



Nuremberg Trial Archives

The International Court of Justice:
custodian of the archives of
the International Military Tribunal at Nuremberg



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FOREWORD

This booklet provides an overview of the official archives of the International Military Tribunal of Nuremberg (the “Nuremberg Trial Archives”), which were entrusted to the International Court of Justice in 1950.

The Court and its Registry have been the proud custodians of the Nuremberg Trial Archives for over 65 years. Not only has the Registry stored them in specialized conditions, it has also taken every possible measure to ensure their long-term preservation, including the de-acidification and digitization of the paper documents.

In July 2017, the Court approved a project, made possible in part by contributions from the United States Holocaust Memorial Museum and the Mémorial de la Shoah (France), to digitize the audio recordings of the trial’s proceedings and the films used as evidence. Once this project has been completed, the entire archives, with the exception of the physical evidence, will exist in digital format.

This booklet has been prepared by the Registry to mark the occasion of this most recent step forward in the preservation for future generations of the historical and judicial legacy of the International Military Tribunal of Nuremberg.

It also provides an opportunity to express our sincere gratitude not only to the United States Holocaust Memorial Museum and the Mémorial de la Shoah, but to the representatives of the United Nations Secretariat who lent their support to the digitization project — particularly Mr. Miguel de Serpa Soares, Under-Secretary-General for Legal Affairs and United Nations Legal Counsel, whose personal involvement in this project has been invaluable, as well as his colleagues at the Office of Legal Affairs, and the staff of the Archives and Records Management Section and the Department of Management, who provided their assistance and expertise in finalizing the partnership with the two institutions. We are, of course, also grateful to the Governments of the four Allied Powers (the French Republic, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland, and the United States of America), who gave their consent for the project to proceed.

Finally, I would like to offer special thanks to the staff of the Library of the Court, who have safely preserved the Nuremberg Trial Archives over the years and worked hard to ensure that they are put to the best possible use, and to express my appreciation to everyone at the Registry who helped to produce this booklet.

Philippe COUVREUR,
Registrar of the Court.

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Crates containing the Nuremberg Trial Archives being unloaded at Schiphol Airport, the Netherlands, 14 March 1950.

The archives of the International Military Tribunal and their relocation to The Hague

In 1946, the International Military Tribunal at Nuremberg (the “IMT”) decided that its “[a]rchives shall be kept by the [Tribunal’s] General Secretary so long as that office remains in existence[,] and thereafter at the Permanent Court of International Justice of The Hague”. This decision was communicated to the International Court of Justice (the “ICJ”) in 1947, it being understood that the archives to be deposited at the Court would consist of original and certified copies of IMT documents, and that those documents were being deposited in order to make them accessible to the European public. The transfer of the archives to the Peace Palace in The Hague was completed in 1950. Prior to this, the vast majority of the documents contained therein were published in the so-called “Blue Series”, a 42-volume publication in English, French and German. Additional material from the IMT trial (or “Nuremberg Trial”) was published in the eight-volume “Red Series”, produced under the aegis of Robert H. Jackson, United States Supreme Court Justice and Chief Prosecutor for the United States at the trial. The decision to deposit the official IMT archives (or “Nuremberg Trial Archives”) at the ICJ was undoubtedly motivated by the intention to allow scholars of international law easy access to their content. Furthermore, by choosing the Court to serve as the custodian of the Nuremberg Trial Archives, the legacy of the trial belonged to the international community as a whole, rather than to one particular State.

The archives in the Court’s custody comprise items in four general categories: (1) approximately 250,000 pages of paper documents (transcripts of the hearings in English, French, German and Russian; written pleadings; evidence exhibits filed by the prosecution and the defence; documents of the Committee for the Investigation and Prosecution of Major War Criminals; the judgment); (2) 1,942 gramophone discs corresponding to 775 hours of hearings; (3) 37 reels of film used as evidence in the trial and 12 reels of microfilm containing a copy of the diary of defendant Hans Frank; and (4) objects used as evidence, including soap, fragments of human skin and two steel cudgels.

It should be noted that the records entrusted to the Court are official archives of the IMT trial and do not contain any private papers, unofficial correspondence, records of meetings, etc.

Over the years, the ICJ's Registry has received numerous requests from public and private entities for copies of, or permission to consult, the IMT trial documents. To this day, historians, journalists and even artists continue to use the Nuremberg Trial Archives in their work. As custodian of the archives, the Court has always been mindful of its responsibility to ensure their integrity and preservation. The paper documents have been de-acidified, and in 2012, they were transferred to a secure location for storage in optimal conditions, in co-operation with the National Archives of the Netherlands. The original reels of film have also been stored in special conditions since 2000, in co-operation with the Nederlands Instituut voor Beeld en Geluid (Netherlands Institute for Sound and Vision).

Given the fragile nature of the original paper documents, gramophone discs, and reels of film and microfilm, the Court has also taken measures to



Winterbergen, National Archives of the Netherlands/Anefo, CCO.

Deputy-Registrar of the International Court of Justice, Jean Garnier-Coignet, receives the inventory of the Nuremberg Trial Archives as prepared by Barbara Skinner Mandellaub, representative of the Office of the United States High Commissioner for Germany, 8 May 1950.

ensure the long-term conservation of their intellectual content. In 1988, the Registry arranged for the 37 reels of nitrate-based film (nitrate being a very fragile medium) to be copied onto an acetate base, and in 2010, all of the paper documents were digitized.

After numerous endeavours to secure both the resources and the technical assistance required, the Registry's long-standing efforts to preserve the physical archives and safeguard their intellectual content took another step forward in 2017, with the approval by the Court's Library Committee, under the Chairmanship of Judge Antônio Augusto Cançado Trindade, of a project to digitize the gramophone discs and film. This project, developed by the Registry in conjunction with the United States Holocaust Memorial Museum and the Mémorial de la Shoah (France), is due to be completed in 2018. Upon completion of the project, all of the original Nuremberg Trial Archives will be stored in special conditions, in the National Archives of the Netherlands and the Nederlands Instituut voor Beeld en Geluid (Netherlands Institute for Sound and Vision).



ICJ Photo.

Judge Kirill Gevorgian, Judge Giorgio Gaja, Judge Antônio Augusto Cançado Trindade (Chairman), Judge Dalveer Bhandari and Mr. Philippe Couvreur, Registrar, at the meeting of the Library Committee on 5 July 2017. The Library Committee passed a recommendation to the Court to approve a project to digitize the microfilm, film and gramophone discs in the Nuremberg Trial Archives. The Chairman reported the recommendation to the plenary of the Court on 14 July 2017.



United States Holocaust Memorial Museum, courtesy of National Archives and Records Administration, College Park.

Palace of Justice, Nuremberg in 1945.

