



Judging the Past: Lessons from The Papon Trial

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We know that our relationship to the past does not remain stagnant. From calls to bring down confederate symbols throughout the American South, to those that demand the British Museum return artifacts, expropriated during a moment of imperial expansion and conquest, to their country of origin, our attitudes change as to how we *should* remember the past and how the past is judged. Indeed, we see how the dark pasts of Western nations, rooted in slavery and imperialism, have become increasingly prevalent in assessing the injustices of today. The voices we listen to, and the memories we prioritize affect how justice might be applied. How should we publicly, or nationally, remember these pasts? In the face of complex or shameful pasts, how do we untangle them, clarify them, and condemn them? And when public attitudes towards the past change, how do we redress these crimes?

Recent public conversations in North America regarding the ongoing effects of the transatlantic slave trade and the justice and recognition that should be sought for crimes committed in America's name, look to the post-WWII period as a model for historical redress.¹ In fact, the aftermath of the second world war is often looked upon more broadly as a model of how a nation or a group of nations might grapple and attempt to amend its dark past -publicly, and on a national and international stage. What lessons might be learnt from post-war memorialization and justice? And can or should we apply them to our current day?

After the end of WWII, Germany was forced to “denazify.”² The international community, assembled as the Western Allies, had to decide how to judge the crimes committed by the murderous and expansionist Nazi regime. In what was known as the Nuremberg Trials, the Allies set out to try a number of the regime's criminals and hold them to international account. The trials had the longer-term effect of developing an international jurisprudence on matters of war crimes, crimes against humanity, and genocide.³ Despite their breadth and stature, these trials were of course unable to trial the vast number of personnel across Europe who had enabled and abetted the murderous Nazi regime. Many countries, therefore, held their own proceedings that,

¹Endnotes

See the following

<https://www.vox.com/the-highlight/21405900/germany-holocaust-atonement-america-slavery-reparations>,

<https://www.theatlantic.com/magazine/archive/2014/06/the-case-for-reparations/361631/>,

<https://www.nytimes.com/2019/08/27/books/review/learning-from-the-germans-susan-neiman.html>

² “Denazification” is a term used to describe Allied efforts immediately following WWII to remove Nazi ideology from German and Austrian society by removing former Nazi or SS members from power.

³ “The Nuremberg Trial and its Legacy”

<https://www.nationalww2museum.org/war/articles/the-nuremberg-trial-and-its-legacy>



in different ways, sought to address the horrors and crimes of the war years, supported by the Allies and to prepare them for a new democratic and distinct political regime.⁴

This paper turns to France, one of Germany's neighbors, which also underwent its own process of rehabilitation, reflection, and repression after the war. This process, I argue, is an example of the difficulties of pursuing justice, which holds important lessons for the ongoing questions facing us today. I show this by looking closely at the controversial and lengthy 1980s trial of French bureaucrat Maurice Papon, who was put in the dock for his contribution in the deportation of over 1600 Jews from the Southern French city of Bordeaux. Ultimately, this paper takes a deeper look into the lesser-known lessons of this search for justice and due process at the end of the war.

The trial was a crucial event in the broader struggle with France's wartime past. However, what made the trial especially unique was how it connected this past with another dark time period in French history: French imperialism. During the war, Papon rose up the ranks, promoted to secretary general in Bordeaux in 1942. However, on top of his work under the French regime of Vichy, the political regime that ran the non occupied zone of France during the war, Papon enjoyed a long career in politics after the end of Vichy. He was promoted to secretary general of French Morocco (1954-55) and eventually to the Parisian Prefect of Police during the Algeria war of independence (1954-1962), both countries that were then under French rule.⁵ In this role, the former Vichy bureaucrat was also responsible for the brutal police suppression of Algerians in Paris during protests for independence on October 17, 1961. This event took a backseat at the infamous trial, which took place around twenty years later. In fact, his criminal past during the Algerian War was mostly obscured.

The outcome of the trial, I propose, resulted in a rather spotty and lacking condemnation of Papon, and represents, more broadly, a refusal to publicly acknowledge crimes committed during the French Empire and a refusal to deal with the afterlives of the French imperial project. Ultimately, I use his trial to make an argument about the politics of memory making and of seeking justice: how the process of seeking justice is so dissatisfying not only in spite of but because of how messy and imperfect the process of remembrance can be.

In the first section, I will examine Papon's trial and the effects of his sentence on the remembrance of Vichy and *les années noires*.⁶ I argue that though his conviction indicated an eventual willingness to confront some of the crimes committed in the name of the French state, his sentence reflected only a partial condemnation of France's WWII past. In the second section,

⁴ Other proceedings included the Tokyo War Crimes Trials, Romanian People's Tribunals, the Polish Supreme National Tribunal, and many more on both international and domestic levels.

⁵ Papon's other roles after the war included **prefect of Corsica (1947-49)**, secretary general of the prefect of Paris (1951-54), and administrative inspector in French Algeria (1956-58).

⁶ "The Dark Years," refers to the years of Nazi occupation in France.

I look at how the trial also deliberately silenced Papon’s “other past” and put his trial in the conversation with two other trials that followed his own, which appeared, on paper, to do the job that Papon’s trial did not do: address some of the accusations of torture and murderous activity undertaken by the French in Algeria, while it was still a French colony. The results of these latter trials show us that despite steps forward, they did not result in great state-level change. Taken together, I argue that the absence of October 1961 from the trial was not simply an oversight, but a deliberate suppression of public memorialization of French imperialism.

In the last section, I explore this further by looking at Papon’s trial and its shortcomings in a broader context of the politics of memory making and justice, and draw broader conclusions over the stakes of prioritizing some crimes over others. Firstly, his trial underscores the difficulties of pursuing justice of crimes committed many years earlier: beyond the question of evidence, this delay can sometimes point to the *performance* of justice seeking and making of “proper” or “suitable” national memories that serve not the victims but the rehabilitation of the perpetrators. Second, I argue that the trial serves as a reminder that we often chose to confront some histories over others, for the sake of convenience and because we do not want to deal directly with the larger consequences of our actions. Indeed, France had chosen to prioritize the pursuit of justice and public remembrance of the second World War over that of colonization, ultimately giving way to a refusal to look closely at the afterlife of colonialism, which still has a significant impact on former colonized subjects both in and outside of France today. Ultimately, I contend that because of the challenges and imperfections of reckoning, we should always strive to reinterpret and reevaluate our relationship with the past, by paying attention to what pasts are prioritized at which moment and why.

