

Lesson 16

To deepen your understanding of the ideas in this lesson, read Chapter Nine in Facing History and Ourselves: Holocaust and Human Behavior.

Justice After the Holocaust

WHY teach this material?

Rationale

The purpose of this lesson is to help students define what justice looks like after the Holocaust and to help them develop a deeper understanding of justice in their own lives. Through learning about the Nuremberg trials, they consider the legal and ethical dilemmas posed after genocide or massive collective violence. The process of listening to different perspectives about justice after the Holocaust can help students develop a more sophisticated understanding of justice in their own lives. What are the different ways justice can be achieved? How do we judge the actions of perpetrators and bystanders? Should people be held responsible for following laws or orders that are morally wrong? These are some of the questions students explore in this lesson.

LEARNING GOALS

The purpose of this lesson is to help students:

- Reflect on these **guiding questions**:
 - *What is justice?*
 - *What does justice look like after a horrible event like the Holocaust?*
 - *Who is responsible for the crimes committed during the Holocaust?*
 - *Are individuals responsible for their crimes if they have obeyed the laws of their nation?*
- Practice these **interdisciplinary skills**:
 - *Defining abstract concepts*
 - *Defending a position on controversial issues*
 - *Listening respectfully to the ideas of others*
- Deepen understanding of these **key terms**:
 - *Justice*
 - *Crimes against humanity*
 - *Nuremberg trials*
 - *Responsibility*
 - *Reparations*
 - *Punishment*
 - *Repair*
 - *Healing*

(See the main glossary in the unit's "Introduction" for definitions of these key terms.)

WHAT is this lesson about?

Towards the end of World War II, as the Allied Powers began to realize that victory was imminent, there was disagreement on the question of what to do with the defeated Nazi leaders. Joseph Stalin, leader of the Soviet Union, suggested executing at least 50,000 members of the German army, and British Prime Minister Winston Churchill advocated executions without trials for high-ranking Nazi military officials. The United States, however, was strongly committed to the idea of an international war crimes trial. The victors ultimately agreed to such an approach, but many questions still remained: Where would the trial be held? Who would judge those defendants? In what language would the trial be held? The Allies knew that they wanted trials to begin as soon as possible and they gave themselves only a few months to figure out answers to these questions.

One of the most important questions the international military tribunal needed to answer was “Who would be put on trial?” While it may have been obvious to prosecute high-ranking Nazi officials, it was less clear to what degree lesser officers, bureaucrats, industrialists, and civilians should be held responsible for these crimes. Should bystanders, the millions of Germans who allowed their Jewish neighbors to be rounded up and killed, be held accountable for their failure to stand up to this injustice? Historian Paul Bookbinder distinguishes between collaborators and bystanders. Collaborators are those that were not directly involved in the persecution of Holocaust victims, but who may have assisted the Nazis by providing them with information or supplies. Bystanders, on the other hand, neither directly cooperated with the Nazis nor helped the Jews. Bookbinder suggests that collaborators should be judged more harshly than bystanders.

Another key question that needed to be answered: What laws had the Germans broken? The Allies argued that the Germans had violated international law—a body of rules that has evolved out of centuries of encounters among the peoples of the world. Although some insist that “all’s fair in love and war,” most recognize that there are limits to what soldiers can do in wartime. The various international laws set forth in military manuals and treaties dealt only with crimes committed as a part of a war. They did not address genocide—“the crime with no name.”¹ The first attempt to do so occurred in 1915, just after the massacre of the Armenians. In May of that year the Allies formally accused Turkish leaders of a “crime against humanity and civilization.” Although a new Turkish government agreed to bring the nation’s former leaders to justice, the defendants had fled the country. Because they were not present for the trial, the proceedings did not command worldwide attention. The lack of justice in this case made it easier for the Turkish government to deny their role in these massacres. (For more information about the Armenian Genocide and its denial, refer to the Facing History and Ourselves resource book *Crimes Against Humanity and Civilization: The Genocide of the Armenians*.)

The context was different in 1945; people around the world knew about the horrible crimes committed by the Nazis, and they were paying attention to how justice would be served. In October 1945, five months after the defeat of the Germans, an International Military Tribunal (IMT), created by Britain, France, the United States, and the Soviet Union, indicted 24 Nazis for one or more of the following crimes: conspiracy, crimes

against peace, war crimes, crimes against humanity.* Because the judicial proceedings were held in Nuremberg, Germany, they were called the Nuremberg Tribunals (or trials). John Fried, Special Legal Consultant to the United States War Crimes Tribunals at Nuremberg, Germany, explained the purpose of those trials:

The awesome, unprecedented nature of the Nazi war crimes demanded a response from the victorious Allies after World War II. That response, embodying the shock and outrage of mankind, was the Nuremberg Tribunals, in which the Nazi leadership was tried for its crimes. . . . No one . . . could deny the reality of Dachau [concentration camp] and the mass slaughter of civilians; the question to be answered was: who was responsible?²

