

**YAD VASHEM ABSTRACT
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**TEACHING THE LEGAL DIMENSION TO
THE HOLOCAUST: USE OF ARCHIVAL
FOOTAGE, DOCUMENTARIES AND MOVIES**

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Abstract

OVERVIEW

1. This presentation will focus on the use of original archival footage, documentaries and movies as pedagogical tools in teaching the new, emerging field of the legal dimension to the Holocaust.

LAYING PEDAGOGICAL FOUNDATIONS

2. **Defining the parameters of the legal dimension to the Holocaust.**

This comprises, on the one hand, the legal system constructed by the Nazi regime – comprising legislation as well as perversion of the judiciary and court system – as an instrument of waging terror against the Jews; and on the other hand, the response of the international legal system, in bringing perpetrators to justice and then setting up a whole system of international human rights designed to avoid a repetition.

3. Importance of teaching the legal dimension.

- (a) The role of law in the leadup to the Final Solution of the Jewish problem is little known, even less understood.
- (b) The legal dimension carries within it profound lessons for future generations, and for constitutional democracies in the 21st century.
- (c) That is particularly so in the case of lawyers, law students and future lawyers, given that lawyers stand on the “front line” as guardians of the legal system and, at the same time, form a disproportionate concentration of the leadership of many countries.

4. Pedagogical Goals in Teaching the Legal Dimension to the Holocaust:

- (a) Understanding how a legal system can go perversely wrong, if it falls into malevolent hands.
- (b) Understanding how lawyers are capable, while practicing their profession, of committing genocide and crimes against humanity, the two most egregious crimes in the international legal lexicon; and, by extension, how members of every profession, trade and occupation are capable of participating in the most heinous crimes.
- (c) Putting a human face to all of this, both in relation to perpetrators as well as victims.

UTILIZING FILM IN ACHIEVING THE PEDAGOGICAL GOALS

- 5. The focus of the presentation will be on the use of film in two ways: On the one hand, screening of complete documentaries and movies and, on the other, short clips taken from archival footage, documentaries and movies. I have now collected a total of some 30 such clips, and they are stored on four DVDs. The clips range in length from eight seconds to over seven minutes, and they illustrate various themes arising in the framework sketched above. Showing them in the course of a lecture or other presentation is the visual equivalent of writing a text and inserting quotations. Their impact on audiences, whether in the classroom or outside it, confirms the truth in the old adage that a picture is worth a thousand words.
- 6. The following is a list of themes and the manner in which they are capable of being brought to life, per medium of use of film:

INTRODUCTION: SETTING THE SCENE

7. ***Trial Story: Nuremberg Trial: War Crimes on Trial.*** Court TV documentary, produced and introduced by Steven Spielberg.

THE FUEHRER PRINCIPLE

8. Excerpts from ***Triumph of the Will***, Leni Riefenstahl's classic propaganda film, revolving around the Nazi party congress in Nuremberg, September, 1934. **Archival Footage of Rudolph Hess**, at the 1934 party congress, in Nuremberg, proclaiming, "Hitler is Germany, just as Germany is Hitler".

LEGALIZING THE HOLOCAUST: LEGISLATION

9. **Goering Reading Nuremberg Laws.** Archival footage of Hermann Goering, as President of the Reichstag, standing up in the Reichstag, convened in special session in Nuremberg, on September 15, 1935, reading out the Nuremberg Laws, with Hitler sitting just a few feet in front of him, to his right.
10. Excerpt from **Roman Polanski** film, "The Pianist". A handful of minutes, implicating seven or eight different laws.
11. Excerpt from four-part documentary series, **Science and the Swastika**, showing an interview with Mr. Rolf Thurm, who, having been born with deformed limbs, was ordered to be sterilized under the *Law for the Protection of Heredity Health*.
12. Further excerpt from the four-part documentary series, **Science and the Swastika**. Interview with Ms. Monika Domke, a Polish victim of Dr. Carl Clauberg's infamous sterilization experiments in Barrack 10 at Auschwitz.
13. Excerpt from **Stanley Kramer's Film Judgment at Nuremberg**. Scene in which defense counsel (played in Academy award-winning performance by Maximilian Schell) for a leading Nazi judge who was a defendant in the trial depicted in the film, cross examines Rolf Petersen, who was sterilized under the *Law for the Protection of Heredity Health*, albeit for "feeble-mindedness".

