THE FOLLOWING QUESTIONS AND COMMENTS SHOULD HELP YOU TO PREPARE FOR THE DISCUSSION OF JUDGMENT AT NUREMBERG AND OF HOW THE LESSONS OF THESE TRIALS RELATE TO ISSUES THAT WE DISCUSSED EARLIER IN THE SEMESTER:

SOME QUESTIONS AND ISSUES RAISED BY THE FILM JUDGMENT AT NUREMBERG

1) WHY DOES ERNST JANING CHALLENGE THE AUTHORITY OF THE TRIBUNAL TO TRY HIM AND THE OTHER JUDGES? WHERE DOES THE TRIBUNAL’S AUTHORITY—AND ITS LEGITIMACY—COME FROM?

2) WERE THE NUREMBERG TRIALS JUST “VICTOR’S JUSTICE?” DID THEY APPLY A CLEAR AND EXISTING INTERNATIONAL LAW? WAS THERE A VIOLATION OF THE PRINCIPLE THAT PERSONS CANNOT BE TRIED FOR BEHAVIORS THAT WERE NOT CRIMINAL AT THE TIME THAT THOSE BEHAVIORS WERE COMMITTED?

3) WHAT DOES DEFENSE COUNSEL, HERR ROLF, MEAN WHEN HE SAYS THAT THE TRIBUNAL IS CREATING A CODE OF JUSTICE THAT THE WHOLE WORLD CAN BE RESPONSIBLE TO? IN WHAT SENSE CAN LAW BE MADE BY COURTS AS OPPOSED TO LEGISLATIVE BODIES?

4) THE PROSECUTOR ARGUES THAT DEFENDANTS WERE GUILTY OF “CRIMES COMMITTED IN THE NAME OF THE LAW.” HOW IS IT POSSIBLE FOR THE LAW TO VIOLATE THE LAW? BY WHAT STANDARD CAN WE JUDGE LAW TODAY?

5) DEFENDANT HOFSTEDLER CLAIMED THAT HE WAS DOING WHAT EVERY JUDGE MUST DO, CARRYING OUT THE LAW. HERR ROLF ALSO REFERS TO THE ROLE OF JUDGES, SAYING THAT THEY MUST NOT MAKE THE LAW, BUT RATHER CARRY IT OUT REGARDLESS OF WHETHER DOING SO IS JUST. CAN A JUDGE REASONABLY BE HELD CRIMINALLY RESPONSIBLE FOR APPLYING THE LAW OF HIS OR HER COUNTRY? DOES A “Patriot” carry out the law of the country or follow justice when the two are in conflict? DOES IT MATTER HOW UNJUST THE LAW IS?

6) HERR ROLF SAYS THAT IF THE DEFENDANT JUDGES ARE TO BE FOUND GUILTY THEN OTHERS ARE GUILTY TOO—THE POPE, THE SOVIET UNION, THE AMERICAN INDUSTRIALISTS WHO PROFITED BY RE-ARMING HITLER. WHAT SHOULD THE INTERNATIONAL COMMUNITY’S REACTION BE TO THESE FORMS OF SUPPORT FOR CRIMES AGAINST HUMANITY?

8) WHAT DOES JUDGE HAYWOOD’S CLOSING LINE—“IT CAME TO THAT THE FIRST TIME YOU SENTENCED TO DEATH A MAN YOU KNEW TO BE INNOCENT”—TEACH US ABOUT THE HOLOCAUST? ABOUT LAW? ABOUT THE RESPONSIBILITIES OF JUDGES?

9) DID THE GERMAN PEOPLE—“THE LITTLE PEOPLE”—HAVE AN OBLIGATION TO KNOW WHAT WAS HAPPENING DURING THE WAR AND TO RESPOND? OR IS PART OF THE TRAGEDY OF WAR THAT ATROCITIES MAY BE COMMITTED IN THE NAME OF THE PEOPLE OR OF PATRIOTISM OR OF NATIONAL SECURITY, WHILE THE PEOPLE HAVE NO ABILITY TO PREVENT THESE ATROCITIES? WHAT ARE AMERICANS’ RESPONSIBILITIES FOR ACTS OF WAR COMMITTED IN OUR NAME? CONSIDER, FOR EXAMPLE VIETNAM, OR THE WAR AGAINST TERRORISM OR GUANTANAMO OR ABU GHRAIB OR OTHER ACTS BY AGENCIES OR ALLIES OF THE U. S. WHERE DOES THE IDEA OF AND NEED FOR “NATIONAL SECURITY” FIT INTO THIS PICTURE?

10) WHAT READINGS (OPTIONAL OR REQUIRED), OR DISCUSSIONS, EARLIER IN THIS SEMESTER HELP YOU TO UNDERSTAND THE NUREMBERG TRIALS? WHAT ISSUES OF LAW AND SOCIETY ARE RAISED BY THE EARLIER READINGS THAT ARE ALSO SEEN, IN A PERHAPS EXAGGERATED WAY, IN THE NUREMBERG TRIALS?

   CONSIDER ALSO THE SIGNIFICANCE OF THE FOLLOWING:

   A) THE BERLIN BLOCKADE AND THE PRESSURE ON JUDGE AND PROSECUTOR TO GO EASY ON THE GERMAN DEFENDANTS.

   B) THE PERSONAL, LEGAL, AND HISTORICAL SIGNIFICANCE OF JANNING’S “CONFESSION” ON THE WITNESS STAND.

   C) THE STATEMENTS ABOUT INDIVIDUAL RESPONSIBILITY BY THE TRIBUNAL JUDGES, BOTH BEFORE ARRIVING AT THEIR DECISION AND WHEN THEY DELIVERED THEIR VERDICT.

   D) THE VALUE LAW SHOULD ASSIGN TO A SINGLE HUMAN BEING IN A WORLD OF SIX BILLION PEOPLE CHARACTERIZED BY ENORMOUS CONCENTRATIONS OF ECONOMIC, POLITICAL, MILITARY, RELIGIOUS, AND MEDIA POWER.

   E) THE RELEVANCE OF THE NUREMBERG TRIALS TO TODAY’S WARS, CRIMES AGAINST HUMANITY, AND INTERNATIONAL TRIBUNALS.

   F) IN ORDER TO INQUIRE FURTHER INTO THIS ISSUE, CONSIDER THE INTERNATIONAL CRIMINAL COURT (ICC) THAT HAS BEEN ESTABLISHED BY UN TREATY. IS THIS A WORTHY SUCCESSOR TO THE NUREMBERG TRIALS? WHY HAS THE U.S. NOT ONLY OPPOSED THE TREATY ESTABLISHING THE ICC, BUT TRIED TO FORCE OTHER NATIONS TO EXEMPT U.S. CITIZENS AND MILITARY PERSONNEL FROM THE ICC?


   http://www.usaforicc.org/facts_america-icc.html