A Global History of Treason

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Working Paper

The Rise and Fall of 'Traitors' During Eras of Regime Change

Mark Cornwall (University of Southampton, J.M.Cornwall@soton.ac.uk)

My theme is treason – and especially, why traitors emerge, and how governments deal with them during eras of regime change – years which are usually traumatic. Some of my examples will be from the late Habsburg empire. But as we will see, most theories about treason are relevant to all historical periods. Let us start with one small episode to help us think about treason and how power struggles are fundamental to its conceptualization:

In February 1853, soon after the mid-century revolutions across Europe, an attempt was made on the life of the young Habsburg emperor Franz Joseph. He was taking a walk on the city walls of Vienna when he was attacked with a kitchen knife by János Libényi, a 21-year-old Hungarian. The assassin failed: Franz Joseph was only slightly wounded. For most contemporaries it was obvious who the traitor was in this situation. Libényi was duly interrogated and quickly tried before a military court, leading to a death sentence. His death then had to send a public warning to others. A week after the assassination attempt, he was taken out by a military escort to a place of execution overlooking Vienna. The gallows were built higher than usual so that his corpse would be facing the city, visible from a distance, and emphasizing his treason to the wider community.

Yet some in the community felt Libényi was not the traitor. The Austrian authorities received one anonymous letter from an Italian who regretted the failed assassination, for Libényi could have removed 'a barbarian who was tyrannizing Italy' – namely the emperor Franz Joseph. For Libényi too, his act was one of revenge against the tyrant who had been oppressing Hungary. During his interrogation he confessed, 'In 1850, I made up my mind to liberate my country from its current servitude'. In other words, some people felt Franz Joseph was the real traitor: he was betraying his own subjects by oppressing them rather than ruling them with benevolence and justice in return for their allegiance.

This episode shows us immediately that arguments about treason always involve a power struggle. Those who win the struggle get to punish those whom they see as traitors to the state or community. The victors also usually dominate the discussion about the immoral acts committed by traitors. For as well as involving a power struggle, treason is always interpreted by all sides in moral terms, as a moral or immoral act.

What then is treason? Essentially, it means an existential and violent attack on a regime or on a community – it is the ultimate crime within and against the state community. The

moral dimension to this is about breaking trust. The so-called 'traitor' has broken a bond of loyalty or trust that he owes to his country, his empire or community. ('His' - usually male). The philosopher Avishai Margalit has usefully specified that such a serious betrayal means the breaking of a 'thick relationship' – in other words, breaking a strong bond of loyalty which ties an individual to his community or to a common system of governance. Betraying that thick relationship is often a shock to members of the community as well as to the regime: they see the individual as a violent outsider who deserves to be punished.

Yet, as suggested already, the concept of treason is always subjective. Its interpretation is not limited to those in authority who actually have the power to define it in the criminal law. Those in power – the rulers - may also be seen as traitors, and in some circumstances they may face the ultimate punishment (e.g. King Louis XVI of France). We should also note that treason is very much tied to its particular historical context. Margalit writes vividly of the '*shifting dunes of treason'* (built on sand)– for treason is not a substantive entity and it is situational. Traitors manifest themselves differently depending on the political or historical scenario; their elusive nature adds to their sinister reputation.

Nevertheless, treason does have generic attributes. By exploring some case studies, we can see how traitors easily emerge during eras of regime crisis and periods of decolonisation.

Regime crisis naturally exacerbates the idea that 'traitors' are threatening the state. Although treason can appear in peacetime, as a question of state security, it is much more prevalent in times of war and violent conflict. For then, concepts of loyalty or disloyalty come to the fore. Individuals have to take sides, and this is especially traumatic if the conflict is mainly domestic - a civil war or a struggle on home soil (e.g. when a country is occupied by a foreign power). In this power struggle, the warring factions move quickly to discipline those who do not show the correct allegiance: they stereotype anyone who appears disloyal as a 'traitor' who must be punished. Such public punishment confirms the legitimacy of the warring faction, and disciplines others in the community about need for loyalty. The punishment may of course be arbitrary and extra-judicial in the heat of battle. But it may also deliberately have a veneer of legality. This is to give the impression that due legal process has taken place in order to justly eliminate the 'traitors'. And as André Krischer has shown, the courtroom also presents a pedagogic spectacle for public consumption: treason trials are educational.

