

ISRAELI COURT ACQUITS DEMJANJUK, LEAVING MANY QUESTIONS UNANSWERED

By Cynthia Mann and Gil Sedan

JERUSALEM, July 29 (JTA) -- The Israeli Supreme Court's decision to acquit John Demjanjuk of charges that he was the notorious "Ivan the Terrible" of Treblinka is being seen as a strong testament to the integrity of Israel's judicial system.

But the ruling raises as many questions about Demjanjuk's wartime past as it settles, and the fact that he is being set free makes it likely they will never be answered.

In ruling Thursday that there was "reasonable doubt" that Demjanjuk was the brutal Nazi SS guard known to Treblinka inmates as "Ivan the Terrible," the high court judges overturned the death sentence hanging over the 73-year-old former Cleveland autoworker.

The court noted there was clear evidence the Ukrainian native voluntarily trained to be a Nazi guard and other evidence that he may have served as a Nazi guard at another death camp.

But the justices said Demjanjuk had not been given a "reasonable opportunity" to defend himself against those other charges.

"The matter is closed, but not complete. The complete truth is not the prerogative of the human judge," said court President Meir Shamgar.

Reaction here was mixed. There was praise from those who saw the court as acting honorably and upholding legal principles.

But there was surprise and indignation from others, including Holocaust survivors who testified against Demjanjuk at his trial. They said they were horrified to see the Jewish state set free someone implicated in Nazi war crimes.

Shamgar read aloud a two-hour summary of the 405-page ruling, a unanimous decision by the five justices, to a shocked courtroom, filled with Holocaust survivors, reporters and curious Israelis.

At his request, Demjanjuk was whisked back to jail after the ruling, to stay in protective custody, out of concern that Israelis angry at the decision might want to harm him.

But Will He Be Allowed Back?

The ruling ends a 16-year legal battle, the last seven years of which Demjanjuk has spent in solitary confinement in a jail outside Tel Aviv.

Demjanjuk was stripped of his U.S. citizenship in 1981, where he had lived since 1958, and was extradited to Israel in 1986. In 1988, after a 14-month trial, a Jerusalem court sentenced him to death for being the sadistic guard named Ivan who operated the gas chambers at the Treblinka camp in Poland, where 870,000 Jews perished.

Demjanjuk's lawyer, Yoram Sheftel, said Thursday his client expected to leave the country within a matter of days, but would not disclose his destination. There was speculation he would go to the land of his birth, where Ukrainian officials hailed the Israeli court ruling.

In Washington, one Justice Department official said after Thursday's ruling that Demjanjuk would be barred from returning to America because the United States has determined that he served as a guard at Nazi death camps.

"Demjanjuk got off on a technicality," said

Neal Sher, director of the Justice Department's Nazi-hunting unit, the Office of Special Investigations.

"There is no way that anyone can read in the Israeli Supreme Court decision that he is an innocent man," Sher said.

He emphasized that Demjanjuk's order of deportation remains in effect at this time and that U.S. immigration law bars entry to anyone that the United States has "reason to believe engaged in Nazi-sponsored persecution."

In New York, City Comptroller Elizabeth Holtzman held a news conference to call on Attorney General Janet Reno to bar Demjanjuk from re-entering the United States, based on an amendment that Holtzman wrote as a member of Congress.

The Holtzman Amendment states that any alien who "ordered, incited, assisted or otherwise participated in the persecution of any person because of race, religion, national origin, or political opinion is excludable."

The amendment applies to Demjanjuk, even though the Israeli Supreme Court overturned his previous convictions, Holtzman said. "The Israeli court opinion says they found that Demjanjuk participated in the extermination process. You don't need much more to require his being barred," she said.

But Rep. James Traficant (D-Ohio), who has been one of Demjanjuk's chief backers, sponsored legislation Thursday calling for Demjanjuk's return to the United States and the restoration of his American citizenship.

Several American Jewish organizations said Thursday they would oppose any moves to return Demjanjuk to the United States, given the Israeli court's findings that he was an SS guard.

Some Shocked By Ruling

The Israeli court did, in fact, declare that Demjanjuk had voluntarily trained to be a member of a "wachmann" or non-German watchman guard unit, "established for the sole purpose of learning and teaching its members to destroy, kill and exterminate," to help the Nazis implement their "final solution of the Jewish problem."

