

FOREWORD

That a book published in late 2018 by the American Bar Association should focus on the persecution of lawyers in Germany during the Third Reich – which collapsed almost 75 years ago – reminds us that the bleak lessons of such an ignominious past are as relevant as ever. The failure to enforce law and time-honored principles of justice still poses increasing threats to people everywhere.

As soon as Hitler's Nazi government took control of Germany in 1933, numerous discriminatory new German laws were enacted to assure that "Aryan blood" would no longer be contaminated by Jews, Gypsies and other "inferior" groups, all of whom had to be removed from power. Among such laws were prohibitions on the practice of law by Jews and a broad-ranging exclusion of Jews and other "undesirables" from the professional, social and economic life of Germany. They were excluded from schools and subject to an array of legal prohibitions designed to make living conditions unbearable. Virulent Nazi anti-Semitism led to specific plans for "The Final Solution" that called for total annihilation of all the Jews in Europe. Other perceived adversaries of the regime faced a similar fate.

The quadripartite war crimes trial by the International Military Tribunal at Nuremberg, established by the victorious Allied powers and led by the United States, confirmed only part of the sorry story. The trial transcripts and judgment offer irrefutable proof of mass atrocity crimes that have been meticulously recorded in undeniable historical archives.

After receiving my law degree from Harvard in 1943, I joined the U.S. Army as a combat soldier participating in every major battle in Europe. My last assignments included gathering evidence in Nazi concentration camps as they were being liberated. The scenes of horror were indescribable. The trauma has never left me. I had peered into Hell.

When the war was over I was invited by the Pentagon to return to Germany to assist in a dozen subsequent war crimes trials. I was appointed chief prosecutor in the "Einsatzgruppen case." All 22 high-ranking and well-educated commanders were promptly convicted of murdering over a million innocent Jewish men, women and children. Victims were slaughtered simply because they did not share the race, religion or ideology of their executioners. It was my first case. I was then 27 years old.

Although I knew that each of the 22 defendants was certainly guilty of outrageous crimes against humanity, I did not ask for the death penalty. I felt the scales of justice could never be balanced by hanging only a handful of the 3,000 other mass murderers. If I could encourage a rule of law that would prevent such genocides in the future it might have some permanent humanitarian significance. It was my "plea of humanity to law."

I stayed on in Germany to set up new programs for restitution and compensation to all victims of Nazi persecution. I was guided by the elementary principle of justice: That those responsible for illegal harms should be required to repair injuries and compensate their victims. Victims of Nazi persecution were the beneficiaries of these programs, regardless of their race or creed.

In 1952, encouraged by German Chancellor Konrad Adenauer, an unprecedented treaty was signed among West Germany, Israel and the "Claims Conference" representing leading Jewish charities. I set up legal aid offices in 19 countries to help claimants with complicated indemnification claims. Of course, all of this could not have been done without the help of German lawyers.

Former German Jewish lawyers who had been forced to flee Nazi Germany became the key staff members for the three restitution organizations. Many of them had served as translators, advisors or researchers during the

Nuremberg trials. Since most of them could not be qualified to practice law in their countries of refuge, they had to depend upon menial employment to survive. Despite modest salaries, many were glad to return to their native Germany in hopes of being able to resume their shattered lives.

One former Berlin Jewish lawyer deserves special note. Herbert Schoenfeldt, a respected Jewish lawyer in Berlin, had to carry his aged mother on his back to escape over the Pyrenees Mountains to France. In New York he worked as a shoe salesman.

We became friends when he was hired as a legal consultant for the subsequent Nuremberg trials. When those proceedings neared conclusion, I hired him to direct the restitution office I had set up in Stuttgart. He later directed a new office in Bonn, where he could have closer contact with politicians who had to approve new restitution laws.

He became a key player in the Claims Conference efforts to obtain compensation on behalf of concentration camp survivors forced to serve as slave laborers for leading German industries. Schoenfeldt died in 1956, as the final compensation law was being passed. He received a state funeral from the German government in recognition of the respect he had earned.

For those lawyers who were persecuted or had to flee Nazi tyranny because of their religion, *Lawyers Without Rights: The Fate of Jewish Lawyers in Berlin after 1933*, demonstrates that their suffering has not been forgotten. Nor has it been in vain.

I have just started my 99th year, having spent most of my life striving for a more humane and peaceful world where all humans — whatever their race, creed or gender — are entitled to live in peace and human dignity. I appreciate the new German generation's efforts to overcome the evil deeds of their ancestors. My slogans remain "Law not war" and "Never give up!"

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