
The Eichmann Case *

THE announcement by Prime Minister David Ben-Gurion of Israel on May 23, 1960, of the capture and impending trial of Nazi arch-criminal Adolf Eichmann initiated a chain of events which led, on June 23, to action by the UN Security Council, and a month later, on July 22, to the expulsion of the Israeli ambassador from Argentina.

Adolf Eichmann was commonly recognized to have been Hitler's chief adviser on the "Jewish problem" and in direct charge of killing the Jews of Germany, Austria, Czechoslovakia, Poland, and Hungary. Though not indicted during the Nuremberg trials, he was cited by the Nuremberg tribunal as the person most responsible for the Nazi program of killing the Jews.

Exchange of Notes between Israel and Argentina

In his May 23 announcement to the Knesset, Ben-Gurion said that Eichmann had been discovered by Israel's security services, was under arrest in Israel, and would stand trial there under the law for the trial of Nazis and their collaborators. (This law, enacted in 1950, provided the death penalty for a "person who has committed . . . during the period of the Nazi regime, in an enemy country, an act constituting a crime against the Jewish people.") On the following day, Police Inspector-General Joseph Nahamias, the head of Israel's security service, stated at a news conference that Eichmann had been traced and captured by his agents alone.

For some days after the Ben-Gurion announcement, the place of Eichmann's capture remained a mystery; speculation ranged from various countries in Europe, the Middle East, and Latin America to Israel itself. Then rumors that Eichmann had been captured in Argentina appeared in the press of Israel, Argentina, and other countries.

Responding to these rumors, Argentine Foreign Minister Diogenes Taboada, on June 1, requested that Israeli Ambassador Aryeh Levavi obtain full data on the Eichmann case from his government. Ambassador Levavi responded with a note, dated June 3, dissociating his government from the actual capture of Eichmann. The note explained that the capture had been accomplished by a group of volunteers, including some Israelis, who had removed Eichmann from Argentina and turned him over to Israel's security services; that the Israeli government had first been informed of the capture on May 23, and only later of the place of capture, and that Eichmann had agreed to go to Israel voluntarily to make known the story of his activities in Germany, "in order that the true picture of the facts be transmitted to future generations." The note also conveyed Israel's "regret" for any viola-

* For meaning of abbreviations, see p. 391.

tion of Argentine law or sovereign rights that might have been committed by the volunteers. It asked the Argentine government to take into consideration "the fact that there has been brought before the tribunal the man on whom weighs the responsibility for the assassination of millions of persons belonging to the Jewish people—that the volunteers, themselves survivors of the massacre, placed this historic mission above any other consideration."

The June 3 note, which contradicted Ben-Gurion's May 23 statement that Eichmann had been apprehended by Israeli security services, failed to satisfy Argentina and was quickly followed, on June 8, by a note from the Argentine foreign minister to Ambassador Levavi, conveying Argentina's "most formal protest for the illicit act committed in violation of one of the most fundamental rights of the Argentine state." The Argentine note requested the punishment of the persons who had violated Argentine territory and the return of Eichmann "in the course of the present week." It suggested that if Israel complied, it could apply for Eichmann's extradition "through means contemplated by international law," but it also observed that if extradited on the charge of genocide, he had to be tried either in Germany where the crime took place or before an international court. If Israel did not comply, it warned, Argentina would complain to the UN under the articles of the UN charter pertaining to the "peaceful settlement of disputes." It conceded that Argentina understood the sentiments of the Jewish people in regard to Eichmann, but insisted that this did not alter Israel's obligation to abide by the rules of international law. It rejected as "gratuitous" the charge in the Israeli note to the effect that "numerous Nazis reside in Argentina."

In a conciliatory personal note to Argentine President Arturo Frondizi, dated June 7, Prime Minister Ben-Gurion had expressed the hope that Argentina would place the moral considerations of the case above the technicalities of international law. He described Eichmann's role of executioner of European Jewry, expressed his conviction that "only a very few persons in the world will fail to understand the profound motivation and supreme moral justification of this act," and asked for acceptance of "the expression of our most sincere regret for all the violations of the laws of the Argentine Republic that may have occurred. . . ."