Vichy and Dealing with Darkness

In June 1940, newly instated chef d’état Phillipe Petain signed an armistice with Hitler upon being overrun by German soldiers early in the war, dividing France into the occupied North and the unoccupied South. With the Germans in metropolitan Paris, the French government, headed by Petain, set up a new regime in the resort town of Vichy, thus marking the end of the Republic and the beginning of Vichy France. While some argue it was merely a puppet state, it is crucial not to overlook the critical decisions made by French officials executed without prompting from the Germans in the occupied North. Notably, in 1942, thousands of Jewish men, women, and children were confined in the Velodrome d’Hiver in terrible conditions before being sent, by French police and under French orders, to Auschwitz. In total, France deported more than 75,000 Jews from its territory, and of those deported, less than 3,000 survived. This does not include the thousands who died in internment camps, or were summarily executed.⁷

⁷<http://www.encyclopedie.bsditions.fr/article.php?pArticleId=158&pChapitreId=23982&pArticleLib=Le+Bilan+de+la+Shoah+en+France+%5BLe+r%E9gime+de+Vichy%5D>



Starting from the final months of the war, France conducted a vast number of trials, putting the leaders of the collaborating regime on trial for their willingness to work on behalf of Germany. As France sought to get back on its feet after the dark years, the country wanted to characterize the Vichy regime as a historical blip, an aberration of the country's Republican values. Summed up in the words of De Gaulle during the Liberation of Paris, he passionately declared France free with the help "of the only France, of the real France, and of eternal France"⁸— Vichy was but a flaw in true French history.

Those put on trial and found guilty were blamed for their active participation in what was thereafter deemed an illegal regime. Noticeably absent from the trials, however, were questions regarding the persecution and deportation of the country's Jewish population. During this time period, there was no notion of "crimes against humanity" in French law yet. As such, the Courts of Justice only condemned based on articles 75 to 86 of the 1939 penal code, the laws dealing with treason. In 1944, the penal code was modified to include a new crime called "national indignity," used in both major and minor cases of collaboration.⁹ Writers such as Robert Brasillach were tried not for their anti-Semitic language, but for treason.¹⁰ René Bousquet, the mastermind of the Vel D'hiv roundup, received the minimum punishment of national degradation, later lifted because of certain services to the Resistance.¹¹ In the partially-liberated and immediate postwar France, the country was not interested in admitting responsibility in its role in the Holocaust and the destruction of European Jewry.

Because of the sheer number of treason trials that took place, this time period is known as *the Épuration Légale* (the Legal Purge). From late 1944 to early 1951, more than forty thousand people were sentenced, and six thousand to death of which only 1,500 were executed. By 1955, those who escaped the death penalty received an amnesty, and, by 1964, no more collaborators were held in prison on that charge.¹² The height of the Purge took place in 1944, in a partially liberated France and a France still at war. It was an imperfect scramble for justice in a humiliated nation, which overlooked the horrors of the Holocaust. These trials, like those mentioned above, did not put Vichy collaborators or politicians on trial for their role in the deportation of Jews.

It wasn't until many years later that French activity in the deportation of its Jewish population formally came to light or was taken seriously, as with Robert Paxton's book *Vichy and the*

⁸ "Speech of De Gaulle 'Martyred Paris, but liberated Paris' (1944)," YouTube video, 0:43, October 14, 2013, https://www.youtube.com/watch?v=Yuv_vbxu4II

⁹ Alice Kaplan, *The Collaborator* (Chicago: University of Chicago Press, 2000), p. 79.

¹⁰ *Ibid.*, p. 80

¹¹ Douglas Johnson, "Obituary: Rene Bousquet," *Independent*, October 23, 2011, <https://www.independent.co.uk/news/people/obituary-rene-bousquet-1490548.html>

¹² Kaplan, *The Collaborator*; p. 78.

Jews.¹³ The emblematic trial of this change was that of Maurice Papon, held five decades after the end of the war. His trial, the longest in French history, marked a symbolic step forward in reckoning with Vichy – France would finally recognize and criminalize the deportations of Jews during the war. But Papon’s trial did not have the decisive effect of completely condemning Vichy, since Papon could not embody the entirety of the regime. Nonetheless, his trial was critical in broader conversations over how to remember what the Vichy regime was, in all of its complexities.

The Prosecution and Delayed Justice

Papon himself escaped the *Épuration Légale* through last minute connections drawn with the Resistance. Several notable Resistance members likewise cleared his name, and he then went on to have a decorated career in politics.¹⁴ Only in 1981 did details about Papon’s Vichy past resurface in a series of documents exposing his involvement in the deportation of 1690 Jews from 1942 to 1944.¹⁵ Other documents included those showing Papon’s signature under orders implementing anti-Semitic Vichy policies, from the armed police escorts of Jews to the confiscation of Jewish property for “aryanization”.¹⁶ Another note showed that Papon intervened on behalf of 19 Jewish children in a letter to German officials, but the other documents proved his overwhelming involvement in the maintenance of the anti-Semitic Vichy regime. Through this evidence, Papon was indicted two years later in 1983. In the words of one journalist, his game of “judicial hide-and-seek” was over.¹⁷

The prosecution argued that though Papon was a subordinate, he made the choice to join Vichy during its oppression of the Jewish population; he was “at war... against the Jews.”¹⁸ This case put the Vichy government’s anti-Semitism on trial, and it kept its focus there. More documents

¹³ Nancy Wood, “Memory on Trial in Contemporary France: The Case of Maurice Papon,” *History and Memory*, Vol 11. No. 1 (Spring/Summer 1999), p. 57

¹⁴ *Ibid.*, p. 50

¹⁵ *Ibid.*, p. 50

¹⁶ “‘Le Canard enchaîné’ accuse M. Papon d’avoir concouru a la deportation de mille six cent quatre-vingt-dix juifs,” *Le Monde*, May 7, 1981,
https://www.lemonde.fr/archives/article/1981/05/07/le-canard-enchaîne-accuse-m-papon-d-avoir-concouru-a-la-deportation-de-mille-six-cent-quatre-vingt-dix-juifs_2722509_1819218.html

¹⁷ Laurent Greilsamer, “Maurice Papon La vie masquée,” *Le Monde*, December 19, 1995,
https://www.lemonde.fr/archives/article/1995/12/19/maurice-papon-la-vie-masquee_3889467_1819218.html

¹⁸ Alain Levy, “Bureaucratie criminelle,” transcript of Papon’s trial by Bernadette Dubourg, March 16, 1998,
<http://papon.sudouest.com/retro/sa/-Bureaucratie-criminelle-.php>

showcasing Papon's involvement with Vichy's racist laws were produced during the trial, and they were damning.

But more damning yet was the evidence of his involvement in the deportations of Jews. Though this was the first time a former Vichy bureaucrat was tried for crimes against humanity in France, this term had already been used to try former Nazi officials at Nuremberg 50 years ago. Borrowing this legal language, Michel Zaoui, a lawyer for the civil plaintiffs, described a crime against humanity as a "criminal philosophy" with a "criminal bureaucracy."¹⁹ In words that would be instantly recognisable from the trial of Adolf Eichman²⁰ twenty years earlier, Zaoui argued that Vichy was inherently criminal system that enabled the inhumane war crimes of the Holocaust. So although Papon was no Petain, no Bousquet, he was still a criminal – an essential cog in the system which coldly delivered Jews into the hands of the Nazis. Bureaucrats mattered: they participated in, enabled and perpetuated criminality.

The prosecution called in testimonies from Auschwitz survivors as a haunting reminder of the raw human suffering during the Holocaust. The mere complicity in such an event, leaving its limited surviving victims scarred as such was justification enough for a harsh sentence. Zaoui not only accused Papon of knowing that these horrors took place, but also of adhering to the Nazis' plan. In the words of one such witness, "Papon must pay, he has to. If there is no prison, there is no justice."²¹ The prosecution showcased the first side of the nation's attitude in reckoning with its wartime past, namely its newfound willingness to criminalize the actions of Vichy bureaucrats and to focus on the Jewish victims rather than the country still at war.