This becomes even more important when the conflict has ended and when one side has emerged victorious. The new regime needs to affirm its legitimacy, and a key mechanism is to legally prosecute and punish those who have backed the wrong horse and betrayed the community. The new rulers now reassert or create a new legal normalisation in society, including a flexible interpretation of the crime of treason to suit themselves. They usually also wish to restore some stability and normality, so a key question during this regime change is the extent of the treason trials and the severity of punishment – *What should the criteria be for prosecution? Who should be targeted to face a public trial? Should there be pardons or general amnesties?*

Let us illustrate this activation of a 'machinery of treason' with some vivid examples. I will start with one from the 17th century as it shows well the generic issues involved. The English civil war of the 1640s witnessed a violent binary clash between king and parliament; with mass bloodshed, a rhetoric of treason steadily increased. When the parliamentary army was victorious, it had to decide what to do with the king. In England

the crime of treason always meant treason against the monarch. So legal norms were turned on their head when, in 1649 the army put King Charles I on trial on a charge of treason and executed him. It was treason, as he had betrayed his people and office, ruling as a tyrant; he paid with his blood for the bloodshed he had caused. This trial legitimized the republican government that ruled for the next decade.

However, in 1660 the republic collapsed and monarchy was restored under Charles II. Although this was fairly peaceful regime change, the violent legacy of the 1640s now resurfaced. The new king needed, for his own legitimacy, to restore the legal norms of his father's era. So, 33 of the regicides of 1649 were charged with treason (under the old treason law). When they faced trial in a special court and were publicly executed, it was a matter of justice and revenge, but it also set an example. Importantly, the laws of the republican decade were declared null and void. Yet this new regime not only wanted to restore 'legality' but also stability. So, the treason trials had clear limits. Through an 'Act of Indemnity', the king issued a mass pardon for anyone who had opposed the royalist cause in the past twenty years. This amnesty certainly had some success, even if the ideological scars of the civil war took decades to disappear. In short, although this reconciliation helped create political and social stability, such a move was imposed by a victorious regime, so it could never completely heal the wounds. An alternative, non-official discourse always survived in English society – one with its own moral perspective.

Moving forward to the modern era, the 17th century example can usefully be contrasted with the regime changes occurring in 1945, after a period of war and mass violence never seen before. When the Nazi Empire – the Third Reich – suddenly collapsed, its former European colonies – countries occupied by Hitler - reconstituted themselves as independent states. In each case the new regimes had to assess the behaviour of those who had lived under Nazi rule. I will focus in some detail on two countries where individuals were labelled as 'traitors' and prosecuted in very large numbers: Norway and Czechoslovakia.

How do we explain this phenomenon, this rapid creation of a new 'machinery' of treason? And what was the long-term impact on these societies which (ideally after long domestic conflict) now needed some form of reconciliation to achieve stability? Both countries under Nazi occupation had been subject to exploitation and terror, both had their place in Adolf Hitler's broader imperialist project for Scandinavia and Central Europe respectively. The native populations had been faced with an everyday dilemma - how far to cooperate or to resist the foreign invaders? Some notorious collaborators emerged, such as Emanuel Moravec and Vidkun Quisling.

Indeed, during the Second World War the concept of 'collaboration' surfaced as a special category of treason personified in the 'traitor-collaborator'. In the French and English languages, the word 'collaboration' was previously positive – *working together*. But this changed during the war mainly due to the Vichy regime in France; in late 1941 Marshal Pétain announced 'collaboration' between France and the Nazi occupiers. Such cooperation with an enemy power was of course nothing new. But in the context of Nazi Germany's colonial expansion across Europe it took on a new ideological force. And thanks to the communications revolution of the 20th century, regimes could copy each other, including how to practise collaboration or punish traitor-collaborators.

Yet the successors to Nazi occupation found it difficult to define the 'traitor-collaborator' – what criteria to use for such cooperation? The Nazi occupations had witnessed many cases where individuals felt forced to collaborate in order to survive (e.g. the Czech president Emil Hácha who after 1939 saw it as the safest tactic for the Czech nation). But many also had voluntarily collaborated: they opportunistically saw the personal benefits; or they actively believed in fascism; or they assumed Nazi Germany was the future – it would win the war. In the face of the million personal decisions taken on how to behave, the postwar regimes had to decide on the criteria for prosecuting those who had betrayed national interests. Although the charges were often not called 'treason', they usually equated with that crime: namely, betrayal of the community through siding with the national or imperialist enemy.

