

Portraits of Women at Nuremberg

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Many of us who work in the field of international criminal law owe our interest at least in part to proceedings held in the aftermath of World War II. Cementing my own interest was *The Anatomy of the Nuremberg Trials*, the indispensable 1992 memoir by leading U.S. prosecutor Telford Taylor.¹ At a much more exalted level, Judge Navanethem Pillay, now the UN High Commissioner for Human Rights, has said that she

first came across the Nuremberg Trials on a shelf in the library at the University of Natal in apartheid South Africa. A student enrolled in classes for nonwhites, Pillay

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¹ TELFORD TAYLOR, *THE ANATOMY OF THE NUREMBERG TRIALS* (1992) [hereinafter TAYLOR, ANATOMY].

spent hours reading the trial transcripts, transfixed by the ideal of justice represented in the account of countries coming together to hold individuals responsible for the most heinous acts.²

No doubt other international criminal law jurists have a similar story to tell. Nor is there much doubt that most assume that at these trials few, if any, roles were played by women.

Reading Taylor's *Anatomy* likely will leave but one lasting recollection of women at Nuremberg. On July 5, 1946—three weeks to the day before Chief U.S. Prosecutor, Robert H. Jackson, began the closing argument at the Trial of the Major War Criminals³—a Paris designer invented a belly-button-baring swimsuit.⁴ The Parisian named the suit, modeled by a striptease dancer when “[n]o respectable model would,” after the

² *A Child at the Time of the Nuremberg Trials, Navanethem Pillay now Carries their Legacy Forward*, HARVARD LAW SCHOOL, <http://www.law.harvard.edu/news/spotlight/ils/related/bus-driver.html> (last visited May 19, 2010) (undated article, presumably written while Pillay, formerly a Judge at the International Criminal Tribunal for Rwanda, was an International Criminal Court Judge).

³ Closing Statement of Mr. Justice Robert H. Jackson, Chief Counsel for the United States, July 26, 1946, *reprinted in* 19 TRIAL OF THE MAJOR WAR CRIMINALS BEFORE THE INTERNATIONAL MILITARY TRIBUNAL 397 (1948).

⁴ KELLY KILLOREN BENSIMON, *THE BIKINI BOOK* 10-11, 18, 26 (2006) (describing immediate postwar development of the suit by Louis Réard and a rival).

South Pacific atoll at which the United States had just conducted its first atomic bomb test.⁵ The suit indeed proved a bombshell at its Nuremberg debut that same summer. The occasion, Taylor noted, was a party that Katherine Biddle held for the sixtieth birthday of her husband Francis, the American judge at Nuremberg. Members of all four Allied delegations—the Russians, the French, the British, and the Americans—came to the requisitioned villa that the Biddles called home. “It was a lovely evening,” Taylor wrote, “the food and drink were served outdoors around the large swimming pool, and Catherine (an accomplished poetess) spoke charmingly of enduring love.” He continued:

After dinner the swimming pool was put to use. The first two in were Jenny Pradeau and Janine Herisson, among the prettiest and youngest of the French delegation, who appeared in what were soon to be known as bikinis. Few if any of us had previously seen these provocative garments, and the sides of the pool were soon crowded with ogling males.⁶

⁵ *Id.* at 26; see also *A Brief History of the Bikini*, SLATE, <http://www.slate.com/id/2145070/slideshow/2145060/fs/0//entry/2145040/> (last visited May 19, 2010) [hereinafter *Brief History*] (including a photo of striptease dancer modeling the suit).

⁶ TAYLOR, *ANATOMY*, *supra* note 1, at 398 (retaining, in passage quoted in text, Taylor’s misspelling of Katherine Biddle’s first name).

The passage conjures an image of a curvy body clad in a few cloth triangles as the singular emblem of women at Nuremberg.

Taylor's account is not unique in this regard. Memoirs and other historical accounts tend seldom to mention women. The name of Katherine Fite—whose essential contribution to the London Charter John Q. Barrett details in this volume⁷—does not figure prominently in these works. Two women's names do appear: Hitler's mistress, Eva Braun, who committed suicide with him shortly before the war's end, and Ilse Koch, the camp superintendent's wife known as the Beast of Buchenwald.⁸

⁷ John Q. Barrett, *Katherine B. Fite: The Leading Female Lawyer at London & Nuremberg, 1945* in PROCEEDINGS OF THE THIRD INTERNATIONAL HUMANITARIAN LAW DIALOGS 9-30 (Elizabeth Andersen & David M. Crane eds. 2010).

