

THE RULE OF LAW

As prosecutor at the Nuremberg trial, author of the landmark *Tyranny on Trial*, and proponent of the International Criminal Court, Whitney R. Harris advocates universal justice.

"Hitler led Germany into the abyss. ... In his brief hour about history's stage, he caused the commission of crimes of the greatest magnitude ever endured by suffering humanity. ... World War II is now an event of history. Germany, free of Nazism, is once more a respected member of the world community. ... As never before in history, the prospect has opened for the establishment of world peace and justice, under the rule of law. The opportunity is here to end war on this planet, and turn to the exploration of new worlds in the unfolding universe. ... In shunning the evil of yesterday, we (must) not forget the wrongs to which it led—and having forgotten them, believe them never to have happened."

Whitney R. Harris, *Tyranny on Trial*

The year was 1945. The Nazi regime had been stopped in its tracks, the second world war had finally ended, and the world demanded that those directly involved in orchestrating the heinous acts of aggression and unprecedented brutality pay for their crimes. Allied leaders advocated an international military tribunal and persuaded others, wishing to shoot the Nazi leaders on the spot, that the rule of law was the only means of ensuring universal justice.

For Whitney R. Harris, a young United States naval officer and attorney, the Nuremberg trial not only enabled him to join the prosecution team in using the legal system to bring about peaceful resolution, but also shaped the rest of his professional career.

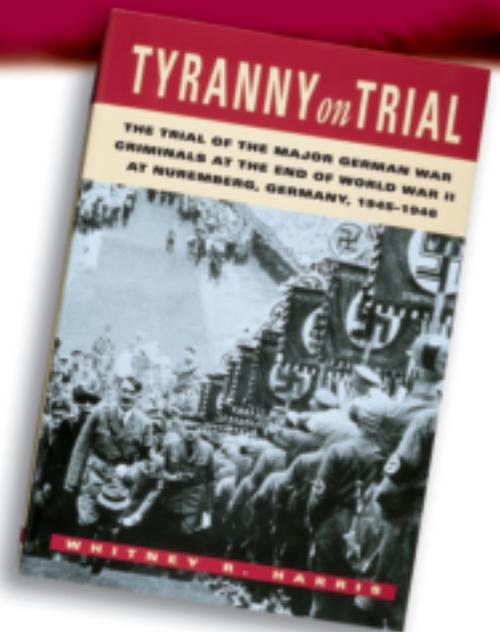
In *Tyranny on Trial*, a major treatise originally published in 1954 and updated in 1995 and 1999, Harris, now 89, preserves for posterity the circumstances surrounding Nuremberg.

"It is the nature of man that, shocked and revolted by acts of wanton cruelty, he shall strike back at the perpetrator," Harris wrote in his book. "That the end of World War II did not lead to reprisals against the German people—a life taken

for a life destroyed—is a tribute to the calm judgment of men trained in law who channeled the fury of the hurt and

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the oppressed into a judicial forum. There the record of the Nazi crimes was published and preserved for history, the responsibility of those who committed those crimes was judicially established and declared, and a punishment was visited upon the guilty commensurate with civilized standards of criminal accountability."

Harris described how the Nuremberg trial created a precedent establishing that the leaders of any future regime who commit acts of aggressive war, war crimes, or crimes against humanity may be prosecuted in a court of law.

“There is no longer any state, or any ruler of any state, who can claim total immunity from the law,” Harris wrote in the preface to his book. “At Nuremberg we put Tyranny on Trial. It is our duty to keep tyrants forever under the law. The story of Hitler’s Germany is recorded here—a lesson for all humanity.”

A 1936 graduate of the University of California–Berkeley Law School, Harris was practicing law in Los Angeles when Japanese air forces bombed Pearl Harbor. “It was Sunday morning, December 7, 1941, when we heard the news by radio. The United States was at war,” Harris recalls. “I applied for enlistment in the United States Navy, was accepted, and served as a line officer until I was transferred to the Office of Strategic Services toward war’s end.”

OSS placed Harris in charge of the investigation of German war crimes in the European theater. He established his headquarters in St. James, London, close by British Intelligence headquarters.