LEGALIZING THE HOLOCAUST: PERVERSION OF THE JUDICIARY

14. Archival footage showing **Entrance of Judges to the People's Court**. Short but dramatic scene, showing the judges throwing the "Heil Hitler!" salute, before assuming their places on the bench.

15. Archival footage of **Roland Freisler Presiding Over the Trial of the Plotters Who Attempted to Assassinate Hitler on July 20, 1944**. Freisler, who had the dubious distinction of sentencing some 5,000 people to death, and was described by William Shirer, in his classic masterpiece *The Rise and Fall of the Third Reich*, as a “vile vituperative maniac”, is shown screaming and yelling hysterically at one of the defendants, in decidedly unjudicial and injudicious fashion. The trials were filmed on Hitler’s orders and Freisler was, in significant part, performing for Hitler’s benefit. This and the preceding film clip together demonstrate very graphically that the Nazi judiciary by and large came to lack all semblance of independence, and became a collective mouthpiece for the regime.
16. Archival footage showing the **Sentencing of the Defendants in The Justice Case**. This puts a human face on people who, despite their education and training in the law, committed unspeakable crimes, resulting in untold suffering, misery and death.

THE AURA OF LAW

17. Documentary, **Josef Mengele: Medical Madman of Auschwitz**. This helps draw an analogy between the “aura” of science and the “aura” of law, and helps understand the obsession with legalizing the Holocaust.

NUREMBERG TRIALS

The Uniqueness of the Trials

18. The shortest clip, comprising eight very powerful seconds, shows the presiding judge at the Trial of the Major War Criminals, **Lord Justice Geoffrey Lawrence, Opening the Nuremberg Trials**, solemnly intoning: “The trial which we are now about to begin is unique in the history of the jurisprudence of the world”.

Writing International Law Precedents

19. An excerpt from **Justice Robert Jackson’s Moving and Eloquent Opening**, serves to emphasize a key rationale of conducting trials of Nazi leaders: The object of writing precedents in international law.

Collating the Historical Record

20. Excerpt from the documentary recreation of *The Wannsee Conference*, in which Reinhard Heydrich refers one of the participants to a passage in *Mein Kampf* dealing with the use of poison gas to kill Jews, adding: “Learn to take the Fuehrer at his word”.
21. Excerpts of archival footage of **Cross-Examination of Goering by Justice Jackson and the British Attorney-General, Sir David Maxwell-Fyfe**, showing

how Goering recognized the importance of the historical dimension to the trial, and sought to “write a positive legend” of the Nazi regime, and of Hitler personally.

Trial Tactics

22. Excerpts from archival footage relating to the **Case Against Admiral Karl Donitz** and the **Case Against Ernst Kaltenbrunner**, showing how trial tactics can influence serious cases arising out of the most egregious human rights violations.

Defense of Superior Orders

23. Archival footage, showing **Eichmann Summarizing His Plea of Superior Orders**, very effectively counterpointed by an excerpt from the series **Auschwitz: Inside the Nazi State**, recreating an episode involving an SS Lieutenant, who openly defied orders from superiors.

SIGNIFICANCE OF ARCHIVAL FOOTAGE OF THE EICHMANN TRIAL

24. A two-hour documentary on **The Trial of Adolf Eichmann**, in which original footage of the trial itself is interspersed with archival film of the atrocities with which Eichmann was charged, and interviews with various figures associated with the trial (prosecution counsel, witnesses, prominent spectators).
25. Excerpts from Chief prosecutor **Gideon Hausner’s Opening Address**, setting the scene in powerful and deeply moving remarks.
26. Excerpts from the testimony of a **Witness From Holland**, as well as from the **Testimony of Yehiel Dinur (“Katzetnik”)**, conveying personal accounts of the horrors of their experiences.