The Defense and the "Myth"

If the case against Papon highlighted the changing attitudes and new focus of the nation, Papon's own defense only emphasized it further. Though he was on trial for the deportation of Jews – not betraying the nation like his colleagues had been just after the war – his defense argued that in his position, he neither had the knowledge of the final solution nor the power to make a significant difference in that system anyway. His defense lawyer, Jean-Marc Varaut, however

¹⁹ Michel Zaoui, "Bureaucratie criminelle"

²⁰ Adolf Eichmann was a German high official and major organizer of the Holocaust. His trial prompted lots of conversations surrounding the crimes that a pen pusher could commit. See the book *Eichmann in Jerusalem*, which detailed his trial and introduced the famous phrase, "the banality of evil," or the idea of simply "doing your duty" as an excuse.

²¹ "Je vis toujours a Auschwitz," transcript by Dubourg, December 2, 1998, <http://papon.sudouest.com/retro/sa/-Je-vis-toujours-a-Auschwitz-.php>



argued that he did do all he could to assist the Jewish deportees, in the form of renting passenger coaches in these transports and in the form of 130 individual interventions.²²

Another key difference that distinguished this second wave from the Purge was the 50-year delay, and consequently the lack of representatives to put on trial. Because Papon stood alone, many saw him as a figure representing all of Vichy's bureaucrats.²³ In the face of this infamous depiction, Papon desperately sought to paint a new image for himself to distance himself from the notorious Vichy bureaucrat. Papon described his defense against the accusations as disproving a deceiving "myth",²⁴ disproving a complete falsehood worked up into greater grandeur in collective memory. In his words, these accusations were "pseudo-crimes"²⁵ made to sentence an innocent man.

Although it was clear to all that Papon carried responsibility for his actions, his defense stressed extensively that he was just a subordinate, a minor piece in the Vichy puzzle, whose actions were not equivalent to those of an entire regime – all the blame in Bordeaux should go to Maurice Sabatier, his superior. In Papon's position, they argued, no one could have possibly known that the destination was anything but a typical labor camp, and segregation was not genocide.²⁶ In the words of Papon's lawyer, Jean-Marc Varaut: "To acquit Maurice Papon is not to acquit Vichy."²⁷

In response to these claims, the prosecution argued that though he could not have known of the exact nature of the final solution, Papon surely would have noted the unprecedented nature of the deportations and the fact that the deportees would not return. And though others should have been seated at his side, being alone was not an excuse.²⁸ However, the prosecution also acknowledged that even so, he should not be an example or a scapegoat. The sentence, then, should reflect the personalization of the sentence, as Papon was only an accomplice rather than

²² "La defense de Maurice Papon," *Sud Ouest*, 2006,
<http://papon.sudouest.com/index.php?page=procedures&type=chambre&cat=faits11>

²³ Wood, "Memory on Trial", p. 57.

²⁴ Maurice Papon, "La Declaration de Maurice Papon," transcript by Dubourg, April 1, 1998,
<http://papon.sudouest.com/retro/sa/La-declaration-de-Maurice-Papon.php>

²⁵ Papon, "La Déclaration de Maurice Papon"

²⁶ Jean-Marc Varaut, "Acquitter Maurice Papon n'est pas acquitter Vichy," transcript by Dubourg, March 24, 1998,
<http://papon.sudouest.com/retro/sa/-Acquitter-Maurice-Papon-n-est-pas-acquitter-Vichy-.php>

²⁷ Varaut, March 24, 1998.

²⁸ Dubourg, "Bureaucratie criminelle," March 16, 1998.

the figurehead of Vichy; it should be ruthless but fair. For these reasons, the prosecution finally argued that Papon should be sentenced to twenty years in prison.²⁹

So while the prosecution indicated France's intent to condemn, the argument for the defense exposed large obstacles to this condemnation. Being one of the only bureaucrats put on trial for their participation in the Holocaust increased his symbolic value and public scrutiny, but it also juxtaposed the individual with the state, allowing Papon to be painted as a victim of the system, unaware of the final solution, but doing all he could to help.

The Conclusion and Aftermath

In the end, Papon was sentenced to just ten years in prison, found guilty of the complicity in these arrests, but not of the complicity in the murder of the deportees. Immediately after the trial, Papon appealed, but was caught fleeing to Switzerland under a false name. With his appeal now invalidated, he began serving his sentence in October 1999. Due to declining health and worsening heart conditions, he was moved to a hospital where he died in 2007. He only served three years in jail.

Papon's trial has garnered both commendation and criticism. Generally, it was applauded as a symbolic historical moment,³⁰ but many also found the sentence underwhelming. In the months following the trial, Zaoui criticized the court's judgement as strange, calling its description of Papon's actions somehow "a crime [against humanity] with no deaths."³¹ His early release also prompted backlash. Why should Papon, who did not show mercy to sick Jews, but instead coldly deported them, walk free due to illness? It was an insult to the victims of the Holocaust. When Papon left the prison, he was met with cries of "Papon fascist" and "Papon in Prison".³²

Despite it appearing as if France was ready to take seriously its role in the deportations and destruction of European Jewry, some expressed views that might have more closely resembled those in the Purge era. Others expressed concern that that Papon's trial would undermine the "true guilt" of Germany, wrongfully making Vichy France seem equivalent to the Nazi regime;

²⁹ "La responsabilite de chacun," transcript by Dubourg, March 19, 1998, <http://papon.sudouest.com/retro/sa/-La-responsabilite-de-chacun-.php>

³⁰ Wood, p. 43.

³¹ Michel Zaoui and Jean-Marc Varaut, "The Papon Trial: Three Months Later," *Le Monde*, July 3, 1998.

³² Lara Marlowe, "Maurice Papon, jailed for crimes against humanity, released early," *Irish Times*, September 19, 2002, <https://www.irishtimes.com/news/maurice-papon-jailed-for-crimes-against-humanity-released-early-1.1095855>

maybe, said author and former Resistance member Maurice Druon, Germany would “take revenge,” profiting off the condemnation of a Frenchman to dilute German responsibility.³³

And so, while Papon’s trial was undeniably critical in demonstrating how the French state shifted its attitudes regarding its Vichy past, it was also criticized by people both seeking to condemn and people seeking to forget, showing that Papon’s sentence was a murky conviction that was only a partial condemnation of France’s involvement in Jewish deportations. “There cannot be a crime against humanity at 20, 30, or 60%,” Papon stated in his final plea to the jury. “It’s all or nothing. I’m guilty or innocent.”³⁴ Clearly, his sentence indicated otherwise. So despite the changing attitudes and the newfound stage of Vichy memorialization, Papon’s trial was nonetheless a difficult, nuanced, and ultimately dissatisfying attempt at reckoning with a very dark past.