“While I was on this assignment, Justice Robert H. Jackson, United States chief of counsel, came to London to negotiate the charter for the international military tribunal to try the principal German war criminals,” Harris says. “I occasionally supplied his office with incriminating German documents and was invited to join his staff. I accepted the offer, and transferred with the staff to Nuremberg in August 1945.”

Because of his knowledge of German intelligence, Harris was assigned the case against Ernst Kaltenbrunner, the head of the Reich Main Security Office and its two primary branches: the Secret Police, or

Naming of the Institute Honors Whitney R. Harris

In recognition of Whitney R. Harris’ achievements in the field of international justice and his support of legal education and research, the School of Law held a ceremony February 7, 2002, to name its Institute for Global Legal Studies in his honor. Harris has given a gift of \$2 million to support the Institute.

“The University has been strengthened by the wonderful generosity of Whitney Harris; his wife, Anna; and his family. We are very grateful for Whitney’s interest in our law school, our libraries, and many other academic and artistic endeavors on our campus, which, over the years, have been greatly enhanced by his support,” says Chancellor Mark S. Wrighton. “This gift from Whitney to the law school will provide critical support to place the Whitney R. Harris Institute for Global Legal Studies among the top centers of its kind in the world.”

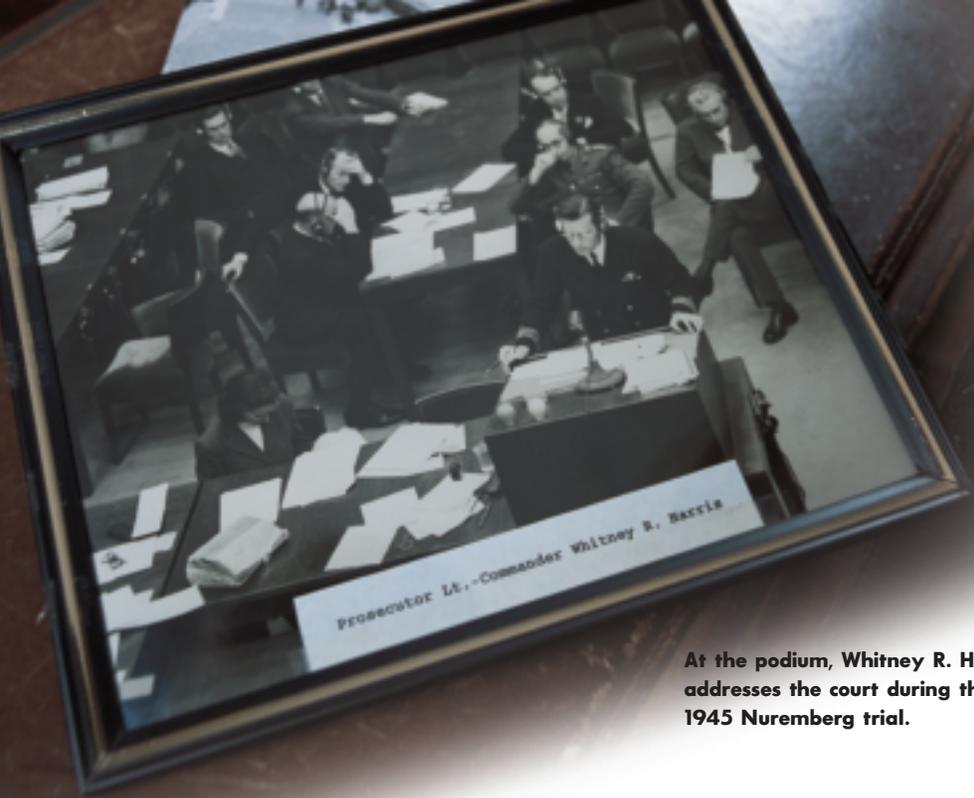
Joel Seligman, dean and the Ethan A.H. Shepley University Professor, says that Harris’ connection with the Institute is a wonderful match. “It is rare that the purpose of an educational entity can be matched so well with the career of the individual after whom it is named. Whitney Harris was a prosecutor at Nuremberg, championed international law through his book on the Nuremberg trial, and, more recently, has been an advocate for a permanent international criminal court,” Seligman says. “We are pleased the Institute, which focuses on the key international legal issues of our time, is now associated with Whitney’s legacy.”