Thus, the purpose of these trials was to find out who was responsible for the Holocaust and to punish the perpetrators. But the trials had another equally-important purpose: to show the world that these acts of violence would not be tolerated. The chief prosecutor Robert H. Jackson, a justice on the United States Supreme Court, explained this point when he opened the first trial with these words:

The privilege of opening the first trial in history for crimes against the peace of the world imposes a grave responsibility. 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 the four great nations, flushed with victory and stung with injury, stay the hand of vengeance and voluntarily submit their captive enemies to the judgment of the law is one of the most significant tributes that power ever has paid to reason.³

Jackson points out that by using the tool of international law, the “four great nations” were establishing a precedent that crimes against humanity would not go unrecognized or unpunished. By publicly indicting Nazi leaders, the Allied governments believed that future leaders might be deterred from inflicting harm on their civilians.

The most famous of the Nuremberg trials was the first one, which began in November 1945. Twenty-four leaders in the Nazi Party were indicted for one or more of the following crimes: conspiracy, crimes against peace, war crimes, and crimes against humanity. Of the men actually brought to trial, five were military leaders and the rest were prominent government or party officials. Their trial was organized much the way criminal trials are organized in the United States. The defendants were made aware of all charges against them. Each was entitled to a lawyer and had the right to plead his own case, offering witnesses and evidence in his own behalf. Throughout the trial, the prosecution used the Nazis’ own records as evidence. Jackson himself was amazed not only at the quantity of records available but also at the incredible detail in those records. From these abundant records, it was clear that during the war the Nazis were not trying to hide information about the deportations, forced labor, and mass murders. This fact alone illustrates what must have been the mindset of many Nazi officials: we have nothing to hide because we are not doing anything wrong.

* Only 21 of the 24 indicted men stood trial. Martin Bormann, Hitler’s secretary, was never found. Gustav Krupp von Bohlen und Halbach, a Nazi industrialist, was deemed too ill to stand trial and Robert Ley, a Nazi politician, committed suicide before the trial began.

**Key Crimes Within the Jurisdiction of the Tribunal*
(as written in Article 6 of the Constitution of the International Military Tribunal)⁴**

(a) **CRIMES AGAINST PEACE:** namely, planning, preparation, initiation, or waging of a war of aggression, or a war in violation of international treaties, agreements or assurances, or participation in a common plan or conspiracy for the accomplishment of any of the foregoing;

(b) **WAR CRIMES:** namely, violations of the laws or customs of war. Such violations shall include, but not be limited to, murder, ill-treatment, or deportation to slave labor or for any other purpose of civilian population of or in occupied territory, murder or ill-treatment of prisoners of war or persons on the seas, killing of hostages, plunder of public or private property, wanton destruction of cities, towns, or villages, or devastation not justified by military necessity;

(c) **CRIMES AGAINST HUMANITY:** namely, murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population, before or during the war; or persecutions on political, racial, or religious grounds in execution of or in connection with any crime within the jurisdiction of the Tribunal, whether or not in violation of the domestic law of the country where perpetrated.

Leaders, organizers, instigators, and accomplices participating in the formulation or execution of a common plan or conspiracy to commit any of the foregoing crimes are responsible for all acts performed by any persons in execution of such plan.

* The other major charge was conspiracy. This allowed for the prosecution of individuals who organized and ordered criminal activity but may not have been directly responsible in executing these crimes.

Throughout the trial, the defendants vehemently denied responsibility for crimes against humanity. They argued that wars have always been brutal and this war was much like any other. They also insisted that the victors were equally guilty. After all, in wartime, both sides commit “excesses.” And they maintained that they were only obeying orders. General Alfred Jodl’s attorney summarized that argument by telling the court:

It is true that without his generals Hitler could not have waged the wars. . . . If the generals do not do their job, there is no war. But one must add: if the infantryman does not, if his rifle does not fire . . . there is no war. Is, therefore, the soldier, the gunsmith . . . guilty of complicity in the war? Does Henry Ford share in the responsibility for the thousands of accidents which his cars cause every year?⁵

The judges disagreed with that argument. Ruling that orders from a superior do not excuse a crime, they convicted all but three of the men on one or more of the charges.

Among the twenty-one men who stood trial at Nuremberg was Julius Streicher, the publisher of *Der Stuermer*, an antisemitic newspaper with over six hundred thousand readers. Week after week, month after month, he described Jews as “vermin in need of extermination.” In a typical article he ranted that the Jew was not a human being, but “a parasite, an enemy, an evil-doer, a disseminator of diseases which must be destroyed in the interest of mankind.”⁶ At Nuremberg, the judges found Streicher guilty of “inciting of the population to abuse, maltreat and slay their fellow citizens . . . to stir up passion, hate, violence and destruction among the people themselves aims at breaking the moral backbone even of those the invader chooses to spare.”⁷ They sentenced him to death because his “incitement to murder and extermination at the time when Jews in the East were being killed under the most horrible conditions clearly constitutes persecution on political and racial grounds . . . and (therefore) a Crime against Humanity.”⁸



The courtroom in which the Nuremberg trials took place; in the bench sit the men accused of crimes against humanity, as well as other war crimes.

