

The Nuremberg War Crimes Trials: 60 Years Later

By Arthur S. Gold and William R. Coulson

1945: "The things I saw beggar description...the visual evidence and the verbal testimony of starvation, cruelty, and bestiality were so overpowering...I made the visit deliberately on order to be in a position to give first-hand evidence of these things if ever, in the future, there develops a tendency to charge these allegations to propaganda."

--General Dwight D. Eisenhower, at the liberation of a Nazi death camp

2006: "The World War II slaughter of European Jews by Nazi Germany is a myth...."
--Iranian President Ahmadinejad

1945: "The wrongs which we seek to condemn and punish have been so calculated, so malignant, so devastating that civilization cannot tolerate their being ignored because it cannot survive their being repeated."

--Robert Jackson, Chief Nuremberg prosecutor

2006: "War crimes trials will begin for Saddam Hussein and 11 of his Baathist Party cohorts, accused of genocide and crimes against humanity."

--Associated Press news item

On March 29th and 30th, the Chicago Bar Association, the United States Holocaust Memorial Museum, and the Chicago Public Library will co-sponsor a symposium on "The Legacies of Nuremberg: 60 Years Later." You will hear from actual trial participants, authors, historians, and Holocaust survivors, and you will be able to view historical artifacts and watch a re-enactment of key trial testimony. Historians remind us that those who are ignorant of history are doomed to repeat its mistakes. This symposium will not only educate members of the bar and the public, but also stimulate discussions on the proper role of the legal profession in any society. The following is a brief sketch of the historical context in which the Nuremberg War Crimes Trials arose.

In 1933, Adolph Hitler was lawfully appointed Chancellor of Germany. Hitler and his Nazi Party ruthlessly took over all aspects of German life. The Nazis jailed most political opponents, and cold-bloodedly murdered over a thousand of their rivals. Hitler told the German people, "Why did I not resort to the regular courts of Justice? In that hour I became the supreme judge of the German people." And, indeed, independent judges were dismissed and replaced by obedient Nazis. Labor unions, churches, and the military were similarly placed under Nazi control.

The Nazis' intentions were clear: eliminate from German life all political dissidents and any alleged "non-Aryans"—the Gypsies, the mentally ill, homosexuals, and, most pointedly, the Jews. The Nazis also ominously built up the German armed forces, in violation of the Treaty of Versailles, which had ended World War I. Their expressed aim was to create more "living space" for the German people.

The Nuremberg Laws

Nuremberg was a historic medieval town in South central Germany. Each year, the Nazi Party held elaborately-staged, mass "party rallies" in Nuremberg, attended by millions and marked by military-style demonstrations and speeches filled with hate. During these rallies in the 1930s, the Nazis promulgated what became known as "the Nuremberg laws." These decrees were aimed at the Jewish people.

These Nuremberg laws, among other things, deprived Jews of their German citizenship; made sexual relations and marriages between Jews and non-Jews a crime; deprived Jews of the right to work as doctors, dentists, lawyers, and

journalists; and deprived Jews of any right to own property. The Nuremberg decrees were a harbinger of the genocide to come.

World War II Begins

In 1939, Germany invaded and conquered Poland, and Britain and France declared war. World War II had begun. Over the next two years, the German army invaded Norway, Denmark, France, Belgium, Luxemburg, the Netherlands, North Africa, Greece, Yugoslavia, and the Soviet Union. These invasions broke every treaty that Germany had signed and were aimed at pure conquest and exploitation. In December of 1941, after Germany's ally Japan had attacked the United States fleet at Pearl Harbor, Hawaii, Germany declared war on the United States.

At the beginning, the German army seemed unstoppable. As it advanced through Europe, the Nazis set up death camps to exterminate the Jews of Europe, Gypsies, political prisoners, and others. In these camps, the mass murder of thousands of civilians occurred daily, with assembly-line precision. By the end of the war in 1945, according to the Nazis' own records, over 6 million Jews had been murdered, along with over 4 million non-Jews, in these death camps. Millions of other civilians under Nazi occupation were arrested and forced to work as slave laborers in German factories and mines and on German farms.

In May 1945, Hitler committed suicide in his underground bunker in Berlin, as the counter-attacking Soviet Army captured the city. The British, American, and Free French armies had fought their way into western Germany. Germany surrendered, and World War II in Europe was over. Millions of soldiers and civilians had died during the war; it is estimated that the Soviet Union alone suffered 20 million dead.

As the Allied Armies (The United States, Great Britain, and the USSR) liberated the Nazi death camps, the extent of the Nazi horror became evident. As the guns fell silent across Europe, the victors had to decide what to do about these monstrous crimes and those individuals responsible for them.