The finding was based on critical documents that certified Demjanjuk as having been at the Nazi training camp in Trawniki, Poland.

The same documents provided evidence to the court that Demjanjuk had been sent as a "wachmann" to the Sobibor death camp and to the concentration camps of Flossenburg and Regensburg.

The court decided this evidence successfully refuted Demjanjuk's alibi -- that he had been a prisoner of war throughout the war. But the justices decided not to convict him on this evidence since he had been charged with war crimes committed at Treblinka.

Demjanjuk himself, who maintained all along that he had been the victim of mistaken identity, sat, mostly impassively, as Shamgar read the ruling.

But before the verdict was announced, he told reporters at the courthouse: "I miss my wife; I miss my family; I miss my grandchildren; I want to go home."

His 27-year-old son, John Demjanjuk Jr., said

after the ruling was read, "We're absolutely delighted with the end result."

But others here clearly were not.

Josef Czarny, one of five Treblinka survivors who testified against Demjanjuk, said in tears: "If I knew this would happen, I would not have taken it upon myself to stand up that day in court and relive Treblinka. I'm there right now."

"I am saying with pain, this was a trial of injustice. The honorable judges erred," he said. "I am shocked, shocked, shocked."

At the conclusion of the proceedings, one old man, covering himself with a large white prayer shawl, began shouting and crying, "Shema, Yisrael," and held up pictures of family members who had died in the Holocaust.

Other prominent Israelis appeared to take pride in what they saw as the court's integrity.

Avner Shalev, chairman of Israel's Yad Vashem Holocaust memorial museum, said the ruling "indicates both the pain over the Holocaust and the supremacy of justice and law in Israel."

Former Supreme Court Justice Haim Cohen described the ruling as a "great day for the Supreme Court."

(Contributing to this report were JTA correspondent Deborah Kalb in Washington and JTA staff intern Tova Mirvis in New York.)

DEMJANJUK VERDICT RAISES CONCERN HOLOCAUST-DENIERS WILL GET A BOOST By Debra Nussbaum Cohen

NEW YORK, July 29 (JTA) -- The decision by Israel's Supreme Court clearing John Demjanjuk of charges that he was "Ivan the Terrible" did not exonerate the ex-Nazi of having served as a death camp guard.

But Holocaust historians and activists are concerned that the court's decision to free Demjanjuk may be used by Holocaust-deniers as a vindication of their version of history.

"The Holocaust denial movement just got a booster shot," said Charles Allen Jr., an authority on Nazi war criminals.

"The results of the trial are fueling the revisionists, who say that this didn't happen," agreed Eva Fogelman, founding director of the Anti-Defamation League's Jewish Foundation for Christian Rescuers.

"It's another example of them saying 'the Jews put someone to trial and he didn't do anything,'" said Fogelman.

"I find it morally, if not legally disturbing that somebody who was working actively as a guard in death factories should simply be seen as having been an innocent victim of a justice system that somehow went awry," said Walter Reich, an expert on the Holocaust and senior scholar at the Woodrow Wilson Center, a Washington-based think tank.

Activists are also concerned that the Israeli court's ruling will have a negative impact on other countries' willingness to prosecute Nazi war criminals.

It will be used by "government bureaucrats in Canada, Australia and Iceland who have been dragging their feet on this issue for years," according to Rabbi Marvin Hier, dean of the Simon Wiesenthal Center.

"They'll use it as an opportunity to argue that they should not proceed" with cases against Nazi war criminals who have found refuge in their countries, Hier said.

Reich agreed. "It may make government

authorities more wary of pursuing cases, and may put into question, to a greater extent, the whole effort at trying to prosecute Nazi war criminals," he said.

The ruling will have special resonance for the U.S. Office of Special Investigations, the arm of the Justice Department that prosecutes war criminals. It was this office that originated the case against Demjanjuk, a retired autoworker.

Opponents of OSI "are going to run with it," said Allen. The verdict could have an "exceedingly dangerous impact" on the future of Nazi war crime prosecutions.

According to Sheldon Klein, general secretary of the International Association of Jewish Lawyers and Jurists, "the danger is that groups and people who sought to shut OSI down in the past will take comfort in the ruling."

'Chilling Effect' On Witnesses

But Rep. Tom Lantos (D-Calif.), himself a Holocaust survivor, said the verdict would have "no bearing whatsoever" on the prosecution of Nazi war criminals.