Despite the prime minister's note, Argentina notified the president of the Security Council, Tingfu F. Tsiang, on June 10, of its intention to complain to the council unless Eichmann was promptly returned by Israel. On the same day, Argentina recalled its ambassador, Rudolfo Garcia Arias, from Israel.

On June 14, Foreign Minister Golda Meir met with Mario Amadeo, Argentine ambassador to the UN. She rejected his proposal that Eichmann be kept in custody in the Argentine embassy in Tel-Aviv pending a decision by the International Court of Justice as to which court should try him.

UN Debate

Argentina thereupon, on June 15, submitted a formal complaint to the UN Security Council under Article 34 of the Charter, which provides that

"the Security Council may investigate any dispute, or any situation which might lead to international friction or give rise to a dispute, in order to determine whether the continuance of the dispute or situation is likely to endanger the maintenance of international peace and security."

The complaint stated:

. . . the illicit and clandestine transfer of Eichmann from Argentine territory constitutes a flagrant violation of the Argentine state's right of sovereignty and the Argentine government is legally justified in requesting reparation. That right cannot be qualified by any other considerations, even those invoked by the government of Israel with regard to the importance attaching to the trial of a man accused of responsibility for exterminations, though the Argentine government and people understand those reasons to their full value. Any contrary interpretation would be tantamount to approving the taking of the law into one's own hands and the subjecting of international order to unilateral acts which, if repeated, would involve undeniable dangers for the preservation of peace. . . .

A political question is involved which, apart from gravely prejudicing Argentine sovereignty, constitutes a precedent dangerous for international peace and security, for the maintenance of which the Security Council bears primary responsibility.

The Security Council considered the Argentine complaint on June 22 and 23 in an atmosphere unusually free of rancor and recrimination. All participants in the debate expressed their appreciation of the merits of the positions of both litigants. On the one hand, they acknowledged the justice of Argentina's grievance over the violation of its sovereignty, and that it might set a dangerous precedent to ignore Israel's action. At the same time, they recognized the enormity and uniqueness of Eichmann's crimes and the intensity of feeling engendered by them. The climate was conducive to the ultimate adoption of a compromise resolution designed to appease both Argentine and Israeli sentiment, but not to disturb the *status quo*.

Ambassador Amadeo began his opening statement, on June 22, by referring to the hitherto cordial relations between Argentina and Israel and to the favorable situation of the Jews of his country, who enjoyed full equality of treatment. After reviewing the sequence of events leading up to the complaint to the Security Council, he charged the government of Israel with violation of Argentine sovereignty. He dismissed the "so-called consent" of Eichmann to be taken to Israel, as well as the suggestion that the capture was carried out by volunteers. In accepting Eichmann from the "volunteers" and announcing its intention to try him, he contended, Israel became responsible for their acts. He demanded that Israel condemn those responsible for the capture and make reparations to Argentina.

He based Argentina's complaint on the "illegal exercise of foreign authority on Argentine territory," rather than on Israel's violation of the rules of territorial asylum or of the conventions protecting political refugees:

. . . the principal threat against international peace and security . . . arises out of the great importance of the principle which is compromised because of this violation. This principle is the absolute respect which states

owe to each other and which excludes the exercise of jurisdictional acts in foreign territory. . . . If this principle were to become obsolescent, if each state feels authorized, every time it sees fit to do so, to supplant or replace the authority of another state and take justice into its own hands, international law would rapidly become the law of the jungle. Who can deny that the UN is competent . . . to take the necessary measures that such a state of affairs shall not occur? . . .

He disputed the interpretation of the charter which would limit the intervention of the UN to situations posing imminent danger of a generalized conflict or war. "International peace and security is endangered when there exists a possibility that between two states—even though neither one of the two is a great world power, and even though they are distant geographically—there would arise a situation of hostility which gravely affects their relations."

Although Amadeo did not formally base his complaint on the violation of the concept of political asylum, he did, in fact, refer to this consideration, even making the point that Eichmann had come to Argentina under the very liberal admissions policy from which Jewish refugees had benefited:

. . . in defending our rights we are defending the security of millions of men and women who seek protection outside their native land in order to flee persecution and in order to found a new home. . . . It has not always been easy to separate the ore from the pure metal, but if we had gone into a great investigation of background, perhaps many of those who accuse us today of protecting undesirable refugees would not be alive.

