

Richard Smith's non-medical blogs

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The issues raised by the Nuremberg trials are as relevant to medicine in 1996 (and 2020) as in 1946

Today is the 75th anniversary of the beginning of the Nuremberg trials of Nazi war criminals. The BMJ on the 50th anniversary published a special issue on the trials arguing that "the issues thrown up by the trials—informed consent for experimentation, the involvement of doctors with the state, patient autonomy, genocide, and the behaviour of doctors when associated with abuses of human rights—are as relevant today as the day the trials began.

Here is the piece I wrote to introduce the special issue:

The Nuremberg trials of doctors who had committed war crimes during the second world war began 50 years ago this week. The BMJ has devoted many pages in this issue to exploring the Nuremberg trials, what went before, and their aftermath for two main reasons. Firstly, we must never forget. On the wall of the highly moving United States Holocaust Museum is a quote from Deuteronomy: "Only guard yourself and your soul carefully, lest you forget the things your eyes saw." Secondly, the issues thrown up by the trials—informed consent for experimentation, the involvement of doctors with the state, patient autonomy, genocide, and the behaviour of doctors when associated with abuses of human rights—are as relevant today as the day the trials began. Indeed, there is a sense, particularly in Germany, that we are at the very beginning of thinking through the issues thrown up by what doctors did in the second world war. We needed 50 years to be able to begin to think clearly about something so horrible.

Informed consent to experimentation is the issue most closely associated with the Nuremberg trials. The Nuremberg code produced in 1947 (p 1448) made informed consent an absolute requirement. But, as Jennifer Leaning explains in an editorial (p 1413), that code was about non-therapeutic research and did not consider the possibility of research in patients not competent to give consent. Thus in 1964 the World Medical Association produced the less restrictive Declaration of Helsinki (p 1448). Jochen Vollmann and Rolf Winau describe how guidelines on informed consent had actually appeared at the end of the 19th century (p 1445), while Jennifer Leaning (p 1413) and a book review (p 1494) remind us how experimentation without consent has continued since Nuremberg. Paul Weindling notes that the BMJ had a correspondent covering the Nuremberg trials who had views that were more sympathetic to the Nazi doctors than is now fashionable (p 1467). Twice in the past fortnight we at the BMJ have debated whether to publish trials that did not include fully informed consent, and the Food and Drug Administration in the United States has just produced guidelines saying that research on patients needing immediate intensive care can be conducted without consent (16 November, p 1223). The debate on informed consent is still very much alive, not least in the case of a British woman being denied the right to have her dead husband's sperm inseminated into her because he never gave written consent (p 1477). News stories also describe how the United States government last week had to pay compensation for radiation experiments conducted without consent (p 1421) and new research showing that patients often don't read consent forms but simply trust their doctors (p 1421)

Several of the articles in this Nuremberg issue revolve around doctors' involvement with the state. Robert Proctor describes how the Nazis developed the world's first and strongest antimoking campaigns (p 1450). Hartmut Hanauske-Abel argues that, far from German doctors being corrupted by Hitler's regime, they were ahead of the regime in advocating policies on eugenics (p 1453). And William Seidelman says that doctors have not fully considered "the inherent conflict between caring for the individual as opposed to the health of the population" (p 1463). Doctors today are very involved in debates about public health and the rationing of health care, and they would do well to consider the relation of what they are doing to what German doctors were doing under National Socialism.

The killing by doctors of "less worthy" people was one of the main crimes addressed by the Nuremberg trials, and physician assisted suicide is perhaps the hottest issue in medical ethics today (p 1495). The public in many countries – including, for instance, both the Netherlands (p 1423) and Britain (p 1423) – is beginning to look favourably on the idea of physician assisted suicide, and it has recently been legalised in Australia's Northern Territory. Most doctors' organisations continue to be strongly against physician assisted suicide – partly because of memories of how the ethical code of medicine was debased during the second world war. But another issue thrown up by Nuremberg – that of the importance of patient autonomy – can conflict with the fundamental principle of "first, do no harm." If patients clearly of sound mind want their doctors to hasten their ends, might the concepts of patient autonomy and serving the patients override the deep professional instinct against euthanasia?

Horrifyingly, genocide is an issue that is as current in 1996 as it was in 1946. Donald Acheson, who grew up in Northern Ireland and who led the World Health Organisation's relief efforts in Bosnia, describes what he thinks are the three stages of genocide (p 1415). (His editorial includes a speech made by Hitler in 1939 in which he made very clear how he planned genocide.) In the first stage of genocide there is systematic discrimination against a particular ethnic group. This stage is seen in most countries. In the second stage there is violence against the group. Again this is common. The third stage, argues Acheson, entails the state becoming involved – openly or in secret. We have seen the terrible consequences of this in Bosnia and Rwanda. Children suffer horribly in these conflicts, and David Southall and Manuel Carballo argue that the world needs to find mechanisms to protect children in these circumstances (p 1493).

A final issue at Nuremberg was the behaviour of doctors involved in wars and abuses of human rights. Paula Brentlinger describes her recent experiences in El Salvador and tries to draw out lessons for other doctors who find themselves caught up in wars (p 1470), while Hazim Naif Barnouti paints a bleak picture of what war and sanctions have done to the health services in Iraq (p 1474). The world is as restless in 1996 as it was at the end of 1946.

And is more restless still in 2020.



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