 1942,

33 Fritsche, "Spaces of Encounter," 371–372.

34 Fritsche, "Spaces of Encounter," 371–372.

35 Gericht des Admirals der Norwegischen Nordküste, Ålesund, 4.10.1943, BA-MA, PERS 15 196089.

36 Gericht der 181. Inf. Div., 24.6.1942. StaHa, 242-1, II, Abl. 17, Kok.

37 StaHa, 242-1, II, Abl. 17, Lun.

the court of the 181st Division sentenced a bus driver to one year and six months in prison because he had not immediately complied when a German *Feldwebel* demanded a seat for himself and his comrade in the fully occupied bus. Because the bus driver was reluctant to spring into action, the *Feldwebel* demanded to see his identity papers – a measure the bus driver called "idiotic". The court justified the severe prison term by arguing that "the people in the region, where the defendant lives, are known to be especially anti-German. It is therefore necessary to take drastic action."[38]

While this narrative stressed the aspect of deterrence, the other two formulated norms of conduct, using an idealised German people as a benchmark against which Norwegian behaviour was measured. The fact that the Germans were presented as culturally superior to the Norwegians seems interesting in view of the fact that National Socialist ideology portrayed the Norwegians as racial kin.[39] The courts, however, did not question the "racial" or "human" value of the Norwegian offenders, but found their behaviour lacking in discipline and culture. Amongst the most frequently used terms to describe the actions of the offending Norwegians were "insolent" (*frech*),[40] "incredibly insolent" (*unglaublich frech*),[41] "impertinent" (*unverschämt*),[42] "improper" (*ungebührlich*),[43] "insidious" (*hinterlistig*),[44] "riotous" (*zügellos*),[45] and "unfriendly and recalcitrant" (*unfreundlich und widerspenstig*).[46] These phrasings reveal moral outrage over a lack of manners and respect. By contrasting the uncouth Norwegians with the supposedly polite and "accommodating" German soldiers who showed an "almost incomprehensible patience" with the unruly Norwegians, the courts constructed the image of Norwegians as uncivilised people.[47] The courts particularly emphasised the fact that the Norwegian assailants had attacked the Germans out of the blue. By claiming that the victim had given no reason for offence, the Norwegians were presented as obstinate and volatile. Two German soldiers, who had attracted the ire of a Norwegian for chatting with his girlfriend in a pub, were described as "calm and sedate men over 30 who did not

38 Gericht der 181. Div., Dombaas, 18.11.1942. StaHa, 242-1, II, Abl. 17, Gje.
39 Emberland & Kott, *Himmlers Norge*, 56–79.
40 StaHa, 242-1, II, Abl. 17, Gje; Ren; Fos.; Lun;
41 StaHa, 242-1, II, Abl. 17, Mæ.
42 StaHa, 242-1, II, Abl. 17, Tob.
43 StaHa, 242-1, II, Abl. 17, Gje.
44 StaHa, 242-1, II, Abl. 17, Hal.
45 StaHa, 242-1, II, Abl. 17, Hal.
46 StaHa, 242-1, II, Abl. 17, Gje.
47 StaHa, 242-1, II, Abl. 17, Lun; StaHa, 242-1, II, Abl. 17, Knu.

spoil for a fight".[48] Another court who found a Norwegian guilty of deriding the Wehrmacht made much of the fact that the insulted German soldier had engaged in polite conversation and even offered a cigarette to the offender who then grumbled about having to share a restaurant table with a "German pig".[49] The rhetoric of the courts is akin to that of a colonial power who seeks to enlighten and educate the uncivilised natives.

The portrayal of Norwegians as "uncivilised" was echoed in and reinforced the narrative of Nazi Germany as a benevolent occupier whose gestures of goodwill are rejected. A navy court reminded the accused that "the German government and the Wehrmacht had tried to secure peaceful conditions and treated the Norwegians with the greatest possible clemency."[50] Another court, dealing with a rather benign offence of two youngsters who had spat from a balcony on two uniformed Germans, insisted that "everything had been attempted to not interfere with the interests of the Norwegian people and not suppress in any way their existence."[51] In both cases, the courts suggested that the occupiers had made special concessions for the Norwegians and expected that they reciprocated the occupier's courtesies. "It must be demanded from every Norwegian, even those who show a hostile attitude towards the Germans, that he behaves impeccably and decent towards members of the Wehrmacht", insisted one judge.[52] His argument is interesting because it describes the Wehrmacht as a tolerant power that accepts opposition. By demanding that all Norwegians display "impeccable and decent" conduct, the judge expected them to show the same reverence for military-masculine virtues as the Wehrmacht and SS did.