The Argentine representative concluded by formally introducing his resolution, which accused Israel of having violated the sovereignty of another state and sought "adequate reparations" (a term he did not define).

Israel Foreign Minister Golda Meir, who attended the session to represent her government in this debate, denied the presence of danger to international peace and security and challenged the jurisdiction of the council under Article 34.

While reiterating Israel's regret concerning the violations of Argentine law by individual Israelis, she denied any violation of Argentine sovereignty by the government of Israel. She expressed appreciation for the favorable treatment accorded Jews in Argentina, but objected to Amadeo's equating of Eichmann's illegal entry with the admission of Jewish refugees from Nazi oppression. "I find it quite extraordinary that . . . the distinguished representative of Argentina found it possible . . . to speak in the same breath of Eichmann and his victims."

Most of her speech, however, was given to a detailed review of Eichmann's crimes, in the light of which the legal violations entailed in his capture had to be judged. In concluding, she asked Amadeo to define the meaning of the expression "adequate reparation," and expressed her government's view that "the expressions of regret which we have already made to the Argentine government and which were repeated here by me today constitute adequate reparation." In closing, she demanded:

Is this a problem for the Security Council to deal with? Is this a threat to peace—Eichmann brought to trial by the very people to whose total physical annihilation he dedicated all his energies, even if the manner of his apprehension violated the laws of the Argentine? Or did the threat to peace lie in Eichmann at large, Eichmann unpunished, Eichmann free to spread the poison of his twisted soul to a new generation?

The Soviet representative, Arkody Sobolev, while supporting the Argentine complaint regarding the violation of her sovereignty, centered his presentation on the failure of the Western powers to carry out their obligations under agreements made during World War II with regard to the punishment of war criminals. He charged that some of them had found asylum in Argentina and many of them still occupied leading posts in the Federal Republic of Germany, and in the organs of the North Atlantic Treaty Organization.

The representatives of Italy, Ecuador and France, too, while expressing sympathy with Argentina's concern over violation of its sovereignty, acknowledged the special character of the case.

United States Ambassador to the UN Henry Cabot Lodge, similarly, paid tribute to the merits of both positions. He proposed that the Argentine resolution be approved, but with two amendments: one, citing the persecution of the Jews under the Nazis and the concern of people in all countries that Eichmann be brought to justice; and the other expressing the hope that the traditional friendly relations between Argentina and Israel would be advanced.

On June 23, before the vote on the Argentine resolution, the United States representative explained to the council that his support of the resolution was conditioned on the understanding that

. . . adequate reparations will have been made by the expression of views by the Security Council in the pending resolution taken together with the statement of the Foreign Minister of Israel making apology on behalf of the government of Israel. We therefore think that when we have adopted the pending resolution adequate reparation will have been made, and that the incident will then be closed. The normal, friendly relations between the two governments can then progress.

This "understanding" was also endorsed by the representatives of the United Kingdom and France. Following the vote, the Soviet representative expressed his understanding that the term "reparation" could never be used as a basis for demanding the return of Eichmann to Argentina.

The resolution was adopted by a vote of 8-0, with the Soviet Union and Poland abstaining; the nations voting for it were the United States, United Kingdom, France, Ceylon, Nationalist China, Italy, Ecuador, and Tunisia. As adopted, the preamble to the resolution, including the United States amendment, read:

Mindful of the universal condemnation of the persecution of the Jews under the Nazis and of the concern of people in all countries that Eichmann should be brought to appropriate justice for the crimes of which he is accused. . . .

The operative paragraphs of the resolution read as follows:

The Security Council . . .

1. Declares that acts such as that under consideration, which affect the sovereignty of a Member State, and therefore cause international friction, may if repeated, endanger international peace and security;
2. Requests the government of Israel to make appropriate reparation in accordance with the Charter of the United Nations and the rules of international law;
3. Expresses the hope that the traditionally friendly relations between Argentina and Israel will be advanced.