The International Military Tribunal and its legacy

The IMT trial was the first international criminal trial and, to this day, it remains the most prominent. The “trial of the century” was convened in the aftermath of the collapse of the Third Reich, the destruction caused by World War II, and the horror of the unparalleled atrocities committed by the Axis Powers. Retribution for these crimes was declared as one of the principal Allied war aims as early as 1941, and by 1943, the Allies had decided to set up a commission to gather evidence of Nazi crimes. In August 1945, the four Allied Powers of France, the Soviet Union, the United Kingdom and the United States (the “Four Powers”) signed the London Agreement, paving the way for the prosecution of major war criminals before the IMT.

Article 6 of the IMT’s Charter listed three broad categories of crimes:

- (a) *Crimes against peace*: namely, planning, preparation, initiation or waging of a war of aggression, or a war in violation of international treaties, agreements or assurances, or participation in a common plan or conspiracy for the accomplishment of any of the foregoing;
- (b) *War crimes*: namely, violations of the laws or customs of war. Such violations shall include, but not be limited to, murder, ill-treatment or deportation to slave labour or for any other purpose of civilian population of 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;
- (c) *Crimes against humanity*: namely, 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 crime within the jurisdiction of the Tribunal, whether or not in violation of the domestic law of the country where perpetrated.

The first of these charges, (a), was subdivided in the indictment, which thus contained four counts, of which the defendants each faced his own permutation.

Count one (common plan or conspiracy) was prosecuted by the United States, and count two (crimes against peace) by the United Kingdom. Count three (war crimes) and count four (crimes against humanity) were prosecuted jointly by France and the Soviet Union, according to whether the crimes in question had been committed in Western or Eastern Europe.

The 24 accused, charged with being “leaders, organizers [and] instigators [of] and accomplices” in the crimes defined in the Charter, represented a cross-section of the Nazi political, military, diplomatic and economic leadership. An attempt was also made to prosecute a prominent industrialist, but without success, as **Gustav Krupp von Bohlen und Halbach** was



United States Holocaust Memorial Museum, courtesy of National Archives and Records Administration, College Park.

The defendants in the dock.

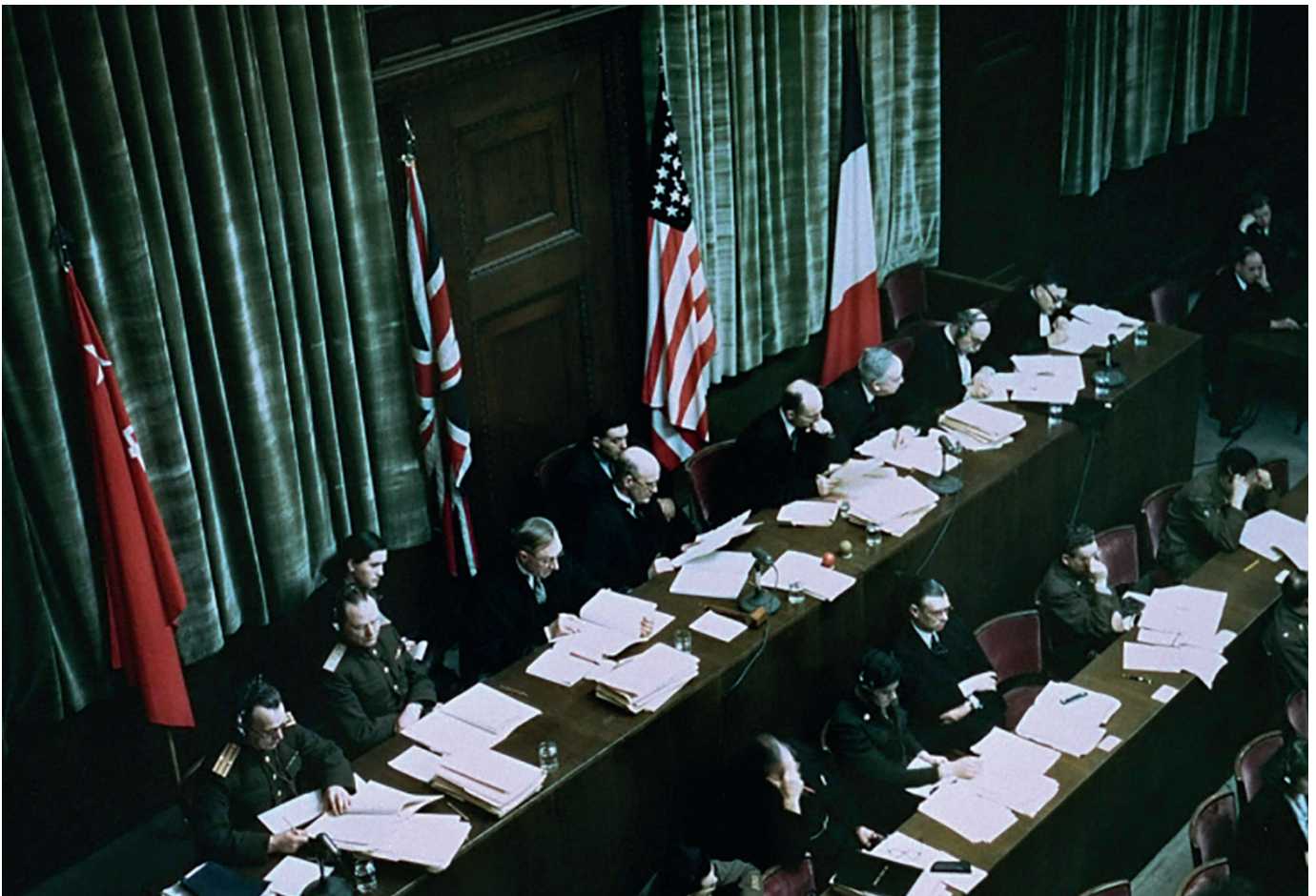
declared unfit to appear before the IMT. The Head of the German Labour Front, **Robert Ley**, committed suicide before the start of the trial, and **Martin Bormann**, Head of the Nazi party Chancellery (the position formerly known as Deputy to the Führer) and Hitler's Secretary, was tried *in absentia*. Joining the lead defendant, Reichsmarschall and Successor Designate to Hitler, **Hermann Wilhelm Göring**, were **Rudolf Hess**, former Deputy to the Führer; **Joachim von Ribbentrop**, Reich Minister for Foreign Affairs; **Wilhelm Keitel**, Chief of the High Command of the German Armed Forces; **Ernst Kaltenbrunner**, Head of the Reich Main Security Office and highest ranking officer of the Nazi party Schutzstaffel (SS) at Nuremberg; **Alfred Rosenberg**, racial theory ideologist and Reich Minister for the Eastern Occupied Territories; **Hans Frank**, Governor General of the Occupied Polish Territories; **Wilhelm Frick**, Reich Minister of the Interior and Reich Protector for Bohemia and Moravia; **Julius Streicher**, Editor-in-Chief of the antisemitic newspaper *Der Stürmer*; **Walther Funk**, Reich Minister of Economics and President of the German Reichsbank; **Hjalmar Schacht**, former Reich Minister of Economics and President of the German Reichsbank; **Karl Dönitz**, Commander-in-Chief of the German Navy and, briefly, successor to Hitler as Head of the German Government; **Erich Raeder**, former Commander-in-Chief of the German Navy; **Baldur von Schirach**, Head of the Hitler Youth; **Fritz Sauckel**, Plenipotentiary of the Nazi slave-labour programme; **Alfred Jodl**, Chief of the High Command of the German Armed Forces Operations Department; **Franz von Papen**, former Reich Chancellor and Vice Chancellor; **Arthur Seyss-Inquart**, Reich Commissar for the Occupied Netherlands; **Albert Speer**, Reich Minister for Armament and Munitions and Hitler's chief architect; **Konstantin von Neurath**, Reich Minister of Foreign Affairs and later Reich Protector for Bohemia and Moravia; and **Hans Fritzsche**, Ministerialdirektor of the Reich Ministry of Propaganda.