Between 1945 and 1949, the fate of 199 individuals was decided in 13 separate trials held in Nuremberg. The first of those trials, described in the previous paragraph, was an International Military Tribunal administered by Great Britain, France, the United States, and the Soviet Union. The United States administered the 12 subsequent trials, convened between 1946 and 1949, because Nuremberg was located within the American zone of occupation.* Among those brought to trial were:

- 26 military leaders, including five field marshals;
- 56 high-ranking SS and other police officers, including leaders in the *Einsatzgruppen* (Final Solution) and key officials in Heinrich Himmler's central office which supervised the concentration camps and the extermination program; and
- 14 officials of other SS organizations that engaged in racial persecution, including doctors and judges.

The Nuremberg trials were praised for their commitment to the rule of law. Defendants were represented by lawyers and the verdicts ranged from acquittal, to jail time, to death sentences. While the Nuremberg trials punished key perpetrators and helped educate the world about the crimes committed by the Nazis, it was not without critique. Bernard Meltzer, a staff member of the prosecution team at Nuremberg, remarked that one crime that was not prosecuted at Nuremberg was the “crime of silence.”⁹ While many Nazi

* At the end of World War II, the Allied powers divided Germany into four occupation zones. In the years immediately following the war, France, Britain, the Soviet Union, and the United States each controlled one of these zones. In 1949, the three zones administered by France, Britain, and the United States joined to establish the Federal Republic of Germany. A few months later, the Soviet zone became the German Democratic Republic.

leaders were brought to justice, the bystanders—the men and women who allowed this violence to take place—went unpunished.

Another criticism of the Nuremberg trials is that individuals were held responsible for breaking laws that did not exist prior to the war. This is often called “retroactive justice.”

Also, some say that justice was not completely served in Nuremberg because not all Nazi leaders were tried. Some leaders, including Hitler, had committed suicide at the end of the war. Others disappeared, often to the Middle East or South America. As these leaders surfaced, new trials were held, and continue to be held (although they are rare these days because most Nazis who could be charged with war crimes have passed away or have already been caught). Still, only a fraction of the perpetrators ever saw a courtroom. For example, of the approximately eight thousand personnel at Auschwitz, less than 10% ever went to trial and fewer were actually convicted. In the 1960s, when another Auschwitz trial was conducted, so much time had elapsed that it was difficult to obtain sufficient evidence to convict many of the defendants.

The most famous of the post-Nuremberg trials was that of Adolf Eichmann, the chief organizer of the “Final Solution.” Long after other nations had lost interest in punishing the Nazis, Israel remained committed to finding every individual who had escaped judgment. Eichmann was one of the nation’s main targets. A tip in 1957 led the Israelis to Argentina. In May of 1960, they kidnapped Eichmann and then smuggled him into Israel to stand trial. In February 1961, he was indicted on 15 counts, including “crimes against the Jewish people,” “crimes against humanity,” “war crimes,” and “membership in a hostile organization.” At the end of the trial, Eichmann stated, “I am not the monster I am made out to be. . . . I am innocent.”¹⁰ Referring to the 1942 Wannsee conference where the steps of the Final Solution were outlined, he declared, “For at that conference hard and fast rules were laid by the elite, the leadership, by the Popes of the Kingdom. And myself? I only had to obey!”¹¹ The judges disagreed, finding him guilty on all counts. After an appeal failed, Eichmann was hanged at midnight on May 31, 1962.

After the war, the Allies had to deal not only with questions of guilt and innocence but also with questions of restitution. What claims did the victims have on the perpetrators? On Germany itself? The Allied Military Government in Germany tried to answer those questions by requiring that all property seized by the Nazis or transferred to them by force be returned to its rightful owners. If the rightful owner had died and left no heir, the property was to be used to aid survivors of Nazi persecution. In 1949, with the division of Germany into East and West, reparations were handled separately by each state. Although both Germanies tried former Nazis for war crimes, only West Germany tried to make restitution for wrongs committed during the war. In 1951, West Germany declared that “unspeakable crimes had been committed in the name of the German people which entails an obligation to make moral and material amends” and promised to make reparations to both the state of Israel and various Jewish organizations involved in the resettlement and rehabilitation of survivors.¹² In 1953, West Germany also set up a special program to compensate all those who suffered injury or discrimination “because of their opposition to National Socialism or because of their race, creed, or ideology.”¹³ The program is known in German as *Wiedergutmachung*, which means “to make good again.” Dietrich Goldschmidt, a minister in the Confessing Church who was imprisoned at Dachau, said of *Wiedergutmachung*, “I hate the expression. What can one make good again? Absolutely nothing. . . . I find it a particular scandal that an entire group of special

cases have not yet received damages.”¹⁴ In this statement, he was referring to the Gypsies, the Poles, the disabled, and the many others who were denied reparations for various reasons. German corporations that had benefited from the forced labor of camp inmates were also obligated to pay reparations, although the companies involved went to great lengths to avoid paying and it took many years for survivors to receive any money.