If anything, he said, those wanting the "monsters to be brought to justice will have their determination steeled by this exercise."

The credibility of the testimony of Holocaust survivors has also been called into question by the verdict.

In this case, Holocaust survivors had their testimony contradicted by physical evidence presented in the trial and by testimony found in Soviet archives of former Treblinka guards who identified a different man as the notorious "Ivan."

This could have a "chilling effect" on Holocaust survivors asked to testify at future war crimes trials, said Elan Steinberg, executive director of the World Jewish Congress.

"What has been thrown into very serious doubt is the reliability of witnesses, particularly Jewish survivors," said Raul Hilberg, a leading historian of the Holocaust.

"That is a very serious matter because we have had a cult of testimony, a cult of not questioning what a survivor said.

"We have made it into a kind of secret literature, and that has been dealt a blow by an Israeli superior court. That is, in the long run, the most important consequence," said Hilberg.

According to Abraham Foxman, national director of the Anti-Defamation League and a Holocaust survivor, "this is the age we're in. Witnesses are dying, their memories are failing."

Said Elie Wiesel, a Holocaust survivor and author of books on the extermination, "All the survivors had really is memory.

"If that is challenged, disputed and denied, what will happen tomorrow? I am going around with a heavy heart," said the Nobel laureate.

Fogelman, of the Jewish Foundation for Christian Rescuers, is concerned that this verdict -- with its assertion that Demjanjuk was in fact a Nazi but would still be set free -- would send the wrong message to today's young neo-Nazis.

"The message is that even if you commit the worst crime in humanity, you can somehow get away with it," she said. It is "telling these kids they can do whatever they want, and the likelihood they will be caught and prosecuted is very slim."

(Contributing to this report were JTA correspondents Deborah Kalb in Washington and JTA staff writer Susan Birnbaum in New York.)

**BEHIND THE HEADLINES:
CASE OF 'IVAN THE TERRIBLE'
LONG RIDDLED WITH AMBIGUITIES
By Susan Birnbaum**

NEW YORK, July 29 (JTA) -- The decision handed down Thursday by Israel's Supreme Court in the case of John Demjanjuk culminates more than a decade of controversy in one of the most hotly contested war crimes cases in history.

Demjanjuk, a 73-year-old retired Cleveland autoworker, was extradited to Israel in 1986 and convicted there of crimes committed as "Ivan the Terrible," the sadistic guard at the Treblinka death camp who delighted in torturing Jews as he herded them into the gas chambers. In 1988 he was sentenced to death.

Between 800,000 and 900,000 Jews died at Treblinka.

Throughout Demjanjuk's long ordeal, through deportation proceedings in the United States, a protracted trial in Israel and numerous appeals in both countries, the Ukrainian native has steadfastly maintained that his is a case of mistaken identity, and that he never served at any concentration camp.

The long-awaited decision by Israel's high court comes after a lengthy review of its 1988 verdict and death sentence for crimes of mass murder committed both at Treblinka and at the Sobibor concentration camp.

Most of the Holocaust survivors who testified that Demjanjuk was the notorious Ivan were elderly, and the defense team charged they could not identify a guard 40 years after their ordeal.

Highly troubling has been a key piece of evidence against Demjanjuk, an identification card issued at a training camp for SS guards in Trawniki, Poland.

The card, which lists Demjanjuk's assignment, makes no mention of Treblinka but instead names Sobibor, another Nazi death camp.

Defenders of Demjanjuk have pointed out physical differences between the man described on the identification card of Ivan Demjanjuk, as he was known in Ukraine, and those described in testimony by former SS guards who served at Treblinka and Sobibor.

'New Evidence' Pointed To Marchenko

Since his April 1988 conviction by the Israeli court, Demjanjuk's defense team has provided what it called "new evidence," chiefly testimony available since the demise of the Soviet Union, which points to a man named Ivan Marchenko as the so-called "Ivan the Terrible."

On his U.S. visa application, Demjanjuk listed his mother's maiden name as Marczenko, although he later said this was not so.

The case against Demjanjuk was ignited by accident, when a number of Holocaust survivors, peering over a photo spread in the case to deport Treblinka guard Feodor Fedorenko, pointed out the picture of Demjanjuk and fingered him as the infamous "Ivan."