The indictment essentially charged two types of crimes. First, the defendants were charged with "crimes against peace." This involved the planning and instituting of aggressive war—the invasions and conquest of over a dozen sovereign nations, many with which Germany had had peace treaties at the time. Second, the defendants were charged with war crimes—crimes against humanity. This included the genocide of the Jews, as well as the murders of conquered civilians and the imposition of slave labor on conquered civilians. The trials began on November 20, 1945, just six months after Germany's surrender.

The chief prosecutor chosen by the allies was U.S. Supreme Court Justice Robert Jackson. His opening statement is considered one of the most eloquent ever given in any court. Said Jackson:

The wrongs which we seek to condemn and punish have been so calculated, so malignant, so devastating that civilization cannot tolerate their being ignored because they cannot survive their being repeated. That four great Nations, flushed with victory and stung with injury, stay the hand of vengeance and voluntarily submit their captive enemies to the judgement of the law is one of the most significant tributes that power has ever paid to reason....

We will not ask you to convict these men on the testimony of their foes. There is no count in the indictment that cannot be proven by books and records ... as the defendants share the Teutonic passion for thoroughness in putting things on paper....

You will say I have robbed you of your sleep, but these are things which have turned the stomach of the world....

Let me make clear that while the law is first applied against German aggressors, the law includes, and if it is to serve a useful purpose, it must condemn aggression by any other nation, including those which sit here now in judgment.

The Nuremberg trials were conducted before a "military tribunal." The tribunal was composed of a leading jurist from each of the four victorious allies. Former Attorney General Francis Biddle was chosen by the United States, Lord Geoffrey Lawrence was selected by the British, General I.T. Nikichenko was the choice of the Russians, and the French selected Donnedieu de Vabros. There had been no historical precedent for such trials of war criminals by victorious nations. So another purpose of the Nuremberg trials was to establish a precedent for standards of conduct in future war crime trials. Controversy exists as to whether this second purpose was achieved.

As Justice Jackson pronounced in his opening statement, the evidence to convict the defendants would come in large part from admissions made in their own writings; their "Teutonic" passion for record-keeping provided the proof. The trials became primarily documents cases, supplemented by some very dramatic live testimony.

Roger Barrett, a present member of the Chicago Bar Association and former head of civil litigation at Mayer, Brown, and Platt, was one of the Nuremberg prosecutors. He was appointed by Justice Jackson to organize the documents. He spoke fluent German and had been an intelligence officer with the U.S. Army.

Documenting the Atrocities

Before the trials, Barrett began accumulating documentary evidence from all parts of Europe. He moved to Nuremberg months before the trials began. He visited Dachau, one of the German death camps. He obtained shrunken Polish heads that the Nazis used as paperweight souvenirs. He found lampshades that the Nazis made from tattooed skin of live inmates in the concentration camps. Barrett uncovered written records of the victims who died in the gas chambers of concentration camps. He put these records in alphabetical order, according to decedent, and listed the time of death. The deaths were approximately two minutes apart. The cause of death was also listed. According to the records, the "A's" meant the person had died of a "heart attack." The "B's" meant by fever. The only truth in these records was the number of documented deaths.

Other documentary evidence presented at trial disclosed Nazi official Himmler's admission of the program for the final "Jewish solution": extermination. Also admitted was the 1941 public announcement of leading Nazi legal scholar Hans Frank, the "Butcher of Krakow": "As far as the Jews are concerned, I want to tell you quite frankly that they must be done away with one way or another....We must annihilate the Jews, wherever it is possible." In addition to this documentary evidence, a movie entitled Nazi Concentration Camps was presented. It provided a professionally edited piece assembled from Allied armed forces footage taken when the death camps were liberated. The director, Lieutenant Colonel George Stevens, was a famous Hollywood director before the war. He subsequently directed a series of classic films, including *Shane*, the Academy award-winning western. The Concentration Camps film depicted the vile conditions that American and British troops discovered during liberation of the death camps. It depicted charred remains of prisoners who had been burned to death. It depicted British Army bulldozers pushing mounds of corpses to a massive grave. The film is available for viewing at the United States Holocaust Memorial Museum in Washington, D.C., or on the web at www.ushmm.org.

There were also eyewitness accounts presented. Dr. Franz Blaha worked on the medical staff at the Dachau death camp. He testified about Nazi "experiments" resulting in the deaths of hundreds of inmates and about visits to Dachau by six of the defendants.