Algeria and the Trial That Never Happened

Dark parts of France’s past stretch back centuries before the armistice in 1940; it continued beyond liberation in the form of colonization amidst growing calls to decolonize in the twentieth century, both from overseas and from within France. To further understand the significance of Papon’s “other past,” we must put it into the context of the Algerian War, where its importance becomes more apparent not only in reckoning with the Algerian War, but in the conversation surrounding colonialism as well. In 1921, over 94 million of the world’s population and over 11 million square kilometers were under French sovereignty.³⁵ The jewel of the French imperial crown was the settler colony of Algeria, conquered in 1830. In the mid-1950s, however, matching indigenous calls for decolonization worldwide, tensions escalated as the Algerian independence movement gained momentum. The conflict was characterized by its complexity and violence, where the France’s use of torture and police brutality was met by the FLN’s terrorist attacks, and where Algerians and Frenchmen fought on both sides of the war and within rival factions.³⁶ In 1962, the Evian Accords acknowledged Algeria’s full independence, but only after decades of colonization, after years of bitter struggle and of suffering and death.

Woven into Papon’s case, then, was another painful event in French history, partly acknowledged and mostly silenced. As the trial began with a review of Papon’s career, his dark past as the head

³³ John Laughland, “Bad Judgement at Bordeaux,” *The National Interest* no. 52 (1998): p. 70. <https://www.jstor.org/stable/42897106>

³⁴ Papon, “La Declaration de Maurice Papon”

³⁵ “Le Code Officiel Géographique,” Accessed November 2020, <http://projetbabel.org/gl/cog49d.htm>

³⁶ Joshua Cole, “Remembering the Battle of Paris: 17 October 1961 in French and Algerian memory,” *French Politics, Culture & Society*: Vol. 21, No. 3 (Fall 2003), p. 36. <https://www.jstor.org/stable/42843303>

of Police in Paris finally emerged and gained attention. It was in this role that he gave orders for the French police to brutally suppress a demonstration that took place in the center of Paris by Algerians who lived in France, who wanted to show support for Algerian independence, and demonstrate against the violence perpetuated by the French army in Algeria. As the trial over his role in Vichy France went on, some began calling for a judgement of his role in the event known only as “October 1961.” This would be, in some ways, a trial within a trial, since many regarded this crime as also a crime against humanity.³⁷

Though certainly not identical, these two threads of Papon’s past contain many similarities. As such, early on, various testimonies took place regarding Papon’s acts during the Algerian war – notably of October 17, 1961. However, its absence from Papon’s formal sentence, despite the increased publicity it gained afterward, reveals how little the French state prioritized dealing with widely documented crimes committed by the French in Algeria.

The Trial that Didn’t Happen

The event, known simply by its date, took place six months before the end of the war, while the Algerian war continued to rage. That day, in mid October, around 30,000 Algerians met in the streets of Paris to protest a discriminatory curfew. This curfew, implemented by Papon, targeted Algerian Muslims in attempts to reduce the support of the FLN (National Liberation Front), the primary Algerian nationalist group during the war, among Algerian immigrants living in the capital. In retaliation, the FLN called for the demonstration to display the strength of its support. In response to the gathering crowds, the Parisian police, under Papon’s orders, interfered with violence, and the peaceful protests were met with “extraordinary brutality,” including harsh beatings and mass arrests.³⁸ That night alone, there were over 12,000 police-recorded arrests, and many of these protestors were either deported to Algeria or kept in prison until the war ended. Numerous witnesses recalled excessive gunfire and asserted that they saw police throwing bodies into the Seine.³⁹

Overall, it would have been fitting to incorporate this crime into Papon’s trial. In many ways, the controversy of French torture and abuse during the Algerian War seemed to parallel that of Papon’s and Vichy memory. Both were centered around French officials during hectic, unprecedented times. Both subsequently defended the crimes by attributing them to a wider system of normalcy, actions serving their nation. In his roles as both a Vichy bureaucrat and as the prefect of Police, he argued that he was merely a dedicated public servant in ambiguous,

³⁷ Richard J. Golsan, “The Papon Trial: The Good, the Bad, and the Ugly,” *John Hopkins University Press* Vol. 29 No.1 (2000): p. 140, <https://www.jstor.org/stable/3685452?seq=1>

³⁸ Cole, “Remembering the Battle of Paris”, p. 24

³⁹ *Ibid.*, p. 24

complicated circumstances. He felt as though he “did his duty” during the Vichy regime.⁴⁰ Likewise, with regards to another brutal police suppression at Charonne Metro,⁴¹ Papon said that according to De Gaulle, “the police headquarters did its duty.”⁴²

Even the timelines seem to resemble each other. Five decades after WWII, the French government, thanks to President Jacques Chirac’s 1995 speech at the Vel d’Hiv, acknowledged its role in the Holocaust.⁴³ Likewise, President Francois Hollande acknowledged the events of October 17, 1961, in an official statement in 2012, 51 years after the massacre.⁴⁴ The condemnation of both comes as too little and too late. But whereas Papon’s trial did at least partially condemn Vichy, his past in Algeria was omitted completely from his sentence; the trial formally confronted one crime while obscuring October 17, 1961, which already had a long history of censorship.

Concealment and Camouflage

The French government’s unwillingness to acknowledge the events of October 17, 1961, extended to the broader conflict as a whole. The fighting in Algeria was not even officially recognized as a war until the National Assembly passed a law on June 10, 1999. Before then, the war was referred to merely as a “pacification” or “an operation in maintaining order.”⁴⁵ To the French, labeling it as a war would be admitting Algeria’s status as a separate nation – not a French colony. Consequently, soldiers who fought in the Algeria War were deemed only police maintaining order, not veterans; they were only given veterans’ status twelve years after the war.⁴⁶

⁴⁰ Papon, “Une Carriere passe au crible,” transcript by Dubourg, October 15, 1997, <http://papon.sudouest.com/retro/sa/-Une-carriere-passee-au-crible.php>

⁴¹ Again led by Papon, nine people were killed in a protest at the Charonne Metro Station in Paris on February 8, 1962 by police suppressing the demonstration.

⁴² Papon, “Ni coupable ni responsable,” transcript by Dubourg, October 21, 1997, <http://papon.sudouest.com/retro/sa/-Ni-coupable-ni-responsable-.php>

⁴³ Marlise Simons, “Chirac affirms France’s Guilt in Fate of Jews,” *The New York Times*, July 17, 1995, <https://www.nytimes.com/1995/07/17/world/chirac-affirms-france-s-guilt-in-fate-of-jews.html>

⁴⁴ Bruce Crumely, “Algeria’s Ghosts: France Acknowledges a 1961 Police Massacre,” *Time*, October 18, 2010, <https://world.time.com/2012/10/18/algerias-ghosts-france-acknowledges-a-1961-police-massacre/>

⁴⁵ Raphaëlle Bacque, “La guerre d’Algerie n’est plus une guerre sans nom,” *Le Monde*, June 11, 1999, https://www.lemonde.fr/archives/article/1999/06/11/la-guerre-d-algerie-n-est-plus-une-guerre-sans-nom_3555854_1819218.html

⁴⁶ William B. Cohen, “The Algerian War, the French State and Official Memory,” *Historical Reflections/Reflexions Historiques* Vol. 28, No. 2 (Summer 2002): p. 225. <https://www.jstor.org/stable/41299235>

Having just lost French Indochina, the empire was determined to maintain Algeria. In doing so, the French army and government used extensive methods during the conflict in hopes of quelling the uprising, including routine intimidation, torture, and murder.⁴⁷ Subsequently, an overwhelming amount of these high-ranking officials who held political office had committed numerous atrocities during the war. And so, in 1968, De Gaulle, the president of France at the time, introduced an amnesty pardoning all personnel for any treason or war crime committed from 1954 to 1962.⁴⁸ This amnesty was a form of dismissal, as if to hide the bloody war from French memory.