The courts demanded respect and gratitude. After all, the Wehrmacht was fighting a defensive battle "against Bolshevism and other enemies of Europe (…) for the whole of Europe and therefore also for Norway".[53] Because Wehrmacht soldiers put their lives on the line for the Norwegians, one judge argued, "the uniform of each German soldier should be sacred to each Norwegian".[54] The narrative of the benevolent occupier presents the Wehrmacht in a paternal role, as one

48 … "ruhig und gesetzte Männer, die von sich aus keinen Streit suchen." StaHa, 242-1, II, Abl. 17, Hal.

49 StaHa, 242-1, II, Abl. 17, Lun.

50 Gericht des Admirals der Norwegischen Westküste, Kristiansand, 4.11.1941. StaHa, 242-1, II, Abl. 17, Tob.

51 Gericht des Fliegerführers Nord, Stavanger, 12.8.1941. StaHa, 242-1, II, Abl. 17, Fol.

52 Gericht der 181. Div., Dombaas, 18.11.1942. StaHa, 242-1, II, Abl. 17, Gje.

53 Gericht des Admirals der norwegischen Westküste Bergen, 12.12.1941; StaHa, 242-1, II, Abl. 17, Hal.

54 Gericht des Admirals der norwegischen Westküste Bergen, 12.12.1941; StaHa, 242-1, II, Abl. 17, Hal.

who protects and provides for the Norwegians. The Wehrmacht's frantic building activities to secure the coastline and to facilitate transportation created an immense demand for labour which quickly resolved the unemployment crisis that had burdened Norwegian society in the interwar period. To attract the highly coveted labour force, the Wehrmacht paid high salaries. In the logic of the occupiers, however, it was the Norwegians who had to be grateful as Nazi Germany provided jobs and bread. Hence, offences committed by Norwegians in German employ were seen as "gross ingratitude" (*grober Undank*).[55]

The courts' rhetoric reveals an interesting discrepancy between the desire to present Germany as a generous occupier and the fear to appear weak. The goodwill shown "must not be interpreted as weakness", stressed the court of the *Fliegerführer Nord*.[56] Should the Norwegians fail to pay the German uniform the necessary respect, they were to be reminded that they were "a conquered people".[57] Also other courts occasionally deviated from the trope of the friendly ally to remind the defendants that Nazi Germany had defeated Norway and therefore held certain entitlements.[58] An elderly married couple who had shouted abuse at Wehrmacht soldiers putting up a telephone line across their fields was warned by the court of the 199th Infantry Division to change their conduct as their state "... has, after all, been defeated."[59] A military judge presiding over a trial against a Norwegian worker who had attacked two soldiers on a street while heavily intoxicated, expressed disgust that "a subject of an occupied enemy nation" had dared to assault a member of the occupying forces.[60]

The lack of respect for the Wehrmacht uniform was considered a serious offence.[61] A Norwegian who spat in the face of a German non-commissioned officer as he was asked to fix the black-out blinds had committed a "great infamy" in the eyes of the court.[62] An *unarmed* Norwegian civilian who spat at an *armed* German soldier challenged German authority and therfore called for a severe response. However, the presiding judge was also dissatisfied with the response of the non-commissioned officer who had simply wiped away the spit to the laughter of the surrounding crowd and arrested his assailant. The court felt that the attack de-

55 StaHa, 242-1, II, Abl. 17, Tob.

56 Gericht des Fliegerführers Nord, Stavanger, 12.8.1941. StaHa, 242-1, II, Abl. 17, Fol.

57 Gericht der 199. Inf.Div., Saetermoen, 19.6.1942. StaHa, 242-1, II, Abl. 17, Joh.

58 StaHa, 242-1, II, Abl. 17, Mæ.

59 Gericht der 199. Inf.Div., Saetermoen, 23.7.1942. StaHa, 242-1, II, Abl. 17, Math.

60 Gericht des Kommandierenden Generals und Befehlshabers im Luftgau Norwegen, Oslo, 31.7.1942. StaHa, 242-1, II, Abl. 17, Hau.