With the adoption of the resolution world-wide attention to the dispute diminished. However, friction between Argentina and Israel continued. On June 28 Argentina sent Israel a note asking for an official statement of intent regarding the council's recommendation for "adequate reparation." On July 5, Israel replied with a note citing the "understanding" of the major supporters of the council resolution and asking that Argentina consider the case closed. On July 22, Argentina declared Israeli Ambassador Levavi *persona non grata*. On July 23, Israel expressed official "regret" over the expulsion of its ambassador. On July 25, Shabbethai Rosenne, legal adviser to the Israel Foreign Ministry, arrived in Argentina to try to rectify relations between the countries.

On August 4, both governments issued a joint statement announcing that the "incident" between them was closed. The statement said that the two governments had been "animated by the wish to comply with the resolution of the Security Council of June 23, in which the hope was expressed that the traditional friendly relations between the two countries will be advanced." The statement made no reference to the "adequate reparation" that Argentina had been demanding.

On October 17, 1960, diplomatic relations between Argentina and Israel were officially resumed after a four-month break, with Joseph Avidar as Israel's new ambassador to Argentina, and Rogelio Iristany as the new Argentine ambassador to Israel.

Legal and Moral Issues

Besides causing a temporary rift in the hitherto friendly relations between Israel and Argentina, the circumstances of Eichmann's capture provoked many political passions. The debate, which for a time occupied the attention of the world press and other news media, confronted the critics and supporters of the Israeli position with highly ambiguous and complex legal and moral issues.

It revealed, in the minds of most of the disputants, a confusion of questions of international law with those of domestic law, and of law with morals. In dispute were issues of jurisdiction, retroactivity of penal legislation, the right to represent the Jewish people, the use of admittedly improper means to accomplish an admittedly proper end, and others.

Critics of the "legality" of Israeli conduct leveled, among others, the following charges: since the means used to apprehend Eichmann were illegal, Israel had no valid jurisdiction over him; under the "territorial" principle Eichmann could be properly tried only in the jurisdiction where his crimes had been committed, namely, Germany—some acknowledged that other countries of Central and Eastern Europe might claim jurisdiction—but not in Israel, which did not even exist when the crimes were committed; Israel was not entitled to jurisdiction even under principles of jurisdiction with lesser status than the "territorial" principle, such as the principles of "active nationality" (country of nationality of the accused) or "passive nationality" (country of nationality of the victims); it was improper to try Eichmann under Israel's Nazi and Nazi Collaborators Law of 1950, which, having been enacted years after the commission of Eichmann's crimes, was an *ex post facto* law; Eichmann should be tried by an international tribunal; Israel had no legal—some also said, moral—right to represent the Jewish people, but only her own citizens.

Apart from the strictly legal criticisms, a charge of immoral conduct was leveled against Israel, namely, that it had resorted to espionage and invasion of another state's sovereignty, which constituted immoral means even if the end—the apprehension of an internationally wanted criminal—was proper. It was also urged that it was in the interest of Israel itself and of Jews everywhere to make clear that it was against humanity as a whole, and not simply against Jews, that Eichmann's crimes had been directed. A trial before a German court or an international tribunal would have this significance in a way that a trial in Israel would not.

Spokesmen for and supporters of Israel defended its action on various grounds, legal and moral. They stressed the distinction between international and domestic law, pointing out that there exist no accepted rules of international law limiting the penal competence of national courts, which are free to establish their own standards. Thus, international law does not deny jurisdiction to a state because it did not comply with regular extradition procedures, or because in the process of apprehending an accused, it violated the domestic law of another state. Further, it is the accepted position in the fundamental law of most states, the United States included, that the manner in which a criminal suspect is brought before a court has no bearing on the right to try him.

As to the several principles of jurisdiction that have achieved some recognition in international law ("territorial," "active nationality," "passive nationality," "universal crime"), defenders of the Israeli action suggested an analogy between Eichmann's crimes (which were in the class of "universal crimes" which placed him in the category of "enemies of the human race") and the crime of piracy, in relation to which, by international law, all national courts have jurisdiction. By this standard, Israel can claim jurisdiction as a member of the international community, and need not even confront the question of its right to speak in the name of the Jewish people. (In support of this position, the Moscow Declaration of 1943 was cited, to the effect that the Nazi crimes did not constitute crimes of any "specific

geographical locality," and hence that the "territorial" principle did not apply.)

