

WAR CRIMES TRIALS

The Nuremberg Trial, 1945/6

At their meetings during World War II, Franklin Roosevelt, President of the United States; Winston Churchill, Prime Minister of Great Britain; and Joseph Stalin, Premier of the Soviet Union, discussed among many other important issues the fate of the Nazis in Germany who were responsible for World War II. Churchill thought after their identities were verified, they should simply “be shot.” Roosevelt, however, was determined to put the Nazis on trial as war criminals to make the world aware of their crimes.

The first international war crimes trial ever held began on November 20, 1945, in Nuremberg, Germany and lasted for eleven months. The International Military Tribunal (IMT) was set up by the Allies—the United States, Great Britain, the Soviet Union, and France. Each of the Four Powers provided one judge and one alternate and each provided prosecutors. The Chief Prosecutor was Robert Jackson of the United States who was on leave from his position as a Justice of the Supreme Court. Defendants were selected to represent a cross-section of German diplomatic, economic, political, and military leadership. The indictments were based upon four counts or principles.



“The wrongs which we seek to condemn and punish have been so calculated, so malignant, and so devastating that civilization cannot tolerate their being ignored because it cannot survive their being repeated.”

—Robert H. Jackson, Chief Prosecutor,
International Military Tribunal,
November 21, 1945

The Charges

Count One: Conspiracy to Wage Aggressive War

The defendants charged under Count One are accused of agreeing or planning to commit crimes as outlined in Count Two.

Count Two: Waging Aggressive War, or “Crimes against Peace”

This evidence is defined as “the planning, preparation, initiation, and waging of wars of aggression,” which were also wars in violation of international treaties, agreements, and assurances.

Count Three: War Crimes

This count deals with acts that violate traditional concepts of the law of war, e.g., the use of slave labor; bombing civilian populations; the Reprisal Order (signed by Field Marshal Wilhelm Keitel, a

defendant; this order required that fifty Soviet soldiers be shot for every German killed by partisans); the Commando Order (issued by Keitel, ordered that downed Allied airmen be shot rather than taken captive). War crimes are defined as “murder, ill treatment, or deportation to slave labor or for any other purpose of civilian population or in occupied territory, murder or ill-treatment of prisoners-of-war or persons on the seas, killing of hostages, plunder of public or private property, wanton destruction of cities, towns, or villages or devastation not justified by military necessity.”

Count Four: Crimes against Humanity

This count applied to defendants responsible for the extermination camps, concentration camps, and killing rampages in the East. Initially, crimes against humanity were understood to be crimes committed by a government against its own people, and there was some question as to whether the concept could be applied internationally. These crimes are defined as “murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population before or during the war, or persecutions on political, racial, or religious grounds in execution of or in connection with any crimes within the jurisdiction of the International Military Tribunal, whether or not in violation of domestic law of the country where perpetrated.”

The Defendants

On November 20, 1945, twenty-one Nazi defendants filed into the dock at the Palace of Justice in Nuremberg, Germany. Another defendant named in the indictments, Martin Bormann, was believed dead, although neither he nor his body was ever found. All pleaded “not guilty.” Some claimed that they were simply following orders when they helped oversee the transport of Jews and other targeted groups. Others claimed that the court had no jurisdiction, that is, no authority to conduct the trials.

Karl Doenitz

Supreme Commander of the Navy; in Hitler’s last will and testament, he was made Third Reich President and Supreme Commander of the Armed Forces. Sentenced to ten years in prison.

Hans Frank

Governor-General of occupied Poland. Sentenced to hang.

Wilhelm Frick

Minister of the Interior. Sentenced to hang.

Hans Fritzsche

Ministerial Director and the head of the radio division in the Propaganda Ministry. Acquitted.

Walther Funk

President of the Reichsbank. Sentenced to life in prison.

Hermann Goering

Reichsmarschall, Chief of the Air Force. Sentenced to hang. Committed suicide a few hours before the sentence was to be carried out.

Rudolf Hess

Deputy to Hitler. Sentenced to life in prison.

Alfred Jodl

Chief of Army Operations. Sentenced to hang.

Ernst Kaltenbrunner

Chief of Reich Main Security Office whose departments included the Gestapo, Sipo, and SD. Sentenced to hang.

Wilhelm Keitel

Chief of Staff of the High Command of the Armed Forces. Sentenced to hang.

Erich Raeder

Grand Admiral of the Navy. Sentenced to life in prison.

Alfred Rosenberg

Minister of the Occupied Eastern Territories. Sentenced to hang.

Fritz Sauckel

Chief of Slave Labor Recruitment. Sentenced to hang.

Hjalmar Schacht

Minister of Economics. Acquitted.

Arthur Seyss-Inquart

Commissar of the Netherlands. Sentenced to hang.

Albert Speer

Minister of Armaments and War Production. Hitler's chief architect. Sentenced to twenty years in prison.

Julius Streicher

Editor of the antisemitic newspaper *Der Stürmer*, Director of the Central Committee for the Defense against Jewish Atrocity and Boycott Propaganda. Sentenced to hang.

Konstantin von Neurath

Protector of Bohemia and Moravia. Sentenced to fifteen years in prison.

Franz von Papen

German statesman and diplomat. Acquitted.

Joachim von Ribbentrop

Minister of Foreign Affairs. Sentenced to hang.

Baldur von Schirach

Reich Youth Leader. Sentenced to twenty years in prison.

**About Photo**

The twenty-one Nazi defendants in the dock at the Nuremberg Trials, circa. 1945–1946.