61 Gericht des Admirals der norwegischen Westküste Bergen, 12.12.1941; StaHa, 242-1, II, Abl. 17, Hal.

62 StaHa, 242-1, II, Abl. 17, Tob.

manded a more forceful response and interpreted the orderly behaviour of the soldier as a sign of masculine weakness.[63] In contrast, a German soldier who had punched his assailant hard "and thereby protected the reputation of the Wehrmacht" was lauded for being self-controlled as well as resolute.[64]

The court decisions thus formulated norms of conduct for both Norwegians and Germans. They emphasised traditional masculine virtues of self-control and discipline and used them as a benchmark to assess the defendant's action. Yet these virtues, which the military and Nazi ideology set so highly, were always threatened by the consumption of alcohol.[65] Alcohol played a major role in most assault cases, and the accused usually cited drunkenness as an excuse for their behaviour. Although the Wehrmacht courts occasionally concluded with a verdict of "drunkenness", which carried a lighter sentence, they were very reluctant to accept intoxication as a mitigating circumstance – at least when the defendant was Norwegian.[66] In the case of the 48-year-old Norwegian worker Even H. the court accepted that he had been heavily intoxicated when he grabbed a soldier by his uniform jacket. It saw, however, no reason for leniency, arguing that the "subject of an occupied enemy state" cannot attack a German soldier and then claim "senseless drunkenness" as excuse.[67]

Quite different was the courts' general stance on drunkenness if the assailant was a member of the Wehrmacht. Not only did they receive much lighter sentences, but intoxication almost always counted in favour of the German accused, as this example illustrates. The 22-year-old navy soldier Karl-Heinz H. had spent a warm summer evening drinking with comrades in the hilly surroundings of Trondheim. When he took the tram back into the town, he punched the tram conductor several times. The court argued that H. was young and not used to alcohol and thus found six weeks of military confinement sufficient.[68] Even though the length of sentences varied considerably, Norwegians were almost always punished much harsher for assaulting a German. A verbal or physical assault on a German uniform, regardless of motive was considered an attempt to undermine Germany's power. Almost reversed was the stance of Wehrmacht courts on prop-

63 StaHa, 242-1, II, Abl. 17, Tob.

64 StaHa, 242-1, II, Abl. 17, Fos.

65 Maria Fritsche, "Alkohol und (Besatzungs-)Macht," in *"Wenn die Norskes uns schon nicht lieben . . ." Das Tagebuch des Dienststellenleiters Heinrich Christen in Norwegen 1941–1943*, ed. Dorothee Wierling (Göttingen: Wallstein, 2021), 215–236, 219–250.

66 StaHa, 242-1, II, Abl. 17, Hau.; Ren.; Wea.

67 Gericht des Kommandierenden Generals und Befehlshabers im Luftgau Norwegen, Oslo, 31.7.1942; StaHa, 242-1, II, Abl. 17, Hau.

68 Gericht des Admirals der Norwegischen Nordküste, Trondheim, 10.10.1944. BA-MA, PERS 15/196075.

erty, as the next section will show. Property rights, including Norwegian property rights, were to be protected, and violations severely punished.

3 Property Crimes – The Value of Property and the Good Reputation of the Wehrmacht

While the assault cases discussed here give the impression of considerable tensions between the occupier and the occupied, property crimes indicate that, simultaneously, widespread cooperation between the two groups. Relations under German occupation could take many forms but often revolved around material objects or money.[69] The majority of Norwegians who were tried by a Wehrmacht court for property offences were employed by the Wehrmacht, either directly or indirectly through a subcontractor. The Wehrmacht was, at least in the beginning, not only a coveted employer because of the high salaries. Working side by side on a daily basis also fostered friendly relations between Norwegians and Germans, relations that sometimes turned into friendships and also fostered collusions.