Both Demjanjuk and Fedorenko had been identified as former SS guards in the Ukrainian Daily News, which is published in New York.

In November 1975, Demjanjuk's name was submitted to the U.S. Immigration and Naturalization Service as an alleged Nazi collaborator at Sobibor. Survivors subsequently identified him as "Ivan the Terrible" of Treblinka.

In August 1977, the Immigration and Naturalization Service began an investigation to revoke

Demjanjuk's citizenship. It was based on the war crimes charges and the fact that he had lied about his wartime past when he applied for a U.S. visa in 1951, when he immigrated to the United States in 1952 and when he became a U.S. citizen in 1958.

Demjanjuk's statements, given at different times, were studded with inconsistencies. Confronted with this, he said he had lied to avoid being repatriated to the Soviet Union.

His first trial opened in federal court in Cleveland in February 1981. That June, Demjanjuk's citizenship was revoked and he was found deportable. There ensued a series of appeals, including to the Supreme Court, which twice declined to hear the case.

Trial Turned Out Thousands

In November 1983, Israel requested his extradition.

In May 1984, a U.S. immigration court judge ordered Demjanjuk's expulsion and in February 1985, the Board of Immigration Appeal ruled he must be deported.

On Oct. 31, 1985, the 6th U.S. Circuit Court of Appeals in Cincinnati ordered Demjanjuk to be extradited to Israel to stand trial for murder. He was extradited in February 1986.

Demjanjuk's trial opened in Jerusalem in November 1986.

It was seen as possibly the last time the public would be able to confront the Holocaust in any tangible way.

The trial turned out thousands of Israelis, including schoolchildren, who stood on line for hours to get into the courtroom, a specially constructed section of the Binyanei Ha'uma convention center in Jerusalem.

Demjanjuk was initially defended by Mark O'Connor, an American lawyer. As he appeared to be losing the case, Demjanjuk's family dismissed O'Connor, and the defense team's Israeli member, Yoram Sheftel, became Demjanjuk's attorney.

Sheftel became the target of hatred by Holocaust survivors in Israel, one of whom threw acid in Sheftel's eyes, damaging vision in one eye.

On April 18, 1988, the three-judge Israeli court found Demjanjuk guilty of being "Ivan the Terrible," as well as having been a guard at the Sobibor, Flossenburg and Majdanek camps.

A week later, it sentenced him to death by hanging.

His defense then appealed the case to Israel's Supreme Court, presenting what it said was evidence newly available from the former Soviet Union showing that the real "Ivan the Terrible" was named Ivan Marchenko.

Based in part on that evidence and on charges that Justice Department lawyers may have withheld exculpatory evidence, the 6th U.S. Circuit Court of Appeals in Cincinnati reopened the extradition case last year.

The court appointed a special master, U.S. District Judge Thomas Wiseman Jr. of Nashville, who issued a report last month in which he expressed "substantial doubt" that Demjanjuk was indeed the man known as "Ivan the Terrible."

He said the extradition was valid, however, because there was persuasive evidence that Demjanjuk was trained as an SS guard and had lied to U.S. officials.

Wiseman recommended that the appeals court close the case and take no action against the government prosecutors. The Cincinnati court's ruling is expected in early September.

AIR STRIKES ON LEBANON CONTINUE AS CONCERN OVER REFUGEES MOUNTS

By Gil Sedan

JERUSALEM, July 29 (JTA) -- Israel continued its air raids and shelling of southern Lebanon for a fifth day Thursday, as a domestic debate over the military operation intensified.

Environment Minister Yossi Sarid of the dovish Meretz bloc, who was one of the first politicians to speak out against the Lebanon War 11 years ago, has once again taken the lead in criticizing the army's actions. This time, though, he is a member of the government, rather than of the parliamentary opposition as he was in 1982.

A number of other Cabinet ministers apparently feel the current operation has spiraled "out of control." They are said to be particularly upset about the large number of Lebanese refugees who have been forced to flee their villages in the south for safer areas in the north.

According to reports from Lebanon, an estimated 200,000 villagers have sought refuge further north.

But senior army officers maintain that, from a military point of view, the operation has been successful, since the Iranian-backed Hezbollah's ability to fire rockets at Israel has diminished considerably.

Nevertheless, some Katyusha rockets did fall Thursday on northern Israel.