Besides trials and reparations, the Allied powers put in place a program aimed at ridding Germany of Nazi influence. This collection of bureaucratic procedures, called “denazification,” included removing posters, signs, and other media which represented Hitler or the Nazi Party and establishing a “re-education” program for anyone who supported or assisted the Nazi effort. When applying for jobs, Germans had to complete a survey explaining the degree to which they were involved in the Third Reich. The intent was to keep those who served as middle or high-ranking officials from holding public service jobs. Critics of denazification argue that these programs were not successful, either in punishing offenders of war crimes or in helping the nation reconcile with its past. While this may be true, Konrad Jarausch, one of the leading historians of postwar Germany, asserts that imperfect though the Nuremberg trials and denazification programs may have been, they still were important ingredients in placing Germany on the road to becoming a successful democracy.¹⁵

Accordingly, there is considerable debate as to whether or not justice was served after the Holocaust. Still, there is widespread agreement that the Holocaust and the subsequent Nuremberg Tribunals left a significant impression on international law. In the film *Nuremberg Remembered*, Ernst Michel, a Holocaust survivor who was a reporter at the Nuremberg trials, remarked about the legacy of the trials:

Was everything perfect? I don't believe so. But, under the circumstances it was the best way of doing it, and hopefully it will be the beginning of future instances like that where the leaders of a government, and we know who they are, are eventually being brought to trial for crimes against humanity. That was the lesson of Nuremberg, and that is why I feel so good 60 years afterwards to be able to talk about it.¹⁶

As Michel expresses, these trials reflected a heightened commitment to international standards of behavior in wartime. Known as the “Principles of International Law Recognized in the Charter of the Nuremberg Tribunal and in the Judgment of the Tribunal,” they were affirmed unanimously by the first General Assembly of the United Nations. As the horrors of the Third Reich unfolded at the trials, people everywhere resolved that such things must never be allowed to happen again. The United Nations was created partly in response to Nazi atrocities, as was the unanimous affirmation of the Nuremberg Principles, making “wars of aggression” and “crimes against humanity” punishable offenses. During World War II, Raphael Lemkin, a lawyer, coined the term *genocide* to describe “crimes against humanity.” It combined a Greek word *gens* meaning “a race or tribe” with the Latin *cide* meaning “to kill.”¹⁷ Thus the word *genocide* refers to the deliberate destruction of a group of people. On December 9, 1948, the United Nations (UN) adopted the Genocide Convention, which classified genocide as a crime under international law. The following day, the UN General Assembly passed the Universal Declaration of Human Rights (UDHR). At the time, Eleanor Roosevelt, the chairperson of the Commission on Human Rights, the group that researched and wrote the document, said:

The Convention on the Prevention and Punishment of the Crime of Genocide (excerpt)

Article I

The Contracting Parties confirm that genocide whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and punish.

Article II

In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group.¹⁸

Man's desire for peace lies behind this Declaration. The realization that the flagrant violation of human rights by Nazi and Fascist countries sowed the seeds of the last world war has supplied the impetus for the work which brings us to the moment of achievement here today.¹⁹

Remarking on the legacy of the Nuremberg trials, Richard J. Goldstone, a justice of the Constitutional Court of South Africa, explains:

I think the most important legacy of the Holocaust is the state that international law is in today. It wouldn't have been, but for the Nuremberg trials. There wasn't such a thing as genocide. Nobody conceived of a crime of that nature. There wasn't such a thing as "crimes against humanity." That wasn't the first time the expression had been used, but it was the first time it had been given legal meaning and content. . . . If Churchill had got his initial way, and the Nazi war criminals had been lined up against a wall and summarily executed, there wouldn't have been a Pinochet extradition in London. We wouldn't have Milosevic standing trial in The Hague. You wouldn't have had the former prime minister and leaders in Rwanda being found guilty of genocide. You wouldn't have systematic mass rape being recognized as an international war crime.²⁰

Sadly, while the Nuremberg trials and the conventions and declarations that followed have resulted in the arrests of perpetrators of crimes against humanity, these legal tools have not lived up to the hope that they would create a world in which genocide would never happen again. Tragically, this honorable promise has failed as several genocides have taken place over the past sixty years. Even today, a genocide rages in Darfur. The Nuremberg trials laid the groundwork for a structure where an international community comes together to address genocide after the fact. Our challenge in the twenty-first century is to create institutions and tools that allow us to stop crimes against humanity while they occur and to nurture a global responsibility of caring that has the power to protect vulnerable children, women, and men so that they do not become victims of genocide.

Related readings in

Facing History and Ourselves: Holocaust and Human Behavior

“Humanity’s Aspirations to Do Justice,” pp. 425–26

“Obedience to Others,” pp. 427–28

“A Man of Words,” pp. 429–30

“Betraying the Children,” pp. 430–31

“We Were Not Supposed to Think,” pp. 432–33

HOW can we help students engage with this material?