In the archives, I found a sizeable number of cases in which Germans and Norwegians had colluded to misappropriate Wehrmacht property. The number of people involved in these crimes could be extensive, with one court decision listing up to 36 defendants, amongst them ten Norwegians,[70] while another court case involved 30 accused, including 28 Norwegians.[71] Sometimes, the courts split the cases into several separate trials. Between December 1941 and April 1942, the Wehrmacht, obviously in an attempt to send a warning to its staff, conducted a series of trials that uncovered substantial corruption in the ranks of the military. In February 1942, an air force court tried, in two separate trials, nine Wehrmacht staff and sixteen Norwegians for having diverted oil and gas from the military airfield in Trondheim and selling it to local taxi drivers.[72] On 23 February 1942, the court of the Kommandantur Oslo, convicted two non-commissioned officers together with ten Norwegians who worked at a Wehrmacht clothing depot in the port of Oslo. The accused had, since summer 1941, diverted clothing, shoes, and

69 See Robert Gildea, *Marianne in Chains. In Search of the German Occupation, 1940–1945* (London: Macmillan, 2002), 67, 70–88.

70 Gericht der 214. Inf. Div., 14.12.1942. BA-MA, PERS 15/21332.

71 Gericht der Kommandantur Oslo, 9.-15.12.1942, StaHa, 242-1, II, Abl. 17, Jen.

72 Gericht des Kommandierenden Generals und Befehlshabers im Luftgau Norwegen, Trondheim, 18.2.1942. StaHa, 242-1, II, Abl. 17, Sto.

underwear from the waggons they loaded and unloaded and then sold the stolen goods.[73] Six weeks later, the same court tried two German soldiers and eight Norwegians who worked in a macaroni factory the Wehrmacht had requisitioned. The two German supervisors had misappropriated large quantities of butter which the Norwegians then exchanged on the black market for coffee and tobacco, sharing the profits with their German accomplices.[74]

In all of these cases, the German defendants were, with one exception, punished much more harshly than their Norwegian accomplices. Two of the German soldiers involved in the theft of oil and gas from the airfield in Trondheim were sentenced to death, while most of the 21 Norwegian defendants received prison terms under one year.[75] The two Wehrmacht soldiers who had stolen butter supplies from the macaroni factory were sentenced to five years prison with hard labour and four years in prison respectively, whereas the average length of prison terms for the eight Norwegian accomplices was one year.[76] The only Norwegian who received a more severe sentence than one of his German accomplices was Thorleif L. who had participated in the aforementioned theft of clothing in the port of Oslo. While one of the Germans was executed and the other was sentenced to 6 years prison with hard labour, Thorleif L. received an 8-year term of prison with hard labour. The court argued that, as a foreman, he bore a "duty of allegiance to the German Reich".[77] It even invoked the *Volksschädlingverordnung* from 5 September 1939 (literally: decree against vermin of the people) which allowed judges to exceed the maximum term if the crime violated the "sound sensibility of the people" ("*gesundes Volksempfinden*"), although some German jurists/lawyers objected to the application of the ordinance to "foreigners abroad."[78]

The German defendants were generally punished more severely because they held supervisory roles and had played a leading role in the crime. This was, however, not always the case, as the following example illustrates. In December 1941, the court of the Kommandantur Oslo conducted a trial against two Wehrmacht soldiers and 28 Norwegian civilians who worked at the large military depot at Akershus castle where supplies and equipment for the troops were

73 Gericht der Kommandantur Oslo, 23.2.1942. StaHa, 242-1, II, Abl. 17, Joh.

74 Gericht der Kommandantur Oslo, 31.3.1942. StaHa, 242-1, II, Abl. 17, Sun.

75 Gericht des Kommandierenden Generals und Befehlshabers im Luftgau Norwegen, Trondheim, 18.2.1942. StaHa, 242-1, II, Abl. 17, Sto., 3–4.

76 Gericht der Kommandantur Oslo, 31.3.1942. StaHa, 242-1, II, Abl. 17, Sun.

77 Gericht der Kommandantur Oslo, 23.2.1942. StaHa, 242-1, II, Abl. 17, Joh., 15.

78 Schober, "Strafgewalt über Ausländer," 507.

stored and repaired.[79] The 22-year-old non-commissioned officer Gerhard R. managed the storage of gear, such as skis, backpacks, and tents, while the 43-year-old Jakob F. was in charge of the oil depot. Both supervised between 40 and 60 Norwegian employees. The staff shortage, greatly exacerbated by Nazi Germany's attack on the Soviet Union in June 1941, meant that controls at the depot were lax. Gerhard R. took advantage of the situation. Together with some of his workers he began to divert equipment from the depot to sell it on the black market. As word got around about the lucrative business, more and more workers joined in. Amongst the large quantities of garments and gear sold on the black market were 12,000 pairs of skis and 1,000 bindings. Then, some workers in the oil and petrol depot, which was overseen by Jakob F., began to siphon off petrol, while their German supervisor looked the other way.

