

## **Crimes Against Humanity and Their Discontents: The French Case**



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## Foreword

*This Scowcroft Paper was written as a presentation, and read by Dr. Richard Golsan on March 22, 2018 at The George Bush School of Government and Public Service on behalf of the Scowcroft Institute of International Affairs. Dr. Golsan is internationally recognized for his research into the history and memory of World War II France and Europe, being awarded the Palmes Academiques by the French government for his work. This Scowcroft Paper comes after the publication of two recent books on World War II France and how it is remembered: The Vichy Past in France Today: Corruptions of Memory and The Trial That Never Ends: Hannah Arendt's 'Eichmann in Jerusalem' in Retrospect. Further inquiry into this topic or the information contained in this Paper should be directed to the aforementioned books and other publications by Dr. Richard Golsan.*

## Introduction

By the time the trial on charges of crimes-against-humanity of former SS *Hauptsturmfuehrer* Klaus Barbie concluded in Lyon in July 1987, Barbie's arrest and prosecution had garnered international attention and controversy on a scale comparable to the arrest and prosecution of Adolph Eichmann in Jerusalem, some twenty-six years earlier. Like the Eichmann trial which (primarily through the work of Hannah Arendt) famously raised concerns about the "banality of evil" implicit in Eichmann's actions and Jewish complicity in the Holocaust, the Barbie trial raised a series of vexing historical, legal, and moral questions. Among the former were the extent and nature of French complicity with the Nazis, not only in the latter's struggle against the French Resistance, but also in the deportation to their deaths of French and foreign Jews as part of Hitler's "Final Solution." Also — at least according to Barbie's defense council Jacques Vergès — if the trial were to have any legitimacy in historical terms, in addition to Nazi crimes, it

needed to address more recent crimes against humanity committed by other governments in other situations. Provocatively, Vergès and his defense team pointed to French crimes during the Algeria war, American crimes in Viet Nam, as well as Israeli crimes against Palestinians in Lebanon and in the Occupied territories. If the trial failed to address these crimes, Vergès maintained, any judgment the court might render against the aging Nazi Barbie would be hypocritical. More significantly, it would constitute a gross miscarriage of justice and one which would leave a permanent stain on France's democratic and republican traditions in the eyes of the world.

To the extent that criminal proceedings in France (and elsewhere) are intended to deal with specific crimes committed by an individual or individuals, both of the larger historical (and political) issues raised were, at least in principal, outside the purview of the court. But to adopt this perspective would be to ignore the broader implications of the Barbie trial, both in France and internationally.

Even though a relatively low-level Nazi, Barbie, known as the “butcher of Lyon” for his wartime actions, tortured to death France’s greatest Resistance hero, Jean Moulin. He also murdered or deported to their deaths hundreds of other Resistance fighters and Jews. One of the charges Barbie was convicted of in Lyon was the arrest and deportation of forty-four Jewish children, along with several of their teachers, hidden in a country village near Lyon called Izieu. None of the deported children survived. When his trial concluded, Barbie was the first person convicted of crimes against humanity under French law. In the *Palais de Justice* in Lyon, where the trial took place, there is a large plaque commemorating Barbie’s conviction.

In the French, as well as international media, Barbie’s trial was portrayed as a worthy sequel to other historic post WWII trials of Nazi leaders, including the Nuremberg trials and aforementioned Eichmann trial in Jerusalem in 1941. Where the latter is concerned, the French press and numerous books and television programs appearing about the case at the time, often compared Barbie to Eichmann, although he was certainly not at Eichmann’s level in the Nazi hierarchy, nor was the kind of evil Barbie displayed in torturing and killing his victims comparably “banal.” On the other hand, both Eichmann and Barbie escaped to South America with the help of the Catholic Church after the war, both had been sheltered by right-wing authoritarian regimes there, and both had been “kidnapped” by intelligence operatives and sent, one to Israel and the other to France, to stand trial. Finally, in an effort to imitate Israeli justice, which had made an exception to its own

laws in putting Eichmann to death following his conviction, many in France wanted an exception to be made in French law so that Barbie, if convicted, could be executed as well. Largely as a result of the efforts of France’s Minister of Justice, Robert Badinter – whose own father had been arrested and deported to his death by Barbie – the death penalty had been abolished in France in 1981. In the end, no exception was made for Barbie and he died in prison in 1991, four years after his conviction.

