

Tori Misrok

Implications of the Nuremberg Trials on the Trajectory of International Law, and the Reunification of German-Jewish Cultures

Upon the liberation of the myriad of concentration and extermination camps in Eastern Europe, proponents of justice across the globe urged for rectification for victims of the Holocaust, and retribution for the perpetrators. The multitude of abuses committed against the Jewish community, along with other populations such as homosexuals and

were unprecedented in scope, and demanded collective, international attention to prevent repetition. Prior to the post-World War II era, sovereign nations dealt with allocating responsibility for war crimes, and reparations when a war concluded, whereas they now had to factor consequences of the Holocaust into the adjudication. The Allied powers continuously denounced Nazi Germany for her actions, intending to deter further behavior; however, the aggression persisted. Although precedent for trying officials and nations accused of committing war crimes proved ineffective, the actions of Nazi Germany surpassed traditional aggressive war crimes, and infringed on human rights. Due to Nazi s unrelenting, militaristic belligerence, and remorseless persecution of the Jewish people, Allied forces were determined to administer punishment for their transgressions. Through the establishment of ad hoc military tribunals, Allied forces transcended the previous scope of international law by developing stringent regulations regarding atrocities of war, as well as implementing legal provisions to rectify German-Jewish relations post-Shoah.

The Nuremberg Trials have been widely recognized as revolutionary for international law, for they had no successful predecessor to act in accordance with. Before the mid-twentieth century, international law mechanisms, regarding both war and humanitarian practices remained customary in the sense that there were no codified laws.¹ Therefore, international law had an anarchic dimension to it, as there existed no tangible laws to penalize sovereign nations who breached generally accepted practices or treaties. As technological advances coincided with the turn of the century, fears regarding military and warfare proliferation ensued. In turn, delegates drafted international treaties through the Hague Conventions to control the means of warfare, in 1899 and 1907, respectively.² Collectively, the Conventions produced considerable strides towards a universal law of war; however, the enforcement mechanisms behind war crimes lacked the authority, and strength to prosecute belligerents, which resulted in frequent acquittals

reparations, including assuming guilt for the entirety of World War I, demilitarization of their armed forces, the concession of territories like the Alsace-Lorraine, along with paying exorbitant financial reparations. Chaos ensued throughout the nation, as Allies attempted to establish trials for war criminals; however, despite the international acknowledgement of war crimes, and crimes against humanity, no war tribunals took place after the conclusion of World War I.⁵ Thereafter, sixty-three nations across the globe coalesced to form an international agreement to outlaw war crimes, and other forms of aggression through the Kellogg-Briand Pact in 1928, to prevent further upheaval.⁶ Despite the fact that numerous treaties and international agreements renouncing war and its atrocities had been postulated since the turn of the century, war crimes were not yet classified under criminal law.

In subsequent decades, worldwide economic collapse served as an impetus to the development and dissemination of alternative ideologies such as fascism. Vulnerable nations quickly turned to strong, nationalistic leaders who promised reform and recovery, which demonstrates how Adolf Hitler and Nazism easily

, the Third Reich, utilized biological fascism and pseudo-Social

targeting Jews,

homosexuals, and other groups they perceived as inferior to German superiority.⁷ As the Third Reich grew in power, they instituted the policy of *Gleichschaltung*, which legally allowed a systematic take over of the government, and in turn, the Jewish population.

This top-down takeover encroached on the rights of Jewish citizens living in Germany

⁵ Theodor Meron, "Reflections on the Prosecution of War Crimes by International Tribunals," *The American Journal of International Law* 100:3 (2006): 558.

⁶ Henry L. Stimson, "The Nuremberg Trial: Landmark in Law," *Foreign Affairs* 25:2 (1947): 182.

⁷ Michael Burleigh and Wolfgang Ippermann, *The Racial State: Germany, 1933-1945* (Cambridge: Cambridge University Press, 1991), 27.

Allies had several options for prosecuting the Nazi leaders, yet decided on trial, as any other method would not sufficiently address the wickedness that transpired.¹¹ During various wartime conferences at locations such as Potsdam, Tehran, and Yalta, the United States, the United Kingdom, the Soviet Union, and France agreed upon establishing an International Military Tribunal (IMT) in Nuremberg, Germany, which would prosecute accused of war crimes.¹² Furthermore, this ad hoc Tribunal was bequeathed with the jurisdictional authority to act as an international criminal court, an unprecedented endeavor, due to the fact that no entity had brought criminal proceedings against heads of state before August 8, 1945.¹³ Once the Allies configured the medium and jurisdiction in which the war criminals would be tried, they needed to compose a list for prosecution, as well as select employees to work for the Tribunal. In accordance with the London Charter establishing the Tribunal, there would be four judges present at the trials, along with defense attorneys and translators for the criminals brought to