Both Wehrmacht soldiers were sentenced to death and executed, even though Jakob F. had neither instigated nor actively participated in the thefts. He had, however, accepted payment for keeping quiet. The court invoked again the aforementioned *Volksschädlingverordnung* from 5 September 1939 which also gave the judges the power to exceed the maximum term for any crime if the accused was found guilty of having taken advantage of the war situation.[80] The court described the actions of the two Wehrmacht soldiers as "reprehensible" since they had enriched themselves "while other soldiers at the front had to risk their lives day by day."[81] Even graver than the "extraordinarily large economic damage", however, was the moral damage caused, the presiding judge argued. Through their criminal conduct, the Germans had led astray many Norwegian workers who had been of good repute with no previous convictions. "At the same time, they have destroyed the trust in the integrity and incorruptibility of German superiors and thereby most severely damaged the reputation of the Wehrmacht in Norway."[82] In the opinion of the court, the two Wehrmacht soldiers had not only failed as role models but also cast a damning light on the Wehrmacht and Nazi Germany. By executing the two soldiers, the Wehrmacht sought to demonstrate to the Norwegians as well as to its personnel that corruption was not part of the German DNA. The sentences handed down to the Norwegian accomplices were severe compared to similar cases mentioned above, but much milder than those given to the Germans. Two were sentenced to penal servitude, while the rest received prison terms up to five years. The court's rhetoric, too, differed con-

79 Gericht der Kommandantur Oslo, 9.-15. December 1941. StaHa, 242-1, II, Abl. 17, Jen.

80 § 4 Ausnutzung des Kriegszustandes als Strafverschärfung. Verordnung gegen Volksschädlinge. 5 September 1939, RGBl. I (1939), Nr. 168, 1679.

81 Gericht der Kommandantur Oslo, 9.-15.12.1941. StaHa, 242-1, II, Abl. 17, Jen., 27.

82 Gericht der Kommandantur Oslo, 9.-15.12.1941. StaHa, 242-1, II, Abl. 17, Jen., 29.

siderably. While the judge elaborated on the reprehensible character of the German actions, he was surprisingly matter of fact when it came to describing the violations committed by the Norwegians. He refrained from moral or ideological judgement and instead credited the defendants for their remorse and willingness to admit their wrongdoing.

Although these large-scale trials were quite sensational in that they revealed the extensive corruption in the Wehrmacht, they were comparatively rare. The bulk of thefts that the Wehrmacht courts dealt with were of minor character, and involved the theft of food items, cigarettes, alcohol, sometimes pieces of clothing and linen, and only occasionally valuables, such as a watch or ring. The Second World War saw a sharp rise in property crimes in Norway and in German-occupied Europe.[83] Next to "absence without leave," property crimes were the most frequent type of offences the Wehrmacht courts dealt with.[84] This increase was clearly a consequence of the dramatic fall in production and imports which resulted in widespread material scarcity and the introduction of rationing to control the limited resources.[85] The frequent thefts of "luxury goods" such as coffee, tobacco or alcohol, but also of increasingly difficult to obtain staples, such as butter, meat or soap, illustrate the impact of rationing.[86] The rise in property crimes was also a sign of the erosion of legal and moral norms under the Nazi terror regime in which, as Tony Judt wrote, "the right to property was at best contingent."[87] Property offences, and the military courts' handling of them, must always be assessed in relation to the actions of the Nazi leadership who amassed enormous wealth by robbing and murdering the European Jews and raiding the occupied territories. Who was punished, and who was allowed to violate the law with impunity?

For example, a navy court in Trondheim handed down a two-week prison term to the Norwegian Anny S., who worked as a helper at the mess of a subma-

83 Larsen, Sandberg & Dahm, *Meldungen*, 661, 1146–1147; Per Madsen, "Kriminaliteten i Norge under den tyske okkupasjon 1940–45 – Et tolkningsforsøk," in *Krig og Moral. Kriminalitet og Kontroll i Norden under andre Verdenskrig*, ed. Hannu Takala and Henrik Tham (Oslo: Universitetsforlaget, 1987), 111–126.