⁸ On Braun, *see, e.g.*, WHITNEY R. HARRIS, TYRANNY ON TRIAL: THE EVIDENCE AT NUREMBERG 458-65; CHRISTOPHER J. DODD WITH LARY BLOOM, LETTERS FROM NUREMBERG: MY FATHER'S NARRATIVE OF A QUEST FOR JUSTICE 6, 96, 105, 1047 (2007). On Koch, *see* HARRIS, *supra*, at 434 (quoting an affidavit on "Buchenwald barbarism" that alleged the skins of prisoners' corpses "were turned over to SS Standartenfuhrer Koch's wife, who had them fashioned into lamp shades and other ornamental household articles"). Koch was one of many women convicted and executed following postwar trials relating to camp atrocities. *See Ilse Koch Hangs Herself in Cell; Nazi 'Beast of Buchenwald' Was Serving Life Term*, N.Y. TIMES, Sept. 3, 1967, at 1. Two women stood trial at Nuremberg. Dr. Herta Oberheuser, a dermatologist who conducted medical experiments, was convicted in the *Doctors' Case* and sentenced to twenty years. WILLIAM L. SHIRER, THE RISE AND FALL OF THE THIRD REICH 990-91 (1990). Inge Viermetz, a civilian aide to an SS officer, was acquitted in the *RuSha Case*. TELFORD

Occasionally, a book refers to women who testified at the trials,⁹ and a few mention in passing Tania Long, who, along with her husband, covered Nuremberg for *The New York Times*.¹⁰

Yet women did play key roles at Nuremberg, even at the first trial.

Many women joined Long in the press gallery, among them *New Yorker* reporter Janet Flanner (left), an American expatriate who criticized Jackson's cross-examination efforts and branded the proceedings "dull and incoherent," and the English writer Rebecca West, whom Taylor said had a "brief encounter" with Judge Biddle.¹¹



TAYLOR, FINAL REPORT TO THE SECRETARY OF THE ARMY ON THE NUERNBERG WAR CRIMES TRIALS UNDER CONTROL COUNCIL LAW NO. 10 177-79 (1949) [hereinafter TAYLOR, REPORT].

⁹ An example is the reference to testimony by one "Madame Boundoux" in HARRIS, *supra* note 8, at 439.

¹⁰ See DODD, *supra* note 8, at 265-66, 282; see also *Tania Long, 85, a Reporter for the Times in World War II*, N.Y. TIMES, Sept. 6, 1998, available at <http://www.nytimes.com/1998/09/06/nyregion/tania-long-85-a-reporter-for-the-times-in-world-war-ii.html?scp=1&sq=tania+long&st=nyt>.

¹¹ DODD, *supra* note 8, at 267 n.11; *id.* at 43-44 (quoting Flanner); TAYLOR, ANATOMY, *supra* note 1, at 547-48, n.*. See *Reporting Nuremberg*, NEW CRITERION, Sept. 1, 1998, at 74, 1998 WLNR 7950844.

News accounts placed another woman lawyer, besides Fite, at Nuremberg early on. Irma Von Nunes had been admitted to the Georgia bar in the 1920s while still a teenager,¹² and during World War II became a captain in the U.S. Women's Army Corps. Reports describe her, without further elaboration, as the first woman involved in the war crimes trials.¹³ Among non-lawyers assigned to the trial was Captain Virginia Gill, executive to the prosecution.¹⁴ As the memoir of prosecutor Whitney R. Harris noted, moreover, Jackson was aided throughout by "his secretary, Mrs. Elsie L. Douglas."¹⁵ Many women served as interpreters. Among them was twenty-three-year-old Edith Simon who, as she later recalled, served as a translator at pretrial interviews with Hermann Göring, a leading Nazi defendant "not particularly thrilled to see a woman, a Jewish woman, as his interpreter."¹⁶ Yet though a courtroom photograph

¹² *Brookfield High School Notes*, COURIER, May 29, 1929.

¹³ See KAREN BERGER MORELLO, *THE INVISIBLE BAR: THE WOMAN LAWYER IN AMERICA 1638 TO THE PRESENT* 184 n.* (1986).