Implicitly at least, efforts to make an exception to French law so that Barbie could be executed point to one of the most vexing issues – and legacies – of the Barbie trial. This concerns the apparent willingness of French courts and magistrates to revise or misapply French and international laws to meet political (as well as other) pressures of the moment. Not only did the “massaging” of the French law during the lead-up to Barbie’s trial produce tensions in the Lyon courtroom, it also had a deleterious impact during subsequent trials in the 1990s for crimes against humanity of two French Nazi collaborators. Indeed, some have argued that it has also created problems in international law. This Scowcroft Paper examines the French context surrounding the Barbie trial and its immediate legacy before concluding with the legal implications and precedents it set for international criminal law today.

### **The French Context Surrounding Barbie**

In interesting ways, the Barbie trial constituted a continuation of the postwar Purge trials of French collaborators with the Nazis. In effect, both constituted unprecedented legal events. In Barbie's case, the court applied "new" or previously unused legal statutes, that is, those concerning crimes against humanity. But during the Purge, an entirely new court had to be established to try those accused of collaboration and sharing intelligence with the enemy, as well as other crimes. At the Liberation, a majority of the French magistrates and judges had compromised themselves professionally and personally by working for the collaborationist Vichy regime, and in applying that regime's oppressive and now lapsed laws. Therefore, these individuals had to be replaced, and the institutions they served abolished. Accordingly, following the Liberation, a freshly minted "High Court of Justice" was established. The new court's judges were comprised of jurists and magistrates who refused to work for Vichy. Members of the jury appointed for each trial assigned to the court consisted of former members of the Resistance drawn from a pool created by the government.

Given the make-up of the High Court's members at its formation, it is not surprising that critics challenged its legitimacy and accused it of administering a "victor's justice," a charge leveled forty years later at the trial of Klaus Barbie in Lyon. In one particularly memorable instance during the Purge, these claims seemed justified.

During the trial of Vichy premier Pierre Laval, jurors who loathed Laval as the living symbol of a disgraced and compromised regime that had murdered so many of their fellow Resisters, openly threatened his life in court. For his part, Laval refused to recognize the legitimacy of the trial and after the threats from jurors, refused to appear in court. The accused was ultimately convicted and sentenced to death.

The Laval trial cast a pall over the legitimacy of postwar legal and judicial efforts to deal with the consequences of the 1940 defeat and wartime Occupation. And it is at least possible, that it served as one source of inspiration for Barbie's defense team in repeatedly challenged the legitimacy of the court and the trial itself. Also, perhaps deliberately following Laval's example, Barbie decided to boycott his trial after the first few days of questioning.

If the Barbie trial showed some interesting parallels with the Laval trial, the event that made the Barbie trial possible in the first place derives from another historical moment. That is the December 1964 vote in the French National Assembly to incorporate crimes against humanity into French law and make them imprescriptible, that is, without a statute of limitations.

Why was the vote taken, and why at this precise moment? In French law, the statute of limitations for war crimes runs out after twenty years. Since France was liberated from the Nazis in 1944, 1964 therefore marked a critical moment. In recognizing that Nazis who committed crimes on French

soil could no longer be arrested and prosecuted for war crimes, France needed another legal means to arrest and try them. Crimes against humanity statutes having been applied both at Nuremberg and in Jerusalem during the Eichmann trial, and having been declared imprescriptible in international law by the United Nations in 1946, made this seemed like a good solution for the French Assembly. In fact, the measure was passed unanimously. During the discussion leading up to the vote, one Deputy speculated that if Hitler himself were discovered hiding in France, he could be tried under the new law!

How did the passage of the 1964 law affect the Barbie case twenty years later? Known during the war as the “Butcher of Lyon,” Barbie had been tried in absentia, convicted, and sentenced to death by French military tribunals in 1952, and again in 1954. He was found guilty both times for war crimes committed in the Lyon region during the Occupation. He escaped punishment for these convictions because he had been secreted out of Europe to Bolivia in 1951 through the concerted efforts of the American CIC (now CIA), reactionary elements in the Catholic Church, and the International Red Cross. Barbie had worked for the CIC following the war as an intelligence agent spying on the Soviets. By 1951, his crimes in France widely known, he was becoming a potential source of embarrassment for the American intelligence apparatus, and it was decided to get rid of him.

