

File

THE
EICHMANN
CASE

*Some
Questions
and
Answers
About*

HIS CRIMES

HIS CAPTURE

**HIS TRIAL IN
ISRAEL**

Published by the

JEWISH COMMUNITY RELATIONS COUNCIL
OF GREATER PHILADELPHIA

P R E F A C E

Hitler Germany was guilty of the wanton extermination of some twelve million humans including six million Jewish men, women and children. The man primarily responsible for this fiendish genocide of Jews was Karl Adolph Eichmann who escaped when the Nazis were defeated in World War II.

On May 24, 1960 the Government of Israel announced to the world the capture of the Nazi fugitive Eichmann, and his forthcoming trial in Israel for crimes against the Jewish people. In the following days it was learned Eichmann had been captured in Argentina and transferred to Israel without the consent of the Argentine government. In rapid succession, Argentina insisted upon his return, Israel refused with apologies, and Argentina took the issue to the United Nations.

The U. N. resolution mildly rebuked Israel for the manner of Eichmann's capture but recognized the need to have him brought to trial. It is clear from the U. N. discussion that the nations of the world understand the deep emotions of Jewish survivors of the Nazi atrocities and the reasons for Israel's unalterable position that Eichmann will be tried in Israel. Newspapers throughout the world, including most of those critical of the method of his capture, understood and approved the justice of trying Eichmann as the symbol of Nazi brutalities and to recall the extremes to which the use of religious bigotry as a political weapon can go.

Meanwhile a lively discussion has been taking place regarding the Eichmann case, centering largely upon the place for his trial. There are those who believe Eichmann should be tried in West Germany while others argue for his trial by an international tribunal. The validity of Israel's claim to jurisdiction is not fully understood and it is apparent that the sorrowful history of the Nazi extermination program is not adequately remembered.

In the interest of an informed public opinion, the Jewish Community Relations Council of Greater Philadelphia publishes these "Questions and Answers" on the Eichmann case. The answers were taken for the most part from a comprehensive fact-sheet on the subject published by the Commission on International Affairs of the American Jewish Congress.

SOME QUESTIONS AND ANSWERS ABOUT THE EICHMANN CASE

Who is Adolf Eichmann? Karl Adolf Eichmann was born in Germany, but when he was still an infant his family moved to Austria and Eichmann was raised as an Austrian. In various documents Eichmann has stated his training and civil occupation as that of "mechanical engineer." He became a member of the Austrian branch of the Nazi Party in 1932. From 1938 on he worked as an official of the Hitler administration.

What was Eichmann's Position in the Hitler Administration? In 1940 he was placed in charge of a bureau of the Reich Main Security Office (Bureau IV A, 4b), a sub-division of the Gestapo. From 1941 to 1944 the Eichmann Office was the headquarters for "Operation Night and Fog." This was the plan for the slaughter of Jews as the "final solution."

What were Eichmann's Responsibilities as a Nazi Official? The operations of the Eichmann office were limited to the liquidation of Jews. Eichmann accelerated this program in three stages. He was responsible first for the deportation of Jews from Germany, Austria and Czechoslovakia; next the ghettos and concentration camps; and finally the use of the gas chambers and crematoria.

The judgment of the Allied Nuremberg Court specified:

"... in the summer of 1941 . . . plans were made for the 'final solution' of the Jewish question in Europe. This 'final solution' meant the extermination of the Jews, which early in 1939 Hitler had threatened would be one of the consequences of an outbreak of war, and a special section in the Gestapo under Adolf Eichmann, as head of Section IV b4 of the Gestapo, was formed to carry out the policy. . . . Adolf Eichmann, has estimated that the policy pursued resulted in the killing of six million Jews, of which four million were killed in the extermination institutions. . . ."