¹⁴ See PETER HEIGL, *NÜRNBERGER PROZESSE - NUREMBERG TRIALS* 82 (2001).

¹⁵ HARRIS, *supra* note 8, at 14.

¹⁶ See Alexandra J. Wall, *Edith Coliver, International and S.F. Activist, Dies at 79*, J WEEKLY, Jan. 4, 2002, available at <http://www.jweekly.com/article/full/17031/edith-coliver-international-and-s-f-activist-dies-at-79/> (noting that Simon, known as Edith Coliver after marriage, had been born in Germany and earned a bachelor's degree at the University of California-Berkeley before going to work at Nuremberg).

of the Soviet prosecution table includes an unnamed woman,¹⁷ no work yet found mentions a woman judge, prosecutor, or defense counsel in the courtroom at the first trial.

Thus, it is no surprise that in a 2005 speech, Judge Patricia M. Wald could name no woman among what Francis Biddle had called an “exceptionally strong supporting cast” of lawyers who assisted the judges at Nuremberg.¹⁸ The lawyers who were named included two former Supreme Court clerks and two law professors.¹⁹ All of them were men—men who held positions in the profession not open to women in the mid-twentieth century. It is true that a woman did clerk for the U.S. Supreme Court in October Term 1944, but she was not succeeded by another woman until 1966.²⁰

¹⁷ Photograph captioned “Table of Soviet attorneys – Nuremberg, Germany, 1945/6,” http://www1.yadvashem.org/exhibitions/nuremberg/nuremberg_10.html (last visited May 19, 2010).

¹⁸ Patricia M. Wald, *Running the Trial of the Century: The Nuremberg Legacy*, 27 *CARDOZO L. REV.* 1559, 1568 (2006) (quoting FRANCIS BIDDLE, IN BRIEF AUTHORITY 119 (1962)).

¹⁹ *Id.* at 1568-69 (mentioning law professors Herbert Wechsler and Quincy Wright and former clerks Robert Stewart and Adrian Fischer).

²⁰ ARTEMUS WARD & DAVID L. WEIDEN, *SORCERERS’ APPRENTICES: 100 YEARS OF LAW CLERKS AT THE UNITED STATES SUPREME COURT 89-90*, Table 2.11 (2006) (stating that the first woman Supreme Court clerk was Lucile Lomen, who clerked for Justice William O. Douglas in October Term 1944 Term, and the second was Margaret J. Corcoran, who clerked for Justice Hugo Black in October Term 1966); Linda Greenhouse, *Women Suddenly*

As for academia in that period, Professor Herma Hill Kay has written that “when World War II ended, exactly three women held tenure or tenure-track appointments” on faculties belonging to the Association of American Law Schools.²¹ It is therefore truly remarkable that women did succeed in working as lawyers at Nuremberg.

Among the several women who represented defendants,²² a notable example is Elisabeth Gombel, the

Scarce Among Justices’ Clerks, N.Y. TIMES, Aug. 30, 2009, at A1, available with corrected spelling of Lomen’s name at <http://www.nytimes.com/2006/08/30/washington/30scotus.html> (last visited May 19, 2010) (same). Five years after the close of the first Nuremberg trial, Wald herself earned her law degree, then clerked for a federal judge at the intermediate appellate level; she would go on to become the first Chief Judge of the U.S. Court of Appeals for the District of Columbia Circuit and a Judge on the International Criminal Tribunal for the former Yugoslavia. *The Honorable Patricia M. Wald*, AMERICAN INNS OF COURT, <http://www.innsocourt.org/Content/Default.aspx?Id=321> (last visited May 19, 2010).

²¹ Herma Hill Kay, *The Future of Women Law Professors*, 77 IOWA L. REV. 5, 6 (1991).