With regards to October 17, 1961, the French government more blatantly suppressed memory of the violence. A number of works were censored, including the book *Ratonnades à Paris* (1961) and the film *Octobre à Paris* (1962).⁴⁹ Even during Papon's trial in 1998 when people sought to further examine the issue, the police archives remained closed, and thus, an official account was not available. Witness testimonies were less reliable, and most of the time only a small fraction of the picture was clear in the already hectic affair.

Moreover, adding to the confusion, this crisis was but one of many conflicts happening during a time of war. Near the conflict's end, the fighting did not decrease. The OAS, a right-wing extremist group seeking to prevent Algerian Independence, increased terrorist attacks both in Algeria and in the mainland towards the end of the war. Police continued to brutally put down other protests as well, such as at the Charonne Metro Station in Paris a month before the war ended. Even with the Evian Accords (the official end to the war and the agreement of independence) signed in March 1962, the French-Algerian affair was far from over. Following the accords, there were mass departures of *pieds noirs*, people of European origin who lived in the colony, and in Algeria, there was the lynching of thousands of *harkis*, Algerians who fought for the French during the war.⁵⁰ October 17, 1961 was easily lost in the crowd. In the trial as well, Papon's Vichy past was the focus, and as it stepped into the limelight, his past in Algeria was overshadowed.

⁴⁷ This routine torture is documented in Raphaëlle Branche's book *La Torture et l'Armée Pendant la Guerre d'Algérie*, published in 2001.

⁴⁸ Cole, "Remembering the Battle of Paris", p. 25

⁴⁹ Other censored works included the movie *The Battle of Algiers* and the book *La Question*. Both of which detailed French use of torture during the war.

⁵⁰ "Harkis" refers to native Muslim Algerians who supported the French army during the Algerian War of Independence. Following the war, many Algerians saw them as traitors, and around 90,000 of 1.5 million harkis (including family members) fled to France. Of those who remained in Algeria, thousands were killed or tortured, estimates ranging from 60,000 to 150,000.

Papon himself had previously dismissed the event out of hand. In response to the civil parties' attention to the massacre, Papon rejected the importance of the event, saying all the acts he took in 1961 were necessary in a time of war.⁵¹ However, in response to the two or three hundred victims mentioned in the testimonies during his trial, he only admitted responsibility for three deaths, one of which he labeled as cardiac arrest.⁵² How did Papon get away with such a mitigation of the violence in his version of events? The murkiness surrounding October 17, 1961 traces back to several causes. Unlike Papon's Vichy past, there was no onslaught of damning evidence, no proof or documentation of numbers save for the police's statements. Papon's official report was exactly the same as the trial – three dead, one from cardiac arrest. The other deaths, missing persons, and bodies found in the Seine were, according to Papon, results of inter-faction skirmishes of the Algerian nationalists.⁵³ Despite the overwhelming witness evidence to greater police violence, the count remained the same. For decades, the event itself seemed to have disappeared from history, just like memories of colonialism.

The Aftermath

Despite its apparent disappearance from the trial, this aspect of Papon's past was far from finished. Absurdly, it was Papon himself who brought it back to the courtroom, when he, out on appeal, brought someone to trial for slandering his name in 1999. Jean-Luc Einaudi, who testified during Papon's trial, had long been striving to bring October 7, 1961 into the public eye. In 1991, he published a book called *La Bataille de Paris* about the event, using witness testimonies and FLN documents to piece together a death count of 200, without access to the police archives. Following the subject's emergence in the trial (coincidentally on its 36th anniversary), the culture minister of Paris Catherine Trautman announced that she would open the archives, which were supposed to remain closed for another 24 years.⁵⁴

Six months later, however, the eager Einaudi had not seen a single document despite his repeated attempts to access the official archives. The only response he received from his requests for more information was a state-issued report based on the police archives. When the report was published in May 1998 in *Le Figaro*, he wrote a stinging article in *Le Monde*, titled *For the Truth, At Last*, in which he reacted to the report. He deeply criticized it, noting its blind faith in the official records and its subsequent lack of the full picture. The other archives that would have confirmed further deaths were missing, including those of the Brigade Fluviale, where bodies were fished out from the Seine, as well as those of Vincennes, where more than 1,000 Algerians

⁵¹ Papon, "Une Carriere passe au crible."

⁵² Papon, "Ni coupable ni responsable."

⁵³ Cole, "Remembering the Battle of Paris", p. 26.

⁵⁴ "Archives on massacre to be opened after Papon denial," *The Irish Times*, October 18, 1997, <https://www.irishtimes.com/news/archives-on-massacre-to-be-opened-after-papon-denial-1.116933>

were detained. The report itself was also inherently biased, he noted, as it came from the very government that sought to censor the event in the first place. The “clashes” mentioned in the report were in reality brutal police attacking peaceful protestors, conclusions drawn based on witness testimonies and other sources. And though he admitted his death toll might have been an overestimate, Einaudi thus had no reason to be satisfied with the state-issued report. He ended the article by writing:

I will continue to affirm: in October 1961, a massacre took place in Paris that was perpetrated by police forces acting under the orders of Maurice Papon.”⁵⁵

It was this statement, namely the labeling of October 17, 1961 as a massacre, that ruffled Papon’s feathers. As soon as Papon was out on appeal, he took Einaudi to court under the charge of defamation. In the end, the court ruled that though Einaudi’s statement was “on the evidence” defamatory, he had done it in good faith and based on extensive research. Moreover, the court stated that “certain members of the order, relatively numerous, acted with extreme violence.”⁵⁶ This was huge. Not only did the court acknowledge the police brutality, but the sentence marked Papon’s failure to silence one of the leading voices in uncovering the Paris massacre.

Parallel Memories, Parallel Injustice

By bringing the two pasts together, the trial created a “heightened receptivity” towards the event and, more broadly, towards the French colonial past in North Africa.⁵⁷ It was in this more receptive atmosphere that two years after Papon’s trial, an interview essential to this conversation emerged, sparking increased public discourse surrounding torture committed by French personnel in Algeria. The gruesome details of the interview underscore the difficulties at stake in dealing with the French colonial past: after all, the state had been profiting from imperial conquest and violence since the beginning of the Second Empire in 1830.

In the summer of 2000, *Le Monde* published an interview with Louise Ighilahriz, a former FLN member who was repeatedly tortured under the supervision of two high-ranking military officials during the Battle of Algiers, whom she named as Generals Jacques Massu and Marcel Bigeard. In her interview, she vividly describes how she was tortured, including mentions of rape and sexual abuse. Family was also not spared. Her mother too was tortured, and her three-year-old brother was hanged. Filled with bereavement, fear, and despair, a portion of her

⁵⁵ Jean-Luc Einaudi, “October 1961: For the Truth, at Last,” *Le Monde*, May 20, 1998.