In 1945 the moral dimension was also accentuated through the sheer violence of the Nazi regime: i.e. the Nazis' violence against weaker peoples now justified violent retribution. And of course, by 1945, the power dynamics had been reversed. Just as the Nazi rulers had actively hunted down and executed anyone they labelled as a traitor, so the new regimes had their own interpretations of who was a traitor or martyr. They also – dangerously - imposed new legal norms which retrospectively categorized treasonous wartime behaviour. This was true in both Norway and in Czechoslovakia.

Among the postwar regimes including Germany, Norway witnessed the largest reckoning with 'traitors' – what we can call quislings. Why was this and what were the repercussions? Certainly, there were special circumstances in the 'colony' of Norway within the Nazi empire. Hitler saw Norwegians as fellow Aryans, a superior race who could be won over as allies. Therefore, Germany allowed the local fascist party in Norway considerable power. This party was Quisling's *Nasjonal Samling* (National Union), which before the occupation only had 3000 members. Quisling himself was soon internationally well known as a major Nazi collaborator. For in a speech of 1941, Winston Churchill publicly equated the word 'quisling' with 'traitor-collaborator'. It was a synonym which stuck, giving Norway an international notoriety and suggesting there might be special revenge later against these quislings. Indeed, the members of Quisling's party were woven into all areas of Norway's wartime society (political, economic, military, social), making their later extraction very difficult. Why Norwegians had joined the *Nasjonal Samling* was very varied, a blend of forced and voluntary collaboration. But those nuances would be ignored after the war. Quisling himself would claim he had saved an independent Norway by building up his own fascist party there – but that argument would not be accepted either.

Those who opposed Quisling and the Nazi regime were the small home resistance and the Norwegian government-in-exile. They agreed that justice was vital when the old independent Norway was restored. After years of terror this would meet public

expectations, but it would also assert a new legitimacy and legality, so avoiding mob rule or vigilante justice. Anyone who had committed *landssvik* – betrayal of the country – would be prosecuted: the government-in-exile said it would be "justice against those who failed the Norwegian cause and played with Norwegian lives". However, the parameters for such justice were set very wide. It was decided it would include anyone who had been a member of Quisling's party since 1940, whether in an active or passive role. This was labelled a 'party of traitors' - from 1942 there were 50,000 NS members.

Even if this draconian appeal for retribution was understandable, the results in the post-Nazi era after 1945 were very destabilizing for Norway. As Anika Seeman has revealed, the restored democratic Norwegian regime investigated 93,000 criminal cases: 3 percent of the population. The courts then - dominated by members of the resistance - found 46,000 guilty of some form of collaboration. True, only 18,000 got prison sentences, only 25 were executed, but 'quislings' became pariahs in the community. The blunt instrument of treason – the regime's label of 'collective guilt' on all 'collaborators' – divided society and provoked deep unease. While some felt the sentences were too lenient or too harsh, others questioned the very legality of the trials since there was a degree of retroactive justice at work. As a result, the Norwegian government quickly realized its own errors and moved to restrict the criteria for prosecution. But it was already too late. In the face of a vocal public outcry, the process could not be reversed. It was also far more difficult to integrate quislings back into society and achieve some kind of post-war reconciliation. Not until 1957 were the trials fully concluded. The official narrative, of 'quislings' versus 'patriotic resistance', continued for decades, making the whole subject taboo in Norwegian historiography.

As a comparison, let's turn to Czechsolovakia, and its liberation from the Nazi empire in 1945 after 6 years of occupation. Here, a different scenario ensured that 'traitors' were punished much more violently. The Nazis' sheer terror against the 'non-Aryan' Czechs produced mass calls for retribution. And here compared to Norway the targets were easier to identify: the native Sudeten Germans. This German minority of over 3 million was accused of 'collective guilt'. *En masse* they were seen as betraying Czechoslovakia by siding with Hitler's Germany and aiding the Nazi terror. The Czech wartime government-in-exile had decided that Germans could no longer cohabit with Czechs: all Germans had to be expelled from the country except those who were 'anti-fascist'. What that meant was typically left vague. As a result, most Germans, after a short period of bloody (*wild)* retribution in 1945, were expelled in a systematic fashion. By late 1946, the Czech regime officially announced there had been "a thorough and radical cleansing of our lands of enemy minorities". It was one way to reinforce radical regime change in the aftermath of war.

