

## **AMNESTY INTERNATIONAL USA**

### **FULFILLING THE LEGACY: INTERNATIONAL JUSTICE 60 YEARS AFTER NUREMBERG**

*This symposium was held February 17-18, 2006 at the University of Washington School of Law in Seattle, Washington. The following articles were submitted by the symposium panelists. The articles are either in transcript form from the speeches, or were modified into formal comments based on the speeches.*

## SYMPOSIUM INTRODUCTION

*William J. Aceves and Vienna Colucci\**

Amnesty International USA (AIUSA) convened its 2006 Legal Network conference, *Fulfilling the Legacy: International Justice 60 Years After Nuremberg*, at the University of Washington School of Law.<sup>1</sup> The conference brought together scholars and practitioners to consider the legacy of the Nuremberg Tribunal and its impact on human rights.<sup>2</sup>

Amnesty International was formed in 1961 and is the largest grassroots-based human rights organization in the world.<sup>3</sup> It has 1.8 million members and committed supporters from over 150 countries and territories in every region of the world. Amnesty's vision is a world in which all people enjoy the human rights set forth in the Universal Declaration of Human Rights and in other international human rights instruments. AIUSA is the U.S. section of Amnesty International and has several specialized networks, including the Legal Network.<sup>4</sup> The Legal Network's mandate is

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1. AIUSA extends its deep appreciation to the University of Washington School of Law and its faculty, staff, and students for their support. AIUSA is also grateful for the assistance of the Fitzpatrick Fund Committee and the Center for Human Rights and Justice at the University of Washington.

2. The conference panels addressed four issues: The Nuremberg Precedent: Prosecuting Genocide, War Crimes, and Crimes against Humanity; Prosecuting Gender Crimes; The Status of Fair Trial Norms; and Liability of Non-State Actors for Violations of International Law.

3. See generally JONATHAN POWER, *LIKE WATER ON STONE: THE STORY OF AMNESTY INTERNATIONAL* (2001); ANN MARIE CLARK, *DIPLOMACY OF CONSCIENCE: AMNESTY INTERNATIONAL AND CHANGING HUMAN RIGHTS NORMS* (2001).

4. While AIUSA's human rights agenda encompasses a number of issues, the current priority areas of focus are to: abolish the death penalty; address abuses committed in the context of the war on terror; denounce torture; stop violence against women; and end the uncontrolled proliferation and misuse of arms. AIUSA recently established a program for international justice and accountability, which seeks to develop an active and informed constituency in the United States for: a constructive U.S. policy toward the International Criminal Court; the fair and effective functioning of international tribunals and internationalized courts; the exercise of universal jurisdiction to bring perpetrators of human rights crimes to justice; the right of victims to justice and reparations; and the development of

to mobilize lawyers, law students, and legal professionals to work on the legal aspects of Amnesty's mission.

The Symposium theme, *Fulfilling the Legacy: International Justice 60 Years After Nuremberg*, was chosen to commemorate the legacy of the Nuremberg Tribunal and to reflect on the status of human rights in the 21st century.

The International Military Tribunal at Nuremberg was established after the Second World War to prosecute the military and political leaders of Nazi Germany.<sup>5</sup> Twenty-two defendants were brought before the Tribunal, charged with crimes against peace, war crimes, and crimes against humanity.<sup>6</sup> The Tribunal began its proceedings on November 20, 1945. Robert Jackson, a U.S. Supreme Court justice, served as the Chief Prosecutor at Nuremberg. His opening statement to the Tribunal is considered a defining moment in international justice.

The wrongs which we seek to condemn and punish have been so calculated, so malignant, and so devastating, that civilization cannot tolerate their being ignored, because it cannot survive their being repeated. That four great nations, flushed with victory and stung with injury, stay the hand of vengeance and voluntarily submit their captives to the judgment of the law is one of the most significant tributes that Power has ever paid to Reason.<sup>7</sup>

The trial took over ten months to complete. Hundreds of witnesses and thousands of documents were examined. On October 1, 1946, the Tribunal issued its judgment.<sup>8</sup> It rejected the defendants' claims that they should not be liable because they were merely following orders or that they were immune from prosecution because of their government status. It also rejected their claim that international law did not apply to individuals. According to the Tribunal, "[c]rimes against international law are committed by men, not by abstract entities, and only by punishing individuals who commit such crimes can the provisions of international law be enforced."<sup>9</sup> The Tribunal found nineteen defendants guilty and three not guilty of the charges.