Notwithstanding the fact that the IMT was established by 1945, commencing the trials required further effort and research. To inaugurate the trials and demonstrate their dedication to administering justice, the judges affirmed the divergent character of the Nuremberg t

injury bmit their captive enemies to the judgment of the law is one of the most significant tributes that Power has ever pai ¹⁶ The Nuremberg trials applied ideologies and customary principles of international law from previous conventions such as The Hague, yet there was much room for new charges and disciplines to take root. The charter of the Tribunal identified four crimes for the indicted, which included conspiracy, crimes against humanity, crimes against peace, and war crimes.¹⁷ Additionally, pleas of immunity and following superior orders were out ruled as a liable defense under the charter.¹⁸ The charges that the Tribunal arraigned war criminals on diverged from traditional war crimes such as aggression, due to the civilian-oriented crimes that occurred during the course of the Shoah. It is significant to note that the jurisdiction of such crimes only applied to those that occurred during wartime. While the prosecution forthrightly accepted these charges, the defense was critical of the controversial and unparalleled legal grounds they were charged on.

The Nuremberg trials spurred development of the legal definition of war crimes, by introducing the four charges in their charter. The charge of war crimes referred, but was not limited to torturing, pillaging from, and murdering civilians in occupied nations, along with prisoners of war. Out of the listed offenses, war crimes were the least

¹⁶ Theodor Meron, "Reflections on the Prosecution of War Crimes by International Tribunals," *The American Journal of International Law* 100:3 (2006): 551.

¹⁷ Henry L. Stimson, "The Nuremberg Trial: Landmark in Law," *Foreign Affairs* 25:2 (1947): 180.

¹⁸ Theodor Meron, "Reflections on the Prosecution of War Crimes by International Tribunals," *The American Journal of International Law* 100:3 (2006): 564.

controversial, as they have been previously documented and recognized.¹⁹ The notion of a crime against humanity referred to actions such as torture, murder, and persecution between citizens, yet this charge lacked the support of customary international law to fall back on.²⁰ Crimes against peace penalized leaders who engaged in aggressive war tactics; however, this charge was highly criticized as being retrospective or *ex post facto* sense that defendants were unaware of the criminality of their actions during the occurrence.²¹ Defendants were in reality unable to utilize the criticism of crimes against *ex post facto* law to their advantage, due to a clause within the charter that prohibited it as a liable defense. attempts at condemning the

The fourth charge, conspiracy, referred to the intent to commit any or all of the previously listed charges. In sum, these

and the Third Reich for their inhumane actions. Anglo-American trial practices took precedence in the trials, which posed difficulties for German counsel unfamiliar with procedures such as cross-examination.²³ Despite initial hesitance due to unfamiliarity with Anglo-American principles, defendants indeed benefitted from its due process clause inclusion, as this led to the possibility of acquittal.²⁴ Aside from traditional methods, the charter allowed for the incorporation, and utilization of extralegal measures from alternative systems to maximize the outputs at Nuremberg. In turn, during their respective trials, war criminals were all

the preliminary trial by the IMT, a majority of the charges stipulated in the charter were uncontested by both parties, except that of conspiracy.²⁸ War crimes, crimes against humanity, and crimes against peace had a firmer, more legitimate existence in customary international law, which facilitated charging war criminals with associated actions. The charge of conspiracy was harder to prosecute, as the Tribunal had minimal legal precedent to act off of, and perhaps did not want to overstep their jurisdiction. As the first international trial trying national leaders as criminals under international law, the sentences received by the defendants would be indicative for future endeavors.

After holding over four hundred sessions, and inquiring over one hundred witnesses, the IMT was finally able to draw their conclusions and disclose their judgment.²⁹ The Nuremberg trials were no trivial undertaking, and the deliberation that ensued among the Tribunal was evident in their meticulous proceedings. The justices at Nuremberg were faced with a historic case, so it was imperative that they scrutinized all evidence presented to them, as the future of international law, and the defendants were in their hands. During the IMT trial, there were twenty-two defendants, which left twelve men guilty of all four crimes listed in the indictment, and the remaining men with less.³⁰ Unfortunately for the prosecution, chief Nazi leaders such as Adolf Hitler, and Heinrich Himmler committed suicide before they could be sentenced for their transgressions. Additional Third Reich personnel who were not present for the actual trial were tried "*in absentia*," and were bequeathed with an appropriate sentence from the Tribunal. Of the defendants, three were acquitted, seven were imprisoned for varied

²⁸ Henry L. Stimson, "The Nuremberg Trial: Landmark in Law," *Foreign Affairs* 25:2 (1947): 187.

²⁹ Telford Taylor, "The Anatomy of the Nuremberg Trials," *The Comparative and International Law Journal of Southern Africa* 26:2 (1993): 300.

