

(Image: National Archives and Records Administration, 292605.)

REDEFINING JUSTICE IN NUREMBERG

GRADE LEVEL: 7-12 | TIME REQUIREMENT: 1-2 CLASS PERIODS

INTRODUCTION

The aftermath of World War II posed a multitude of questions to the victorious Allied powers, including what to do with the leaders of the defeated Nazi regime. With millions of lives lost in combat, compounded by millions more killed in death camps in German-occupied territory, the Allies debated how best to enforce justice upon the Nazi leadership. The answer to this question took shape in the form of an unprecedented legal process that forever redefined the meaning of justice in the postwar world. From November 20, 1945, to October 1, 1946, 22 Nazi leaders were put on trial in front of the International Military Tribunal consisting of judges from four of the Allied powers—Britain, the Soviet Union, France, and the United States—which led the proceedings. In this lesson, students will evaluate the unique aspects of the Nuremberg Trials, what the trials managed to achieve, the debates surrounding the integrity of the trials, and how the trials changed the meaning of justice on a global scale.

MATERIALS

- + Copies of the **overview essay “War Crimes on Trial”**
- + Selections of **Justice Robert Jackson’s Final Report**
- + **LIFE editorial, “War Crimes”**
- + Copies of the **Student Worksheets**
- + **Cards detailing 10 Nazi leaders** put on trial at Nuremberg

OBJECTIVES

Analyzing primary and secondary source materials, students will critically assess the meaning and purpose of “justice” as it functioned in the aftermath of World War II and how that precedent continues to affect life today. Students should compare the two perspectives presented in the primary source materials and extract evidence to support the construction of a clear argument regarding the ways the Nuremberg Trials changed the nature of international law and the enforcement of justice in a postwar world.

COMMON CORE STANDARDS

CCSS.ELA-LITERACY.RH.6-8.1

Cite specific textual evidence to support analysis of primary and secondary sources.

CCSS.ELA-LITERACY.RH.6-8.6

Identify aspects of a text that reveal an author’s point of view or purpose (e.g., loaded language, inclusion or avoidance of particular facts).

CCSS.ELA-LITERACY.RH.6-8.8

Distinguish among fact, opinion, and reasoned judgment in a text.

ONLINE RESOURCES

ww2classroom.org



Eva Schloss Oral History



“What Would You Do?” Scenario: Dachau

CCSS.ELA-LITERACY.RH.9-10.4

Determine the meaning of words and phrases as they are used in a text, including vocabulary describing political, social, or economic aspects of history/social science.

CCSS.ELA-LITERACY.RH.9-10.6

Compare the point of view of two or more authors for how they treat the same or similar topics, including which details they include and emphasize in their respective accounts.

NATIONAL STANDARDS FOR HISTORY

HISTORICAL CONTENT ERA 8, STANDARD 3C

Evaluate how Americans viewed their achievements and global responsibilities at war's end.

HISTORICAL THINKING STANDARD 3

The student engages in historical analysis and interpretation, therefore, the student is able to:

- Consider multiple perspectives of various peoples in the past by demonstrating their differing motives, beliefs, interests, hopes, and fears.
- Distinguish between unsupported expressions of opinion and informed hypotheses grounded in historical evidence.
- Hypothesize the influence of the past, including both the limitations and opportunities made possible by past decisions.

PROCEDURES

1. Present brief overview of the Nuremberg Trials. Refer to the included **overview essay "War Crimes on Trial"** on Nuremberg, or give students a copy to read. Pair students off, or have them break into small groups to discuss how they define the term "justice" as they understand it. What does that word mean to them? How do they think justice is enacted? In what ways is the enforcement of justice an important part of life today? Have students write their answers on the provided worksheet and share these insights in a full-class discussion.
2. Shift the discussion to World War II. In groups, have students read the included transcription of Article 6 of the International Military Tribunal **Charter**, which details the various crimes leading Nazis were charged with at Nuremberg. As the students read, pass out card inserts that detail 10 of the leading Nazis put on trial. After completing their reading of Article 6, have the students read through the description on their card of the Nazi leader's role during World War II. Using information from the overview essay and Article 6, have students discuss and write down what crimes they think the Nazi leader on their card committed and what sentence they might have received. Have the students discuss the scale of these crimes and how they fit into the broader context of World War II. Ask students the ways the nature of the crimes brought to trial in Nuremberg made these trials unique. If time allows, discussion could be carried out in the form of a courtroom debate.
3. Give students time to read over the included primary sources from Justice Robert Jackson and *LIFE*, either in class or as homework. Have them analyze how the differing views on "justice" changed from before the trials, as presented in the editorial to *LIFE*, and from the end of the trials, as captured in Justice Jackson's Final Report to the President. In what ways did views change from 1945 to 1946? How did the trials influence the way people understood the meaning of justice and how it is enforced? Have students consider the possible biases of Jackson's Final Report, as he was a presiding judge of the trials.
4. Conclude the discussion by asking students to return to the original discussion question on how they define and understand justice. Ask them to consider if the Nuremberg Trials possibly shaped that view of justice, and if so, in what ways?