²² The presence of women defense counsel may reflect the absence of German men eligible to serve as attorneys. Women who represented defendants included: Gerda Doetzer; Agnes Nath-Schrieber, who assisted her husband in representing defendants; and Dr. Erna Kroen, who spent thirty years as a music director in her hometown of Leverkusen after her work in the *Farben* trial. See TAYLOR, REPORT, *supra* note 8, at 307, 319-20; *Bayer’s culture makers*, BAYER KULTUR, <http://www.culture.bayer.com/en/cultural-department.aspx> (last updated Nov. 11, 2009).

only woman to have served as chief counsel on either side. Gombel had been a legal adviser in the Junkers Aircraft Factory. She became lead counsel for Ernst Wilhelm Bohle, an officer in the German Foreign Department charged in the *Ministries Case*, after the initial appointee dropped out for unspecified reasons.²³ As stated in a Nuremberg history by Illinois attorney John Alan Appleman, at arraignment, “much to the amazement of the Tribunal, Prosecution, and all persons concerned,” Bohle became the only Nuremberg defendant to plead guilty. He entered a plea to a single count of “membership of the SS with knowledge of its criminal activities,” and was sentenced to five years. Appleman advanced a gender angle for this “amazing” turn of events, writing: “One wonders whether the fact that he had a woman counsel had anything to do with his decision to enter the plea of guilty.”²⁴ Even though Gombel’s client spent less time in prison than nearly all convicted in the case,²⁵ the comment does not convey compliment.

²³ TAYLOR, REPORT, *supra* note 8, at 336-37.

²⁴ JOHN ALAN APPLEMAN, MILITARY TRIBUNALS AND INTERNATIONAL CRIMES 223 (1954).

²⁵ Sentences for defendants convicted at trial ranged from time served for one defendant and four years for another, all the way up to twenty-five years in prison. Two defendants were acquitted. *Id.* at 222-23.

One non-American woman prosecutor was Dr. Aline Chalufour of France, who had worked for General Charles DeGaulle in Canada during the war, and was one of three prosecutors at the British military trial pertaining to the Ravensbrück camp.²⁶ In a letter home, Fite wrote that Chalufour was “really very intelligent and congenial—and I lack congenial feminine companionship.”²⁷

A number of American women served as prosecutors; a very few will be mentioned here.

“Miss Sadie Belle Arbuthnot,” (right) as *The New York Times* called her, earned her law degree at night school while she was a secretary at the U.S. Department of



²⁶ See ATROCITIES ON TRIAL: HISTORICAL PERSPECTIVES ON THE POLITICS OF PROSECUTING WAR CRIMES 144 (Patricia Heberer & Jürgen Matthäus eds., 2008); TAYLOR, ANATOMY, *supra* note 1, at 213; Letter from Katherine Fite to Mr. and Mrs. Emerson Fite, (Oct. 14, 1945), http://www.trumanlibrary.org/whistlestop/study_collections/nuremberg/documents/index.php?documentdate=1945-10-14&documentid=nuremberg2016&studycollectionid=&pagenumber=1 (last visited May 19, 2010) [hereinafter Fite letter].

²⁷ Fite letter, *supra* note 26.

Justice, presumably during the New Deal.²⁸ Arbuthnot served on the prosecution team during the *Justice Case*, then became the first woman judge in the court system that the United States established in the part of Germany that it occupied after the war.²⁹

Belle Mayer Zeck, who had practiced as a federal government lawyer after graduating from Fordham Law School, worked on the *Farben* trial of industrialists.³⁰ After Nuremberg she and her husband William Zeck, another member of the prosecution team, became Democratic Party activists in Rockland County, New York; at one point, she made an unsuccessful bid for a state legislative seat. Mayer Zeck died at age eighty-six in 2006, on the same day as Drexel Sprecher, another prosecutor at Nuremberg.³¹

Mary M. Kaufman also worked on the *Farben Case*.³² During the New Deal she was an organizer for

²⁸ Associated Press, *U.S. Woman Judge in Germany*, N.Y. TIMES, Sept. 29, 1950, at 10.

²⁹ *Id.*; see APPLEMAN, *supra* note 24, at 157-58; TAYLOR, REPORT, *supra* note 8, at 170 n.112.

³⁰ *Belle Zeck, 87, Prosecutor at Nuremberg, Dies*, N.Y. TIMES, Apr. 5, 2006, at A5 [hereinafter *Belle Zeck*].

³¹ Douglas Martin, *Drexel A. Sprecher, 92, U.S. Prosecutor at Nuremberg*, N.Y. TIMES, May 8, 2006, at B8 (observing that Sprecher and Zeck both died on Mar. 18, 2006); *Belle Zeck*, *supra* note 30 (stating that Zeck died on Mar. 18, 2006).