Now in its second year, the Institute has hosted close to 30 individuals or delegations of speakers from throughout the world. Harris was among the participants in the Institute’s inaugural colloquium on “The United Nations and the Protection of Human Rights.” He noted that his former directorship of a program for foreign law students at Southern Methodist University—combined with his experience at Nuremberg and work promoting the International Criminal Court—sparked an immediate interest in the Institute and its global legal focus.



Whitney and Anna Harris were toasted at the dedication ceremony for the Whitney R. Harris Institute for Global Legal Studies.

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At the podium, Whitney R. Harris addresses the court during the 1945 Nuremberg trial.

Gestapo, and the Security Service, or SD.

One of the highlights of this assignment was the interrogation of Otto Ohlendorf, the chief of intelligence inside Germany, shortly before the trial began. “When I asked him to describe his services during the war, he mentioned that he had worked for a year as chief of the Einsatzgruppe D. I recalled a letter written by a man named Becker from an Einsatz-commando complaining of the malfunctioning of a gas van operating in the Eastern territories, and was inspired to ask Ohlendorf: ‘During the year you were chief of Einsatzgruppe D, how many men, women, and children did your group kill?’ He answered, ‘90,000.’ This was the first evidence on the Holocaust received from a witness at Nuremberg.”

Toward the end of the trial, after the prosecution had rested its case, Harris similarly interrogated, over a period of three days, Rudolf Hoess, the former head of the Auschwitz concentration camp in Poland. Hoess confessed to establishing extermination facilities in Auschwitz, where, he testified, 2.5 million victims were exterminated. (While Rudolf Hess, Hitler’s deputy, was a defendant at Nuremberg, Auschwitz commandant Hoess was

turned over to Polish authorities for prosecution.)

For his services at Nuremberg, Harris was awarded the Legion of Merit, the highest award received by any trial counsel. He then transferred to Berlin where he served in the United States military government as chief of the Legal Advice Branch.

In 1948, Robert G. Storey, who had served as executive trial counsel at Nuremberg before becoming dean of Southern Methodist University School of Law, invited Harris to join the law faculty. While he was a law professor at SMU from 1948 to 1954, Harris wrote *Tyranny on Trial*, the first comprehensive view of the Nuremberg proceedings. In addition to his own experiences, he drew upon the 42-volume transcript of the proceedings and other records.

Jackson wrote in the introduction to the book shortly before his death: “Never have the archives of a belligerent nation been so completely exposed as were those of Nazi Germany at the Nuremberg trial. They were laid out in a courtroom before the very highest of their surviving authors, who, with able counsel and firsthand knowledge, subjected them to correction, explanation, and attempted justification. ...

“But its record of 42 volumes is too vast, detailed, and disjointed for general study. Now Professor Harris—by scholarship and experience admirably qualified—in the calm of intervening years has prepared a factual summary of the evidence that is objective, accurate, and comprehensive.”

A 1954 *New York Times* book review notes Harris’ “masterly and meticulous condensation” of the vast number of documents and referred to *Tyranny on Trial* as “one of those books that are heart-rending to read and perilous to ignore.”

Since Nuremberg, Harris has championed the cause of international human rights through updates to his

book that address subsequent prosecutions in national courts and through numerous speaking engagements. He donated to Washington University’s Olin Library in 1981 his collection on the Third Reich of Germany, which is now housed in the Jane and Whitney Harris Reading Room.

He is an outspoken proponent of international tribunals that have built upon Nuremberg’s legacy.