By the time Barbie was arrested and extradited from Bolivia, and brought to

France in early 1983, the statute of limitations for any war crimes he had committed in wartime Lyon, whether he was tried and convicted for them or not, had expired long before. As a result, if Barbie were to be tried again in the 1980s, he could only be charged with crimes against humanity. So, as the preparation of the government’s case against Barbie got underway in Lyon following his incarceration there (French criminal cases are almost always tried in the location where the crime was committed), the examining magistrate assigned to the case, Christian Riss had to be careful *not* to bring charges against Barbie that could be construed as war crimes. In addition, because French law, like American law, prohibits double jeopardy, no war crime for which Barbie had already been convicted in 1952 and 1954 could be re-introduced and included in new charges of crimes against humanity.

Faced with these realities, Christian Riss made the decision that *no* crimes committed by Barbie against Resistance members could be included in an indictment for crimes against humanity. By definition, he reasoned, Resistance members were enemy combatants, and according to Article 6c of the Nuremberg Charter now applicable under French law, crimes against humanity could only be committed against “civilian populations.”

It is precisely at this point that a crucial legal decision in the Barbie case ran up against the demands of history and memory, as well as the political pressures of the moment. If Barbie was recognized in France in the mid-1980s for a specific crime, or crimes,

these crimes were unquestionably the arrest and torture of Jean Moulin and the torture, murder, and deportation of other Resistance fighters. However, in accordance with Riss's indictment, when the trial eventually took place these crimes would lie entirely outside the jurisdiction of the Lyon assizes court. Civil Parties lawyers representing Resistance survivors and their families therefore would not be allowed to form part of the prosecution during Barbie's trial. According to Riss's indictment, Barbie would essentially only stand trial for the 1943 arrest of French and foreign Jews at a Jewish relief center on the Rue Sainte-Catherine, the April 1944 arrest and deportation of the children of Izieu (mentioned earlier), and the August 1944 deportation to their deaths of several hundred Jews. This last crime was committed just as the Lyon region was about to be liberated by the Allies.

Understandably, Riss's decision was greeted with widespread protest and even outrage in some quarters. For many in France, if Barbie were not tried for his crimes against the Resistance, the trial would make no sense in historical terms. Moreover, the memories of Barbie's Resistance victims, many still traumatized by the horrors perpetrated against them, would not be aired in the courtroom. Many of Barbie's victims would forever, therefore, be denied the satisfaction of confronting their torturer face to face.

In the French legal system, an appeal can be filed before a case is tried, and so Resistance groups and their representatives appealed Riss's decision, first, to the Lyon

Court of Appeals, where the appeal was rejected, and then to a higher court in Paris, the *Court of Cassation*. Here the outcome was different. On 20 December 1985, the higher court reversed the Lyon court decision, and allowed the Assizes court in Lyon to try Barbie for crimes he committed against the Resistance. As part of its decision, however, the Paris court took the bold move of amending the definition of crimes against humanity in French law. According to the new definition, crimes against humanity could now be committed not only against civilian populations *but also* against armed opponents of a regime, as long as the regime in question practiced "a politics of ideological hegemony." In this instance, the decision referred obviously and for all intents and purposes exclusively to Nazi Germany.

### **Immediate Impact of the Barbie Trial**

The effects of the Paris court's decision, both in the long and short term, were profound. In the short term, one practical consequence of the decision was that the investigation of the case now had to be reopened. This would take time (it took a year and a half), and many feared that the accused, already a frail old man, would die in prison before his trial occurred.

Also in early January 1986, shortly after the higher court decision was announced, a public controversy erupted among Civil Parties lawyers and others concerning the historical and moral justification of the decision. The ensuing debate in many ways went to the heart of the matter at hand. Serge Klarsfeld, the Civil parties lawyer for the

children of Izieu, publicly announced his dissatisfaction with the 1985 decision. For Klarsfeld, the Nazis' Jewish and gypsy victims were "innocents" – etymologically "those who do no harm" – whereas those who opposed them with arms fell into a different category, since they posed a real threat to the Nazis' existence and power. In one response to Klarsfeld, a Civil Parties lawyer for Resistance plaintiffs took issue with Klarsfeld's distinction and pointed out that Klarsfeld's language implied that as opposed to Jewish and gypsy victims, Resistance victims were somehow "guilty" for their struggle against the Nazis. In another response, the former Resistance hero Vercors, whose own father was Jewish, rejected Klarsfeld's distinction as well. Vercors noted that Resisters' family members, who were themselves *not* in the Resistance and not fighting against the Nazis, were nevertheless tortured and killed by Barbie and his ilk on a frequent basis. Moreover, even though deported resisters were sent to concentration camps rather than to death camps, as testimony at the Barbie trial later revealed, most if not all those deported suffered similar abusive and dehumanizing treatment, regardless of the type of Nazi camp involved. Resistance fighters, like Jews, were also murdered in cold blood. For some, the legal and historical necessity of trying Barbie for crimes against Resistance fighters along with his crimes against the Jews was implicit in the very charges brought against him by Christian Riss. In the train carrying Jewish deportees to the east that left Lyon in August 1944, approximately half those on board were Resistance fighters. Riss had to have made what one critic called a

"grotesque triage" in order to write the indictment in the way that he did, excluding these Resistance deportees.