Moreover, the Israeli reasoning proceeded, if necessary, Israel's jurisdiction could be defended even under the "territoriality" and "passive nationality" principles. The rationale of the first, based as it is on the proposition that the best place to try a crime is the territory where it was committed—since most of the witnesses and evidence are likely to be there—is applicable to Israel. For even though the crime itself was not committed within its boundaries, the greater part of surviving witnesses and evidence are to be found there. As to the "passive nationality" principle, more surviving victims are located in Israel than in any other country.

The Israeli spokesmen also denied that Eichmann would be tried under an *ex post facto* law, inasmuch as the Nazi and Nazi Collaborator Law of 1950 was "declaratory" and not "constitutive"; that is, it merely restated pre-existing international law in the language of national legislation. The act in question—murder (genocide)—obviously had not been designated a crime for the first time in 1950, but had been recognized under all prior legal systems, in every age and continent. Hence, the accused could not claim that at the time he perpetrated his acts he did not know they were wrong. His crimes were merely codified—"declared" not "constituted"—in the Nuremberg Charter, the principles of which, in turn, were translated into domestic law by Israel in 1950.

Furthermore, they pointed out, the *ex post facto* rule applied only to statutory and not to customary law, and international penal law is by its nature customary. Moreover, even if it is *ex post facto*, a sovereign state is not stopped by international law from making laws with retroactive effect.

The assertion that Eichmann should be tried by an international tribunal was refuted as unrealistic by the Israelis, who pointed out that the jurisdiction of the present International Court of Justice is limited only to disputes between states; that the Nuremberg tribunals had been disbanded a decade earlier; that proposals for establishing a new permanent international criminal court had made no headway, and that, in the course of the Security Council debate, not one member had proposed the latter measure. They also rejected the implication that they had prejudiced, by their action, the right of refuge. In this connection, they cited article 14 of the Declaration of Human Rights, which explicitly excluded war criminals from the protection of this right.

On the moral question, they pointed out that Israel had every right to act on behalf of the six million murdered Jews and their survivors, which right, incidentally, was acknowledged by West Germany when it signed a special reparations agreement with Israel. The fact was that, except for Israel, no other nation had manifested any particular interest in seeking out Eichmann and bringing him to justice. As to the manner of apprehension of Eichmann, it would be even more immoral to permit such a criminal to remain unpunished.

Finally, the Israelis asserted, their main object was not to punish Eichmann—for no merely human punishment could be great enough—but rather to

use his trial to spread on the historical record the authentic history of the Nazi crimes against the Jews in its full magnitude and horror, which had not yet been done and which only an Israeli court could be relied on to do adequately.

Editorial Opinion

Discussion of the affair in the press and elsewhere, during June and July 1960, was complicated by the absence of certainty or clarity concerning the legal issues involved.

Editorial comment ranged from approval or condonation of Israel's role to severe condemnation. Thus the *New York Herald Tribune* (June 11) viewed the Israeli position sympathetically, noting that Eichmann had shed Jewish blood, that Israel had cared enough to track him down, and could be expected to give him a fair trial. To raise the question of a trial in West Germany, it warned, would invite the possibility of an East German claim to jurisdiction and would also stir up harmful divisions and recriminations in West Germany. Furthermore, it argued, a trial before a reconstituted Nuremberg tribunal would be fraught with many difficulties, including the practical one of reassembling such a court and the certainty that the Communist states, which would be represented, would seek to exploit the trial for their own ends.

In contrast, the *Washington Post* (May 27) opposed a trial in Israel, charging that everything connected with the proceeding against Eichmann was "tainted by lawlessness": the abduction violated international law; the crimes were committed not in Israel but in Germany and Austria; Israel could try Eichmann only under *ex post facto* statutes; Israel had no authority to speak for Jews elsewhere or in the name of some "imaginary Jewish ethnic entity."

The *New York Times* (June 18) urged trial by an international tribunal:

... for it was not against Israel but against humanity that his [Eichmann's] crimes were committed. Or, as we suggested as an alternative, he should be handed over to the Germans for trial, for it was in German-controlled territory and through the instrumentality of Germans that he carried out his monstrous acts against the Jews—against humanity. A clear violation of Argentine sovereignty and of international law was carried out at least with the connivance of the Israel government, a violation that cannot be condoned irrespective of the heinousness of Eichmann's crimes. Premier Ben-Gurion refers to the supreme moral justification of this act. He is wrong. No immoral or illegal act justifies another. The rule of law must protect the most depraved of criminals if it is also to stand as a bulwark against the victimization of the innocent.