84 Andreas Himmelsbach, "Kriminalität, Kriegsgerichtsbarkeit und Polizeistrafgewalt unter deutscher militärischer Besatzung in Frankreich und der Sowjetunion" (PhD diss., Universität Stuttgart, 2018), 140–149; Theis, *Wehrmachtjustiz*, 195–197, 207; Forster, "Militärgerichtliche Verfolgung".

85 Fritsche, "Spaces of Encounter," 367; Tatjana Tönsmeyer, Peter Haslinger and Agnes Laba, *Coping with Hunger and Shortage under German Occupation in World War II* (Basingstoke: Palgrave Macmillan, 2018).

86 See also Himmelsbach, "Kriminalität," 140–141.

87 Tony Judt, *Postwar: A History of Europe since 1945*, (London: Vintage, 2010), 38.

rine station. The fact that her supervisors and colleagues were not happy with her work attitude might explain the room search, during which cutlery, tableware and food were found in her possession.[88] A Norwegian cleaning woman reported her compatriot Karl D., who worked as a stoker at the military airfield in Oslo. He had stolen some pillowcases and bed sheets from the linen room and was sentenced to six months in prison.[89] In March 1943, Jenny A. was caught with half a kilo of coffee and two cans of milks she had stolen from the Wehrmacht depot where she worked. She got off lightly with a fine of 75 Reichsmark.[90] However, six months later, the navy court in Bergen sentenced Magda W. to six months in prison for a similar theft. The divorced mother of seven children was caught smuggling a few sausages, milk, and soap in a briefcase from the same depot.[91] It is important to note that many of these minor cases never went to trial. If the maximum term for a crime did not exceed three, later six months, the investigating judge could decide on an abbreviated legal process – a so called *Strafverfügung* – in which the court passed a sentence without hearing the defendant. The defendants could accept this *Strafverfügung* and the sentence it pronounced, or they could refuse it, in which case the court held a trial.[92]

The above examples draw our attention to two important aspects: first, more women participated in small-scale crimes, often using the Wehrmacht's employ as opportunity to steal food or clothing items for their family. Second, the sentences for these often-negligible thefts could vary considerably, ranging from a small fine to a lengthy prison term. The difference in sentences between Norwegian and German perpetrators was also much less pronounced than in the above-discussed large-scale collusions. In October 1942, for instance, the Wehrmacht soldier Wilhelm R. was given a five-month prison term for swiping a sausage and a carton of cigarettes during the unloading of a ship – a sentence similar to that given to Magda W. above.[93] More severe was the punishment for 21-year-old navy soldier Herbert H. who stole several items of female underwear from the linen room of the military hospital where he was staying as a patient. H. was sentenced to one year and four months in prison, with previous convictions, as well as the

88 Gericht des Admirals der Norwegischen Nordküste, Drontheim, 15.7.1944. BA-MA, PERS 15/196094.

89 Gericht des Kommandierenden Generals und Befehlshabers im Luftgau Norwegen, Oslo, 17.05.1941. StaHa, 242-1, II, Abl. 17, Dan.

90 Gericht des Admirals der norwegischen Westküste, 1.4.1943. BA-MA, PERS 15/66308.

91 Gericht des Admirals der norwegischen Westküste, 14.9.1943. BA-MA, PERS 15/185003.

92 The abbreviated procedure was introduced with the 6. Verordnung zur Durchführung und Ergänzung der KStVO, 21 Nov. 1939. RGBl. I (1939), Nr. 230, 2267–68.

