

The rule of law and the judges trial essay sample

[People](#), [Adolf Hitler](#)



On December 10, 1942, Edward Raczynski of the Polish Ministry of Foreign Affairs of the Polish government-in-exile sent a note to the Allies concerning the Nazi's extermination of Jews in German-occupied Poland (Finch 30).

Seven days later, the United Nations issued a joint declaration describing the events of the Holocaust, including the so-called Nuremberg Laws. These laws were announced at the annual Nazi Party Rally in Nuremberg in September 15, 1935. Their effect and intent were predominantly anti-semitic, making widespread discrimination against Jews legally binding. Some examples of these regulations were the closure of all Jewish-owned businesses, the restriction of the freedom of movement of Jews, and even the forbidding of the sale of lottery tickets to Jews (United States Holocaust Memorial Museum).

The Nuremberg Laws were only some of the manifestations of racial regulations against what the Nazi's believed were inferior races. In a wider context and in both ideology and practice, the Nazis developed a series of interlocking and escalating regulations for the exclusion and persecution of the Jews (Milton 270). After the war, this institutionalized and legalized discrimination was in fact used by the high level Nazi judges as a defense against the war crimes charged against them.

Sixteen defendant judges were indicted on January 4, 1947 before U. S. military courts on four counts: 1) participating in a common plan or conspiracy to commit war crimes and crimes against humanity, 2) war crimes through the abuse of the judicial and penal process, resulting in mass murder, torture, plunder of private property, 3) crimes against humanity on the same grounds, including slave labor charges, and 4) membership in a

criminal organization, the Nazi Party or SS leadership corps. Four persons were acquitted and ten were found guilty. Out of those ten, four received life imprisonment. The remaining two were mistrials. The Judges' Trial, as it came to be known, lasted from March 5, 1947 to December 4, 1947.

The four months of the trial provides excellent insight into the function of law in society - especially in one that has seemingly chucked its moral compass out the window. Did the Nazi judges have a choice in implementing and following the Nuremberg Laws that were grossly discriminatory and unjust? Is the rule of law absolute and sacred? In attempting to answer these questions, one must look first at the origins of democratic thought - to the Greek philosophers that essentially shaped the philosophical landscape around the rule of law.

Point: Plato's Crito

In his seminal dialogue Crito, Plato recounts Socrates' encounter with Crito while the former is in his prison (incarcerated for the crimes of impiety and corruption of the young (Rosano 452)). Crito is offering his help to Socrates, whereupon he will use his finances to help the latter escape. Socrates argues with Crito and eventually decides to stay. He says that injustice can never be answered by another injustice. This is the central issue in the dialogue as a whole: whether it is ever morally right to break the law in the name of a higher justice, or in other words, whether we are "morally obligated to do whatever we are legally required to do" (Congleton 433; Farrell 173). To this, Socrates answers in the negative and argues that if he escapes from the prison, Socrates would be acting on a maxim which would have undesirable consequences for the state if it were accepted and acted on by people

generally (Farrell 174). While explaining this to Crito, Socrates bolsters Crito's commitment to justice and the rule of law while exposing the problem of voluntary injustice in order to define the limits of citizenship and the need for philosophy. Socrates is not obliged to act justly insofar as he knows the justice is good. In this way, Socratic virtue is knowledge (Rosano 451). In context to the Judges' Trial and the rule of law, the argument in Crito favours an authoritarian perspective and the Nazi defense. Almost as an absolute, the argument declares that all laws must be obeyed, even if it is an unjust law. According to Plato and to the Nazi judges, the law of the land is sacred and unbending, and breaking it just because it is unjust is morally wrong.

Counter-point: King's Letter and Thoreau's Disobedience

On April 16, 1963, an incarcerated Martin Luther King, Jr. wrote an open letter defending nonviolent resistance to racism. King was incarcerated because of his decision to disobey a court injunction of a peaceful demonstration. The letter was a response to a statement made by eight Alabama clergymen criticizing King's growing civil rights movement. Although the clergymen agreed that injustices did exist in American society, they argued that the battle should be fought legally and not in the streets, as King had done (This is essentially Plato's position in Crito). King argued forcefully, addressing his " dear fellow clergymen", arguing that without nonviolent forceful direct actions, civil rights could never be achieved. There are, he argued, just and unjust laws (King, 840). He advocated obedience of just laws, but said that " an unjust law is no law at all", quoting St. Augustine (Oppenheimer 814). He explained, by citing St. Thomas Aquinas, that all laws which degrade human personality are unjust (Id.). King concluded with a

relevant discussion:

We should never forget that everything that Adolph Hitler did in Germany was “ legal” It was “ illegal to aid and comfort a Jew in Hitler’s Germany. Even so, I am sure that, had I lived in Germany at the time, I would have aided and comforted by Jewish brothers (841).

Henry David Thoreau advocated a similar form of resistance in his essay Civil Disobedience. Thoreau was an ardent abolitionist, and in his essay, he discloses that in his opinion, abolitionists should completely stop paying taxes, even if it means imprisonment. He describes that in an unjust government, “ the true place for a just man is also a prison.. the only house in a slave State in which a free man can abide with honor”

The collective position that Thoreau and King (and other resisters such as M. K. Gandhi) assume is that nonviolent resistance was one of the most potent weapons available to oppressed people in their quest for social justice (King, 81).

The Rule of Law is Neither Sacred nor Absolute

The Judges’ Trial in Nuremberg presented a moral and ethical dilemma in the legal and philosophical sphere. Were the judges expected to obey and implement the laws absolutely (as much as Plato), or were they expected to civilly disobey the law of the German land itself (as much as Thoreau or King)? The author of this paper believes in an affirmative to the latter. The Nuremberg Laws were not written in stone, nor were they written by some higher supernatural being. They were not physically absolute or permanent. The simple fact is this: they were made by men for men. As such, the Nuremberg Laws – and all laws in general – are never absolute. When laws

become patently unjust or inhuman, then it is the citizens' job as philosophers, thinkers, and human beings to disobey.

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