The *New York Post*, on June 2, editorialized:

Eichmann should be tried in Germany by the German Republic. Technically he committed no crime on Israeli territory, and he was illegally brought there. But beyond these legal considerations, he should be turned over to German justice for political and psychological reasons crucial to

the morality theme of this drama. . . . We believe Germany needs the educational value of such a trial far more than Israel.

In Britain several newspapers, including the Conservative *Daily Mail* and *Yorkshire Post* and the Liberal *Manchester Guardian*, supported Israel's claim to try Eichmann in Israel, even though his crimes did not take place in Israel and he was not an Israeli national.

The Soviet press, too, sided with Israel, using the opportunity to revive charges of fascism against members of the West German government. The Polish press was even stronger in its support of Israel's right to try Eichmann.

Israeli View

The dominant and official Israeli view on the disposition of Eichmann was best expressed in a letter, dated June 2, from Prime Minister Ben-Gurion to Nahum Goldmann, president of WZO and WJC, in which the prime minister dissented from Goldmann's May 31 proposal that Israel turn Eichmann over to an international tribunal for trial. Ben-Gurion wrote:

Historic justice and the honor of the Jewish people demand that his trial should be done only by an Israeli court in the sovereign Jewish state. This was the decision of the government of Israel and the opinion of the entire Jewish people in its land. . . .

Ben-Gurion criticized the argument that it was not only the Jews who suffered at the hands of the Nazis. The Nazis, he wrote, suffered retribution in World War II for the crimes they committed against the world as a whole, but they received no special retribution for their unique program against the Jews:

. . . a specific and unparalleled act, an act designed for the utter extermination of the entire Jewish people.

It is therefore the duty of the State of Israel, the only sovereign authority in Jewry, to see that the whole of this story, in all its horror, is fully exposed, without in any way ignoring the Nazi regime's other crimes against humanity, but as a unique and unexampled crime, unparalleled in the annals of mankind, and not as one particular crime out of many.

In an earlier letter, on May 27, Ben-Gurion wrote to a member of the Keneset: "The facts should be known and remembered by the youth of Israel, who have grown up and received their education after the holocaust and whose ears only a faint echo of that atrocious crime, unparalleled in history, has reached." He also predicted that the trial would show the world that the Arabs who plot the destruction of Israel are actually disciples of the Nazis.

SIDNEY LISKOFKY



International Swastika Outbreak

LATE on December 24, 1959, two 25-year-old men defaced the recently re-dedicated synagogue of Cologne, West Germany. Both were tried before a German court and convicted on February 6, 1960. During the trial they delivered violent antisemitic diatribes.

Despite vigorous and widespread denunciation by government and civic leaders, similar incidents followed in other parts of West Germany and in other countries. In several West German towns, Jewish homes and institutions were smeared with swastikas. A few incidents were reported in East Germany. Some West German officials charged that the incidents in West Germany were provoked by Soviet agents seeking to damage the Federal Republic's reputation.

Vienna's only synagogue was besmirched with "Juden Raus" ("Jews get out"). Several London buildings housing Jewish organizations were similarly defaced, and a number of Jewish members of the British parliament received telephoned threats. In Italy, "Morte" appeared on walls; a Milan rabbi received a death threat; police seized large quantities of Nazi literature, and arrested 20 youths calling themselves the New European Order. In Amsterdam, Holland, five prominent Jews were sent swastika-embellished notes proclaiming, "Jews are not wanted." In Vancouver, Canada, the editor of an English-language Jewish newspaper was anonymously warned, "We're going to make soap out of you." In Brazil, "Viva Hitler" was inscribed on the walls of buildings. In Oslo, Norway, a foot-high swastika was carved on a factory entrance, while a painted caption, "Potsdam Jewish shopkeeper," defaced a statue of Franklin D. Roosevelt. Storekeepers in Johannesburg and Durban, South Africa, found anti-Jewish leaflets posted on their windows. Swastikas were scrawled on store windows in Hong Kong.