The main judges at the Nuremberg Trial, as appointed by the Four Powers, were Francis Biddle (United States of America), Professor Henri Donnedieu de Vabres (France); Major General Iona Nikitchenko (Soviet Union) and Lord Justice Geoffrey Lawrence (United Kingdom). Lawrence was elected President of the Tribunal.

The choice of Nuremberg as the location for the trial was symbolic. The city lay in ruins, but the courtroom had survived the Allied bombings almost intact: Europe was going to be rebuilt by the rule of law. The very name “Nuremberg” was also evocative of Nazi Germany itself. It was here that the infamous 1935 laws were promulgated and that the Nazi party’s annual mass rallies were staged. It should be noted that the official seat of the Tribunal was Berlin, where the opening session was held.

The trial opened on 20 November 1945 and, after 403 sessions held over 216 days, the Tribunal delivered its verdict on 1 October 1946.

Twelve defendants — Bormann, Göring, Frank, Frick, Kaltenbrunner, Keitel, Jodl, Ribbentrop, Rosenberg, Sauckel, Seyss-Inquart and Streicher — were sentenced to death. Göring committed suicide the night before the execution. Three defendants — Hess, Funk and Raeder — were sentenced to life imprisonment, and four — Dönitz, Neurath, Schirach and Speer — to lengthy prison terms. The Tribunal acquitted three of the defendants — Fritzsche, Papen and Schacht.



Judges' Bench.

The IMT also indicted several Nazi organizations, namely, the Reich Cabinet, the Leadership Corps of the Nazi party, the Nazi party Schutzstaffel (SS), the Security Service (SD), the Secret State Police (the “Gestapo”), the Sturmabteilung of the Nazi party (SA), and the General Staff and High Command of the German Armed Forces. This was done pursuant to Article 9 of the Charter, so that subsequent tribunals would have jurisdiction to prosecute any individual belonging to a proven criminal organization. The IMT ruled to be criminal the Leadership Corps of the Nazi party, the Gestapo, the SS and the SD.

One of the greatest achievements of the Nuremberg Trial might be that it took place at all. These famous, oft-quoted words of Robert H. Jackson, Chief Prosecutor for the United States, sum up the key strengths of the Nuremberg Tribunal:

“That four great nations, flushed with victory and stung with injury stay the hand of vengeance and voluntarily submit their



United States Holocaust Memorial Museum, courtesy of Randy Cole.

View of Nuremberg in 1945.

captive enemies to the judgment of the law is one of the most significant tributes that Power has ever paid to Reason.”

The bleak alternative to the trial would have been a summary execution of the Nazi leaders; in the heated atmosphere of post-war Europe, this was seriously considered. That this path was not taken and that the victorious powers reached an agreement, not only on principle but also on procedure, was no mean feat.

In the wake of the war, the Allies’ priorities were often summarized as the four Ds: demilitarization, denazification, decartelization and democratization, and these priorities were reflected in the original choice of defendants. The Nuremberg Trial was conducted with a clear two-fold objective: (1) bringing the perpetrators to justice, and (2) educating the German public and assisting German society in rebuilding the country and coping with the past.

That the Nuremberg Trial is remembered as far more than a symbolic, judicial postscript to World War II, is due to its achievements in clarifying and altering the fabric of existing international law. As stated in the judgment:

“The making of the Charter was the exercise of the sovereign legislative power by the countries to which the German Reich unconditionally surrendered; and the undoubted right of these countries to legislate for the occupied territories has been recognized by the civilized world. The Charter is not an arbitrary exercise of power on the part of the victorious nations, but in the view of the Tribunal, as will be shown, it is the expression of international law existing at the time of its creation; and to that extent is itself a contribution to international law.”

In the aftermath of the trial, the IMT’s contribution to international law was codified by the United Nations International Law Commission in the “Principles of international law recognized in the Charter of the Nürnberg Tribunal and in the judgment of the Tribunal” (the “Nuremberg Principles” (see inset on pages 16-17)).

It has been said that the Nuremberg Trial was never intended to be a mere historical event. Its framers intended it to be the beginning of a new era of accountability, both for governments and for their representatives. The trial was seen as a good opportunity to establish the lines of conduct in international affairs and in the acceptable treatment of a population by its own government.

The IMT thus contributed to the definition of war crimes and the outlawing of wars of aggression. Among other significant contributions, it enabled the formulation of the offences listed in count four of the indictment, namely crimes against humanity, and the prosecution of high-ranking State officials. It is now beyond dispute that an individual can be held to account under international law and that war crimes and crimes against humanity constitute criminal offences under customary international law.

The precedent created by the Nuremberg Trial was a significant step for the international community and a foundation of international criminal justice.

United States Holocaust Memorial Museum, courtesy of Joseph Eaton.



Chief Prosecutor for the United States of America, Robert H. Jackson.

Principles of international law recognized in the Charter of the Nürnberg Tribunal and in the judgment of the Tribunal

On 21 November 1947, one year after the conclusion of the Nuremberg Trial, the United Nations General Assembly adopted resolution 177 (II) entrusting the International Law Commission with the formulation of the principles of international law recognized in the IMT's Charter and final judgment. The Commission formulated seven principles, listed below, which were adopted on 29 July 1950 at its second session. The report of the Commission from that session contains commentaries on the principles.

Principle I

Any person who commits an act which constitutes a crime under international law is responsible therefor and liable to punishment.

Principle II

The fact that internal law does not impose a penalty for an act which constitutes a crime under international law does not relieve the person who committed the act from responsibility under international law.

Principle III

The fact that a person who committed an act which constitutes a crime under international law acted as Head of State or responsible Government official does not relieve him from responsibility under international law.

Principle IV

The fact that a person acted pursuant to order of his Government or of a superior does not relieve him from responsibility under international law, provided a moral choice was in fact possible to him.

Principle V

Any person charged with a crime under international law has the right to a fair trial on the facts and law.