The second method, as Benjamin Frommer has shown, was retribution or justice through a special court system, specially created in 1945 by presidential decrees. As in Norway, this helped lessen the cases of wild revenge (imposing order), but it also legalised retribution. In fact, it permitted arbitrary justice thanks to the vague parameters set for a prosecution. The new government identified three criminal types (all 'traitors' of some kind). First there were obvious war criminals, guilty of varieties of 'anti-Czech behaviour' - often criminalized retrospectively. The regime set up 24 'Extraordinary People's Courts' to prosecute these people (mainly Sudeten Germans); and there was much scope for abuse since denunciation was openly encouraged. Public revenge was satisfied by dealing with key figures like Karl Hermann Frank who was publicly executed. In total 700 people were executed. This was according to Frommer one of the 'bloodiest' arenas of postwar retribution, exceeding that in Germany itself.

A second type of traitor were those Czechs who had 'collaborated', for example by serving in the Czech wartime government under Nazi control. Over 80 ethnic Czechs were prosecuted and 18 were executed. The regime here asserted its legitimacy against wartime illegality by removing many wartime politicians from the scene. Thirdly, a special decree announced the crime of 'insulting (Czechoslovak) national honour'. This vague terminology captured a range of wartime behaviours such as taking German nationality or fraternizing with the Nazis (e.g. some well-known film stars). Here the legal decisions were left to local committees who were both judge and jury, so arbitrary justice abounded and many local personal scores were settled: 46,000 people were sent to prison.

In this way, after 'traitors' to the nation had been targeted, they were quickly removed from society over the next two years. Many Czechs, like the Norwegians, could easily agree that some punishment had been necessary, but many found the process excessive. Unlike Norway, the regime attempted no gradual process of reconciliation. This greatly facilitated the growing influence of the Communist Party and its seizure of power in Czechoslovakia in 1948. The KSC greatly benefited from eliminating right-wing politicians and from the mass expulsion of Germans. After 1948, not only did it base its own legitimacy on a strict anti-Nazi stance. It also continued the process of arbitrary justice, *seeking out new traitors in society.*

Here then we see how 'the machinery of treason', started for one purpose during regime change, could be adapted by an incoming (communist) regime. The communist regime continued the prosecution of domestic traitors. It justified this by claiming that such traitors were in league with enemy imperialists abroad: either the former German imperialists who had been expelled from the country, or their allies the American imperialists.

These cases of regime change provide us with variables to apply to other case studies. In the 1940s the rise and fall of traitors was due to regime instability during a very short time-period – five or six years of violent conflict within the Nazi empire. Occupation created special disputes about collaboration, especially because of the occupiers' brutal ideology. It also left a violent legacy. It was difficult for the new regimes after 1945 not to copy some Nazi tactics and methods when dealing with traitors. And if they wanted to assert their own legitimacy - their own version of legality - they also faced populist cries for vengeance: they could not avoid some concessions. This restricted opportunities for postwar reconciliation. Instead, there was a mass prosecution of traitors, ensuring that the wartime hatreds were continued for decades after the war.

But what about the emergence of traitors in the case of a historic empire which had existed for centuries – especially when that empire was challenged in its legitimacy or when it completely disintegrated? Does this reveal different lessons for us? I will briefly illustrate this with the case of the late Habsburg empire during two time periods – first, its near collapse in 1848 and, second, its final collapse and disintegration in 1918. Here we have an interesting example of an imperial regime exploiting the concept of treason when it was seriously under threat.

But first some words about the Habsburg empire's treason laws. As for any regime, it is the legal code which essentially defines who is a traitor (beyond mere political or populist rhetoric). In the late Habsburg empire, treason law had unusual aspects. From the early 19th century, the crime of treason or *Hochverrat* meant endangering the ruler or state security*: either violently attacking the emperor, or plotting violently to change the government.* But as a result of the 1848 revolutions, the Habsburgs added a third aspect to the criminal code. It was now treason also *to plot territorial secession from the empire*. This third clause was utilized a lot by the regime in its final decades to try to curb nationalist dissent.