³² APPLEMAN, *supra* note 24, at 177.

the Works Progress Administration, studied part-time, and earned her law degree from St. John's University.³³ While an attorney for the National Labor Relations Board, Kaufman continued to organize for the WPA, eventually finding her way to Nuremberg. On return to the United States, she embarked on a high-profile career as a leading attorney for Elizabeth Gurley Flynn and others tried under the Smith Act during the McCarthy period.³⁴ Kaufman helped to found the National Lawyers Guild, and was also active in antiwar protests and as a lawyer for arrested protesters. Indeed, she linked international criminal law of the Nuremberg era to issues of nuclear and chemical warfare in the Vietnam era.³⁵

Last, but by no means least, was Cecelia Goetz. The New York-born daughter of a lawyer, she decided to study law, and earned all her degrees at New York

³³ *Mary M. Kaufman, 82, Lawyer; Cases Involved Communism*, N.Y. TIMES, Sept. 11, 1995, at 13; *Personal Information for Mary Kaufman*, JEWISH WOMEN'S ARCHIVE, <http://jwa.org/archive/jsp/perInfo.jsp?personID=121> (last visited May 20, 2010).

³⁴ See generally Margaret Jessup, *Kaufman, Mary Metlay*, in 2 GREAT AMERICAN LAWYERS: AN ENCYCLOPEDIA 424-32 (John R. Vile ed., 2001).

³⁵ *Mary M. Kaufman, The Individual's Duty under the Law of Nurnberg: The Effect of Knowledge on Justiciability*, 27 GUILD PRAC. 15 (1968). See also *Mary M. Kaufman, Judgment at Nurnberg – An Appraisal of Its Significance on Its Twentieth Anniversary*, 25 GUILD PRAC. 66 (1966); *Mary M. Kaufman, Statements, Declarations, and Agreements Leading to the War Crimes Trials at Nurnberg, Germany, and Relevant Documents*, 25 GUILD PRAC. 88 (1966).

University.³⁶ She was graduated at the top of her class at NYU Law School, where, as Editor-in-Chief, she became the first woman in the United States ever to head a major law journal. Yet she could not find a job after her 1940 graduation. One of her classmates explained years later:

‘Her concentrated experience as Editor-in-Chief of the Law Review could not be followed by jobs in the private or judicial systems as a clerk to a judge. That was totally unavailable at the time. Limited opportunities came to be available in the federal government in Washington at the beginning of World War II when men were being drafted or otherwise joined the armed services.’³⁷

Even so, Goetz found herself working for two years at her father’s firm. Her desire to become a trial attorney met “the prejudice against females as government litigators” that abided, according to one author, “even in departments known to be headed by liberals”; Goetz, it

³⁶ See Goetz, *Cecelia H. (Helen)*, in THE CAMBRIDGE DICTIONARY OF AMERICAN BIOGRAPHY 277 (John S. Bowman ed. 1995) [hereinafter Goetz Cambridge entry]; Goetz, *Cecelia Helen*, in I WHO’S WHO IN AMERICA 1294 (48th ed., 1994) [hereinafter Goetz WHO’S WHO entry].

³⁷ *Alumnus/Alumna of the Month*, Sept. 1, 2004, <http://www.law.nyu.edu/alumni/almo/pastalmos/20042005almos/ceceliagoetzseptember/index.htm> (last visited May 19, 2010) (quoting Herbert Rubin) [hereinafter *Alumna*].

was suggested, “was ‘much too attractive to be a good lawyer.’”³⁸

Eventually, Goetz landed a job in what is now known as the Civil Division of the U.S. Department of Justice in Washington, D.C.³⁹ She “became the first woman ever to be offered a supervisory role” at DOJ, but turned it down because she wanted to join the prosecution team at Nuremberg.⁴⁰ She was rejected because of her sex—even though nurses and secretaries already were there, she was told that there was no housing for a woman lawyer.⁴¹ So she applied directly to Taylor himself. As Goetz told an interviewer in 1984:

‘Fortunately he did not share such antifeminist views and he immediately directed that I be appointed to the prosecution team. Nevertheless, in order for me to be processed, Taylor had to sign a “waiver of disability” form—the

³⁸ DAWN BRADLEY BERRY, *THE 50 MOST INFLUENTIAL WOMEN IN AMERICAN LAW* 173 (1996).

³⁹ Goetz WHO’S WHO entry, *supra* note 36, at 1294 (stating that at the time it was called the Claims Division); *see* Goetz CAMBRIDGE entry, *supra* note 36, at 277.

