

Reading 17A

BRINGING THE PERPETRATORS TO JUSTICE

Questions

1. Do you think justice was achieved by the Nuremberg Trials? Should there have been other defendants?
2. Do you agree with Chief Justice Jackson's statement about not interfering in the laws and practices of other governments?
3. Should there have been a separate category for crimes committed against the Jews?

War Crimes

In 1943, the Allies began to prepare for military war crimes trials. Those trials were held in 1945 and 1946 in Nuremberg, one of Germany's oldest cities. The Nuremberg Trials were conducted by an International Military Tribunal made up of judges and prosecutors from the four Allied powers: France, Great Britain, the Soviet Union and the United States. The trials were approved by 19 other nations. As war crime trials, they dealt with Nazi actions connected to aggression in war—attacking other nations—not specifically with crimes dealing with Jews or the Holocaust. In the first Nuremberg Trials, twenty-one German leaders were tried as war criminals. The first charge against them was “Conspiracy to Commit Aggressive War.” Seven organizations were also accused of crimes: The *Reich* Cabinet, the Nazi leadership Corps, the German General Staff, the *Gestapo*, the SD or Secret Service (*Sicherheitsdienst*), the SS and the SA.

Chief Justice Jackson, the presiding American judge, stated:

The way Germany treats its inhabitants, or any other country treats its inhabitants, is not our affair any more than it is the affair of some other government to interpose itself in our problems . . .

The Tribunal agreed, declaring that “the atrocities committed inside Germany, under German law. . .by authorities of the German state” were off limits. This included the anti-Jewish decrees and laws passed during the 1930s.

Germany had attacked other countries and broken the peace. German forces had killed civilians. These actions were among the war crimes. Jews were among the civilian populations of those countries—Poland, France, Holland, Belgium, Norway, the Soviet Union, Hungary, Roumania and others. The killing of Jews as *Jews* was not considered as a separate crime. However, a general who gave orders to attack Polish cities, to imprison and abuse Polish prisoners of war or murder Jewish and non-Jewish citizens as part of the attack, could be accused of committing war crimes.

The chief of the British prosecutors knew that the murder of the Jews had “shocked the conscience of our people” and would have to be considered in the lists of the crimes. But he would list “only such general treatment of the Jews as showed itself as part of the general plan of aggression.”

Crimes Against Humanity

The Allies recognized that atrocities—extremely evil, cruel or inhuman acts—had been committed against whole populations. The term “crimes against humanity” was created by the International Tribunal. These crimes were to include “enslavement and mass murder.” “War crimes” dealt with violence against countries and governments. “Crimes against humanity” dealt with violence done to civilian populations, citizens of those countries. In practice, “crimes against humanity” were limited to acts of aggression committed against national civilian populations: the Poles, Hungarians, French, etc. The killing of Jews because they were Jews was not listed as a crime.

Only one defendant, Julius Streicher, was condemned solely on the basis of his guilt for “crimes against humanity.” He had little or nothing to do with the war, but his newspaper was the most vicious anti-Jewish and racist Nazi publication; he was second to none—not even Hitler—in his anti-Jewish ravings. Recognizing this unusual position, the International Tribunal sentenced him to death only on the basis of “crimes against humanity.”

Only top-ranking Nazi or German officials were accused of crimes. Those condemned to death were executed because of their role in World War II. Highest ranking among them was Hermann Goering, Deputy Chancellor to Hitler. He committed suicide in his cell after his trial. Heinrich Himmler, who had been next highest, never got to trial. He committed suicide after being captured by the American Army. (Hitler had committed suicide in his underground bunker in Berlin.) (See [Appendix C, “List of Major Nazi Leaders,”](#) for the fates of other Nazi leaders.)

The thousands of low-ranking officials involved in war crimes or crimes against humanity were ignored or received light sentences and many resumed their careers.

The murder of Jews at Auschwitz, Treblinka and other death camps, the killings by the *Einsatzgruppen*, were not issues beyond their involvement with the German war effort. Although some organizations like the *Gestapo* were involved in mass murder, it could not be shown that they waged war. In the end, membership in those organizations did not count as a crime—even if it meant being a part of the concentration and death camp system. As one historian has noted, the phrase “‘crimes against humanity’ became deadwood,” that is, an empty phrase that had no real meaning in the trials. There were no penalties for the killing of Jews as Jews.

Other trials were conducted at Nuremberg until 1949. Approximately 185 leading Nazi and German officials were tried. These included two leaders of the *Einsatzgruppen*, both of whom were executed, several doctors, industrialists like I.G. Farben officials, and leaders in the Nazi organizations. A small proportion of these officials were executed; some were given life sentences in prison; most were given lesser prison sentences.

After 1953, trials of Nazis were not confined only to war-related activities and were conducted in other countries by national governments. France conducted trials against Nazis who had committed crimes against French citizens, Poland conducted trials on behalf of Polish citizens, etc. In 1961, the first trial to deal solely with crimes against Jews or Holocaust - related actions took place in Jerusalem. Adolf Eichmann had been caught in Argentina by Israeli secret service agents. He was brought to Jerusalem where he was tried for crimes committed against the Jewish people and crimes against humanity. After a lengthy trial, he was found guilty and hanged.