If, in the eyes of most if not all Resistance survivors and their families and representatives, the 1985 decision did justice to their needs and concerns, it nevertheless opened the door to larger historical and legal problems. These concerned the meaning of the phrase, "a regime practicing a politics of ideological hegemony." What did the phrase actually mean, and precisely which regimes would or could be characterized in this way? For example, would the category include other totalitarian regimes besides Nazi Germany, like the Stalinist Soviet Union, or Red China? And although the issue would only arise later, as we shall see, what of Vichy France itself, which had of its own volition persecuted Jews and brutally suppressed Resistance fighters? To further complicate the problem, if the agents of any state, including democratic ones, practiced torture or deported civilian populations, could these states then not also be justifiably characterized as "practicing a politics of ideological hegemony" in carrying out these actions? And could those who resisted such a state and its practices, when tortured, deported or killed themselves, not also be victims of crimes against humanity? In the end, for all victims of brutal political repression, did the political nature of the regime in question really change the nature of the crime committed against them, or the trauma the victims experienced?

These are of course difficult questions, and in the postwar French context, they were particularly fraught. During the period

of decolonization, and especially during the struggle over Algerian independence, agents of the French Fourth republic, primarily but not exclusively soldiers, had tortured, deported and killed Algerian civilians as well as resisters belonging to the FLN, the *Front de Libération Nationale*. There were also instances of non-Arab French citizens who had been tortured and murdered by French government forces. To put an end to internecine strife that lingered long after the war, in 1968 an amnesty law covering crimes committed in Algeria was passed by the National Assembly. Given this reality, which many if not most in France were aware of at the time of the Barbie trial, what justice could there be in trying an old Nazi, whose crimes even predated crimes committed by the French in Algeria and elsewhere a decade or two later? A partial justice at best, at least for some.

When the Barbie trial finally got underway in Lyon in May 1987, the delicate and complex issues raised by the 1985 Paris Court of Appeals decision were not immediately in evidence. Civil Parties representing Barbie's Jewish victims as well as his Resistance victims were included in the prosecution. Nevertheless, given the nature of the final indictment, his crimes against the Jews took center stage. So much was this the case, that in terms of the testimony given and the preponderance of witnesses interviewed by the court, one commentator argued that in the end the trial was really only about the children of Izieu. According to another commentator, the real focus of the trial was the Nazi death camps. In the event, the court heard wrenching testimony from Barbie's Jewish victims, including those he tortured and those

he deported, or both. It also heard testimony and saw evidence confirming Barbie's administrative actions and responsibilities in the deportations to the east, and the extent of his knowledge of the fate they would suffer there. Expert witnesses confirmed not only the authenticity of the documents implicating Barbie in these crimes, but also the extent of his knowledge of Hitler's Final Solution, given his position and rank in the Nazi hierarchy. By contrast, certainly early in the trial, testimony by Resistance victims was sparse. The testimony of the most eloquent and tragic of Barbie's Resistance victims, Lise Lesèvre, whose son and husband had been arrested and deported by Barbie all in a futile effort to make her betray her Resistance colleagues, was sandwiched between that of six Jewish victims, on the eleventh day of the trial.

Near the end of the Barbie trial, the dissensions over the higher court's 1985 decision and its implications began to show. In his final statement before the court, the chief prosecuting attorney, Pierre Truche, openly expressed his misgivings about the 1985 decision (he had opposed it at the time it was announced). He also expressed the hopeful view that the decision, as well as the entire legal apparatus established around the Barbie trial, would mark a constructive step in the evolution of human rights law internationally.

It fell to the defense attorneys, Jacques Vergès and two late recruits to the team, the Algerian lawyer Nabil Bouaita, and the Congolese lawyer Jean -Martin Mbemba, to fully expose and attempt to exploit the theoretical weakness and ambiguous wording of



the 1985 decision. In his final plea before the court, Vergès compared French crimes in Algeria against civilian populations, and similar American abuses in Viet Nam, to Nazi crimes. Vergès did not bother to address the issue of whether, and how, Fourth Republican France and the United States government were regimes practicing a policy of ideological hegemony. For Vergès, it appeared, the distinction was meaningless.