ASSESSMENT

In both the in-class discussion and written component of the assignment, students should demonstrate a clear ability to analyze the included primary sources, to create a clear argument related to the nature of crimes and the individuals tried at Nuremberg, and to support that argument by citing specific examples from the included readings and card inserts. Their assessment of the way enforcing justice changed following World War II and how that change continues to affect life today will demonstrate their critical thinking skills, their understanding of the historical significance surrounding the trials, and their ability to draw clear connections between the past and present.

EXTENSION/ENRICHMENT

- 1. The Nuremberg Trials created an enduring legacy of enforcing justice on those who commit specific **war crimes**, as well as **crimes against humanity**. For an extension exercise, have your students research other trials that featured a state or military leader who faced criminal charges for such crimes. Have them outline the trial, the crimes charged against a world leader, and the outcome. Additionally, have the students place this exercise in the context of the legal legacy established by the trials at Nuremberg.
- 2. In addition to the trials at Nuremberg, the Tokyo War Crime Trials became a contrasting example of enforcing international justice. Although modeled on the Nuremberg Trials, the Tokyo Trials differed in key ways. Have students read over the section of the overview essay that pertains to the Tokyo Trials as a starting point for continued research. Have them write at least three specific ways the Tokyo Trials differed from the trials at Nuremberg. Following those three examples, have students write on the ways the **war crime** trials in the Pacific also featured debates on “victor’s justice” and how those debates compared to critiques leveled at the Nuremberg Trials.

NAZI CARD INSERTS KEY		
Profile 1	Karl Doenitz	At Nuremberg: sentenced to 10 years in prison. Doenitz was released from prison on October 1, 1956.
Profile 2	Hans Frank	At Nuremberg: sentenced to death; hanged on October 16, 1946.
Profile 3	Wilhelm Frick	At Nuremberg: sentenced to death; hanged on October 16, 1946.
Profile 4	Hermann Goering	At Nuremberg: sentenced to death, but committed suicide in his cell hours before his execution.
Profile 5	Rudolf Hess	At Nuremberg: sentenced to life imprisonment. Hess died in custody on August 17, 1987.
Profile 6	Alfred Jodl	At Nuremberg: sentenced to death; hanged on October 16, 1946.
Profile 7	Wilhelm Keitel	At Nuremberg: sentenced to death; hanged on October 16, 1946.
Profile 8	Joachim von Ribbentrop	At Nuremberg: sentenced to death; hanged on October 16, 1946.
Profile 9	Alfred Rosenberg	At Nuremberg: sentenced to death; hanged on October 16, 1946.
Profile 10	Albert Speer	At Nuremberg: sentenced to 20 years imprisonment. Speer was released from prison on October 1, 1966.

UNITED NATIONS – TREATY SERIES, NO. 251

Charter of the International Military Tribunal. "Agreement by the Government of the United Kingdom of Great Britain and Northern Ireland, the Government of the United States of America, the Provisional Government of the French Republic and the Government of the Union of Soviet Socialist Republics for the Prosecution and Punishment of the Major War Criminals of the European Axis. Signed at London, on August 8, 1945."

Jurisdiction and General Principles

ARTICLE 6

The [International Military Tribunal] established by the Agreement referred to in Article I hereof for the trial and punishment of the major war criminals of the European Axis countries shall have the power to try and punish persons who, acting in the interests of the European Axis countries, whether as individuals or as members of organisations [sic], committed any of the following crimes.

The following acts, or any of them, are crimes coming within the jurisdiction of the Tribunal for which there shall be individual responsibility:

- (a) **CRIMES AGAINST PEACE:**
namely, planning, preparation, initiation or waging of a war of aggression, or a war in violation of international treaties, agreements or assurances, or participation in a common plan or conspiracy for the accomplishment of any of the foregoing;
- (b) **WAR CRIMES:**
namely, violations of the laws or customs of war. Such violations shall include, but not be limited to, murder, ill-treatment or deportation to slave labour or for any other purpose of civilian population of or in occupied territory, murder or ill-treatment of prisoners of war or persons on the seas, killing of hostages, plunder of public or private property, wanton destruction of cities, towns or villages, or devastation not justified by military necessity;
- (c) **CRIMES AGAINST HUMANITY:**
namely, murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population, before or during the war, or persecutions on political, racial or religious grounds in execution of or in connection with any crime within the jurisdiction of the Tribunal, whether or not in violation of the domestic law of the country where perpetrated.

Leaders, organisers [sic], instigators and accomplices participating in the formulation or execution of a common plan or conspiracy to commit any of the foregoing crimes are responsible for all acts performed by any persons in execution of such plan.

EDITORIAL, *LIFE MAGAZINE*, "WAR CRIMES:

To Promote the Idea of Law in Europe is More Vital to Us than Killing Nazis," May 28, 1945, pg. 34.

There is no respectable American opinion, popular or highbrow, which condones the crimes of the Nazis. There is very little opinion that thinks they should go unpunished. Polls show big majorities in favor of jailing or executing the men responsible for the horrors of Buchenwald, Dachau and the rest. Representative Dewey Short, who studied in Germany and was once an isolationist, was almost beside himself with shock and rage when he described to the House the things he had seen on his recent tour of the Nazi extermination camps. Human instinct demands some sort of action to express our horror at what the Nazis have done. Retribution, vengeance, justice—call it what you like—but action.