93 Gericht des Admirals der norwegischen Nordküste, Drontheim, 20 October 1942. BA-MA, PERS 15/188460.

fact that the underwear belonged to Norwegian nurses, counting in his disfavour.[94]

Many minor offences committed by Wehrmacht soldiers were resolved through disciplinary action, especially if the soldiers were first-time offenders. Under certain circumstances, however, commanders felt that they had to make an example and therefore referred the case to a military court. Particularly in the early phase of occupation of Western Europe, with the military leadership keen to convey a positive image of the Wehrmacht, many soldiers who had committed crimes against civilians were brought to court.[95]

Between December 1940 and June 1941, the *Gericht des Admirals der Norwegischen Nordküste* conducted twelve trials against German navy soldiers in the harbour towns of Molde and Kristiansund.[96] In autumn 1940 – during the early phase of the occupation – the soldiers stole items from Norwegian watchmakers, jewellers and clothing shops. Although the judges did not consider the thefts as concerted actions, their character was very similar. Immediately after they had disembarked in the small harbour towns, the navy soldiers flooded the shops eager to buy things that were no longer available in Germany. The shop owners were so overwhelmed by the onslaught of German customers that they did not notice that some took advantage of the crush to nick a ring or a watch. In other cases, the German customers in a clothing shop were too impatient to wait and started to take things from the shelves despite the protests of the proprietors. In one such instance, a soldier swiped two sets of lingerie and bragged to his comrade about his feat on the way back to the ship. When the latter upbraided him for the theft, he shrugged it off as "... no big deal. One has to take these things when the opportunity arises."[97]

The judge did not share the defendant's view and sentenced him to seven months in prison, to be served in a special disciplinary unit as an extra punitive measure. The other trials ended with similar results and prison terms between two and six months. The soldier's conduct, the judge argued, had severely damaged the reputation of the Wehrmacht and was a "damnable betrayal of the shop

94 Gericht des Admirals der norwegischen Nordküste, Drontheim, 18 November 1941. BA-MA, PERS 15/69308.

95 For France, see Himmelsbach, "Kriminalität," 140–49.

96 The cases have been discussed in Fritsche, "Spaces of Encounter," 368; Christoph Rass, *"Menschenmaterial": Deutsche Soldaten an der Ostfront: Innenansichten einer Infanteriedivision, 1939–1945* (Paderborn: Schöningh, 2003), 265–66.

97 Gericht des Admirals der Norwegischen Nordküste, Molde, 23.6.1941, BA-MA, PERS 15/63524.

owners' trust in the German soldiers."[98] Another judge insisted that the Norwegian businessmen held the belief that German soldiers were incapable of theft; therefore, the offenders had to be punished "swiftly and mostly severely" in order to restore the shopkeepers' good opinion of the German soldier while deterring others from doing the same.[99] The judges' arguments express considerable concern for the reputation of the Wehrmacht and Nazi Germany. Just like in the assault cases, the courts were keen to promote an image of the Wehrmacht as a "correct" occupying power that respected the rights of the civilian population.

These records also illustrate the value the Nazi leadership and the Wehrmacht assigned to private property rights. Respect for private property was presented as a core German value.[100] Obviously, this professed respect was highly selective and did not apply to those who were considered "racially inferior" or political enemies. As Claudia Bade pointed out, the Wehrmacht tolerated theft and corruption "as long as the main profiteers were the Wehrmacht and the National Socialist state resp. the *Volksgemeinschaft* as a whole, but not the individual."[101] Stealing from a person who was seen as racial kin, however, was deemed unacceptable since it violated an apparent shared code of values and thus brought Nazi Germany into disrepute. Even worse was when a German soldier stole something from a comrade, even if he did not know him personally. Thefts of *Feldpostpäckchen* – small parcels sent to soldiers in the field – were considered "especially reprehensible" and punished severely.[102]

Discussions of thefts committed by Norwegians were notably less ideologically charged than those concerning German offenders. The comparatively prosaic rhetoric suggests that the courts viewed thefts as inevitable by-products of an occupation in which the citizens of the occupied country tried to improve their situation by stealing from the occupier. Significantly, unlike in the cases of as-

98 Ibid. See also Gericht des Admirals der Norwegischen Nordküste, Kristiansund, 30.12.1940. BA-MA, PERS 15/68459.

99 Gericht des Admirals der Norwegischen Nordküste, Kristiansund, 30.12.1940. BA-MA, PERS 15/64152.

100 Maria Fritsche, "'Correct German Conduct?' German Requisition Practices and their Impact on Norwegian Society during World War II," *Journal of Modern European History* 20.2 (2022): 199–217, 206–207.

101 Claudia Bade, "Deutsche Militärjuristen in Frankreich. Das Gericht des Kommandanten von Paris," in *NS-Militärjustiz im Zweiten Weltkrieg,* ed. Bade, Skowronski and Viebig, 213–228, 227.