In the United States on January 3, a large swastika was painted on New York's noted Temple Emanu-El. Similar incidents followed swiftly, in small towns as well as large cities. Synagogues, churches, stores, libraries, schools, and tombstones were smeared with "Heil Hitler," "Jews get out," and similar markings.

Precise statistical data for individual countries and for the world are unavailable, partly because of haphazard reporting and partly because of the ambiguity of "incident." Acts of one kind or another, ranging from crude scrawls to serious defacements and threats of bodily harm, were reported in 34 countries. Estimates of the number of incidents ranged from 500 in all countries (see p. 212) to 685 in West Germany alone (see p. 261). Incidents continued to be reported, on a smaller scale, in the following weeks.

Causes

Despite the difficulty in obtaining conclusive figures and properly weighing the relative significance of different types of acts, opinion as to cause and motivation appeared to converge on two opposing hypotheses. The first was that the outbreaks were brought about by organized antisemitic activity, especially by neo-Nazi political parties and groups, centered in West Germany and operating separately or in contact with antisemitic groups in other countries. Holders of this view saw in the outbreaks a political attack by neo-Nazis on the West German government and the Western alliance generally. There was no solid evidence of any organizational connection between the various incidents.

The second hypothesis was that, however the first incidents came about, their rapid geographic expansion was due to unorganized and spontaneous activity by unstable elements, mainly youths. The avidity with which those elements seized upon the swastika was explained by some as an expression of juvenile delinquency, and by others as an imitative or faddist response aggravated by overdramatic treatment in the press and other mass media.

Proponents of the juvenile-delinquency theory in the United States pointed to the existence, for some years before 1960, of several neo-Nazi student groups among high-school and even primary-school children in widely separated communities. They cited the fact that of the approximately 150 offenders apprehended in the United States during the swastika outbreak, almost all were below the age of 21, the median age being 15-16, with some as young as 9 or 10. According to their hypothesis, the primary motive of these children and youths was to perform antisocial acts, with swastikas and racist slogans serving merely as variations of the obscenities adolescents scrawl on walls to express defiance.

Those who fixed the blame on the mass media cited the extensive and highly dramatic news coverage given to the initial incidents. In their view, this provoked imitative behavior on the part of unstable, bigot-minded, and publicity-craving elements.

Condemnation

Regardless of hypothesis, there was a consensus among informed observers that the outbreak revealed the existence of a considerably greater amount of latent antisemitism than had been suspected.

A heartening aspect of the otherwise distressing swastika outbreak was the reaction it evoked in almost all countries. Heads of government and other high officials; religious, labor, and civic leaders; editorial writers and radio and television commentators—all joined in unqualified condemnation. In some countries, authorities instituted special police measures to apprehend the perpetrators of the incidents and to prevent their recurrence.

The World Council of Churches, representing 171 Protestant, Anglican, and Eastern Orthodox denominations and groups, expressed from its Geneva headquarters, on January 6, the hope that "this dangerous recrudescence of antisemitism may be suppressed from the outset." The Council's statement

also expressed regret that "after all the Jewish people have gone through in recent times, once again they should become the target of mischievous anti-semitic propaganda."

In West Germany reactions of dismay and outrage were speedy and strong, and various courses of remedial action were proposed (see p. 260). In Austria, too, laws were proposed to deal with group defamation. In France and Great Britain rallies and marches were held to protest the incidents. In Latin America the incidents elicited vigorous condemnation from the highest officials and leaders of political parties, churches, labor unions, and the press.

Denunciation in the United States came from government, churches, labor, the press, and civic groups. The bishops of the administrative board of the National Catholic Welfare Conference called on "all citizens, whether Christians or Jews," to protest privately and publicly against further manifestation of bigotry, and deplored "any revival of the antisemitic prejudice which in its earlier manifestation culminated in such terrible disaster." In various communities officials instituted preventive and punitive measures; in New York City the Mayor and police commissioner designated special officers to deal with the situation and asked the Commission on Intergroup Relations to give it top priority. Some school boards undertook to examine what was taught to high-school students about the Hitler era.

UNITED NATIONS INQUIRY

The swastika outbreak led to the placing of the problem of antisemitism—its manifestations, causes and motivations—on the agenda of the United Nations. At the peak of the outbreak, the 12th session of the UN Subcommittee on Prevention of Discrimination and Protection of Minorities met in New York.