The 1848 revolutions therefore had a lasting impact on how the empire and its inhabitants interpreted treason. For these were years of extreme instability and violence, when the state almost disintegrated under the threat of mass rebellion and territorial secession. 'Traitors' emerged on all sides in this power struggle - and not only in political rhetoric against political enemies. Since the rebellions developed into outright warfare – a power struggle of equals – it meant that the belligerents started to wield their own treason laws against the other side, prosecuting those they saw as traitors.

It was the secession of Hungary which was most dangerous for the Habsburg regime. The Hungarian rebellion of 1848 slowly developed into military conflict, a Habsburg invasion of Hungary, and then a Hungarian declaration of independence. Much later, Marxist historians would define Hungary as having been a colony of the Habsburgs – it had tried to break away in 1849. It was not really surprising that in the middle of that war, the Hungarian regime drew up its own special treason law, defining this crime as betrayal of the (Hungarian) homeland. In turn, it set up special emergency courts to prosecute traitors. Hundreds of people got caught up in these Hungarian trials because of the vagueness of the law. Army officers especially found it very difficult: many had taken a military oath to the Habsburg emperor but now had to serve in the Hungarian armed forces.

However, the Hungarian courts only operated for a few months. With the Habsburg victory over Hungary by August 1849, it was the imperial legal machinery which started to operate

again, reasserting Habsburg treason law against traitors to the emperor and his empire. This meant violent revenge upon Hungary: the Habsburg courts delivered up to 2000 prison sentences and over 100 death sentences. It was crucial for the Habsburg regime to reassert its legitimacy. This included defining the legal boundaries of treason: and an extended period of prosecutions continued through the 1850s.

Yet just as important was to restore stability and some normality. Therefore, the regime also slowly introduced a staggered series of pardons and amnesties for the rebels: many were released from prison, many even took up state employment. Naturally this did not remove the underlying public resentment – witness Libényi in 1853. But it did allow scope for some reconciliation and stabilisation in the relationship between the emperor and his subjects. In other words, protagonists from both sides saw eventually the advantages of compromise, and there was a certain amnesia about past acts of treason. This was surely a model way to proceed after a major regime crisis when territorial secession had threatened?

Perhaps. In fact, the Habsburg regime had not really learnt the lesson that wielding treason charges usually backfires and alienates whole populations if not done carefully. Fifty years later the empire was again in an existential crisis in the Great War, and once again a campaign erupted against domestic traitors. The Austrian military launched treason trials against individuals in regions thought to be dangerous – e.g. the Czech lands and Bosnia. Key Czechs and Bosnian Serbs were accused of treason, of trying to break up the empire; the evidence was quite weak and had to be manipulated in order to get convictions. This process did not match the terror seen in the Second World War, but the way the charges were formulated amounted to arbitrary justice. It seriously delegitimized the Habsburg empire in the eyes of many citizens, and aided its collapse at the end of the war. The regime was seen as belligerent and imperialist, oblivious to the suffering and security of its peoples. Instead, it had fostered divisions and tried to assert clear-cut definitions of loyalty.

This undermined the complex series of nuanced loyalties which had existed in the empire before the war – *where citizens could have allegiance simultaneously to their region, their nationality, and to their empire.* The Habsburg wartime regime fatally forgot such nuance in the struggle to keep control. It produced a backlash among many groups in society who felt abandoned or persecuted. And by 1918 the wartime rhetoric about 'traitors' – who they were – had shifted against the empire. Some Czech leaders even publicly stated that they were indeed traitors and proud to be called so: it was a national badge of honour.

With the collapse of the empire in 1918 (its disintegration into seven states), new interpretations of treason quickly emerged to match the new set of state loyalties. In some cases this led to legal prosecutions. We can identify two major trends: Firstly, as in Germany after the First World War, there were cries of 'stab in the back' - suggesting that the old imperial regime had been betrayed. It was mainly ex-Habsburg army officers like Conrad von Hötzendorf who publicized this grievance, but also German nationalists who now found themselves in the new rump state of Austria. They argued that it was disloyal citizens at home (Czechs or Serbs) who had lost the war for the empire. The Habsburg loyalists duly passed this message on in their memoirs, but they could do little else to seek revenge. They had no power against the new governments.