Principle VI

The crimes hereinafter set out are punishable as crimes under international law:

(a) Crimes against peace:

- (i) Planning, preparation, initiation or waging of a war of aggression or a war in violation of international treaties, agreements or assurances;
- (ii) Participation in a common plan or conspiracy for the accomplishment of any of the acts mentioned under (i).

(b) War crimes:

Violations of the laws or customs of war which include, but are not limited to, murder, ill-treatment or deportation to slave-labour or for any other purpose of civilian population of or in occupied territory, murder or ill-treatment of prisoners of war, of 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.

(c) Crimes against humanity:

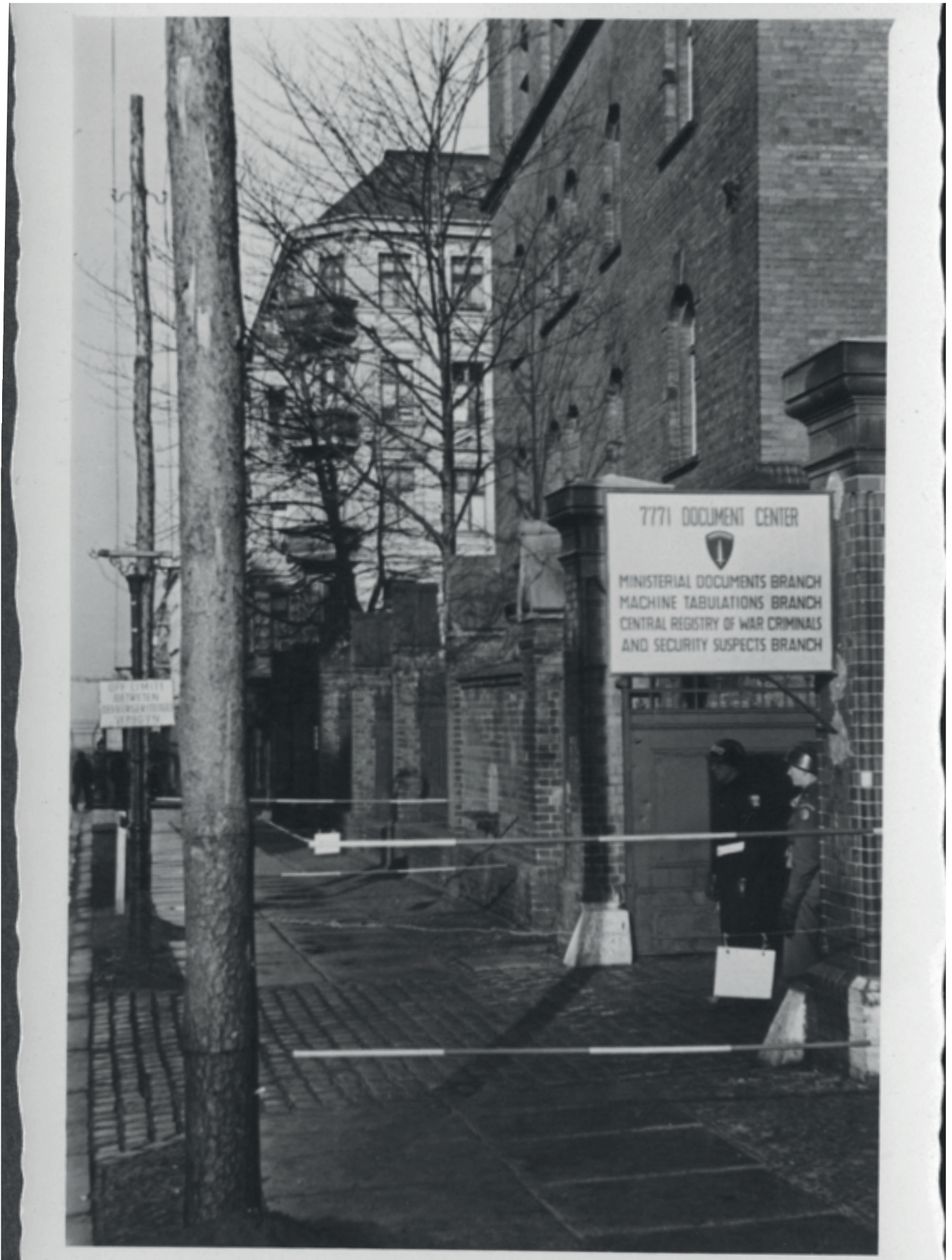
Murder, extermination, enslavement, deportation and other inhuman acts done against any civilian population, or persecutions on political, racial or religious grounds, when such acts are done or such persecutions are carried on in execution of or in connection with any crime against peace or any war crime.

Principle VII

Complicity in the commission of a crime against peace, a war crime, or a crime against humanity as set forth in Principle VI is a crime under international law.

Direct descendants of the IMT, *ad hoc* courts, such as the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR), and hybrid courts, such as the Special Court for Sierra Leone (SCSL), the Extraordinary Chambers in the Courts of Cambodia (ECCC) and the Special Tribunal for Lebanon (STL), have been founded since the 1990s, and the International Criminal Court, a permanent tribunal, was established in 1998. Besides endowing these modern tribunals with legitimacy and lists of crimes, the IMT also provided a basis from which the procedure of these tribunals evolved. Some 50 years after the Nuremberg Trial, Louise Arbour, Prosecutor of the ICTY, remarked: “Collectively, we are linked to Nuremberg. We mention its name every single day.”

The Nuremberg Trial was not without its shortcomings and elicited some criticisms, which, with the passing of time, have perhaps become less passionate. These criticisms concerned not only the application of the law, but the socio-historical analysis of the Nazi rise to power, the representation of the Holocaust and victim participation in the trial, among other things. For many, however, the IMT was an important achievement, despite its flaws. As one of the victims, Primo Levi, wrote about the trial, “(. . .) I had been intimately satisfied by the symbolic, incomplete, tendentious, sacred representation in Nuremberg”.



United States Holocaust Memorial Museum, courtesy of Gerald (Gerd) Schwab.

The Berlin Document Center was established immediately after the occupation of Berlin by the Allied forces. Its purpose was to centralize the collection of documents from German Government institutions, the Nazi party and organizations associated with the party.

Documenting the trial, Nazi crimes and atrocities

The Nuremberg Trial has been described as the “trial of six-million words”, as this was said to be the number of words spoken during the 216 days of Tribunal sessions. The quantity and quality of the documents presented have also ensured that it has been remembered as a trial of evidence.

The Nuremberg Trial Archives are a heterogeneous collection of documents that can be divided into three categories: records of the work of the Tribunal itself, evidence submitted by the prosecution and defence and, finally, evidence produced for or during the trial, such as affidavits and the oral testimony of witnesses. The value of these records in documenting Nazi crimes and the enormous task of bringing them to light is undoubtedly one of the biggest achievements of the IMT.

