Koen Aerts, ***'Repressie zonder maat of einde?' De juridische reïntegratie van collaborateurs in de Belgische staat na de Tweede Wereldoorlog*** (Dissertation Ghent University 2011; Gent: Academia Press, 2014, XIX + 547 pp., ISBN 978 90 382 2282 0).

This study about the legal reintegration of collaborators ('incivics') in the Belgian State after the Second World War is, inevitably, at the same time an element of the perennial Belgian issue: the relation between the French speaking community and the Flemish (Dutch) speaking community. During both World Wars, Flemish activists collaborated with the German occupier hoping to achieve more political and social influence for the northern part of the country and its language. After both wars, many of those activists were prosecuted. In popular Flemish opinion, prosecutions after the Second World War had been excessive ('repression without measure or end'), and during the following decades many attempts were made to, legally or unofficially, wipe the 'victims' clean of their undeserved shame. Today, citizens are still not permitted access to archival sources of the repression, even concerning their own (grand) parents, on account of 'public security'. Therefore, only scholarly research is able to refute popular myths around collaboration, resistance and repression.

While Huyse and Dhondt's *Onverwerkt verleden* ('Undigested past') already debunked some of the myths in 1991, historian Koen Aerts for the first time provides a detailed and comprehensive account, based on archival sources, of the nature, scope and duration of the punitive measures. He situates his study in the last of three periods usually distinguished in writings on this topic: a culture of complaint, 1944-1980 (concerned by the Flemish identity struggle), a culture of trauma, 1980-2000 (historiography proper, but in a pathological vocabulary aimed at improving relations between Flemish and Walloons), and a culture of historicizing, 2000-present (neutral scholarship without direct reconciliatory concerns). In providing a firm factual basis for the ongoing discussion about the justness of the postwar repression, Aerts' 'politically neutral' study might nevertheless play an important role in reconciling both camps.

The repression measures are not grouped in legal categories but according to the object of the measure, and treated in the four chapters of part II: measures aimed at 1) the incivic's freedom, 2) his property, 3) his civil and political rights, and 4) certain benefits, facilities and damages. This provides a more complete picture of the effects of legally different measures that have similar consequences, such as fines, special taxes, confiscation and damages to the state, which all fall in the second category. This is a clear advantage of

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a non-legal perspective. A disadvantage is that certain salient legal aspects do not receive the attention a jurist would give them, such as the relation between military and other courts in the procedures and the degree to which retroactive legislation was used.

The chapter on imprisonment (and death sentence) shows that between 1944 and 1950 more than 400,000 cases were opened, 58,140 suspects actually stood trial of whom 90% received prison sentences. Although more than 8,500 collaborators were sentenced to more than ten years, in 1955 only 345 collaborators were still incarcerated. The main concern of the chapter, therefore, is with the methods of sentence reduction and release. These were used by different bodies to execute a more or less common policy of ending all incarcerations as soon as possible: reprieve and conversion (less than 10% of 2,940 death sentences were carried out), conditional and provisional release. The law had to be used creatively in order to make this possible. The difference between a 'motivated' and 'regular' reprieve did not become fully clear to me but that is probably an indication of the cluttered social and political reality of the day (16 cabinets between 1944 and 1960).

The property ('patrimonial') sanctions were predominantly reserved for economic collaborators. Special taxes were levied on profits made by persons and legal entities from dealings with the enemy (100%) and on extraordinary war profits (70-95%). Confiscation was automatically applied to all objects used in criminal activities for which someone was convicted. Earnings could also be confiscated. Fines often exceeded legal limitations and damages that were due to the state could be based on 'moral damage'. The fact that these sanctions differed in legal nature, meant that they could be combined, infringing upon the *ne bis in idem* principle (the ban on multiple prosecutions for the same crime). In some cases the sum of the sanctions was in excess of the total assets of the incivic, which in fact amounted to the outdated and now unlawful punishment of general confiscation of property. Of 19.3 billion Franks due by 6,000 persons, 4.1 billion was received. The special taxes were by far the most successful sanction: 90% of 3.25 billion was received, whereas of all confiscations and damages levied only 7% of 16 billion flowed into the treasury, and 42,5% of 200 million in imposed fines were paid. In the case of prison sentences, the release program could be said to be in violation of the legal principle of just desert, but in favour of the convicts, while the property sanctions violated many legal principles at their disadvantage.

The loss of rights, affecting nearly 100,000 incivics, shows more or less the same development: a sharp decline in active sanctions around 1960. Regarding the exclusion from benefits, the administrative courts used the methods of ignoring the law or interpreting the law creatively or creating sanctions themselves, resulting in a 'hermetic and self-sustaining' system of exclusions. Aerts rightly applies Richard Dawkins' metaphor of the blind watchmaker to this seemingly coordinated and planned scheme, which was

actually the result of many different departments and individuals (re)acting *ad hoc*. The exclusions were much more durable than the other sanction types and harder to get rid of by the possibly more than 100,000 persons affected. This means that, except for this category, the repression was not 'without measure or end'.

Although Aerts does mention transitional justice as a background theme of his subject, he does not consider the violation of legal principles (some listed at 258) as typical of transition periods. He calls the repression 'not transitional justice but justice in transition' (66) or 'liberal-democratic rule of law in overdrive' (496), thereby rightly emphasizing legal-political continuities. A more apt term for this perspective, however, would be 'state of exception' (theorized by Carl Schmitt, Giorgio Agamben). But even so, I think the Belgian repression does qualify as a form of transitional justice, because it matches exactly the concept of transitional justice as Ruti Teitel describes it in her groundbreaking book *Transitional Justice* (2000) (which Aerts does not refer to): a normative shift in a national political identity crisis, solved by an official passage ritual of retaliation in cluttered procedures violating legal principles which were cut short when momentum was lost. Aerts' subtitle also expresses this in the term 'legal reintegration'.

The many tables in the book clearly present the numerical data, although some are not entirely clear or do not mention some interesting relations between figures. Regrettably, there are no indexes of names, subjects or cases, which is only partly compensated by the detailed table of contents. In sum, this study has justly been praised as a landmark in the research of this sensitive period in Belgian history. It also allows for better comparisons with other countries and application of wider perspectives such as theories of transitional justice and state of exception.

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