When their turns to make their final pleas before the court arrived, Mbemba and especially Bouaita did Vergès one better. Both pointed to examples of other mass crimes, especially by Western democracies and their allies that, they argued, also qualified as crimes against humanity. But when Bouaita spoke of the massacres of the Palestinian camps of Sabra and Chatilla as constituting Israeli crimes of this magnitude, several civil parties' lawyers vigorously protested. They demanded that the judge (in France, the "President" of the court) halt the trial so that a response to what they considered outrageous, not to say scandalous, comparison proposed by the defense could be prepared. Other civil parties' lawyers objected to these colleagues' demands. They affirmed that it was procedurally unacceptable for the civil parties' lawyers to be given the right to respond to any points the defense might choose to make. The exclusive right to pass judgment on the defense's arguments fell to the judges and jury, and not to opposing counsel. Once again, the 1985 decision and especially its political implications for the past and present divided the civil parties against themselves. Moreover, in the cases of

the pleas of Mbemba and Bouaita, the problematic not to say dubious comparisons it afforded allowed them to address the court for more than two hours without ever discussing the actual crimes of which Barbie was accused.

At the end of the trial, Barbie was found guilty on all counts, including crimes against humanity committed against Resistance members. So, in the verdict at least, the 1985 decision did not adversely affect the court's ability to render justice. Moreover, Jacques Vergès' effort to exploit the 1985 decision to transform the trial into what he liked to call a "trial of rupture" (where the defense turns the tables on the court and makes the trial not about the accused but about the injustice of the judicial system itself) clearly failed.

### **The Legacy of Barbie**

That being said, what *was* the long-term impact of the 1985 decision in French law, and specifically, on the subsequent French trials for crimes against humanity that occurred in the 1990s? These involved two French collaborators with the Nazis, Paul Touvier, a member of the Vichy regime's paramilitary police force, the *Milice*, and Maurice Papon, a highly placed Vichy bureaucrat in wartime Bordeaux.

Tried in Versailles in 1994, Paul Touvier was charged with the murder of seven Jewish hostages at a cemetery near Lyon in summer 1944 as an act of reprisal for the Resistance's assassination the day before of Vichy's Minister of Propaganda. There were a

number of vexing legal obstacles for the prosecution to overcome, the most significant of which emerged as a direct consequence of the 1985 decision in the Barbie case. Before the trial of Touvier even got underway, in April 1992 the Paris Court of Appeals shockingly dismissed all charges against Touvier on the grounds that the Vichy regime was *not* a regime that practiced “a politics of ideological hegemony.” Because it was not such a regime, the court maintained, crimes against humanity could not be committed on its behalf. Therefore, Touvier’s crimes were war crimes, and so he had to be released from custody.

The response to the decision was intensely critical, and every major historian of Vichy regime pointed to the gross inaccuracy of the court’s historical interpretation of Vichy and its politics. Some historians and jurists went so far as to claim the court deliberately whitewashed Vichy so that Frenchmen who had worked for the regime — these included President Francois Mitterrand — would never have to stand trial for crimes against humanity. Later that year, a higher court partially overturned the lower court’s decision, arguing that Touvier could in effect be tried for crimes against humanity, because as Touvier himself had claimed, he had been acting on German orders when he ordered the murder of the seven Jewish hostages. But the higher court did not challenge the lower court’s erroneous historical assessment of the Vichy’s *regime*, and its dubious conclusion that Vichy was not a regime that practiced a politics of ideological hegemony.

So, when the Touvier trial finally

opened in Versailles in April 1994, how were all these issues resolved, and what were the implications of that resolution? The fact remained that, if Touvier was solely an agent of Vichy, his crimes could only be war crimes, and the statute of limitations for these crimes had run out. And, more troubling still for the prosecution, it emerged that there had been no *German* order to kill the Rilleux hostages, as Touvier had earlier claimed. In the event, a civil parties lawyer, Arno Klarsfeld, son of Serge Klarsfeld, came up with a solution. He noted that Joseph Darnand, the head of the *Milice*, the paramilitary organization to which Touvier belonged, had earlier sworn a personal oath of loyalty to Adolph Hitler himself. This being the case, Klarsfeld argued, *Milice* members including Touvier, like their leader, could be classified as members of a *Nazi* organization, and therefore could legally be considered to have acted after all on behalf of a regime practicing a politics of ideological hegemony. Klarsfeld’s gambit worked, and the court convicted Touvier of crimes against humanity. The problem was, of course, the historical record had been distorted, not to say falsified, to secure the conviction. By any accurate and reasonable measure, the *Milice* was a *French* organization in its inspiration, activities, and direction, despite what the court ruled.