He regrets that no charges were ever brought against Iraqi dictator Saddam Hussein and fully supports the United

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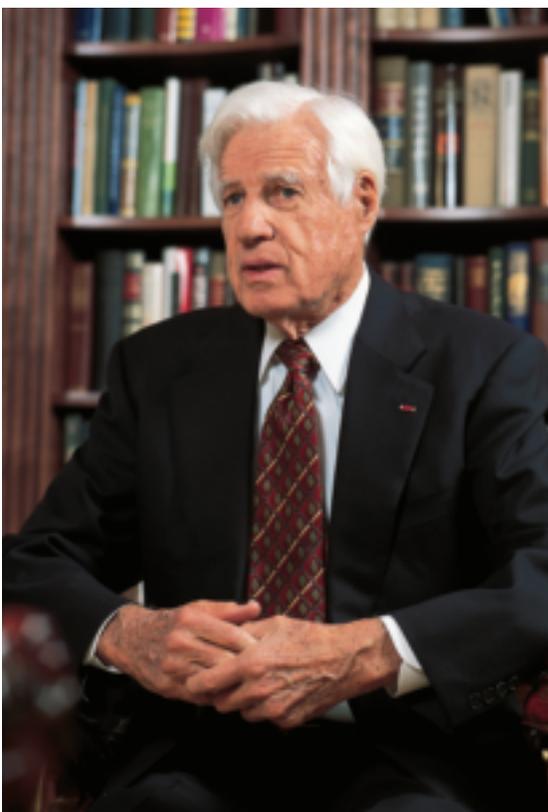
Justice Robert H. Jackson

Nations Security Council's establishment of criminal tribunals to address acts of genocide in the former Yugoslavia and Rwanda.

In 1998, Harris was a nongovernmental organization delegate to the Rome conference on establishing an International Criminal Court. He fully supports the statute, which will come into force when ratified by 60 of the signers of the ICC treaty, likely by the end of 2002.

"The 20th century, which spawned the gravest wars of history, has found redemption in the great achievements of international law at Nuremberg and Rome," Harris says. "The achievements of that great trial and historic conference—in elevating justice and law over inhumanity and war—give promise for a better tomorrow for humanity in a world of peace under the rule of law." ♦

In his home office, Whitney R. Harris reflects on the Nuremberg legacy.



New Director Named for Institute

John O. Haley, the Wiley B. Rutledge Professor of Law, will become director of the Whitney R. Harris Institute for Global Legal Studies on July 1, 2002. He succeeds Stephen Legomsky, the Charles F. Nagel

Professor of International and Comparative Law, who will serve as chairperson of the Institute's Faculty Advisory Board and as liaison to the Institute's International Council.

"Haley is a distinguished comparative law scholar with an interest in all things international and particular expertise in the law of Japan," says Legomsky. "I am delighted that the Institute will be in such capable hands, and I look forward to working with him."

Haley is known among practicing lawyers and scholars throughout the world. Formerly the Garvey, Schubert & Barer Professor of Law and of International Studies and director of the Asian Law Program at the University of Washington-Seattle, he joined the Washington University School of Law in July 2000.

The principal focus of his research has been Japanese law. Haley's scholarly works span issues ranging from land-use law to adjudicatory jurisdiction. He has written extensively on Japanese legal history, on competition law and other trade-related issues, on judicial organization and independence, and on restorative justice.

Haley's original scholarship has helped define how legal rules are used and enforced in Japan. He has also conducted extensive research on regulatory rules and the administrative process, particularly what the Japanese call administrative guidance.

In the course of his scholarship, Haley has highlighted areas in which the Japanese approach yields positive results, including Japan's restorative approach to criminal justice and the degree to which its judiciary has been virtually free of corruption.

To deepen his understanding of the comparative context of the Japanese legal system, Haley began over two decades ago to examine the continental European—particularly German—antecedents of Japanese law. This effort expanded in the 1990s to a broader teaching and research interest in comparative legal traditions, particularly the development and spread of the tradition of civil law in Europe, Latin America, and East Asia.

Haley has written three books and edited or co-edited four others. He is also co-editor of a leading comparative law casebook, *The Civil Law Tradition: Europe, Latin America, and East Asia*, as well as three sets of English-language teaching materials on Japanese law. His 1991 book, *Authority Without Power: Law and the Japanese Paradox*, and 1978 article, "The Myth of the Reluctant Litigant," are both considered seminal works in the field.