³⁰ Michael Biddiss, "The Nuremberg Trial: Two Exercises in Judgment," *Journal of Contemporary History* 16:3 (1981): 597.

lengths, and the rest were convicted to the death sentence.³¹ In turn, subsequent trials occurred after the IMT dissolved, as the IMT only tried the major Nazi war criminals that served as the administrative backbone of the Third Reich. Twelve succeeding trials were authorized via the Allied Control Council Code No. 10, which facilitated the prosecution of government and military officials, doctors, SS officers, along with others, who were leaders in Nazi Germany.³² Although these lesser trials received less acclaim, they operated based on the methodology, and customary international law that was introduced by the original Nuremberg trials in 1945.

In spite of the fact that subsequent trials after 1946 were given less consideration than the former, the individuals being prosecuted for their crimes during the Shoah were equally guilty and responsible for the atrocities that transpired. One trial that garnered widespread attention was that of Adolf Eichmann. Eichmann was a high-ranking official in the SS, and highly accountable for the mass deportations to killing camps in Poland that occurred during the Shoah. Due to the fact that Eichmann was a leading perpetrator in the Shoah, he would have likely been part of the IMT trials in 1945; however, as the trials began, Eichmann fled and sought refuge in Argentina.³³ Eichmann remained in Argentina for the following years, yet Israeli authorities discovered, and extradited him to Israel in May of 1960.³⁴ Although this strategy was extralegal, Eichmann was a wanted war criminal due to past transgressions, and needed to be prosecuted accordingly. It is imperative to note that Eichmann was brought to trial in Israel, as opposed to his

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During the duration of preceding trials, Israel was not yet a sovereign nation, as it was granted statehood in 1948, so it is likely to surmise that newfound nationalism fueled the desire to prosecute remaining war criminals and display Jewish perseverance. Likewise to his Nazi counterparts, Eichmann was indicted on fifteen charges, including crimes against humanity and war crimes.³⁵ Eichmann avowed that he was simply obeying the orders of his superiors; however, this argument illuminated the banality that lied within Nazi actions, leading the court to question if there was legitimate disdain and intent towards Jewry.³⁶ After a tumultuous and highly broadcasted trial, Adolf Eichmann was sentenced to the death penalty for his role in the perpetuation of the Shoah. Regardless of the breadth of the trials that materialized, each Tribunal utilized humanitarian and international law to effectuate justice for populations that were subjected to the contrary for nearly a decade.

It is universally recognized that the Nuremberg trials executed the prosecution of war criminals in an unprecedented manner, yet the completion of the trials was not the solitary triumph of the IMT. The IMT referred to past conventions like The Hague to formulate their jurisdiction and entailing criminality of wartime actions; however, they lacked punitive statutes for the Tribunal to act off of.³⁷ By virtue of the fact that the Tribunal incorporated crimes, which violated international criminal law into their indictments, universal organizations such as the United Nations were presumed to take action to amend international law accordingly. Consequently, administrative organs of the United Nations developed the Nuremberg Principles in 1950, which generated seven

³⁵ Arendt, *Eichmann in Jerusalem: A Report on the Banality of Evil*, 244.

³⁶ David Caldwell, "Reflections on Holocaust and Holocaust," *Rocky Mountain Review* 64:1 (2010): 14.

³⁷ Theodor Meros

ensuing practices, along with the establishment of measures to facilitate the reconciliation
of German-

perpetrators. Nuremberg is undoubtedly recognized for its contribution to international law, as universal jurisdiction expanded to incorporate criminal justice procedures into customary international law, and ultimately served as a prototype for succeeding courts and tribunals.

In the wake of the Shoah, the Jewish population was understandably distraught and disoriented, as they had just endured an exceptionally traumatic experience. European Jewry was consistently seized from their hometowns, and forced into a series of egregious living conditions, merely because they were Jewish individuals present in a war that was increasingly charged. Upon the conclusion of the Shoah, Jewish populations were evidently displaced, so occupational powers assumed responsibility for aiding and repatriating the survivors. Nonetheless, acclimatizing the Jewish population was only a fraction of the remedies required to normalize life post-Shoah. Along

As passed, Jewish citizens reclaimed their livelihoods and stability; however, they perpetuated memories of the Holocaust, which influenced the formation of a modernized Jewish culture and ethnicity. Although Nazi Germany was a bygone era, a segment of the Jewish population maintained disassociation from ordinary Germans on the foundation of ethnic differences due to the Shoah.

influenced the trajectory of mankind since the mid-twentieth century. Nations were turned upside down, governments adopted authoritarian regimes, and select populations were subjected to genocidal undertakings on the basis of prejudice and racism. The international phenomenon that was the Shoah occurred due to the proliferation of an anti-Semitic regime in a destitute nation, who victimized European Jewry in their pursuit of stabilization and racial perfection. Multinational collective action thrived through the channels of the Nuremberg trials. The emphasis on justice, reparation and reconciliation for victims of the Shoah influenced the development of international law, which had lasting implications for countries worldwide. In sum, the Tribunal irrefutably actualized the proved to be a landmark proceeding in humanitarian and international law, together with serving as a prelude to Jewish-German rapprochement.