**Wasn't Eichmann Only
Carrying Out Orders
of His Superiors?**

No. Eichmann was not reticent about his responsibility for the mass murder of Jews. Rudolph Hoess, a Commander of the notorious Auchwitz death camp, wrote "Eichmann was obsessed with the Jewish question and its final solution." Concerned about the slowness of other extermination devices, Eichmann was responsible for the use of gas chambers as a means of killing Jews more quickly and economically. The record is clear, from Eichmann's initiative in seeking innovations and improvements, that he was personally responsible for and derived personal satisfaction from his program of Jewish genocide. It was testified at the Nuremberg Trial that Eichmann boasted that the knowledge that he had murdered six million Jews would be a "source of extraordinary satisfaction for him."

**Why Not Try
Eichmann in
West Germany?**

Although West Germany could have jurisdiction of the Eichmann case because it is the place where the horrible crimes were committed, West Germany has not requested that Eichmann be transferred to its custody. On the contrary, West Germany has indicated it does not wish to assume responsibility for his trial. Also, the record of the prosecution of World War II criminals by West Germany is discouraging. Many escaped through a well organized "underground railway" and were transported to Arab and South American countries. Moreover, there is also the possibility that Eichman's trial in Germany would be so conducted as to find the nation and the German people free from complicity in Eichmann's crimes.

**Why Not Try
Eichmann in an
International Court?**

There is no international court with criminal jurisdiction and the nations one would normally expect to make up such a court have not indicated the slightest willingness to establish one. For the last ten years, in United Nations discussions, Israel has urged unsuccessfully the establishment of such an international court. This proposal has met with strong opposition of the major nations, including the United States, who are fearful that such an international tribunal would constitute an invasion of the sovereignty of the respective countries. The United States did not ratify the United Nations Genocide Con-

vention in part because the Convention looks toward the creation of such an international court. In discussions of the subject in the U. S. Senate, assurances had to be given that the United States would not be committed to such a tribunal nor subject Americans to its authority.

Does Israel Have Jurisdiction in the Eichmann Case? Yes. For one thing, if Eichmann's crimes are crimes against humanity, then physical custody of Eichmann is sufficient to bestow jurisdiction.

Also, there is a customarily acknowledged ground for jurisdiction which relates to the place where evidence and witnesses in the particular case are easily available. In the Eichmann case all of the elements for bringing out the facts are in Israel. Israel has the most systematic and careful collection of information pertaining to the operations of the Eichmann Office. Countless persons in Israel can testify personally to Eichmann's activities. Israel has enacted special legislation to insure that Eichmann will be represented by skilled and expert counsel and the security and safety of all participants will be absolutely guaranteed. Everyone, including those most critical of Israel in this matter, grants that Eichmann's trial will be eminently fair and in accordance with the strictest rules of Western legal procedure.

Another principle which gives Israel jurisdiction is the rule which confers jurisdiction upon the place of the nationality of the victims of the crimes. The intention here is to allow the community most directly injured and aggrieved to participate in the determination of responsibility. Under this rule, Israel would be the most logical country to try Eichmann and the fact that Israel was established after World War II would seem to have no relevance. Eichmann's crimes were specifically against the Jewish people. He had nothing whatever to do with the extermination of non-Jews. Israel is most representative of the victims of Eichmann's brutalities.

What is the Israeli Nazi Collaborators Punishment Law of 1950? This is the law which makes special provision for punishment of those responsible for the mass murders committed by the Nazis.

The law repeats in almost identical language the provisions of the agreement which established the charter of the Nuremberg tribunal. These principles of the Israeli law were unanimously approved by the United Nations General Assembly and comparable principles have since been incorporated in the criminal codes of a number of other nations and in the U. N. Genocide Convention.

**Is the Law Valid
as Regards Eichmann?**

Yes. The argument that a law may not be retroactive (called an ex post facto law) does not apply in this case. The rule pertaining to ex post facto laws has no standing in international law which takes cognizance only of crimes against humanity which are therefore inimical to the nature and welfare of man. Moreover, the rule against ex post facto laws is rooted in the democratic aversion to "surprise." It cannot reasonably be argued that Eichmann did not know the criminal implications of his acts at the time of performance or that he believed that his program of mass murder was lawful.

