

The Unfinished Business of Humanity (1947)

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In April 1947, Justice Robert H. Jackson had been back at the Supreme Court from occupied Germany for less than eight months. For the previous seventeen months, he had served as chief United States prosecutor of the principal Nazi war criminals before the International Military Tribunal at Nuremberg. At the fall 1946 conclusion of that trial, most of the defendants had been convicted of conspiracy, waging aggressive war, committing war crimes and committing crimes against humanity. Ten criminals were convicted, sentenced to death and executed. Another committed suicide. Six others were convicted and sentenced to prison terms. In that year and into 1947, the United States, alone among the World War II allies, continued to prosecute cases (before U.S. military tribunals) at Nuremberg.

Although the principal Nuremberg trial had compiled a voluminous record of Nazi crimes, that evidence was not readily available to the public in spring 1947. Specific facts, including the scope of Nazi efforts to exterminate Europe's Jews, had not yet been understood fully or absorbed generally. The word "Holocaust" had not really been applied in the way that we know and use it. There was not yet a State of Israel; indeed, the ship *Exodus 1947* had not yet embarked for Palestine. There was no *Yom Ha'shoah*, Holocaust Remembrance Day, which in 2008 was observed on May 1st.

There was, following World War II and Nuremberg, deep awareness, including among American Jews, of the approximately 1.5 million Jewish survivors of Nazism and their plight as refugees. In 1946, American Jews raised approximately \$100 million nationwide to assist these refugees. And in early 1947, the United Jewish Appeal of Greater New York, a consortium of organizations, inaugurated a drive to raise at

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least \$65 million—UJA-New York’s part of a drive to raise \$170 million nationwide—for relief, rehabilitation and resettlement of Jewish survivors.¹

The United Jewish Appeal kickoff event in New York was an April 15, 1947, dinner at the Waldorf-Astoria Hotel honoring Justice Jackson for his work at Nuremberg. On that Tuesday evening, 1,500 UJA campaign officers, community leaders and supporters filled the Hotel’s Grand Ballroom. Each received a facsimile “Passport to Life” that depicted a Jewish family of refugees in Europe and described their dire circumstances and needs. Herbert Lehman, former Governor of New York (1933-42) and former Director General of the United Nations Relief and Rehabilitation Administration (UNRRA) (1943-46), chaired the program. He introduced Dr. David de Sola Pool, Rabbi of New York’s Spanish and Portuguese Synagogue, who delivered the invocation. Following singing of *The Star Spangled Banner* and *Hatikvah* and dinner, the attendees viewed *The Will to Live*, a film documenting Jewish refugees fleeing post-War pogroms in Poland, living in crowded displaced person camps in Europe, and emigrating to Palestine and the United States; the film, narrated by Paul Muni, includes appearances by Eleanor Roosevelt, Henry Morgenthau, Jr., Eleanor Roosevelt, Edward Warburg and Chaim Weizmann. Attorney Louis Nizer, chair of the UJA speakers’ bureau, spoke next. He introduced Dr. Stephen S. Wise, president of the American Jewish Congress and the elder statesman of New York’s Jewish community. Rabbi Wise introduced Justice Jackson, who delivered the evening’s principal address. Governor Lehman closed the program with final remarks.²

Justice Jackson, in his speech, focused on what he regarded as Nuremberg’s interconnected lessons for world peace. One lesson was that the United States needed to work actively, and alone if necessary, to establish democracy in Germany and peaceful conduct by it toward other nations. A second lesson was the need for the United States to protect the nations of Western and Central Europe from a resurgent, threatening Germany. If the United States did not assume this role, Jackson explained, the Soviet Union and communism would fill the vacuum. A third lesson

¹ See *5 Campaign Heads Selected By Appeal*, N.Y. TIMES, Apr. 13, 1947, at 39.