There is a great deal at stake, however, in what we do call it and in what form our action takes. The best and most vocal instinct is for 'justice': to try these criminals in a court and sentence them. To that end much has been done. The **War Crimes** Commission has been collecting evidence in London for three years. The U.S. Army Judge Advocate General's office has set up its own procedure for arresting and trying run-of-the-mine military criminals. And now Samuel Rosenman has proposed to our Allies a joint military tribunal for trying Goering, Hess, Himmler and the other Nazi big shots. Justice Robert Jackson of the U.S. Supreme Court has already been appointed U.S. prosecutor on that international tribunal and started getting his staff together last week.

Indeed, the question of who is guilty of what, and how to punish, has engaged some of our best legal brains for many months. And in view of the general agreement that the Nazis deserve punishment, it is surprising to find so much confusion and disagreement among them.

[...]

"And yet justice cannot be measured quantitatively. If the whole of Germany is guilty of murder, no doubt it would be just to exterminate the German people. [Edmund] Burke did not say you should not indict a whole people, he merely said he didn't know how to do it. The real problem is to know who is guilty of what."

[...]

ARE COURTS WEAPONS?

"But what should our 'national policy' be? Should it be to secure the maximum number of convictions? Or to re-establish in demented Europe a respect for the law?

Before he was appointed prosecutor, Justice Jackson made a speech in which he warned against the use of the judicial process for nonjudicial ends, and attacked cynics who 'see no reason why courts, just like other agencies, should not be policy weapons.' If we want to shoot Germans as a matter of policy, let it be done as such, said he, but don't hide the deed behind the court."

EXCERPTS FROM “JUSTICE JACKSON’S FINAL REPORT TO THE PRESIDENT

Concerning the Nürnberg* War Crimes Trial,” October 7, 1946

The President,
The White House,
Washington, D.C.

My dear Mr. President:

I have the honor to report as to the duties which you delegated to me on May 2, 1945 in connection with the prosecution of major Nazi war criminals.

The International Military Tribunal sitting at Nurnberg, Germany on 30 September and 1 October, 1946 rendered judgment in the first international criminal assizes in history. It found 19 of the 22 defendants guilty on one or more of the counts of the Indictment, and acquitted 3. It sentenced 12 to death by hanging, 3 to imprisonment for life, and the four others to terms of 10 to 20 years imprisonment.

[...]

In its judgment the Tribunal condemned the officers who performed General Staff and High Command functions as “a ruthless military caste” and said they were “responsible in large measure for the miseries and suffering that have fallen on millions of men, women and children. They have been a disgrace to the honorable profession of arms.” This finding should dispose of any fear that we were prosecuting soldiers just because they fought for their country and lost, but otherwise is regrettable.

[...]

Although my personal undertaking is at an end, any report would be incomplete and misleading which failed to take account of the general way crimes work that remains undone and the heavy burden that falls to successors in this work. A very large number of Germans who have participated in the crimes remains unpunished. There are many industrialists, militarists, politicians, diplomats, and police officials whose guilt does not differ from those who have been convicted except that their parts were at lower levels and have been less conspicuous.

[...]

There is neither moral nor legal obligation on the United States to undertake another trial of this character. While the International Agreement makes provision for a second trial, minutes of the negotiations will show that I was at all times candid to the point of being blunt in telling the conference that the United States would expect one trial of the top criminals to suffice to document the war and to establish the principles for which we contended, and that we would make no commitment to engage in another.

[...]

In a world torn with hatred and suspicions where passions are stirred by the “frantic boast and foolish word,” the Four Powers have given the example of submitting their grievances against these men to a dispassionate inquiry on legal evidence. The atmosphere of the Tribunal never failed to make a strong and favorable impression on visitors from all parts of the world because of its calmness and the patience and attentiveness of the every Member and Alternate on the Tribunal. The nations have given the examples of leaving punishment of individuals to the determination of independent judges, guided by principles of law, after hearing all of the evidence for the defense as well as the prosecution. It is not too much to hope that this example of full and fair hearing, and tranquil and discriminating judgment will do something toward strengthening the processes of justice in many countries.

[...]

Of course, it would be extravagant to claim that agreements or trials of this character can make aggressive war or persecution of minorities impossible, just as it would be extravagant to claim that our federal laws make federal crime impossible. But we cannot doubt that they strengthen the bulwarks of peace and tolerance. The four nations through their prosecutors and through the representatives on the Tribunal, have enunciated standards of conduct which bring new hope to men of good will and from which future statesmen will not lightly depart. These standards by which the Germans have been condemned will become the condemnation of any nation that is faithless to them.

**Nuremberg also spelled as Nürnberg. While 22 Nazi officials stood trial, 24 were indicted by the International Military Tribunal. Martin Bormann was charged in absentia; later found he was killed in an attempted escape of Berlin, and Robert Lay committed suicide after he was indicted but before he could be brought to trial.*