⁴⁰ *Alumna*, *supra* note 37.

⁴¹ BRADLEY BERRY, *supra* note 38, at 174.

disability being the fact that I was a woman.’⁴²

Goetz earned prominence among the women attorneys. Serving as one of three major associate



counsel in the *Krupp* industrialists’ case (left),⁴³ she was the only woman to give an opening statement at a Nuremberg trial. The practice was for prosecutors to take turns reading what

was a very long opening. As one of five Americans to read the address in *Krupp*, Goetz stirred excitement. One reporter, present to profile Goetz for the *New York Sun*’s “News of Women” section, wrote:

Listening to her reading part of the opening statement in the hushed courtroom, marriage and children don’t seem to fit into the picture. It would seem a shame to take her away from what must be a brilliant future. The British were particularly impressed. At the first

⁴² BERGER MORELLO, *supra* note 13, at 184 (quoting Goetz); see also *Telford Taylor Panel: Critical Perspectives on the Nuremberg Trial*, N.Y.L.S. J. HUM. RTS. 453, 516 (1995) (remarks of Judge Cecelia Goetz) [hereinafter Goetz remarks].

⁴³ TAYLOR, REPORT, *supra* note 8, at 190 n.174.

opportunity they swarmed over to congratulate her on her striking performance.⁴⁴

This deserves note, and not only because of the reporter's musing on Goetz' marriageability.⁴⁵ The *Krupp* opening statement contained little flourish; it was, rather, a recitation of sobering facts.⁴⁶ The change in readers carried with it no change in authorship. Nor was Goetz given any noteworthy lines, save one reference to the misery of slave laborers.⁴⁷ That those in the courtroom nonetheless applauded underscores the novelty of Goetz's feat. It almost seems that for a woman to deliver her lines without error was in itself astonishing.

In addition to this reading and her trial preparation efforts, Goetz elicited testimony at trial. Excerpts of her

⁴⁴ Judy Barden, *Our Woman in Nurnberg*, N.Y. SUN, Jan. 21, 1948, at 18.

⁴⁵ Goetz later married and gave birth to two sons. Goetz WHO'S WHO entry, *supra* note 36, at 1294.

⁴⁶ See IX TRIALS OF WAR CRIMINALS BEFORE THE NUERNBERG MILITARY TRIBUNALS UNDER CONTROL COUNCIL LAW NO. 10 60-131 (1950) (opening statement for the prosecution).

⁴⁷ *Id.* at 87-102 (including that portion of opening statement read by Goetz). Goetz' notable line stated that defendants "participated in the formulation and presentation of demands for slave labor to be fed into the maw of the industrial machine, and in the spoliation of occupied territories." *Id.* at 98.

cross-examinations show that the Germans, like all hostile witnesses, frequently tried to deflect or dodge her questions. Yet Goetz was tenacious, refusing to accept their evasions.⁴⁸ The excerpts demonstrate that she was a very good lawyer.

On return to New York, Goetz earned an LL.M. in tax law and practiced at a number of firms. In 1978, she became the first woman appointed to the federal bankruptcy court in the Second Circuit; later, she helped to found the National Association of Women Judges. Yet she downplayed her role as a woman judge. In words presaging debates that swirled about the recent appointments of Sonia Sotomayor and Elena Kagan to the U.S. Supreme Court, Goetz told the *New York Law Journal* in 1982:

‘Once you put on a robe, the male-female distinction disappears, at least as far as the people who appear before you are concerned. They don’t see you as either male or female.

The judge’s role overrides the individual. I really don’t see any essential difference between a good male judge and a good female judge. All judges must have patience, a willingness to listen, compassion and, above all, integrity. I’m

⁴⁸ *Id.* at 957-60, 969-72, 989.

afraid there's nothing very startling in all of that.⁴⁹

Perhaps more startling is the fact that Goetz—like most of the women lawyers,⁵⁰ and unlike many of the men—never wrote about Nuremberg. “I have not written anything about Nuremberg and I myself have wondered why that was,” she said at a 1995 symposium that explored links between the trials after World War II and those newly formed after war in the Balkans and genocide in Rwanda.⁵¹ Her remarks fell far short of celebratory. She admitted that she had “hesitated” to speak “when I realized that the probable object was to use Nuremberg as a precedent for trials of the atrocities now going on elsewhere.”⁵² Warning against use of the “flawed” Nuremberg precedent that had accepted the defense of necessity or coercion—in effect, the “Hitler made me do it” defense—Goetz described the outcome of the matters on which she worked as “unsatisfactory,”

⁴⁹ Alan Kohn, *Bankruptcy Judges Have Same Philosophy*, N.Y.L.J., Sept. 7, 1982, at 1, col. 2 (quoting Goetz).