The subcommission, whose members served as individual experts rather than as representatives of governments, had been engaged for some years in a series of worldwide studies of racial, religious, and other forms of discrimination in education and employment, religious and political rights, and emigration and travel. It had sought to assemble facts regarding *de jure* and *de facto* discrimination, to analyze their causes, and to develop programs for eliminating them. The problem of antisemitism was clearly relevant to those studies, as it was to other aspects of the subcommission's program—for example, "Measures to be Taken for the Cessation of any Advocacy of National, Racial, or Religious Hostility that Constitutes an Incitement to Hatred and Violence. . . ."

On January 7, 1960, the International League for the Rights of Man asked that the subcommission, whose 12th session was about to open, adopt a resolution "condemning the present incitements to hatred and violence" and "undertake an inquiry into the origin and purposes of the present movement in those countries where it has already been reported." The league's proposal received enthusiastic support from other nongovernmental organizations, Jewish and non-Jewish, including WJC and the Consultative Council of Jewish Organizations (CCJO), and from the members of the subcommission.

UN Resolution

On January 15, Judge Philip Halpern of the United States, together with the subcommission members from the United Kingdom, France, Austria, Uruguay, and Finland, introduced a draft resolution on "condemnation of manifestations of antisemitism and other religious and so-called racial prejudices, and recommendations with respect to them." Discussion began on January 27. Judge Halpern pointed out that according to the last count, about 500 incidents of antisemitism had occurred in 34 countries. The general tenor of the resolution was supported by all the members.

In a letter to the subcommission on January 26, Ambassador Werner Dankwort of the Federal Republic of Germany expressed his government's support of the resolution and pledged its cooperation with the inquiry. He also expressed the indignation of the German government and people over the antisemitic manifestations. A communication from the National Council of the National Front of Democratic (i.e., East) Germany was submitted by the Polish representative to the UN, attributing the manifestations to the growing influence of Nazi elements in West German government and society. Orally and in writing, the representative of Israel expressed concern over the manifestations and supported the proposal for a UN inquiry, as did such nongovernmental organizations as CCJO, WJC, and the International Federation of University Women.

The resolution was unanimously adopted on January 28 and sent to the subcommission's parent body, the Commission on Human Rights, for approval. With some minor changes, the commission unanimously approved the resolution at its 16th session in Geneva on March 16, 1960. The commission's resolution noted with deep concern "the manifestations of antisemitism and other forms of racial prejudice and religious intolerance of a similar nature which have recently occurred in various countries and which might be once again the forerunner of other heinous acts endangering the future." It condemned those manifestations as violations of the principles of the UN Charter and of the Universal Declaration of Human Rights and urged member states of the UN and of the specialized agencies "to take all appropriate action to prevent effectively such acts and to punish them where they have been committed." It called upon public authorities and private organizations "to make sustained efforts to educate public opinion with a view to the eradication of racial prejudice and religious intolerance reflected in such manifestations and the elimination of all undesirable influences promoting such prejudices. . . ."

The resolution went on to request the UN secretary general "to arrange, in consultation with the governments of States Members of the United Nations and of the Specialized Agencies in whose territory such manifestations have occurred, UNESCO, and nongovernmental organizations in consultative status, to obtain any information or comments relevant to such manifestations and public reactions to them, the measures taken to combat them, and their causes or motivations."

The secretary general was requested "to transmit all the above information

and comments" to the members of the subcommission, who, in turn, were requested, at the next session, "to evaluate the materials received in response to the above requests, to draw such conclusions therefrom as seems to be justified, to recommend such action as seems desirable, and to report thereon to the Commission on Human Rights."

Although the resolution was adopted unanimously, there hovered in the background of the commission's discussion a key political issue. This was whether the resolution would be exploited by the Soviet Union as a propaganda instrument against West Germany. There was also the question whether the resolution would be used to direct world attention to manifestations of antisemitism in the Soviet Union. In addition, there was some sentiment in the commission that the seriousness of the antisemitic manifestations had been exaggerated and that the resolution should have been limited to condemnation, without an inquiry.

SIDNEY LISROFSKY