Roger Barrett was also able to obtain the affidavit of Hermann Grabe, a German civilian construction expert. The affidavit describes the carnage during the Nazi destruction of the Rovno, USSR ghetto:

In the streets [of the ghetto] women cried out for their children and children for their parents. That did not prevent the SS from driving the people along the road at running pace, and hitting them, until they reached awaiting freight trains. Car after car was filled, and the screaming of women and children and the cracking of whips, and rifle shots resounded unceasingly... All through the night these beaten, hounded and wounded people moved along the streets. Women carried their dead children in their arms, children pulled and dragged their dead parents by their arms and legs down the road toward the train... About 6 o'clock in the morning (in the ghetto)...[t]he doors of the houses stood open, windows were smashed. Pieces of clothing, shoes, stockings, jackets, caps, hats, coats, et cetera were lying in the street. At the corner of a house lay a baby, less than a year old, with his skull crushed. Blood and brains were spattered over the house wall and covered the area immediately around the child. The child was dressed only in a little shirt." Grabe was not a victim, not a Nazi, but a witness.

General Otto Ohlendorf commanded the Nazi traveling killing squads which commenced their genocide in June 1941. Ohlendorf testified as to the mission of these squads. Their genocide began in Poland and continued against the Jews of the USSR. Under Ohlendorf's "leadership," 90,000 men, women, and children were exterminated. Ohlendorf testified without remorse. He demonstrated that regular German army personnel, as well as Nazis, knew what was happening. He testified that in 1942, gassing vans were introduced so that the killing squads would not personally have to shoot women and children. He was ordered to murder on a massive scale. He had no problem with this; he was "just following orders."

Dieter Wisliceny, an assistant to the infamous Nazi Adolf Eichmann, testified as to Eichmann's blood-chilling boast that "he would leap laughing into the grave, because the feeling that he had five million people on his conscience would be for him a source of extraordinary satisfaction." (Eichmann was captured by the Israelis in 1960 in Argentina and brought to Israel for trial. He was convicted of war crimes and executed in 1962.)

A death camp commandant, Rudolph Hoess, who was awaiting his own war crime trial, also testified. He described with chilling dispassion the assembly-line process he had established for mass murder. Said Hoess, "It was possible to get rid of ten thousand people in twenty-four hours." When later questioned by a prison psychologist, Hoess said, "...[t]he thought of disobeying never occurred to anybody... I never gave much thought to whether it was wrong. It just seemed a necessity." Hoess was convicted later at his own trial and hanged.

Early in the morning on October 16, 1946, Herman Goering bit down on a cyanide capsule that he had somehow smuggled into his cell and died. Minutes later, the ten other Nazis condemned to die, one by one, were hanged in the prison gymnasium.

The Nuremberg war crimes trials present a very dramatic story. The two-day "Legacies of Nuremberg" program will have a broader scope. Not only will it serve to educate attendees about the past, but it will also aim to encourage people to examine the present and the future.

Since Nuremberg, genocide has not disappeared from the world. Recent genocides in Kosovo, Rwanda, Darfur, Cambodia, and Iraq point to the need for continuing international efforts to prevent such atrocities and to bring to justice those who commit them. Lawyers and the rule of law in civilized societies must play a leading role in this effort. We urge all members of the CBA to attend at least one of the many

presentations on March 29th and 30th. Doing so will remind us why we became lawyers in the first place.

The Verdicts

In September 1946, ten months after the trial began, the judges returned the verdicts:

Hermann Goering: Guilty
Sentence: Death by hanging

Joachim von Ribbentrop: Guilty
Sentence: Death by hanging

Rudolf Hess: Guilty
Sentence: Life imprisonment

Wilhelm Keitel: Guilty
Sentence: Death by hanging

Julius Streicher: Guilty
Sentence: Death by hanging

Ernst Kaltenbrunner: Guilty
Sentence: Death by hanging

Alfred Rosenberg: Guilty
Sentence: Death by hanging

Hans Frank: Guilty
Sentence: Death by hanging

Wilhelm Frick: Guilty
Sentence: Death by hanging

Hjalmar Schacht: Not guilty

Arthur Seyss-Inquart: Guilty
Sentence: Death by hanging

Karl Donitz: Guilty
Sentence: 10 years imprisonment

Walter Funk: Guilty
Sentence: Life imprisonment

Albert Speer: Guilty
Sentence: 20 years imprisonment

Constantin von Neurath: Guilty
Sentence: 15 years imprisonment

Hans Fritzsche: Not guilty

Enrich Raeder: Guilty
Sentence: Life imprisonment

Baldur Von Schirach: Guilty
Sentence: 20 years imprisonment

Fritz Sauckel: Guilty
Sentence: Death by hanging

Alfred Jodl: Guilty
Sentence: Death by hanging

Alfred Jodl: Not guilty

Recommended Reading

Nuremberg: Infamy on Trial, Joseph E. Persico (Viking Press 1994)

Nuremberg Diary, G.M. Gilbert (Farrar, Straus 1947)

The Rise and Fall of the Third Reich, William L. Shirer (Simon & Schuster 1960)

Arthur S. Gold and William R. Coulson are principals of Gold & Coulson, a partnership specializing in complex commercial litigation, class actions, products liability, medical malpractice, entertainment, and construction litigation.

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