⁵⁰ See *supra* note 35 (pointing to an exception, Mary M. Kaufman).

⁵¹ See Goetz remarks, *supra* note 42, at 516. Made at the Fifth Annual Ernst C. Stiefel Symposium, “1945-1995: Critical Perspectives on the Nuremberg Trials and State Accountability,” these remarks, *id.* at 515-30, appear to constitute Goetz’ entire published recollections of Nuremberg.

⁵² *Id.* at 516.

and her time at Nuremberg as “unhappy.”⁵³ She recalled “the burden of interpretation,” “the widespread destruction of evidence,” the “problem” that “we were all very young,” “did not speak German,” and thus were compelled to rely on “unsophisticated” and at times “hostile” research staff.⁵⁴ Finally, she said, “Nuremberg itself was a very unpleasant place to be. It had been bombed out,” and, contrary to the implication of the Marlene Dietrich-Spencer Tracy dalliance in *Judgment at Nuremberg*, “We were not supposed to fraternize with Germans.”⁵⁵

All this transpired during what Goetz called “a period of pervasive gender bias.”⁵⁶ Although she used the term to describe her difficulties in landing the position, the observation no doubt applied as well to the job itself. It was a time when male staffers unabashedly ogled their female counterparts at a pool party,⁵⁷ when

⁵³ *Id.*

⁵⁴ *Id.* at 526-29.

⁵⁵ *Id.* at 530; see *Judgment at Nuremberg* (Stanley Kramer dir., 1961).

⁵⁶ Goetz remarks, *supra* note 42, at 516.

⁵⁷ TAYLOR, ANATOMY, *supra* note 1, at 398, *quoted supra* text accompanying note 6. Elsewhere in his memoir, Taylor reported that one woman interpreter was “known as ‘The Passionate Haystack,’” and that Judge Biddle “found her rather stiff” at a dinner party despite the reputation implied by the nickname. *Id.* at 547-48.

“masculine” women were subject to ridicule,⁵⁸ when reference to a “bordello, brothel, whorehouse” might set off “a wave of laughter” in the courtroom.⁵⁹ A time when the hometown paper’s account of “Our Woman at Nurnberg” dwelt as much on the woman’s physical appearance and dieting woes as her legal acumen.⁶⁰

⁵⁸ Journalist Janet Flanner enjoyed a successful career though she dressed in men’s clothes and lived openly with a woman. See Annalisa Zox-Weaver, *At Home with Hitler: Janet Flanner’s Führer Profiles for the New Yorker*, NEW GERMAN CRITIQUE, Oct. 1, 2007, at 101, 2007 WLNR 26104319. But other women encountered scorn. Of the lawyer described at text accompanying notes 12-13, this was written: “Little Miss Von Nunes wears her hair cut like a boy’s, affects an almost masculine garb and declares that marriage, like jail, is a good thing, but that she prefers to see other people in both.” See LILLIAN FADERMAN, *TO BELIEVE IN WOMEN: WHAT LESBIANS HAVE DONE FOR AMERICA* 313 (2000) (recounting description as an example of the “mild innuendos regarding a professional woman’s inversion” in early twentieth-century America).

⁵⁹ TAYLOR, *ANATOMY*, *supra* note 1, at 546 n.* (describing such an incident during first Nuremberg trial).

⁶⁰ “Meeting Cecelia socially, the last thing you would imagine her to be is a lawyer,” ventured the New York *Sun* article about Goetz Barden, *supra* note 44. It went on: “Thick black curly hair falls to her shoulders and frames a pixy face. She is 5 feet 3 inches tall, but won’t tell her weight. ‘This overseas diet has put on ten pounds,’ she said with a sigh. Her looks would fool anybody into thinking she spent a gay irresponsible life” *Id.* In similar vein was a German news story that described “the Greek nose and the extraordinarily red mouth” of lead defense counsel Gombel, a “striking blonde.” *Brief an Elisabeth*, DER SPIEGEL, Aug. 21, 1948, at 7, available at <http://www.spiegel.de/spiegel/print/d-44418737.html> (last visited May 20, 2010).