For it was the new regimes who controlled the dominant narrative about treason, whether in Czechoslovakia, Yugoslavia or Poland. They had the power to assert their interpretation

of treason to protect state security. In doing so, they did not invent completely new laws. There was a lot of anti-Habsburg rhetoric, but legal continuity was vital and this included treason laws. For example, in Czechoslovakia, the old Habsburg treason laws stayed in place (minus the monarch) until in 1923 a new Law on the Defence of the Republic was passed. Nor was there much retribution against the old regime, even if Habsburg property was often confiscated. Indeed, there were few prosecutions or trials on charges of wartime treason (cf. 1945). In Czechoslovakia, the government announced a full amnesty for political crimes committed during the war. This allowed fast integration into the new states of many who had formerly been Habsburg officials including judges or civil servants.

Instead, as my own research has shown, the targets of treason law in the new states were usually those dissidents who refused to accept the new state constitutions or borders. These were usually nationalist separatist or communists. A strange situation developed where some politicians who had been condemned as traitors in the Habsburg empire were now arrested as traitors in the new successor states. One example was a Slovak priest Andrej Hlinka who opposed a centralized Czechoslovakia. In Yugoslavia, his equivalent was the Croatian leader Stjepan Radić, who wanted an independent Croatian republic. How they were treated proved instructive. While in Czechoslovakia the authorities soon dropped the charges against Hlinka in order to avoid public unrest, in Yugoslavia the state continued to prosecute Radić as a traitor. Even if justified to some extent, this tactic against a serial dissident seriously destabilised Yugoslavia in the 1920s by poisoning Croat-Serb tensions. To the outspoken Stjepan Radić, the change of regime had meant no actual change in political methods. He remained a traitor under both Habsburg and Yugoslav regimes.

Conclusion

I have explored several case studies to illustrate when and why so-called traitors tend to appear, and how different regimes manage the concept of treason for their own ends. As shown, the idea of traitors and treason is generic and ubiquitous. It appears in all periods of history (note the case of Vladimir Kara-Murza under Putin). And the language is strikingly similar (about breaking trust, betraying the community, endangering the state). But especially fertile ground for 'treason' is the time of regime crisis, war, and revolution – or when alternative centres of power challenge colonial rule. For then, loyalties are divided or shifting. Those in power use an accusation of treason as an extra weapon to maintain control. This may result in a wild hunt for traitors and end in arbitrary justice. But there is also a strong inclination by regimes to assert their own legitimacy and prosecute

the crime of treason through a legal and pedagogic process. The laws tend to be vague in definition in order to give regimes ample latitude for targeting and removing all kinds of 'traitors'. Thus the codification of treason laws is also quite generic, even if treason has different names: in the 21st century this is often called 'terrorism'.

But these case studies also reveal special scenarios which influence how different regimes have dealt with traitors. Since the concept of treason is highly emotive, regimes and states need to manage it very carefully. Otherwise, the process of punishment may backfire. Rather than promoting state security and stability, clumsy prosecutions may sustain divisions in society and promote hostility against the regime.

The examples show both the negative and positive tactics for managing traitors: On the one hand, the prosecutions or trials may be excessive or prolonged; many citizens see the legal process as unjust or even illegal. Since this is political justice, the regime has to tread a fine line in the face of public outrage so as not to appear wholly partisan in removing traitors.

On the other hand, the regime may try to present its criminal law of treason in precise language to avoid confusion and miscarriages of justice. After war and mass conflict, it is also expedient to punish only a few key traitors to set an example. In this way, the official message becomes one of reconciliation and even reintegration of rebels into society. This will not be popular, for the rhetoric around traitors is hard to dissipate. But in democratic states it is perhaps the only way to move beyond a period of traumatic conflict. 'Traitors' then begin to lose their aura as demons in society. In autocratic states like Putin's Russia they may never disappear. But in democracies they will usually only surface when the security of the country is put in mortal danger – from domestic terrorism or from foreign dangers.

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