**Is Israel's Right to Try
Eichmann Nullified or
Impaired by the Manner
in Which He Was Taken
From Argentina?**

No. Contrary to common belief, except for piracy, there is no principle of international law that states when or whether the courts of any nation may or may not take jurisdiction in criminal cases. The basis for criminal jurisdiction varies from nation to nation but, in none is the rule affected by the manner in which physical custody of the defendant is obtained. In the U. S. the principal case is *Ker vs. Illinois* (1886) 119 US 436, in which the accused contended the Illinois court had no jurisdiction because he had been seized in Peru and forcibly brought against his will into the U. S. and delivered to the Illinois authorities. The U. S. Supreme Court held although the case was clearly one "of kidnapping within the Dominion of Peru without any pretense of authority," that this did not disable the criminal courts of the U. S. from proceeding against him. As recently as 1952 in the case of *Frisbie vs. Collins* 342 US 519 the Supreme Court ruled "the power of a court to try a person for a crime is not impaired by the fact that he had been brought within the court's jurisdiction by reason of a 'forceable' abduction."

**Why Didn't Israel
Extradite Eichmann
From Argentina?**

Substantial numbers of former Nazis have found refuge in Argentina and other Latin American countries and despite U. N. appeals to all member states to try war criminals, no action has been forthcoming. Also, extradition proceedings are not always successful. Our own country refused to extradite Andrija Artukovic to Yugoslavia, although he served as Minister of the Interior of the puppet government in Croatia under the Nazis. Extradition

tion was refused on the ground that Artukovic had reason to fear "political persecution" in Yugoslavia. Other criminals like Karl Klingenfuss, the former head of the Jewish Section of the Nazi Foreign Ministry and Joseph Mengele, the doctor who made the selection of prisoners for the crematories at Auchwitz and the man responsible for the performance of inhuman experiments upon Jewish women in the camp, have thus far successfully fought extradition. Dr. Mengele has since been spirited from Argentina by friends which seems to prove the existence of an underground transportation operation.

What About the Violation of Argentina's Sovereignty? Eichmann's abduction from Argentina has been discussed in the U. N. which decided the question by suggesting "reparations." The nature of the reparations was a matter of negotiation between Argentina and Israel. The two countries have since reached a mutually satisfactory agreement and friendly relations are now restored.

Why Try Eichmann At All? Would it Not be Better to Forget the Genocidal Horrors of the Hitler Period? The bestial actions of the Nazis must not be forgotten lest they may again be visited upon mankind. The recitation of Eichmann's monstrous crimes against European Jewry will serve to remind civilization of the atrocities committed not only by one man but by an entire nation. The added lesson to be learned is that mankind must eradicate the social evils of religious and racial bigotry and prejudice which were used as political instruments by the Nazis with such disastrous effects.

JEWISH COMMUNITY RELATIONS COUNCIL

OF GREATER PHILADELPHIA

*A Member
Agency of*



*Federation of
Jewish Agencies
of Greater
Philadelphia*

The Jewish Community Relations Council (JCRC) is a council of 32 major Jewish organizations in Greater Philadelphia. The JCRC has as its essential purpose the safeguarding and fostering of equal opportunities for Jews and all other religious, racial and nationality groups. Interpretation of events and developments pertaining to Israel and the Middle East which bear upon the interests of Americans who are Jews is an integral part of the total JCRC program.

MURRAY H. SHUSTERMAN
President



JULES COHEN
Executive Director

**Additional copies available on request
at the offices of the JCRC**

JCRC COMMITTEE ON THE MIDDLE EAST
RABBI REUBEN J. MAGIL, Chairman

FELLOWSHIP COMMISSION BUILDING
260 So. 15th Street • Philadelphia 2, Pa.

Kingsley 5-8430