Duration: one class period

Materials

Handout 1: Nuremberg trials fact sheet

Handout 2: What do you think?: Justice after the Holocaust

Opener

To prepare students to think about what justice might look like after the Holocaust, begin class by having students define the word *justice*. To help them develop these definitions, you might first ask them to reflect on moments of justice from their own experience by responding to the following prompt in their journals:

Identify a time when someone wronged you or someone you care about. It might be a situation in which you or someone you love was treated unfairly, or it might be an accident that resulted in a loss. After this event, what would have needed to happen for “justice to be served”?

Once students have had the opportunity to respond to this prompt, ask them to complete the sentence, “Justice is. . . .” As students share their responses, record their ideas on the board. Students can come back to these ideas at the end of the lesson.

Main Activities

Explain to students that the purpose of this lesson is to think about the question, “What does justice look like after a horrible event like the Holocaust?” This lesson includes two resources designed to help students answer this question. Handout 1 (Nuremberg trial fact sheet) provides information (eight points) about what was actually done after the Holocaust to achieve justice and related questions. Handout 2 (Justice after the Holocaust: What do you think?) lists the eight points from the Nuremberg trial fact sheet followed by statements that represent some of the main issues that the Allied powers confronted as they tried to figure out how to achieve justice after the war.

There are many ways you could use these materials. You could review the ideas in handout 1 with students, using the questions as prompts for small group or whole class discussion. Many Facing History teachers have found that the Four Corners Activity provides a structure that encourages students to discuss controversial ideas. This teaching strategy requires students to show their position on a specific statement (strongly agree, agree, disagree, strongly disagree) by standing in a particular corner of the room. Handout 2 has been designed to complement the Four Corners Activity.

Directions for Four Corners Activity

1. Label the four corners of the room with signs reading: strongly agree, agree, disagree, strongly disagree.
2. Once students have had a few minutes to consider their personal response to the statements, read one of the statements aloud and ask students to move to the corner of the room that best represents their opinion.
3. After students are in their places, ask for volunteers to justify their position. When doing so, they should refer to evidence from history, especially from material they learned in this unit, as well as other relevant information from their own experiences. Encourage students to switch corners if someone presents an idea that causes a change of mind.
4. After a representative from each corner has defended his or her position, you can allow students to question each other's evidence and ideas. This is an appropriate time to remind students about norms for having a respectful, open discussion of ideas.

As students share their opinions, listen for any misconceptions about the Nuremberg trials or the history of the Holocaust. During the discussion, you can help clarify historical information, answer questions, and add new information about the aftermath of the war. Depending on how much time you have and the length of students' discussions, you can discuss all eight points, or you can decide to focus on four or five of the points.

Follow-Through

After students have had the opportunity to react to all eight statements (even if they do not discuss all of them), ask them to consider what else could happen, besides trying perpetrators in an international criminal court, to help a nation and the larger international community heal after such a devastating event. For ideas about how to answer this question, encourage students to review what they wrote during the opening exercise about achieving justice in their own lives. As students share responses, you can use this as an opportunity to provide them with additional information about justice after the Holocaust. Here are some points you might share:

- Students might be interested to know about the denazification programs administered by the Allied governments after the war. Why might people have believed that ridding Germany of all signs of the Nazis' existence was a good idea? What do students think might have been achieved by removing all signs of Nazism from Germany?
- A few years after the end of the war, Konrad Adenauer, the leader of West Germany, declared that it was acceptable for most Germans to put the past behind them. Why do students think that Adenauer and others suggested that Germans forget and move on with their lives? What does the act of forgetting achieve? Do you think that forgetting is an appropriate response after the Holocaust? Why or why not?
- Action Reconciliation Service for Peace (ARSP) is a German volunteer service organization founded after World War II to confront the legacy of the Nazi regime. The work of German volunteers was intended to serve as a form of atonement—as a way to begin to make up for the crimes committed by the Nazis. Today,

volunteers continue to work on service projects around the world, such as working on memorial sites or cleaning Jewish cemeteries. The mission of the organization has expanded to include helping volunteers take a stand against racism and anti-semitism. What do students think about when they hear about this project? Can providing service be a way to repair the damage caused during the Holocaust? Is this program still important today, even though none of the participants were alive during the Holocaust? Why or why not?

As a final activity, students can return to their definitions of justice from the opening activity. Drawing from the material from this lesson, students can write a working definition of justice in their journals. You could also ask students to complete the sentence “Justice is . . .” one more time. As students share their responses, ask the class to pay attention to how some of their ideas may have shifted after learning more about the complexity of achieving justice after a horrible event like the Holocaust.

Assessment(s)

Students’ responses on handout 2 and their participation in the Four Corners activity also provide evidence of students’ ability to synthesize their understanding of the history of the Holocaust with their conceptions of justice.