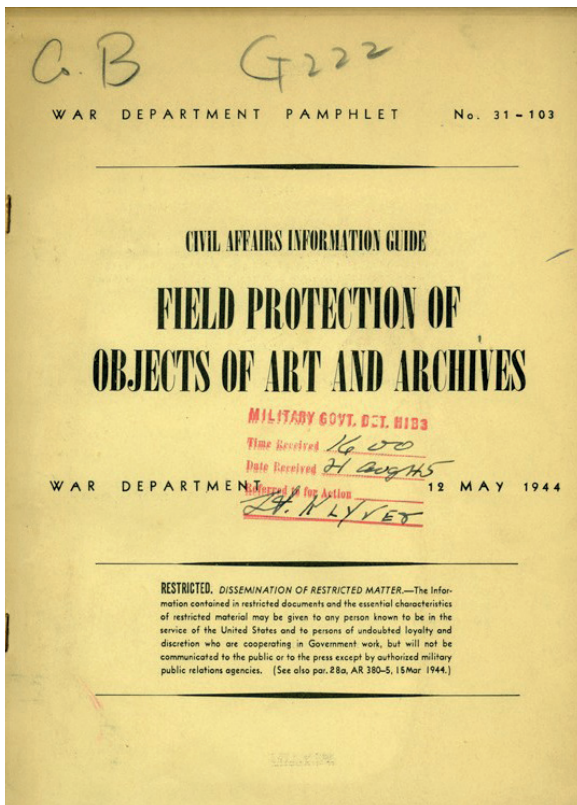
It should not be forgotten, however, that a major part of the evidence submitted to the Tribunal came from archives seized by the Allied armies in German territory, forming part of a bigger collection of materials on Nazi Germany. The seized archives included records of the Ministry of Foreign Affairs and the Navy, Nazi party membership files and personal files of Alfred Rosenberg, a senior Nazi official and supporter of racial theory. The importance of such records for prosecuting war crimes was evident, but it was not the sole reason for the Allies’ efforts to take possession of the archives of Nazi Germany. Initially, of course, the confidential records seized had an intelligence value in the ongoing military conflict, but the Allies were already aware that they could prove indispensable for other purposes. Indeed, the decision to confiscate and protect the German archives was made as early as 1943 at the suggestion of Ernst Posner, a former archivist of the Prussian State Privy Archives, who fled Germany in 1939 and in the United States drew attention to the value of government records for an occupying force. Realizing that any military government replacing German administrative structures would need access to various kinds of records in order to rule the country effectively, a group of professional archivists followed the advancing armies. Special units within the United States Army, known as Target Forces, were set up, and soldiers were issued with pamphlets on

“Field protection of objects of art and archives”. Given that most of the archives were transferred from Berlin to locations in the western part of Germany, this approach ensured that most of the important records were in the custody of the United States or the United Kingdom at the end of the war or soon after.

As soon as preparations for the Nuremberg Trial were under way, groups of Allied intelligence officers and prosecutors began processing tonnes of recently seized documents. John Amen, one of the prosecutors for the United States, recalled that “[t]hese Nazis had a mania for writing things down. It is an amazing psychological phenomenon that not one of these men could have a minor political conversation without recording it . . . So now we are swamped with more documents than can possibly be gone through thoroughly in the time allotted to us and new batches are being uncovered every day.”

The amount of incriminatory evidence discovered was overwhelming, and it convinced Robert H. Jackson, Chief Prosecutor for the United States, to base the trial on documents, preferably signed by the defendants themselves. This decision meant that an important body of incriminating documents taken from seized German archives was presented to the Tribunal and, importantly, placed under the scrutiny of German and international public opinion. It

led Jackson to claim that the Nuremberg Trial was “the world’s first post-mortem examination of a totalitarian regime”. It should not be forgotten, however, that the Nuremberg Trial Archives contain only a small part of all available documents from Nazi Germany, namely, those selected in order to prove the guilt of the defendants and of certain organizations. As a collection, they are primarily documentation of the trial itself. Deeper analysis of the era clearly requires consultation of a larger body of documents. In the words of Telford Taylor, one of the prosecutors for the United States:



United States Government publication, courtesy of National Gallery of Art, Washington.

Pamphlet issued to American military personnel.

“What is the significance of all this for archivists and historians? As you can see, from a historical standpoint there is no intrinsic logic to this assemblage of documents. But from the standpoint of a student of the trials, as an episode in history, there is of course enormous value. The process of collecting and using these documents at Nürnberg did accomplish several things that otherwise would not have happened. For one thing, it very much expedited publication of a great many of the most significant documents concerning the war; and had it not been for their collection and use as evidence at Nürnberg, many of these documents would not have become known until much later. It also meant that some of these very important documents were first made public in a setting that insured wide publicity, which for at least some purposes was a good thing.”

Robert Wolfe, archivist at the United States National Archives and Records Administration (NARA) specializing in records from World War II, explained how important — but in some ways also disadvantageous — the Nuremberg Trial was for the overall collection of the documentation of Nazi Germany:

United States Holocaust Memorial Museum, courtesy of National Archives and Records Administration, College Park.



Document room of the United States' prosecution team.

“My own capsule verdict on the exploitation of captured German documents at Nürnberg (. . .), is that it was both a curse and a boon as far as the effect on the overall documentation of German history in the twentieth century: a curse because of the deplorable practice of tearing records from their physical and substantive context with an eye only to their documentation in war crimes; a boon because only such a high political purpose as prosecution of enemy leaders for war crimes carried enough clout (normally lacking once a war was safely won) to provide the serendipital fallout of funds and manpower required for effective search, seizure, transport, arrangement, and description of enemy records.”

This assessment is limited to the use of documents from seized German archives, but the Nuremberg Trial also produced its own historical record. As mentioned previously, numerous testimonies, such as affidavits and oral depositions, were produced for or during the trial. One such testimony is an account of the killing of five thousand Jews from the town of Dubno in present day Ukraine by an SS death squad, signed by German construction engineer, Hermann Gräbe:

“Thereupon I drove to the site, accompanied by my foreman, and saw near it great mounds of earth, about 30 meters long and 2 meters high. Several trucks stood in front of the mounds. Armed Ukrainian militia drove the people off the trucks under the supervision of an SS man. The militia men acted as guards on the trucks and drove them to and from the pit. All these people had the regulation yellow patches on the front and back of their clothes and thus could be recognized as Jews.

My foreman and I went directly to the pits. Nobody bothered us. Now I heard rifle shots in quick succession from behind one of the earth mounds. The people who had got off the trucks — men, women, and children of all ages — had to undress upon the orders of an SS man, who carried a riding or dog whip. They had to put down their clothes in fixed places, sorted according to shoes, top clothing, and underclothing. I saw a heap of shoes of about

800 to 1,000 pairs, great piles of under linen and clothing. Without screaming or weeping these people undressed, stood around in family groups, kissed each other, said farewells, and waited for a sign from another SS man, who stood near the pit, also with a whip in his hand. During the 15 minutes that I stood near I heard no complaint or plea for mercy. I watched a family of about eight persons, a man and a woman both about 50 with their children of about 1, 8, and 10, and two grown-up daughters of about 20 to 24. An old woman with snow-white hair was holding the one-year-old child in her arms and singing to it and tickling it. The child was cooing with delight. The couple were looking on with tears in their eyes. The father was holding the hand of a boy about 10 years old and speaking to him softly; the boy was fighting his tears. The father pointed to the sky, stroked his head, and seemed to explain something to him. At that moment the SS man at the pit shouted something to his comrade. The latter counted off about 20 persons and instructed them to go behind the earth mound. Among them was the family which I have mentioned.



