

EICHMANN TRIAL AND JEWISH ETHICS

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The Eichmann trial gives rise to a number of weighty moral problems. There is patently no parallel in history to a Jewish court trying a man accused of crimes against humanity on anything like the horrific scale of this case.

There can be, therefore, no direct guidance from the past, but it is possible indirectly to apply sound and basic Jewish moral principles to the Eichmann situation.

Since Eichmann has been captured and is to stand trial there is little purpose now in discussing the ethics of the capture, of what is now a fait accompli. It might be questioned, for instance, whether the aim of proclaiming to the world the horror of Nazism is best served by a trial where the guilt of the accused has already been accepted by most of us (is it really possible for the judges to remain unaffected?). But again, this course having been decided upon by the Government of Israel, a discussion would be solely academic.

The chief questions to be considered are: 1) Does Jewish law give a court the right to try Eichmann?; 2) In the Jewish view, is the proceeding against Eichmann an act of vengeance, and if so, is it morally justifiable?; and 3) If Eichmann is convicted should he be executed for his crimes?

It is everywhere assumed in Jewish sources that only a fully constituted Sanhedrin, composed of specially ordained scholars (Sannukhim), has the right to try capital charges. Since the ceremony of ordination has long been abolished and the attempts made to revive it have met with no success, no Jewish court, nowadays, has the right, according to the strict letter of the law, of trying capital charges. However, as an emergency measure (where, in the words of the rabbis, "the times require it"), Jewish

the words of the rabbis, "the times require it"), Jewish courts may pronounce capital sentences (Sanh. 46a, Maimonides, Yad, Sanh. xxiv. 4). It is well known that Spanish Jewry in the Middle Ages exercised this right, sometimes to the scandal of Jews in other lands. Although many authorities argue that these emergency measures apply only to a court accepted by the community as a whole, it can be plausibly suggested that the present court trying Eichmann does meet, for this purpose at least, with the approval of the vast majority of Jews and therefore possesses the right to try him.