Following this lesson, you could ask students to turn in a brief essay in which they respond to the following prompt:

Do you strongly agree, agree, disagree, or strongly disagree with this statement: Justice was achieved after the Holocaust. Explain your answer.

Or, you might give students the option of turning in a brief essay responding to any of the eight statements on Handout 2.

Extensions

- For more information about the Nuremberg trials, refer to the Transitional Justice online module found on Facing History’s website. This informative tool provides background information about the trial, actual testimony from Nuremberg prosecutors and defendants, and commentary about the trial from leading scholars.
- Facing History teachers have also had success with an activity where they ask students to place various individuals or groups on a continuum between “most responsible” and “least responsible” for crimes committed during the Holocaust. Many readings in Chapter Nine of the resource book provide descriptions of men who were tried during the Nuremberg trials. You can also refer to the defendants on the Nuremberg Trial Fact Sheet on the Transitional Justice online module. Individuals used for this activity need not be limited to German perpetrators and bystanders. The list might also include Poles who frequently turned in their Jewish neighbors, Allied military leaders who did not bomb the train tracks leading to Auschwitz, and even U.S. government officials who limited immigration visas to Eastern Europeans.
- A follow-up activity for this lesson might focus on the legacy of the Holocaust and the Nuremberg trials. After the Nuremberg trials, many countries joined together to sign three documents: the Nuremberg Convention, the Genocide Convention, and

the Universal Declaration of Human Rights. The Nuremberg Convention set international rules for how prisoners of war could be treated. The Genocide Convention said it was illegal for countries to kill or harm individuals just because they belonged to a particular racial, ethnic, national, or religious group. The Universal Declaration of Human Rights (UDHR) listed the rights that all people have, regardless of where they live. You can share this information with students and ask them to consider the questions: Do you agree that there are universal rights that should be protected at all costs? What are those rights? Who decides when they are being violated? How should they be protected? For the text of the Universal Declaration of Human Rights, refer to the United Nations' website:

<http://un.org/Overview/rights.html>.

- The 11-minute documentary *Nuremberg Remembered* combines both archival footage and modern-day interviews with trial participants, including members of the legal team for the prosecution and a journalist reporting on the events for the press. To deepen students' understanding of the Nuremberg trials, you can show them this film and ask them to take notes on how these participants describe their experience at the trials. This film can be borrowed from Facing History's library or downloaded from Google video.

Lesson 16: Handout 1

Nuremberg trials fact sheet

After World War II ended with the defeat of Germany in May 1945, the countries that won the war (Britain, France, the United States, and the Soviet Union), asked the question: Should Nazi leaders be punished for the crimes committed during the Holocaust? And, if so, who should be punished? What punishments do they deserve?

1. Winston Churchill, the British leader, thought that Nazi leaders should be hanged. But other leaders thought they should go to trial.

Should those responsible for the Holocaust be killed or jailed? Do the perpetrators have the right to a fair trial in a court of law?

2. The Allied countries agreed to put Nazi leaders on trial for two reasons: 1) to punish those responsible, and 2) to prevent future crimes against humanity. Those who organized the trials wanted future leaders to know that if they acted like Hitler and other Nazi leaders, they would be punished for their actions; they could not just get away with murdering their own citizens.

Is bringing perpetrators to justice in courts an effective way to prevent future crimes? Why or why not?

3. Beginning in November 1945, an international trial—a court case involving many countries—was held in the city of Nuremberg in Germany, so the trials were called the Nuremberg trials. The trials included judges and lawyers from each of the winning countries (Britain, France, the United States, and the Soviet Union). The Nazis held on charges (the defendants) also had lawyers to defend them. Some argued that it was unfair for the Allied powers to bring the Nazis to trial because they had not broken any laws. (At this point, there were no international laws forbidding a government from murdering its own citizens.)

Is it fair for some nations to push their laws on other nations? Should there be an international court that is more powerful than the courts of individual countries?

4. Twenty-four men were indicted (charged with a crime) during the first set of trials at Nuremberg. These included military leaders, Nazi Party leaders, and officers who worked at concentration camps. Hitler and several other Nazi leaders were not indicted because they had committed suicide or escaped at the end of the war. Some lower-ranking officers, soldiers, and bureaucrats who participated in the Holocaust were indicted in later trials. Bystanders also were not put on trial at Nuremberg or in future trials.

Should bystanders be punished along with the perpetrators of the Holocaust? Why or why not?

Lesson 16: Handout 1

Nuremberg trials fact sheet (continued)

5. The defendants were charged with four different crimes. One of these crimes was “crimes against humanity.” One of the men charged with “crimes against humanity” was Julius Streicher. He was Minister of Propaganda of the Nazi Party. He was responsible for spreading hateful lies about Jews in the newspaper and in other forms, such as children’s books.

What qualifies as a “crime against humanity”? What does it mean for a crime to be against humanity? Can words be considered a weapon? Should it be against the law to spread hateful lies? What if these lies lead to violence against innocent children, women, and men? Do those who spread these lies deserve to be punished as much as those who actually pulled the trigger or operated the gas chambers?