United States Holocaust Memorial Museum, courtesy of Lydia Chagoli.

Child survivors leave the children's barracks in Auschwitz (still from the Soviet film of the liberation of Auschwitz).

I well remember a girl, slim and with black hair, who as she passed close to me, pointed to herself and said, '23'. I walked around the mound and found myself confronted by a tremendous grave. People were closely wedged together and lying on top of each other so that only their heads were visible. Nearly all had blood running over their shoulders from their heads. Some of the people shot were still moving. Some were lifting their arms and turning their heads to show that they were still alive. The pit was already two-thirds full. I estimated that it already contained about 1,000 people. I looked for the man who did the shooting. He was an SS man, who sat at the edge of the narrow end of the pit, his feet dangling into the pit. He had a tommy gun on his knees and was smoking a cigaret. The people, completely naked, went down some steps which were cut in the clay wall of the pit and clambered over the heads of the people lying there, to the place to which the SS man directed them. They lay down in front of the dead or injured people; some caressed those who were still alive and spoke to them in a low voice. Then I heard a series of shots. I looked into the pit and saw that the bodies were twitching or the heads lying motionless on top of the bodies which lay before them. Blood was running away from their necks. I was surprised that I was not ordered away but I saw that there were two or three guards in uniform nearby. The next batch was approaching already. They went down into the pit, lined themselves up against the previous victims and were shot. When I walked back round the mound I noticed another truck load of people which had just arrived. This time it included sick and infirm persons. An old, very thin woman with terribly thin legs was undressed by others who were already naked, while two people held her up. The woman appeared to be paralyzed. The naked people carried the woman around the mound. I left with my foreman and drove in my car back to Dubno."

On the morning of the next day, when I again visited the site, I saw about 30 naked people lying near the pit — about 30 to 50 meters away from it. Some of them were still alive; they looked

Hersch Lauterpacht and the International Military Tribunal

Born in 1897 in Zólkiew in Eastern Galicia, then part of the Austro-Hungarian empire, Hersch Lauterpacht studied law in Lemberg (Lviv) and Vienna before moving to the United Kingdom, where he undertook research and teaching at the London School of Economics. After only 14 years in Britain, he became Whewell Professor of International Law at Cambridge University. Between 1951 and 1955 he was a member of the International Law Commission and from 1955 until his death in 1960 a Member of the International Court of Justice. Throughout his career, his attention was focused on the protection of human rights and fundamental freedoms, as well as on the integration of the international community through the rule of law and justice. During World War II, Lauterpacht wrote the book *An International Bill of the Rights of Man*, a plea for recognition of the role and rights of the individual in international law. War crimes were another area of interest to him at this time and, in 1944, he published the influential article, “The Law of Nations and Punishment of War Crimes”, in the *British Year Book of International Law*. An influential sentence from this article, somewhat reformulated, was eventually incorporated into the IMT’s judgment. As Lauterpacht phrased it:

“The rules of warfare, like any other rules of international law, are binding not only upon impersonal entities, but upon human beings. The rules of law are binding not upon an abstract notion of Germany, but upon members of the German government, upon German individuals exercising governmental functions in occupied territory, upon German officers, upon German soldiers.”

In the lead up to the Nuremberg Trial, Chief Prosecutors for the United States and the United Kingdom, Robert H. Jackson and Sir Hartley Shawcross, met with Lauterpacht on several occasions. Lauterpacht is now widely recognized as having helped to formulate the notion of the tripartite definition of Nazi criminality (crimes against peace, war crimes and crimes against humanity). Lauterpacht also drafted the legal arguments for Shawcross’s opening and closing speeches. Those arguments focused on the prohibition of aggression, crimes against peace, issues of individual criminal responsibility and rejection of state sovereignty as a defence, and on assuring the fairness of the trial. It is estimated that three-quarters of the legal reasoning in Shawcross’s closing speech was drawn directly from Lauterpacht’s draft.

In 1951, in a letter to Jackson, Lauterpacht protested against the policy of amnesty for certain convicted Nazis. In his opinion, the policy could be seen as an “indignity inflicted upon the memory of those who suffered death and martyrdom at the hands of the released war criminals”.



ICJ Photo.

Hersch Lauterpacht.

straight in front of them with a fixed stare and seemed to notice neither the chilliness of the morning nor the workers of my firm who stood around. A girl of about 20 spoke to me and asked me to give her clothes and help her escape. At that moment we heard a fast car approach and I noticed that it was an SS detail. I moved away to my site. Ten minutes later we heard shots from the vicinity of the pit. The Jews still alive had been ordered to throw the corpses into the pit, then they had themselves to lie down in this to be shot in the neck.”

Hermann Gräbe’s report is but one of many accounts gathered by the prosecution teams prior to the trial and an example of the testimony that has been passed down to us because of the work of the IMT. It was quoted extensively in the closing speech of the Chief Prosecutor for the United Kingdom, Sir Hartley Shawcross. In his final words to the Tribunal, Shawcross reminded the judges of a sentence from Gräbe’s affidavit, “‘The father’, remember?, ‘pointed to the sky and seemed to say something to the boy’”, thus underscoring and personalizing the suffering of innocent victims.



United States Holocaust Memorial Museum, courtesy of Robert Kempner.

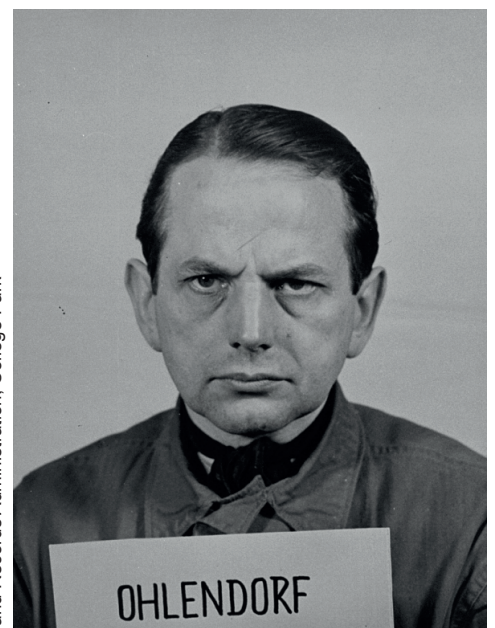
The Soviet Union’s prosecution team.