² See *United Jewish Appeal of Greater New York, Jackson Asks ‘Immediate’ Aid For Victims of Totalitarianism*, UJA APPEAL 1947 CAMPAIGN JOURNAL, Apr. 16, 1947, at 1, 8. Other newspaper reports on the event include *U.S. Justice Warns of German Perils*, N.Y. TIMES, Apr. 16, 1947, at 13; *Jackson Fears Russia May Get All of Europe*, N.Y. HERALD TRIB., Apr. 16, 1947, at 15; *Reds’ Strategy Vexes Jackson*, N.Y. SUN, Apr. 16, 1947, at 10; and *Jackson Says Reich Turns to Communism*, N.Y. WORLD TELEGRAM, Apr. 16, 1947, at 3.

was the need to prevent Germany's drift into Soviet-style communism (which was, Jackson explained, closer to Nazism, and thus maybe a more natural fit in Germany, than was United States democracy).³

Late in his speech, having sketched starkly the threats that totalitarianism then posed—in the near term to the rights of Jews and other minorities in Europe, and in the longer term (again) to world peace—Justice Jackson spoke explicitly about the human focus of the evening and the UJA campaign:

The end product of totalitarianism is portrayed in the plight of the “displaced persons” of Europe. No people are less responsible for their own misery and helplessness than they. The Nürnberg record tells the ghastly story of how they were torn from their homes and shipped like cattle to serve as slaves in agricultural and industrial production to feed the war machine; how they were overworked and underfed; and how it was deliberately calculated to be cheaper to work these people to death and replace them with new recruits than to nourish them adequately and avoid the turnover of death. The collapse of the Nazi masters left these people in the country penniless, landless and hopeless. They are hated aliens in the land where we now find them and they have become unwelcome aliens in the lands from which they were taken. And there they are, huddled into camps where they cannot stay permanently, with no means to go elsewhere and no place open to them if they had means to go. Adequate justice to these surviving people can never be done; but to keep them existing in suspense is a form of mental torture almost as harrowing as that which the Nazis inflicted.⁴

In his conclusion, Justice Jackson explicitly connected Jewish experiences and suffering to the legal protection of human rights that was Jackson's work, on the Supreme Court and also at Nuremberg:

³ A typed draft and Justice Jackson's reading copy of his speech—the latter marked with slash marks and underlining as reminders to pause and to speak with special emphasis, respectively—are in the Robert H. Jackson Papers, Library of Congress, Manuscript Division, Washington, D.C., Box 44, Folder 10. Jackson's reading copy also is available here: <http://www.stjohns.edu/media/3/55b0a1b3050a46768c6647abc43ddb15.pdf>.

⁴ Justice Jackson's reading copy, p. 13.

On no one do these things[—worldwide fears, travel restrictions and closed borders—] weigh more heavily than on the Jewish people. The record of their persecution, enslavement, murder and extermination is the blackest chapter in modern times. You know that anti-semitism did not surrender in Germany; it is still virulent and ready, when it dares, to pursue the remnants of Jewry left there. You know, too, that anti-semitism is not confined to the German side of the lines and that it afflicts those who live elsewhere in the world. I doubt if anywhere at any time a better protection for minorities has ever been found than in our constitutional Bill of Rights, whatever inadequacies it may have or however faulty its application. The immediate call, of course, is for material relief for those who have suffered or are suffering under the heel of totalitarianism. But no greater service can be performed for the future than that the United States stand uncompromisingly for regimes everywhere in the world which dare to allow freedoms of speech, of press, of assembly and of belief, which dare to ground their claims to rule on public approval and not on secret political police. That has been the underlying principle on which our national life is founded; that is the underlying principle which must guide our conduct of international affairs.⁵

When Justice Jackson returned to Washington following the dinner, he carried with him, and then he preserved in his files at the Supreme Court, his UJA “Passport to Life.” He also continued to carry these many lessons of Nuremberg.

⁵ *Id.*, pp. 14-15. In summer 1947, the Society of the Prevention of World War III, Inc. published the speech as Justice Robert H. Jackson, *Our Number One International Problem*.