6. Many Nazis charged with “crimes against humanity” argued that they were only following orders and that they had not broken any laws by their actions.

Are Nazi leaders and others who were following the laws of their country and the orders of their elected leader, Adolf Hitler, responsible for the Holocaust? Should they be punished for obeying the orders of their superiors, even if those orders contributed to the death of innocent people?

7. Nineteen of the defendants were found guilty. Twelve were sentenced to death by hanging. Seven were given prison sentences. Between 1946 and 1949, many more trials of Germans were held in Nuremberg. In these trials, 97 additional Germans were found guilty of war crimes and crimes against humanity, including business leaders who used slave labor, doctors who conducted experiments on concentration camp victims, and Nazi judges who sent innocent people to concentration camps.

Is it possible to achieve justice for the crimes committed during the Holocaust? Were the trials at Nuremberg an effective way to achieve justice for the crimes committed during the Holocaust? What else could have been done so that “justice could be served”?

8. After the war, the Allied powers also had to consider what Germany should do to “pay back” the survivors of the Holocaust and the families of the victims. After all, the Nazis had taken all of their money and property and had caused immeasurable suffering. A program was set up to provide money (reparations) to those who could prove they were victims of the Nazis, and Germany was supposed to give back stolen property to its rightful owners (if they were still alive).

Should Germany continue to give money to survivors of the Holocaust, the families of the victims, and Jewish organizations, even though most of the individuals living in Germany today were small children or were not alive during the Holocaust?

Lesson 16: Handout 2

What do you think?: Justice after the Holocaust

After World War II ended with the defeat of Germany in May 1945, the countries that won the war (Britain, France, the United States, and the Soviet Union), asked the question: Should Nazi leaders be punished for the crimes committed during the Holocaust? And, if so, who should be punished? What punishments do they deserve? Shade the box that represents your opinion about the statement below.

Fact	Statement	What do you think?
<p>#1 Winston Churchill, the British leader, thought that Nazi leaders should be hanged. But other leaders thought they should go to trial.</p>	<p>Those responsible for the Holocaust should be killed or jailed; they do not have the right to a fair trial in a court of law.</p>	<p>Circle one: Strongly agree Agree Disagree Strongly disagree <i>Explain your choice:</i></p>
<p>#2 The Allied countries agreed to put Nazi leaders on trial for two reasons: 1) to punish those responsible, and 2) to prevent future crimes against humanity. Those who organized the trials wanted future leaders to know that if they acted like Hitler and other Nazi leaders, they would be punished for their actions; they could not just get away with murdering their own citizens.</p>	<p>Bringing perpetrators to justice in courts is an effective way to prevent future crimes.</p>	<p>Circle one: Strongly agree Agree Disagree Strongly disagree <i>Explain your choice:</i></p>
<p>#3 Beginning in November 1945, an international trial—a court case involving many countries—was held in the city of Nuremberg in Germany, so, the trials were called the Nuremberg trials. The trials included judges and lawyers from each of the winning countries (Britain, France, the United States, and the Soviet Union). The Nazis held on charges (the defendants) also had lawyers to defend them. Some argued that it was unfair for the Allied powers to bring the Nazis to trial because they had not broken any laws. (At this point, there were no international laws forbidding a government from murdering its own citizens.)</p>	<p>Since each country has its own laws, citizens should be brought to trial by the courts of their own country. It is unfair for some nations to push their laws on other nations.</p>	<p>Circle one: Strongly agree Agree Disagree Strongly disagree <i>Explain your choice:</i></p>

Lesson 16: Handout 2

Fact	Statement	What do you think?
<p>#4 Twenty-four men were indicted (charged with a crime) during the first set of trials at Nuremberg. These included military leaders, Nazi Party leaders, and officers who worked at concentration camps. Hitler and several other Nazi leaders were not indicted because they had committed suicide or escaped at the end of the war. Some lower-ranking officers, soldiers, and bureaucrats who participated in the Holocaust were indicted in later trials. Bystanders were also not put on trial at Nuremberg or in future trials.</p>	<p>Bystanders allowed the Holocaust to happen. If more people had stood up, rather than looked the other way, millions of lives could have been saved. The bystanders should have been punished along with the perpetrators.</p>	<p>Circle one: Strongly agree Agree Disagree Strongly disagree <i>Explain your choice:</i></p>
<p>#5 The defendants were charged with four different crimes. One of these crimes was “crimes against humanity.” One of the men charged with “crimes against humanity” was Julius Streicher. He was Minister of Propaganda of the Nazi Party. He was responsible for spreading hateful lies about Jews in the newspaper and in other forms, such as children’s books.</p>	<p>Spreading hateful lies that result in harm to individuals is a crime against humanity.</p>	<p>Circle one: Strongly agree Agree Disagree Strongly disagree <i>Explain your choice:</i></p>
<p>#6 Many Nazis charged with “crimes against humanity” argued that they were only following orders and that they had not broken any laws by their actions.</p>	<p>The only person responsible for the Holocaust was Adolf Hitler. Nazi leaders were following the laws of their country and the orders of their elected leader. They should not be punished.</p>	<p>Circle one: Strongly agree Agree Disagree Strongly disagree <i>Explain your choice:</i></p>