With its enormous body of selected documentary evidence and oral testimony, the Nuremberg Trial of major war criminals provided a reasonably accurate account of historical events, but the main strength of the documents forming the Nuremberg Trial Archives arguably lies in their use in a judicial setting and their role in the interplay between the evidence and the witnesses, judges, defendants, lawyers and prosecutors in the courtroom. As Taylor observed:

“Perhaps even more important, the use of these documents at the trial as evidence against defendants, most of whom took the stand and testified, meant that these documents were subjected to both explanation and scrutiny by those who were being blamed for the crimes disclosed by the documents. Therefore, many of these documents now have a gloss on them in the form of supplementary testimony by the men who wrote them or the men who were mentioned in them, thus creating an immense overlay of additional information and comment that in many settings is of great historical importance. Again, this would not have been available but for the trials. This supplement and illumination and testing by testimony was, I think, of great historical significance.”

Compared to other post-war trials, both the prosecution and the defence called relatively few witnesses — 94 in total, 33 for the prosecution and 61 for the defence — and included testimonies of both victims and high-profile Nazis. One of the witnesses was Otto Ohlendorf, who led the mobile SS death squad in Crimea. During his testimony, he estimated the number of murders committed under his command to be as high as 90,000. Rudolf Höss, the former Commandant of Auschwitz, detailed the “improvements” made to the killing process at Auschwitz compared with other death camps. Dieter Wisliceny, a close associate of Adolf Eichmann’s and a key executioner in the final phase of the Holocaust, testified about the rounding-up of Jews for transportation to death camps, and General

United States Holocaust Memorial Museum, courtesy of National Archives and Records Administration, College Park



Otto Ohlendorf.

Erwin von Lahousen, a high-ranking Abwehr official as well as a member of the German resistance, described the war crimes committed in conquered Poland and the Soviet Union.

The testimony of the victims is also a legacy of the trial. Witnesses included Czech doctor, Franz Blaha, who described medical experiments in Dachau, Marie-Claude Vaillant-Couturier and Severina Shmaglevskaya, who gave harrowing accounts of Auschwitz and Ravensbrück, and former Treblinka inmate, Samuel Rajzman, and poet, Abraham Sutzkever, who recounted the murderous policies of the Third Reich.

These early and highly publicized accounts documented “the incredible” and helped to prevent what the survivors feared most. In the words of Primo Levi:

“(. . .) many survivors (among others Simon Wiesenthal in the last pages of *The Murderers Among Us*) remember that the SS militiamen cynically enjoyed admonishing the prisoners:



United States Holocaust Memorial Museum, courtesy of National Archives and Records Administration, College Park.

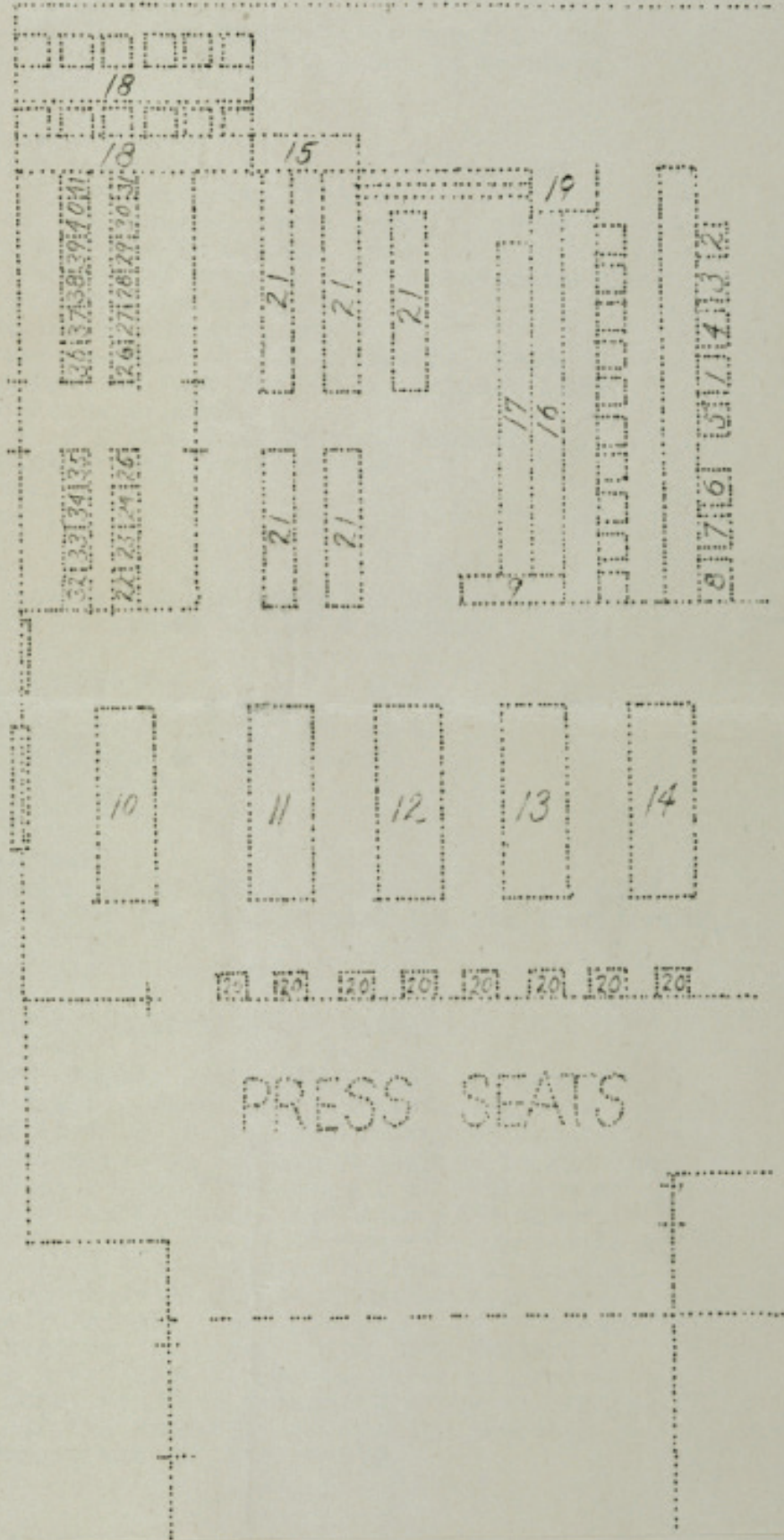
Women in the barracks of the newly-liberated Auschwitz concentration camp (still from the Soviet film of the liberation of Auschwitz).

‘However this war may end, we have won the war against you; none of you will be left to bear witness, but even if someone were to survive, the world would not believe him. There will perhaps be suspicions, discussions, research by historians, but there will be no certainties, because we will destroy the evidence together with you. And even if some proof were to remain and some of you survive, people will say that the events that you describe are too monstrous to be believed: they will say that they are the exaggerations of Allied propaganda and will believe us, who will deny everything, and not you. We will be the ones to dictate the history of the Lagers.’