⁵⁶ Richard J. Golsan and Lucy B. Golsan, *The Papon Affair: Memory and Justice on Trial*, (New York: Routledge, 2000), p. 28

⁵⁷ William B. Cohen, “The Sudden Memory of Torture: The Algerian War in French Discourse, 2000-2001,” *French Politics, Culture & Society* Vol. 19, No. 3 (Fall 2001): p. 85. <https://www.jstor.org/stable/42843189>

account is below:

I was lying naked, still naked. They could come once, twice, or three times a day. As soon as I heard the sound of their boots in the hallway, I started to shake. Then the weather became endless. The minutes seemed like hours to me, and the hours seemed like days. The hardest part is to hold on for the first few days, to get used to the pain. After that, you mentally detach yourself, as if the body was starting to float.⁵⁸

In her testimony, after three long months, Ighilahriz was moved to a hospital, then a regular prison by a military doctor called Commander Richaud whom she did not know personally. But what set this interview apart from others was that even after these brutal descriptions of the suffering, Ighilahriz did not call for vengeance, but instead she only wanted one thing – to say thank you to her savior.⁵⁹

Described in one article as a “drama,” the newfound receptivity cultivated in the Papon trial, coupled with Ighilahriz’s poignant story, public awareness of French brutality in Algeria intensified.⁶⁰ In the same year, using the publicity to bring more attention to the widespread torture and rape in Algeria, a full-length interview detailing her life story was published as a book, becoming a bestseller in France. Historian William B. Cohen speculates that as an old woman, her emotional story likely had a more heartfelt effect than if it were that of a man. Moreover, as a story of a westernized woman who reached out not to accuse but to thank a Frenchman, Ighilahriz’s story probably had a more profound impact on a receptive audience.⁶¹ And with this increased attention, it initiated a flood of new stories and repressed memories.⁶²

Her story began to bring the brought torture wrought in Algeria out of the shadows, and with it, the dark pasts of a number of former French officials and generals out into public light, their old actions now under scrutiny. Their words were key voices in the conversation surrounding the Algerian War, but their respective attitudes towards the torture in Algeria differed immensely.

⁵⁸ “Guerre d’Algérie Tel quel Le témoignage de Louissette Ighilahriz,” *L’Humanite*, June 22, 2000, <https://www.humanite.fr/node/229600>

⁵⁹ Phillippe Bernard, “Le temoignage de Louissette Ighilahriz rouvre le debat sur la torture en Algerie,” *Le Monde*, June 23, 2000, https://www.lemonde.fr/archives/article/2000/06/23/le-temoignage-de-louissette-ighilahriz-rouvre-le-debat-sur-la-torture-en-algerie_3709247_1819218.html

⁶⁰ Bernard, “Le témoignage de Louissette Ighilahriz.”

⁶¹ Cohen, “The Sudden Memory of Torture” p. 86

⁶² See, for example : https://www.lemonde.fr/archives/article/2001/06/15/tortures-en-algerie-une-ancienne-combattante-du-fln-met-en-cause-le-general-maurice-schmitt_4196668_1819218.html, https://www.lemonde.fr/archives/article/2000/11/11/nous-etions-obliges-d-etre-complices_3711435_1819218.html

And like Papon's trial, though this exposure did mark a step forward in the conversation surrounding the Algerian War and colonialism as a whole, it was not without major deficiencies.

Out of the Past

Marcel Bigeard, one of the generals mentioned by name in Ighilahriz's interview, outright denied Ighilahriz's account and any existence of a Commander Richaud. However, the other general mentioned in the interview, Massu, acknowledged Richaud's existence, noting that though he did not remember precise details about Ighilahriz's situation, he implied its high likelihood. Unlike Bigeard, Massu admitted to the routine use of torture in Algeria, saying it was so commonplace as to lend Algiers a "certain atmosphere."⁶³ He expressed regret for his actions in Algeria.

However, rather intriguingly, the reaction of a different general in Algiers, General Paul Aussaresses, was without compunction. He acknowledged his use of torture, and, moreover, justified it, insisting upon its necessity without any trace of regret. He recounts that the first time he used the techniques of torture, he was appalled, vowing never to do it again. However, in the "explosive" atmosphere of Algiers, he argued that the necessity of torture outweighed notions of morality. He described torture as effective and efficient in getting Algerians to crack and eventually talk, saying in the obtaining of information, he had "no right to hesitate." In interviews, Aussaresses mentioned that he had no problems of conscience; he had gotten used to using torture as a routine tool. Even as he was invited on various radio and TV stations, he refused to express regret.⁶⁴ He was, in his words, merely "a soldier who did his job...because the country demanded it."⁶⁵

Following this media storm, Aussaresses wrote a book titled *The Battle of the Casbah*, published in 2001, in which he continued to defend the use of torture in Algeria. After its release, President Jacques Chirac revoked his Legion of Honor. When asked about the book in an interview in *Le Monde*, Aussaresses mentioned that the newfound public interest in Algeria had prompted him to write it and assume his responsibility as a former leader in the fight for French Algeria. He was only doing his duty. And so, for him, the legal risk of this reveal would not alter any of his words or attitudes towards torture in Algeria.⁶⁶ Indeed, despite his confession, he was only taken to

⁶³ Florence Beaugé, "La torture faisait partie d'une certaine ambiance. On aurait pu faire les choses différemment," *Le Monde*, July 28, 2014.

⁶⁴ Beaugé, "L'accablante confession du general aussaresses sur la torture en Algerie," *Le Monde*, May 2, 2001, https://www.lemonde.fr/disparitions/article/2001/05/02/l-accablante-confession-du-general-aussaresses-sur-la-torture-en-algerie_179476_3382.html

⁶⁵ "Algeria torture: French general Paul Aussaresses dies," *BBC*, December 4, 2013, <https://www.bbc.com/news/world-europe-25214025#:~:text=In%202002%20a%20French%20court,when%20the%20situation%20demanded%20it%22>

⁶⁶ Beaugé, "L'accablante confession du general aussaresses sur la torture en Algerie,"



court for justifying war crimes – not for committing the crimes themselves – since he was protected by the 1968 amnesty. Public opinion polls conducted in 1979, then in 1987, both indicated that the majority of the public was aware of the French use of torture in Algeria, and furthermore, both the Papon and Einaudi trial indicated at least brief state acknowledgement of the torture as well. However, the Aussaresses affair obscured the formal confrontation of the crime.⁶⁷

We can see how the Papon affair existed in a wider constellation of justice and memory work in the wake of French imperialism. Indeed, it is possible to note how discussions of France’s Vichy and colonial past (two overlapping and covalent histories), developed over time. Yet it is moreover important to note that these two narratives did not evolve separately. Beyond being merely coincidentally a part of Papon’s trial, they were intertwined and co-determinant: not simply through the crossover in personnel, but also in the shape of a reluctant state that did not want to deal with the crimes committed in its name over past centuries. That the Papon and Aussaresses trials took place about half a century after the original crimes, due to the avoidance of the Jewish question and censorship respectively, we see how justice for the victims was near impossible to achieve. The decades of state stalling had a devastating effect: the generation of criminals had already lived their lives, the perpetrators roaming freely and the victims remaining haunted. Both culprits had already enjoyed a long career in government, with medals and decorations to boot. Both the Jewish and Algerian victims had endured horrors and bereavement under the French state with no legal recognition and criminalization of their suffering for most of their lifetimes. What was the use of this watered-down justice, noting, moreover, that so many of the victims didn’t even live to see it?