Since the start of the operation, two Israeli civilians and one soldier have died, with another 31 Israelis injured in the rocket attacks. Reports from Lebanon put the death toll there at about 110, with close to 500 wounded.

Israel launched the operation as a reprisal for the deaths of seven soldiers killed earlier in the month in the southern Lebanon security zone.

Arab Foreign Ministers To Meet

Prime Minister Yitzhak Rabin has said the bombing of villages in southern Lebanon and the subsequent flight of refugees is aimed at pressuring Beirut to rein in Hezbollah.

Lebanon's leaders, though, continued to justify the "legitimate resistance of Hezbollah against Israeli occupation in southern Lebanon."

Lebanese President Elias Hrawi did hint at a somewhat more flexible position, saying that while he supported Hezbollah's resistance operations in the Israeli-controlled border security zone, he did not support Hezbollah's firing of Katyusha rockets into Galilee.

Observers in Israel noted that Hrawi's statement was probably approved by Damascus and may reflect the Syrian government's position.

Arab foreign ministers were expected to convene this weekend in Beirut to discuss the situation.

U.N. Secretary-General Boutros Boutros-Ghali stepped up his attacks on Israel, saying "the policy of deliberately forcing people to abandon their homes must be stopped forthwith."

In response, Israeli Ambassador Gad Yaacobi charged that Boutros-Ghali "ignores the reasons for the Israeli response in southern Lebanon, and that is most regrettable."

Meanwhile, U.S. Secretary of State Warren Christopher was slated to arrive here early next week, and Israeli Foreign Minister Shimon Peres was hoping the crisis would be resolved by then.

(Contributing to this report were JTA correspondents Hugh Orgel in Tel Aviv and Larry Yudelson at the United Nations.)

SYRIA HELPED SUPPLY HEZBOLLAH JUST BEFORE RECENT ESCALATION

By Deborah Kalb

WASHINGTON, July 29 (JTA) -- Syria was involved in shipping Iranian weapons to the Shi'ite fundamentalist Hezbollah movement just prior to the recent upsurge in attacks on Israeli troops, a California congressman charged this week.

"It's my understanding that two weeks ago, on July the 15th, Syrian armed guards stood by at Damascus International Airport as an Iran Air 747 unloaded anti-tank rockets and a range of other weapons," Rep. Tom Lantos (D-Calif.) said at a congressional hearing Wednesday.

The weapons, Lantos continued, "were promptly trucked off to Lebanon under military escort for use by Hezbollah to intensify its attacks on the settlements in the north of Israel."

In response to the attacks from Hezbollah, Israel has mounted a large-scale bombing campaign in southern Lebanon.

The rise in violence caused concern among American officials here and was one reason Secretary of State Warren Christopher cut short a trip to Asia and returned to Washington at the request of President Clinton.

The Clinton administration is currently involved in a delicate balancing act involving Syria, one of the parties engaging in negotiations with Israel in the Middle East peace process.

The administration is trying to keep Syria involved in the peace process.

And at the same time, it would clearly like Syria to do more to contribute to an end to the violence in southern Lebanon.

A Delicate Balancing Act

Clinton, who Tuesday had praised Syria for exercising restraint in the current crisis, said Wednesday that he thought Syria "could do more" to contribute to ending the violence.

The president also said he did not "think anybody thought that Syria was exactly behind Hezbollah."

That remark came as a surprise to some and stood in contrast to statements made by other administration officials.

On Thursday, State Department spokesman Mike McCurry appeared to take a different line by saying, "We have been aware for a number of years that Iran has supplied Hezbollah through Syria, and we have repeatedly expressed our concern about resupply activities."

Lantos, for his part, told the Jewish Telegraphic Agency on Thursday that he felt Syria has been "playing a double game."

Syria, he said, "is perpetrating violence against Israel via proxy, while pretending to be a party to the peace process. This double game cannot continue."

Lantos, who made his remarks about Syrian support for Hezbollah at a hearing Wednesday of the House Foreign Affairs subcommittee on international security, which he chairs, said Thursday that he was satisfied with the response of CIA Director James Woolsey, the witness at the hearing.

While Woolsey did not say a great deal about the ties between Syria and Hezbollah at the open hearing Wednesday, Lantos said his subcommittee was planning further hearings in executive session with the CIA director.