

Bringing War Criminals to Justice Can Keep Nations on the Right Road

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Bringing war criminals to justice can have a positive effect in unifying a nation, legitimizing its government, and keeping it on the right path, a legal scholar says.

The trial of Nazi SS officer Adolf Eichmann by Israel inspired German youth to question their elders' roles in World War II and "helped importantly in making Germany the free, peaceful and democratic nation it is today," writes Lawrence Velvel, dean of the Massachusetts School of Law at Andover, in the second installment of a three part posting. (See velvelnationalaffairs.com).

Even though many former Nazis served as post-war German officials, vigorous prosecutions weeded many out, ensuring a democratic Germany. One German prosecutor Fritz Bauer "persevered in looking for Eichmann in the face of the disinterest of various countries" that included the U.S. and Western Germany, Velvel writes.

In a discussion of points from the new book "*Hunting Eichmann*" (Houghton Mifflin Harcourt) by Neal Bascomb, Velvel points out that former Nazi officials made up one-third of West German Chancellor Konrad Adenauer's cabinet, much of the civil service, foreign ministry and judiciary, as well as one quarter of the Bundestag (legislature).

"The German government had no interest in catching Eichmann or in seeing him brought for trial" as "this might have caused all the German Kurt Waldheims to be revealed..." Velvel writes.

(Waldheim was Secretary General of the United Nations from 1972 to 1981 and president of Austria from 1986 through 1992. When his role as an intelligence officer for the German army during WWII was eventually revealed, Waldheim said that at the time of his service he had no knowledge of Nazi war crimes.)

When David Ben-Gurion, Israel's first prime minister, heard that Eichmann was living in Argentina he dispatched his secret services to bring him to trial in Israel, where he was found guilty and executed in 1962. Eichman was captured in 1960 outside his Buenos Aires home where he lived under an assumed name.

Quoting Bascomb, Velvel writes that "The trial had a profound impact on Israel." "It unified the country in a way it had not been unified since the 1948 war. It educated the Israeli public, particularly the young, on the true nature of the Holocaust. After 16 years of silence, it allowed survivors to openly share their experiences. The trial also reinforced to Israelis that a sovereign state for Jews was essential for their survival."

Ben-Gurion knew that it was necessary not to allow the world, particularly the Israelis, and “especially the young, to forget what the Nazis had done, and to remind the world to be on guard against future repetitions,” Velvel said.

In Germany, prosecutor Bauer and his colleagues arrested numerous former Nazis implicated in the Holocaust atrocities, including several of Eichmann’s deputies. Right up to his death in 1968, Bascomb notes, the Hesse attorney general “cracked down on German fascist groups and campaigned vigorously to unseat former Nazis from power...”

One of the lessons in *Hunting Eichmann*, Velvel writes, is that “much that was valuable occurred when something was done which several nations had no desire to see done—neither Germany, nor the US, nor even Israel had had much of an interest in catching and trying Eichmann and, in some instances, as (author) Bascomb discusses, had resisted or declined efforts to pursue him because leaders or officials of the nations had thought pursuit, trial and punishment of Eichmann would not fit national interests. History has shown, I believe, that the leaders and officials who thought this, who resisted or declined efforts to bring this evildoer to justice, were wrong.”

As will be developed in the third segment of the posting, there are parallels between the reluctance to prosecute Eichmann and that of U.S. officials today as they weigh the consequences of prosecuting Bush administration officials for their roles in the torture and execution of Arab and Muslim prisoners during the Bush presidency.

“The Holocaust is lodged deeply in much of the world’s memory now, as is the idea that the Eichmannesque justification, the Naziesque justification, that one was just following orders is not permissible, is *no* justification, when people do evil,” Velvel writes. As shall be developed, President Obama’s position of excusing CIA interrogators from prosecution of their crimes against prisoners because they were “following orders” appears certain to be thought of in this context.

Author Velvel is dean and cofounder of the Massachusetts School of Law, purposefully dedicated to providing a quality, affordable legal education to minorities, students from households of modest means, and immigrants. Reach him at velvel@msslw.edu. Further information, contact Sherwood Ross at sherwoodr1@yahoo.com.

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