

## HANDOUT 7: The Nuremberg Trials

World War I and World War II were the most destructive wars in human history. These wars were especially devastating because of the extremely high level of violence committed against civilians, who are people who do not fight in wars and are not soldiers.

Most shockingly, some countries took advantage of the chaos and confusion of these wars to disguise systematic campaigns of mass murder against civilians that belonged to “unwanted” races, religions, nationalities, and ethnicities. In Nazi Germany, for example, Jews and other groups were systematically gathered, transported to concentration camps, and murdered during World War II. Approximately six million Jews were killed for no other reason than being Jewish. It is important to understand that Nazi Germany’s intention was not only to kill Jews as individual people, but to destroy the entire Jewish race in Europe.

At the end of World War II, the victorious powers, including the United States, United Kingdom, and the former Soviet Union, agreed to set up a court to prosecute German war criminals. This would be the first International Military Tribunal. The “Nuremberg Trials,” as they are called after the German city in which they were held, tried the Nazi leaders not only for crimes committed against the citizens of other countries, but against Germans as well. Some aspects of the Nuremberg Trials were at times unfair; they could also be referred to as “victor’s justice.” However, they stood for a noble principle: those who commit atrocities, even in wartime, will face justice and punishment.

A court must rely on established laws to enforce its judgments. Administrators of the Nuremberg Trials encountered significant difficulties in determining which set of laws to apply. It was clear to them that they could not rely on German laws of the time because these laws had, for the most part, been put in place to sanction the very offences that the defendants were accused of committing.

The British courts recognized an intrinsic principle that the job of the court is to enforce the laws passed by the British Parliament, and therefore, the international tribunal could not recognize and enforce British law. The same argument could be made for the laws of any jurisdiction even if they were the victors in the war.

The court decided to rely on “Natural Law” – the basic human principle that some acts are inherently wrong and when the harm that has been perpetrated is great, the person committing the offence must be punished. The judges of the Nuremberg Trials, steeped in their respective ideas of justice, grappled with the complexities of applying this principle.

Judges of the International Criminal Court (ICC) continue to face these complexities today. Whose form of justice should be applied: those of the nation-state where the offences occurred, or by some other standard of law? Should the governments of nation-states around the world accept an external standard, even if some of the world’s major political powers (such as the United States) decline to participate in the ICC? In order to create a framework for effective enforcement, the ICC has defined the specific atrocities it will address and ensures that member states pass comparable laws prohibiting such atrocities in their own countries.