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enforceable standards of accountability. For additional information about AIUSA and its programs, see [www.amnestyusa.org](http://www.amnestyusa.org).

5. See generally JOSEPH E. PERSICO, *NUREMBERG: INFAMY ON TRIAL* (1994); TELFORD TAYLOR, *THE ANATOMY OF THE NUREMBERG TRIALS* (1992); ROBERT E. CONOT, *JUSTICE AT NUREMBERG* (1983).

6. Agreement for the Prosecution and Punishment of the Major War Criminals of the European Axis, Aug. 8, 1945, 58 Stat. 1544, 82 U.N.T.S. 280.

7. 2 TRIAL OF THE MAJOR WAR CRIMINALS 99 (1947) (Justice Robert H. Jackson, Prosecutor's Address of Nov. 21, 1945 to the International Military Tribunal.)

8. The Nurnberg Trial, 6 F.R.D. 69 (1946).

9. *Id.* at 110.

In addition to the Nuremberg Tribunal, several other war crimes tribunals were convened at the end of the Second World War.<sup>10</sup> Some of these tribunals were established pursuant to Control Council Law Number 10 to prosecute a broad range of Nazi military and political leaders as well as corporate officials, lawyers, and doctors complicit in Nazi atrocities.<sup>11</sup> The International Military Tribunal for the Far East was established to prosecute military and political leaders from Imperial Japan.<sup>12</sup> Finally, hundreds of trials were conducted in national courts throughout Europe and Asia to prosecute war crimes and related offenses.<sup>13</sup> While there were many trials at the end of the Second World War, it is the Nuremberg Tribunal that is viewed as the seminal moment in international justice.

Nuremberg reveals the baseness of the human conscience, but it also captures humanity's sense of justice. There is, in fact, a symbiotic relationship between evil and justice. They are "paired like strands of life, normally travel hand in hand, their union joined in direct proportion. Every injustice gives rise to a call for justice that expands to the limits of the injuries suffered or perceived. The greater the wrong, the louder the cry for right to be required."<sup>14</sup> With the atrocities of the Second World War, Nuremberg was the only viable response.

Indeed, it is this call for justice that forms the core of the Nuremberg legacy. International criminal justice efforts – from the International Criminal Tribunals for the former Yugoslavia and Rwanda to the International Criminal Court – trace their lineage to Nuremberg. Even the recent tribunals in Cambodia, East Timor, Iraq, Kosovo, and Sierra Leone share this heritage. Each of these modern tribunals was established because the most serious international crimes must be punished, and it is only through their effective prosecution that the peace, security, and well-being of the world can be ensured.

This Symposium was designed to both celebrate and question the Nuremberg legacy. The panels examined current developments in international human rights law and provided an opportunity to assess how

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10. See generally JOHN C. WATKINS, JR. & JOHN PAUL WEBER, *WAR CRIMES & WAR CRIMES TRIALS: FROM LEIPZIG TO THE ICC AND BEYOND* (2006); STEVEN R. RATNER & JASON ABRAMS, *ACCOUNTABILITY FOR HUMAN RIGHTS ATROCITIES IN INTERNATIONAL LAW: BEYOND THE NUREMBERG LEGACY* (2d ed. 2001).

11. Control Council Law No. 10, Punishment of Persons Guilty of War Crimes, Crimes Against Peace and Against Humanity, December 20, 1945, 3 Official Gazette Control Council for Germany 50-55 (1946).

12. *THE TOKYO MAJOR WAR CRIMES TRIAL: THE JUDGMENT, SEPARATE OPINIONS, PROCEEDINGS IN CHAMBERS, APPEALS AND REVIEWS OF THE INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST* (R. John Pritchard ed., 1998).

13. ARIEH J. KOCHAVI, *PRELUDE TO NUREMBERG: ALLIED WAR CRIMES POLICY AND THE QUESTION OF PUNISHMENT* (1999).

14. *Tachiona v. Mugabe*, 169 F. Supp. 2d 259, 318 (S.D.N.Y. 2001).

far the international community has truly progressed in its efforts to promote respect for human rights and ensure accountability for human rights violations in the sixty years since Nuremberg.

The Symposium was dedicated to all the victims of Nazi Germany and the other Axis powers. It was also dedicated to the late Professor Joan Fitzpatrick, who was a member of the faculty at the University of Washington and an active member of Amnesty International. Professor Fitzpatrick was a noted scholar in international law, human rights, and immigration law. Throughout her life, she played an active role in keeping the memory of Nuremberg alive for future generations.