Section 3 – Bringing the Past to the Present or, The Effects of Papon’s Trial

These comparisons between the Second World War and the Algerian war of independence were even made at the height of the French military assault in Algeria. Throughout the war, both right-wing and left-wing parties drew comparisons between the situation in the colony and France’s experience in WWII, analogizing the actions of both the FLN and of the French army respectively to Nazi atrocities.⁶⁸ Regardless of their political viewpoints, many drew on previous events to fuel public opinion to oppose the war, where many French soldiers died. Even when interest in Vichy resurfaced in the 1980s, leading to a series of trials, it was often accompanied by the topic of colonialism in North Africa: some, though, used to score points against the French state instead of necessarily seeking to promote a healthy and open conversation about imperialism. For example, Klaus Barbie, dubbed “the butcher of Lyon,” was finally brought to court for torturing and murdering Jewish and Resistance prisoners as Gestapo chief in that city

⁶⁷ Cohen, “The Sudden Memory of Torture” p. 84

⁶⁸ *Ibid.*, p. 85

during the war. Pointing out the supposed hypocrisy of the trial itself, his infamous defense lawyer Jacques Vergès drew parallels between Nazism and colonialism, listing French atrocities committed by the French in Algeria, despite the amnesty in place. Vergès claimed that he was “not against the amnesty... [but] for equality.”⁶⁹ Barbie, in Vergès’s reckoning, was no worse than French officials in Algeria, and “equality” meant that he deserved the same punishment as these officials.

This *tu quoque* argument highlighted both the breadth and complexities of history and the fragility of the courtroom; it shows how trials might isolate different pasts and different crimes when, in actuality, trends and ideas transcend place and time. And although Vergès’s defense argument was clearly fallacious, it is also crucial to consider the gravity of the crimes committed in the Vichy state to emphasize those committed in Algeria. So, while the Vichy regime did not cause the Algerian War *per se*, the two wars were intertwined: rhetorically, politically, and conceptually. In the below section, I explore how the justice system is not necessarily set up to serve justice of complicated pasts, nor provide the necessary means through which we should memorialize or confront the past.

Symbolic Weight

French-Bulgarian historian Tzvetan Todorov argued in 1999 that Papon’s trial was inherently flawed. It served neither justice nor historical documentation, but “retrospective heroism,” a “theatrical performance.”⁷⁰ This was, after all, a symbolic trial, and a national memorialization required a national audience. But what was the use, then, of going through a trial if the end result was already predetermined based on the state’s desire to showcase that it was dealing with its responsibility in the Holocaust, and not much else? Was the case, then, even a good pedagogical example of how to carry out justice and change the broader national memory of the war? The complicated past of an entire regime could not be effectively embodied by a mediocre civil servant. Especially since Papon claimed to be an exception to the expected Vichy criminal (or as Papon himself put it, the “myth”), and that there were no other Vichy bureaucrats to put on trial, the trial of Vichy’s responsibility in the Holocaust ended there, rendered mediocre at best by this loophole. So despite the grand symbolic weight of the trial in remembrance, Papon’s trial marked only one case to try the countless bureaucrats who enabled the Vichy system and thousands of Jewish deportations.

The small sense of justice was diluted even further by the delay in time between the crime and the trial. Following Papon’s appearance in court, Todorov noted the irrationality of a trial, based

⁶⁹ “Algerie quand me Verges compare Klaus Barbie a certains officiers francais pendant la guerre d’indépendance,” *Le Monde*, April 3, 1987, https://www.lemonde.fr/archives/article/1987/04/03/algerie-quand-me-verges-compare-klaus-barbie-a-certains-officiers-francais-pendant-la-guerre-d-independance_4055527_1819218.html

⁷⁰ Tzvetan Todorov, “The Papon Trial,” *Salmagundi* No. 121/122 (Winter-Spring 1999): p. 9. <https://www.jstor.org/stable/40549082>



on documents and testimonies, taking place a staggering 56 years past the crime in question. He noted that evidence should be taken into a familiar context to be satisfactorily understood, and that the jurors, generations younger than Papon, also lacked connection to the wartime atmosphere.⁷¹ Historian Richard Golsan also argued that the state's case against Papon was flawed for a number of reasons. Notably, there was a lack of hard evidence including key witnesses, as many of them had passed away. And so, though testimonies in court from historians such as Robert Paxton condemned Vichy as a regime fully responsible for Jewish deportations, they could not condemn Papon in particular.⁷² It would have been even harder still to find evidence with respect to Papon's criminal responsibility for October 1961: due to censorship around the event, the case would have lacked concrete documents and would have been exacerbated by the already murky memories of the hectic Paris Massacre.

As such, this was a trial taken completely out of its time period and placed into the spotlight, pushing it from the arena of prosecution into the realm of symbolic memory-making. Both crimes were unarguably committed. However, in reckoning with the pasts of generations ago, specifics would be blurred along with a sense of truth and justice.

Selective Legal Language

Even so, the Papon trial, as imperfect as it may be, could only have taken place after the introduction of a specific legal language to use in court. Though there was a precedent for trying crimes against humanity at Nuremberg, the legal term itself was only incorporated into French law in the mid 1960's.⁷³ It was one of the reasons why it took an incredible four decades to begin the second wave of trials, and another 10 years for Papon himself to be brought to court.⁷⁴ Moreover, instead of a resolute criminalization of French participation in the deportation of Jews, the nation received an underwhelming sentence that straddled acquittal and condemnation.

Even at Nuremberg, the selectivity of the legal definition of "crimes against humanity" was apparent. In the first Nuremberg trial, it was concluded that though persecution, repression, and murder of Jews and German dissidents prior to 1939 were systematic and ruthless, the actions did not constitute crimes against humanity since it did not fit the words of the charter. In other words, though these revolting crimes occurred, the Tribunal was unable to condemn them

⁷¹ Ibid., p. 5

⁷² Richard Golsan, "The Papon Trial: The Good, the Bad, and the Ugly," *SubStance*, Vol. 29, No.1, Issue 91 (2000): p. 140, <https://www.jstor.org/stable/3685452?seq=1>

⁷³ Kaplan, p. xi

⁷⁴ Ibid., p. xi

because they occurred before the war started, and without sufficient connection to crimes during the war.⁷⁵

Furthermore, this legal language introduced another type of simplification – the isolation of Papon’s past in Vichy and Papon’s past in Algeria, which were seemingly discrete, but linked in reality. Even before his trial, there had been several attempts to bring the war in Algeria to the courtroom. Those seeking to do so wanted to use the legal term “crime against humanity” to describe the crimes committed and to bypass the amnesty. This effort to evade the legal barrier of the amnesty was, however, ineffective. Notably in one case, when a group of Algerian descendants sought to bring October 17, 1961 on trial under the term crimes against humanity, the court refused to hear the case with the justification that the term only referred to those committed by the Axis powers.⁷⁶ Indeed, prior to 1994, “crimes against humanity” exclusively referred to crimes committed during WWII.⁷⁷ This, then, highlights another way that an intricacy, namely the selectivity of legal language, has obstructed a confrontation with the past.⁷⁸ Complicated histories were simplified, and intertwined pasts were isolated to serve different needs of public memorialization. Consequently, Papon was not even taken as an individual holistically, because he could not be tried for two crimes. Even though these two crimes – namely the 1942-1944 deportations and the October 17, 1961 Paris Massacre – had intertwined histories, they were treated differently through selective legal language and through different attitudes towards what deserved to be remembered.