By the time Maurice Papon came to trial three years after the tainted conviction of Touvier, the French courts and legal system had taken significant steps to avoid potential problems created by the 1985 and 1992 decisions. A January 1997 Court of Cassation decision in the Papon case ruled that the Vichy regime had in fact been an “indispensable

cog” in the Nazi’s machinery of death in the Holocaust, and that Papon, a bureaucrat who had rounded up and deported Jews for the Nazis in Bordeaux, could be tried for crimes against humanity. In effect, the deeply problematic qualification of a regime “practicing a policy of ideological hegemony” had been circumvented. On the other hand, the court ruled that French complicity with the Nazis did not mean those complicit with it were aware of the ultimate fate of the Jews deported. In the event, Papon was convicted of crimes against humanity but found innocent of having knowingly sent Jews to their deaths. For most historians it was almost inconceivable that Papon did not know the ultimate fate of those he deported. Nevertheless, he received only a ten-year sentence for what by French, as well as international legal standards remains the most heinous of crimes.

### **Conclusion**

In the end, what lessons can be taken from the convoluted path of crimes against humanity law in France, and what specifically has been the impact of the 1985 decision requiring that crimes against humanity can only be committed on behalf of a regime practicing a policy of ideological hegemony”? As already noted, the problematic qualification of an ideologically hegemonic regime was not an issue during the Papon trial. In fact, in today’s French criminal code, the phrase happily no longer exists. So it is now theoretically possible, for example, for the French courts to try Rwandan Hutu murderers who found refuge in France after the

1994 genocide. Of course, Rwanda is currently a vexed subject for France, the French military trained Rwandan Hutu security forces who would later become involved in the killing. Also, some charge that French troops sent to Rwanda during the genocide to rescue Tutsis as part of Operation Turquoise actually allowed thousands of Tutsis to die.

Perhaps, taking a lesson from problematic French legal decisions where crimes against humanity are concerned, neither the International Criminal Tribunal for the former Yugoslavia nor the International Criminal Tribunal for Rwanda links crimes against humanity to a specific type of regime. That has undoubtedly made their tasks easier. Where the ICTY is concerned, accused from both of the major enemy combatants, Serbia and Croatia, were charged with and tried for crimes against humanity.

Conversely, the 1985 Paris high court decision allowing war crimes to also be considered crimes against humanity in some cases did help the ICTY in some situations. For example, in handing out verdicts against perpetrators of such crimes as the 1995 Serb massacre of 6000 Muslim men at Srebrenica. Some of those killed *were* actively resisting Serb aggression. This instance, for one, justifies the claim of legal scholar Nicholas Doman, that the 1985 decision did in fact make “an important contribution to international law with respect to crimes against humanity”

In conclusion, shortly after the Touvier trial had ended, the legal scholar Christian Guéry concluded pessimistically that, given all the contortions to which it had been

subjected to secure the convictions of Touvier and Klaus Barbie before him, crimes against humanity law had lost all meaning and substance in French law. Several years earlier, as noted, the prosecutor in the Barbie trial, Pierre Truche, took a very different view, expressing the hope that the legal decisions made with respect to the Barbie case, and the 1985 decision in particular, would

mark a constructive step in the evolution of laws protecting human rights, in France and elsewhere. While Guéry's view appears more apt to the Touvier and Papon trials, in international law, Truche's view appears more prescient than Guéry's. For the sake of French and international justice going forward, we should hope Truche's perspective ultimately prevails.

*The Views expressed herein are those of the author and do not necessarily reflect the positions of The Scowcroft Institute of International Affairs, The Bush School of Government and Public Services, or Texas A&M University*

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Dr. Golsan has over 48 works in 186 publications and is currently at work on a book-length study entitled *Corruptions of Memory: Crises of Post-Holocaust Remembrance in Contemporary France*. His most recent publications include French Writers and the Politics of Complicity (Johns Hopkins, 2006), The Vichy Past in France Today: Corruptions of Memory (Lexington Books, 2016), and The Trial That Never Ends: Hannah Arendt's 'Eichmann in Jerusalem' in Retrospect (University of Toronto Press, 2017).

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— Lt. Gen. Brent Scowcroft, USAF (Ret.)