102 A Luftwaffe court in the Oslo sentenced Hermann H. to three years penal servitude for having stolen a brooch from a 'Feldpostpäckchen'. BA-MA, PERS 15/9397. The same court sentenced Josef E. to 15 years penal servitude for having repeatedly stolen cigarettes from comrades. BA-MA, PERS 15/ 9379. See also Forster, "Militärgerichtliche Verfolgung," 325, 336; Theis, *Wehrmachtjustiz*, 278.

sault, none of the court cases investigated for this section defined theft as an anti-German political act.

Conclusion

We find striking differences in the Wehrmacht courts' handling of crimes and defendants, both with regard to the punishments meted out, and the rhetoric. Wehrmacht soldiers who colluded with Norwegians to misappropriate Wehrmacht goods were punished markedly more harshly than their Norwegian accomplices who were shown more leniency. Also, soldiers who stole from Norwegian citizens in the early period of occupation were often dealt with swiftly and severely, not only to deter other soldiers from committing similar crimes, but to convince the Norwegians that rights to private property were sacred to the German people. By contrast, assaults on Norwegian civilians were often treated with surprising leniency. In contrast, any Norwegian who dared to verbally insult or attack a Wehrmacht soldier could expect a rigorous response, as even the most minor assault was interpreted as an attack on the Wehrmacht and Nazi Germany. There was also a notable difference in the courts' rhetoric. In cases of Norwegian assaults, the courts incessantly lamented the offender's ingratitude and insolence, contrasting his conduct with the apparent exemplary behaviour and goodwill of the Wehrmacht. Wehrmacht soldiers who had assaulted civilians, however, were seldom reminded of their duty to respect civilians. Instead, the courts tended to downplay the incident, explaining it away as the result of intoxication or male competition.

The analysis of the Wehrmacht courts' handling of assaults and property crimes reveals an interesting ambivalence in the courts' judiciary practices. On the one hand, their decisions were informed by the desire to foster acceptance for the occupation by presenting the Wehrmacht and its courts as fair and well-meaning. Thus, Wehrmacht soldiers who stole private property (regardless of whether it was Norwegian or German property) or who colluded with Norwegian employees to misappropriate Wehrmacht property, were punished harshly to demonstrate the courts' – and the Wehrmacht's – impartiality. This strategy was fully in line with Hitler's expressed desire that the German administration should win the Norwegians' support for Germany and the National Socialist cause.[103] Taken aback by the widespread anti-German sentiments and confronted with growing resistance, the Wehrmacht courts began to treat every verbal or physical

103 Carlo Otte, cited by Bohn, *Reichskommissariat Norwegen*, 57.

assault on a German soldier as a deliberate attempt to weaken Germany's power. By punishing such assaults harshly, the courts sought to demonstrate that they were willing and able to crush every insubordination. Such an uncompromising stance, though, was obviously difficult to reconcile with the desire to win consent. By painting the image of a benevolent, protective occupier, whose gestures of goodwill were met with derision, ingratitude and aggression, the courts justified the often excessive sentences as necessary educational measures to demonstrate that the power rested in German hands.

This begs the question of whom the judges actually addressed. The short court hearings, although in theory open to public, excluded in practice any member of the public except for the accused and, in some cases, their defence lawyers. Verdicts were usually not publicised.[104] This means that although the written court decisions addressed the defendants and – through them – an envisaged Norwegian audience, their primary addressees were the members of the court themselves, their commander, and the military leadership. The courts constructed a positive self-image of the Wehrmacht as benevolent occupier, while demonstrating to the military leadership that they were indispensable for regulating the behaviour of both soldiers and Norwegians.

104 Usually, the Wehrmacht only published verdicts against members of the resistance for deterrence. On 3.11.1940, the court of the second mountain division ordered to publicly announce across the town of Kirkenes the verdict against Reidar Johnsen who had punched a German soldier in the face that same day. Archiv der Republik Wien, GerA/DWM 08/243. The Wehrmacht soldiers who had been insulted by Olav R. and Karl H. were granted the right to publish the verdict in the local newspaper. See StaHa, 242-1, II, Abl. 17, Ren; Hal.