With regards to the Aussaresses and Papon trials, neither were sentenced for committing the crime – only in its complicity. In both cases, memory and justice clashed in the courtroom. When both entered or reentered the spotlight, the focus was barely on the victims, the murdered Algerians and the Jewish deportees, respectively. Indeed, Papon was given his sentence only through arduous court processes and legal battles, and Aussaresses was protected by law of amnesty, even in the face of overwhelming evidence and numerous confessions.

But, despite the crossovers that the trial might point to, the memorialization of the two pasts were still inherently different. For one thing, the Vichy regime, which still acts as a haunting stain on France, was not an unknown part of the nation’s history. There was no discourse on whether the deportation and genocide of Jews was criminal, only on who was responsible. On the other hand,

⁷⁵ “Judgement: The Law Relating to War Crimes and Crimes Against Humanity.” The Avalon Project. Yale Law School, 2008. <https://avalon.law.yale.edu/imt/judlawre.asp>

⁷⁶ Cohen, “The Algerian War, the French State and Official Memory,” p. 225

⁷⁷ *Paris 1961: Algerians, State Terror, and Memory* (Oxford: Oxford University Press, 2012), p. 317.

⁷⁸ But despite the legal shortcomings in reckoning with the past in Algeria, people were able to continue the conversation of remembrance elsewhere. Without the supporting legal language, these so-called memory activists spoke in other terms such as the right to memory (“le droit de la mémoire”). Organizations such as the MRAP (“Mouvement contre le racisme et pour l'amitié”) demanded truth if not justice.

the different attitudes of the three generals Massu, Bigeard, and Aussaresses only highlight the divisiveness and ambiguity surrounding the French presence in Algeria. When confronted with Ighilahriz's testimony, Bigeard, one of the generals named in the interview, dismissed it as a "web of lies" made "to destroy all that is decent in France."⁷⁹ But, overwhelming evidence confirms the existence of state-ordered atrocities during the Algerian war.

In De Gaulle's famous speech at the Liberation of Paris, he passionately evoked the return of the "true France." Yet, France's colonial past overseas stretched back centuries and continued still well beyond liberation. Do we then have to ignore the actions of the French in the colonies to understand "true France" or should we incorporate them into this understanding?

In 2001, the *loi Taubira* finally recognized slavery as a crime against humanity,⁸⁰ indicating a willingness to accept French criminal liability in the Atlantic slave trade. But, while it may have appeared as if France was willing to confront past crimes committed in the name of the state head on, just four years later, another law⁸¹ was passed that encouraged teaching of "the positive role of French presence overseas, notably in North Africa."⁸² This was the intentional sugar-coating of a history that was anything but sweet. From its origins in notions of racial superiority⁸³ to its applications in inequality and torture, colonial presence in North Africa could not be so neatly defined as "positive." This law focused on the ideals and lives of Frenchmen in selective memory. It recognized those Europeans -the *pieds noirs* – who, according to article 1, had "undergone suffering and enduring sacrifices" by having to leave Algeria after the country gained independence. The law also recognized the *harkis*, Algerians who had fought for the French army. It did not, however, recognize the other colonized, or the victims of the Algerian War – the countless suffering, the thousands dead. And while the stories of the *pieds noirs* and of the *harkis* are important as well, the law that sought to highlight the positives of French colonialism chooses not show the full picture nor take into account the vast numbers of injustices committed in the name of imperialism.

Conclusion: How to Remember and Pursue Justice

⁷⁹ Cohen, "The Sudden Memory of Torture: The Algerian War in French Discourse, 2000-2001," 86

⁸⁰ *Loi Taubira*

⁸¹ "*loi n° 2005-158 du 23 février 2005 portant reconnaissance de la Nation et contribution nationale en faveur des Français rapatriés*" ("Law No. 2005-158 of February 23, 2005 regarding recognition of the Nation and national contribution in favor of the French repatriates") Passed in 2005.

⁸² Article 4 of the 2005 law. It was especially met with criticism, repealed in 2006. The version as of 2018 reads giving French presence overseas "the place it deserves."

<https://www.legifrance.gouv.fr/loda/id/JORFTEXT000000444898/2018-02-24/>

⁸³ "Modern History Sourcebook: Jules Ferry on Colonial Expansion," *Fordham University*, <https://sourcebooks.fordham.edu/mod/1884ferry.asp>

What might we learn from this? When we look closely at the trial of Maurice Papon, we might see a microcosm of some of the problems of memorialization, and indeed, some of the limits of different types of memory making. From the censorship of the October 17, 1961 massacre, and more specifically from the absence of Algeria from Papon's sentence, we might learn that when one memory is put forward, something else is always left behind; people are forgotten, and their stories are untold. Moreover, we might note the limitations of a trial, especially if we use it as a mechanism for memorialization. Although putting someone on trial for previously committed crimes might in some ways appear straightforward, Papon's trial and indeed France's relationship with its wartime pasts was anything but simple. Rather, it reflects the complexities of France's grappling with its collective memory, because Papon's trial highlights the uneven vagaries of Vichy remembering: despite the show of memorial will, the decades of inaction culminated in a trial with underwhelming effects.

But what should we do, then, about dark histories stretching back centuries? Slavery, for example, still casts an inky shadow on American memory, manifesting itself in confederate statues, state flags, and other symbols of national representation. In fact, these past symbols are used again and again as part of present political discussions. Papon's trial and its aftermath have contributed to the conversation surrounding French presence overseas. But its impact is slight. Colonialism and its effects still echo worldwide, and debate twenty years later surrounding its legacy is more active than ever. Even without any tangible culprits to punish in the present, we nonetheless continue to debate about the past, constantly wondering what to teach, who to honor, when to remember, and how.

Unlike as Papon declared in his final plea⁸⁴, the way we reckon with the past is not simply all or nothing. As seen from his trial, memorialization and the pursuit of justice are discussions that are always messy, dissatisfying, and ever-changing, and we are unable to fully absolve the past. Perhaps we might do best to remember that the way we remember will never be perfect and will never stay stagnant – all the more reason for us, today, to continue reexamining the past and to evaluate our roles in it again and again.

⁸⁴ Papon, "La Declaration de Maurice Papon"



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