Lesson 16: Handout 2

Fact	Statement	What do you think?
<p>#7 Nineteen of the defendants were found guilty. Twelve were sentenced to death by hanging. Seven were given prison sentences. Between 1946 and 1949, many more trials of Germans were held in Nuremberg. In these trials, 97 additional Germans were found guilty of war crimes and crimes against humanity, including business leaders who used slave labor, doctors who conducted experiments on concentration camp victims, and Nazi judges who sent innocent people to concentration camps.</p>	<p>It is possible to achieve justice for the crimes committed during the Holocaust.</p>	<p>Circle one: Strongly agree Agree Disagree Strongly disagree <i>Explain your choice:</i></p>
<p>#8 After the war, the Allied powers also had to consider what Germany should do to “pay back” the survivors of the Holocaust and the families of the victims. After all, the Nazis had taken all of their money and property and had caused immeasurable suffering. A program was set up to provide money (reparations) to those who could prove they were victims of the Nazis, and Germany was supposed to give back stolen property to its rightful owners (if they were still alive).</p>	<p>Germany should continue to give money to survivors of the Holocaust, the families of the victims, and Jewish organizations, even though most of the individuals living in Germany today were small children or were not alive during the Holocaust.</p>	<p>Circle one: Strongly agree Agree Disagree Strongly disagree <i>Explain your choice:</i></p>

Notes

- ¹ Winston Churchill, *Never Give In! The Best of Winston Churchill's Speeches* (New York: Hyperion, 2003), 300.
- ² John Fried, *Trial at Nuremberg: Freedom and Responsibility* (National Project Center for Film and Humanities and The Research Foundation of the City University of New York, 1973).
- ³ "The Impact of Nuremberg on Global Justice and Security: Sovereignty," Robert H. Jackson Center website, <http://www.roberthjackson.org/Man/theman2-6-13/> (accessed January 23, 2009).
- ⁴ "Nuremberg Charges," Truman Library website, <http://www.trumanlibrary.org/educ/blevinsnurembergtrialdefinitions.pdf> (accessed January 23, 2009).
- ⁵ United States Chief of Counsel for the Prosecution of Axis Criminality, *Nazi Conspiracy and Aggression* (Washington, DC: United States War Department, 1946), 768.
- ⁶ *Ibid.*, 699.
- ⁷ *Trials of War Criminals before the Nuremberg Military Tribunals Under Control Council Law No. 10: October 1946–April 1949* (Washington, DC: United States Government, 1949), 435.
- ⁸ Robert E. Conot, *Justice at Nuremberg* (New York: Carroll & Graf Publishers, Inc., 1984), 496.
- ⁹ *Nuremberg Remembered*, DVD (New York: Racing Horse Productions, 2005).
- ¹⁰ Hannah Arendt, *Eichmann in Jerusalem: A Report on the Banality of Evil* (New York: Penguin Books, 1992), 248.
- ¹¹ A. Zvie Bar-On, "Measuring Responsibility," as quoted in *Collective Responsibility: Five Decades of Debate in Theoretical and Applied Ethics*, ed. Larry May and Stacey Hoffman (Lanham: Rowman & Littlefield Publishers, 1991), 258.
- ¹² Christian Pross, *Paying for the Past: The Struggle over Reparation for Surviving Victims of the Nazi Terror* (Baltimore: John Hopkins University Press, 1998), 22.
- ¹³ Neil J. Kritz, *Transitional Justice: How Emerging Democracies Reckon with Foreign Regimes, Vol. 2: Countries* (Washington, DC: United States Institute of Peace, 1995), 61.
- ¹⁴ Victoria Barnett, *For the Soul of the People: Protestant Protest Against Hitler* (Oxford: Oxford University Press, 1992), 231.
- ¹⁵ Konrad H. Jarausch, *After Hitler: Recivilizing Germans, 1945–1995* (New York: Oxford University Press, 2006), 271.
- ¹⁶ *Nuremberg Remembered*.
- ¹⁷ Raphael Lemkin, *Axis Rule in Occupied Europe: Laws of Occupation, Analysis of Government, Proposals for Redress* (Washington, DC: Carnegie Endowment for International Peace, 1944), 79.
- ¹⁸ "Convention on the Prevention and Punishment of the Crime of Genocide," Prevent Genocide International website, <http://www.preventgenocide.org/law/convention/text.htm> (accessed January 23, 2009).
- ¹⁹ Allida Black, *The Eleanor Roosevelt Papers: The Human Rights Years, 1945–1948* (New York: Thomson Gale, 2007), 973.
- ²⁰ Richard Goldstone, *For Humanity: Reflections of a War Crimes Investigator*, VHS (Brookline: Facing History and Ourselves National Foundation), 2001.