Courtesy of National Archives Collection of World War II Crimes Records, National Archives Identifier: 540127

Additional War Crimes Trials

Between 1946 and 1949, 185 more defendants were tried by US Military Tribunals. The American prosecutors brought charges on crimes such as conducting medical experiments upon concentration camp inmates; forced labor; confiscation of Jewish property; mass murder charges against members of the Einsatzgruppen; cases against the huge German companies, I.G. Farben and Krupp Corporations on the use of slave labor; charges against the SS Race and Settlement Office for carrying out policies of genocide; and senior military officers for abuses against prisoners of war and civilians in occupied countries. Twenty-four of those indicted were sentenced to death, twenty sentenced to life imprisonment, and eighty-seven to shorter jail terms. The others were acquitted or released.

Many European countries held war trials of Nazi perpetrators. In 1945, England conducted the Bergen-Belsen Trials. Bergen-Belsen was a concentration camp located in Germany where, among others, Anne Frank died. Although it was not an extermination camp, the British soldiers who liberated it found sickening conditions in the camp, unburied bodies, disease, and starvation. A total of eleven people, eight men and three women, were condemned to death for mistreatment of prisoners at the Bergen-Belsen concentration camp. Nineteen others were sentenced to life in prison.

Due to the enormous scope of the Nazi crimes committed in Poland, the authorities of liberated Poland considered catching the criminals and punishing them one of their prime missions. In November 1944, the trial against some of the Majdanek extermination and concentration camp staff was held while the war was still raging in Poland. The Poles, together with the Soviets, put on trial, among the rest, the commanders of Auschwitz, Rudolf Hoess and Arthur Liebehenschel, who were sentenced to death and hanged. Most of the other criminals got away since they fled westwards and the Polish had only minor success in getting them extradited.

By the end of the war, the unprecedented magnitude of the Nazi crimes came to be known, as well as the vast number of criminals. The Allies realized that it would be impossible to put all of the criminals on trial.

The process of “denazification,” the expurgating of Nazism and its influence in Germany, was originally undertaken by the occupying powers. This process included punishing former Nazis according to their classification as Major Offenders, Offenders, Lesser Offenders, or Followers. But by 1948, it became clear that this also was too complicated and too large a task for them to carry out. The Allies transferred the process to the German authorities, but in the climate of the Cold War, by 1954, it was phased out.

In 1950, the Western Allies removed preventive measures on the West German courts. Now the judicial system of West Germany could investigate and punish all Nazi crimes. This didn’t happen immediately, mainly because the Germans were much more interested in rebuilding their country and their economy. The Germans abolished the death sentence, including in trials of Nazi criminals.

Moreover, German politicians understood that persecution of Nazis was not popular among the German voters. Due to the Cold War, the Western Allies themselves were much more interested in making West Germany its ally and agreed to disregard the light or lack of punishment of Nazi criminals. In the early 1950s, the Germans took advantage of this situation and released on amnesty many Nazis, some who had been accused of grave crimes. In 1958, the Central Office of the Judicial Administrations of the Länder for the Investigation of Nazi Crimes was established in Ludwigsburg. This led to more investigations and trials. Eventually over 5,000 cases were investigated and nearly as many were brought to trial.

In West Germany, Poland, and the Soviet Union, trials of concentration camp staff were also held in later years. The camps included Auschwitz, Sobibor, Dachau, Bergen-Belsen, Majdanek, Treblinka, Chelmno, Belzec, Sachsenhausen, and Ravensbrück. Some of these staff members were sentenced to death. In other East European countries there were trials against people who were considered to have been fascists, many of whom had a role in the persecution of local Jews.

In 1960, Israeli agents captured Adolf Eichmann in Argentina. Eichmann, who had been a central figure in organizing the logistics of the “Final Solution,” was brought to Israel where he stood trial the following year. He was found guilty and became the only convicted criminal to be executed by the State of Israel.

In the 1970s, a new wave of war crime investigations began with the establishment of the Office of Special Investigation (OSI) in Washington, DC. These new investigations were largely supported by Jewish organizations in the United States and particularly the Simon Wiesenthal Center. The objective of the OSI was to pursue possible war criminals who had obtained US citizenship through false statements. Similar war crimes laws were set up in Canada, Australia, and Great Britain. The British War Crimes Act of 1991 limited its jurisdiction to crimes committed in Germany or in German-occupied territory.

As public consciousness about the Holocaust grew from the middle of the 1980s onward, several important war crimes trials were held in France, both of Germans and Vichy functionaries who had collaborated with the Nazis.

Following the fall of the Communist regimes in Eastern Europe, several governments established historical commissions to explore the events of World War II and its aftermath in their countries. Each of these commissions delved into the role of its citizens in the persecution of the Jews. For many reasons the commissions and their findings were often flawed, but despite the flaws, they symbolize an important step in self-examination and accepting responsibility.

All of these trials notwithstanding, the vast majority of Nazi war criminals were never brought to justice.

Discussion Questions

- a. What countries conducted the first Nuremberg Trial in 1945–46? Why do you think it was these particular countries?
- b. Why do you think that Winston Churchill suggested summarily executing the Nazi leaders?
- c. Why do you think that this trial was held in Germany rather than in one of the Allied countries or in a neutral country?
- d. Why do you think that the countries conducting this trial had an equal number of judges and prosecutors?
- e. Consider the “not guilty” defense based on the reason of “following orders.” Do you think that there is ever a situation when this defense could be valid? Explain your answer.
- f. Consider what Robert Jackson said about why it was so important to have war crimes trials. Do you agree with his assessment? Why or why not?