

# When a just cause is just too much to bear

**ON THE  
OTHER HAND**  
*Chaim Bermant*



**W**HEN the War Crimes Act was placed before Parliament in 1989, I said that it would provoke a great deal of rancour without bringing a single war criminal to justice, which is precisely what has happened.

It led to angry debate in the House of Commons, where it was passed, and an even angrier one in the Lords, where it was defeated. It had to be returned to the Commons for a further vote, and further acrimony — to say nothing of heated exchanges in the press — before it finally became law.

The war crimes unit set up under the act has not been killed, but no-one is striving to keep it alive. It has emerged that it will receive no more money from the Home Office after March 31, though the Metropolitan Police can draw on its own budget to continue the investigations and arraign likely suspects.

The investigation expenses are a

The investigation expenses are a minor matter, but the cost of a trial, with witnesses brought in from the ends of the earth, would be colossal. I cannot see it taking place and I have little doubt that the unit will be wound up in the next few months.

Australia, which had its own war crimes unit, did get as far as two court hearings, but the accused in both cases were discharged, and the unit was disbanded last year.

Ephraim Zuroff, the Jerusalem representative of the Wiesenthal Centre, has complained that Australian Jewish leaders have shown insufficient zeal in the matter. No doubt he will eventually make the same complaints about the leaders of British Jewry, but if anything they have been too zealous.

Greville Janner, QC, MP, one of the prime movers behind the British Act, said it would be a warning to every potential war criminal that he would not get away with murder. This claim is totally unrelated to experience.

We've had the Nuremberg trials and the Eichmann trial, and the Frankfurt trials, and hundreds of other trials all over Europe.

Thousands of war criminals have been brought to justice, but it has



been brought to justice, but it has done nothing to check mass murder in Asia, Africa, in the former Soviet republics, or the former components of Yugoslavia.

No armed thug with powers of life and death over unarmed civilians gives a thought to the possibility of retribution, especially where he acts in concert with others in the name of a higher authority.

One should perhaps add that the only criminals to be indicted were those who sided with the Nazis or acted under their orders.

Not a finger has been raised against those who took part in Communist atrocities. To cynics, it might appear that war criminals become war criminals only if they are on the losing side.

There was one, and only one, argument for the War Crimes Act. It answered to an elementary demand for justice.

No man should be allowed to get away with murder, no matter how long after the event, but if the passage of time does not affect the principle, it inevitably affects the practice, at least in countries governed by the rule of law. Human memories cease to be reliable. It becomes difficult to collect evidence and almost impossible to establish proof.

Indeed, in one of the Australian trials, the judge stopped the case because he was dissatisfied with the evidence.

In the "Ivan the Terrible" trial in Jerusalem, John Demjanjuk was originally found guilty but new material came to light which satisfied a higher court that he was innocent of the charges against him.

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There was a similar case in Canada, where an alleged Hungarian war criminal was found guilty by a lower court, and acquitted by a higher one.

Neither case, nor the Australian acquittals, could have added to the confidence of the British war crimes unit that it could launch a successful prosecution.

Not a little of the proof, both in Australia and Britain, emanated from the Wlesenthal Centre. But it undermined its own efforts by its blunderbuss tactics.

In the case of Britain, it came up with nearly 300 names of alleged war criminals, some of whom were dead, some of whom were no longer in Britain — if they ever had been — and some of whom were innocent, which may explain why it took the war crimes unit so long to get down to a hard core of five or six suspects, none of whom is now likely to face trial.

I quoted Sophocles when I first raised the issue: "There are times when even justice brings harm with it." I should perhaps qualify that to say that there are times when the reckless pursuit of justice can do more harm than good.