Offering a glimpse into the pervasive dismissal of work by women—indeed, by anyone deemed feminine—is this passage in historian Joseph E. Persico’s 1994 book on the first trial:

Justice Birkett enjoyed exercising his talent for invective against the interpreters. A speech in the vigorous, masculine Russian of the prosecutor, Rudenko, had been rendered into English by an effete interpreter whom Birkett complained sounded like ‘a “refayned” decaying cleric, a latecomer in making an apology at the vicarage garden party rather than the prosecutor of major war crimes.’ Gruff German generals were interpreted by young women with chirpy little voices, diminishing the power of the witnesses’ testimony.⁶¹

The comment suggests the challenges women like Edith Simon faced, not only from an erstwhile Nazi leader, but also from Allied officials.

And yet some of the women at Nuremberg—like some women elsewhere in the decades after World War II—pursued pathbreaking careers. A photo of Paris stripper Micheline Bernardini wearing *le bikini* thus bears more than passing relation to the photo of Cecelia

⁶¹ JOSEPH E. PERSICO, *NUREMBERG: INFAMY ON TRIAL* 263-64 (1994) (quoting British associate Justice William Norman Birkett, and referring to Soviet Chief Prosecutor Roman Andreyevich Rudenko).

Goetz wearing a barrister's robe as she addresses the Nuremberg tribunal. Goetz and her sisters gained entry into a room from which women always had been excluded, and thus opened doors for women in subsequent generations. The bikini played a not entirely dissimilar role that same year. Its inventor was inspired, in fact, after noticing that at beaches women were "rolling up and pulling down the tops and bottoms of their two-piece suits as far as possible to expose as much of their bodies to the sun as they could."⁶² His innovation sparked outrage in institutions that relegated women to a defined place in society. The Vatican banned the bikini as late as 1964. But by then it had caught on. As stated in *The Bikini Book*, the tiny tog "fit perfectly with the sexual liberation of the '60s, which went hand-in-hand with the advent of the birth control pill."⁶³ Though the relationship between women's sexuality and women's progress is complex, at least for some women, autonomy in one aspect of life increased autonomy in others. Thus it intrigues to learn that Janine Hérison, one of the "prettiest and youngest" women whose bikinis reduced men to poolside ogglers, appears to have had a successful career translating novels from English to French.⁶⁴

⁶² KILLOREN BENSIMON, *supra* note 4, at 10.

⁶³ *Id.* at 11.

⁶⁴ See *au*: "Hérison, Janine," http://melvyl.worldcat.org/search?q=au%3A%22He%CC%81rison%2C+Janine%22&fq=&se=nodgr&sd=desc&dblist=638&qt=first_page (last visited May 19, 2010).

Though many women remained relatively silent after Nuremberg, two artifacts from the 1990s indicate that they did not forget their work there.

One is a letter that *Farben* prosecutor Belle Mayer Zeck (below right) wrote at age seventy-six. A *New York Times* magazine article had questioned the legitimacy of the Nuremberg trials, in part on the ground that they rested, after all, on international law. Her tart reply: “[T]o dismiss treaties and international conventions as ‘creative’ is to deny that international law exists. The fact that enforcement procedures are lacking in these conventions does not vitiate their effect.”⁶⁵



The other is the recollection by Cecelia Goetz, then nearly eighty, “diminutive, white-haired,” and using a cane, of the decades-old decision of the United States to

⁶⁵ Belle Mayer Zeck, *The War and the Law*, N.Y. TIMES, § 6, at 6 (May 28, 1995).

release arms merchant Alfried Krupp after he had served only a third of his sentence. Goetz uttered a cry familiar to any foiled lawyer: “I’m still outraged. It was a total miscarriage of justice.”⁶⁶

⁶⁶ Lyn Riddle, *Remembering Nuremberg Prosecution of Nazis Still Stirs Pride, Passion*, ATLANTA J. & CONST., Sept. 26, 1997, available at 1997 WLNR 3137608 (quoting Goetz). See also Goetz remarks, *supra* note 42, at 524 (criticizing the commutation of Krupp’s sentence).