Strangely enough, this same thought (‘even if we were to tell it, we would not be believed’) arose in the form of nocturnal dreams produced by the prisoners’ despair. Almost all the survivors, verbally or in their written memoirs, remember a dream which frequently recurred during the nights of imprisonment, varied in its detail but uniform in its substance: they had returned home and with passion and relief were describing their past sufferings, addressing themselves to a loved person, and were not believed, indeed were not even listened to. In the most typical (and most cruel) form, the interlocutor turned and left in silence.”

FLOOR PLAN OF COURT ROOM

- 1 Lord Lawrence
British Judge
- 2 Volchkow, Russian
Alternate Judge
- 3 Maj Gen Nikitchenko
Russian Judge
- 4 Birkett, British
Alternate
- 5 Atty. Gen. Biddle
American Judge
- 6 Parker, American
Alternate Judge
- 7 De Vabres, French
Judge
- 8 Falco, French
Alternate Judge
- 9 Speakers Stand
- 10 French Prosecutors
- 11 Russian Prosecutors
- 12 American Prosecutor
Justice Jackson
- 13 British Prosecutor
- 14 Prosecutors desk
- 15 Marshall of the
Court
- 16 Secretaries to the
Court, etc.
- 17 Court Recorders
- 18 Interpreters
- 19 Witness Stand
- 20 Seats for Distin-
guished Visitors
- 21 Defense Counsels
- 22 Goering
- 23 Hess
- 24 Ribbentrop
- 25 Keitel
- 26 Rosenberg
- 27 Frank
- 28 Frick
- 29 Streicher
- 30 Funk
- 31 Schacht
- 32 Deonitz
- 33 Raeder
- 34 Schirach
- 35 Sauckel
- 36 Jodl
- 37 Von Papen
- 38 Seyss-Inquart
- 39 Speer
- 40 Neurath
- 41 Fritsche



Floor plan of the courtroom.

Film as evidence before the International Military Tribunal

The refurbishment of Courtroom 600 in Nuremberg's Palace of Justice for use by the IMT reflected the novel, modern approach to the proceedings, as well as the needs of the highly publicized trial. Visual resources, such as charts, maps, photographs and films, were to be given prominence in the courtroom. The task of renovating the courtroom was given to Daniel U. Kiley, an architect at the Presentation Branch of the United States Office of Strategic Services (OSS), who was subsequently transferred to the Office of the United States Chief Counsel for the Prosecution of Axis Criminality. To ensure that the screen was visible from all seats, the architect decided on an unusual layout for the courtroom. The Bench was relocated to the side of the courtroom from its normal place at the front, and faced the dock on the other side.

From the outset of the proceedings — on the second day of the trial — Robert H. Jackson, Chief Prosecutor for the United States, made known the prosecution's wish to present visual documentation to the Tribunal:



View of the courtroom.

“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 proved by books and records. The Germans were always meticulous record keepers, and these defendants had their share of the Teutonic passion for thoroughness in putting things on paper. Nor were they without vanity. They arranged frequently to be photographed in action. We will show you their own films. You will see their own conduct and hear their own voices as these defendants re-enact for you, from the screen, some of the events in the course of the conspiracy.”

It was immediately apparent that the visual documentation would be used to bolster Jackson’s intellectual construction of the trial, the importance of the conspiracy charge and the strategy of trial-by-documentation. Jackson was referring here to the four-hour film entitled *The Nazi Plan*, which would be shown in the courtroom on 11 December 1945, the seventeenth day of the trial. Prior to that, however, another film, *Nazi Concentration Camps*, was screened on 29 November, the eighth day of the trial. This was also signalled in Jackson’s opening statement:

“We will show you these concentration camps in motion pictures, just as the Allied armies found them when they arrived (. . .). Our proof will be disgusting and you will say I have robbed you of your sleep.”

The film was compiled under the direction of Edgar Ray Kellogg from footage taken by American and British staff in areas liberated by the advancing armies. Kellogg’s team chose and edited from around 80,000 feet of available material to produce a film with a running time of just under an hour.

The film starts with a statement by Jackson: “This is an official documentary report compiled from United States Army films made by the photographers serving with the Allied armies as they advanced into Germany. The film was made pursuant to an order by General Dwight D. Eisenhower, Supreme Commander, Allied Expeditionary Forces.” This statement is followed by the affidavits of Kellogg and George C. Stevens certifying that the “motion pictures constitute a true representation of the individuals and scenes photographed” and that “the images of these excerpts from the original negative have not been

retouched, distorted or otherwise altered in any respect”. These affidavits are followed by a map showing the location of the main Nazi concentration camps across Europe.

The film concludes with harrowing images of British soldiers bulldozing piles of emaciated and mutilated bodies of victims of the Bergen-Belsen camp into mass graves. To this day, these scenes inform our visual imagery of the Holocaust and have become part and parcel of our collective memory. Shown for the first time in public, they elicited a strong reaction. After the screening, the judges simply rose, without formally adjourning the session. Although the accounts of soldiers and journalists reporting from liberated camps were in circulation prior to the screening, the general public mostly did not believe or did not realize the extent of the perpetrators’ atrocities and depravity. For instance, following the liberation of the Bergen-Belsen camp by Canadian and British soldiers on 15 April 1945, BBC staff did not initially believe the veracity of the eyewitness testimony of its own journalist and delayed broadcasting his report for several days until his revelations were confirmed by other sources.

United States Holocaust Memorial Museum, courtesy of Hadassah Bimko Rosensaft.



Survivors at Bergen-Belsen.

The film, and its commentary, is also a product of its time, shaped by the existing political agendas and the prevailing understanding of recent historical events. It has been argued that it suffers from significant shortcomings. First of all, it misinforms the contemporary understanding of the true nature of the crimes committed by failing to distinguish between concentration and death camps. This was partly due to the fact that British and American forces liberated camps, which, while horrific in their own right, were peripheral in the greater Nazi scheme of genocide. However, the prosecution team also had access to information about Nazi camps in occupied Poland and to the survivors of death marches from Auschwitz, who were at Mauthausen or Buchenwald at the time of liberation. Secondly, by failing to identify Jews as the prime target of Nazi atrocities, the film fails to bear witness to the true dimensions of the Holocaust.

The Nazi Plan, the other film alluded to by Jackson in his opening statement, is by far the longest film screened at the IMT. Edited by Budd Schulberg under the supervision of James Britt Donovan, one of the prosecutors for the United States, it is composed exclusively of original Nazi footage, including propaganda films such as Leni Riefenstahl's *Triumph of the Will* and newsreels. The film is divided into four parts: "The rise of the NSDAP, 1921 to 1933", "Acquiring Control of Germany, 1933-1935", "Preparation for Wars of Aggression 1935-1939", and "Wars of Aggression, 1939-1944". It traces the history of the National Socialist German Workers Party (the "Nazi party" or NSDAP) in an effort to demonstrate both the conspiracy charge and the criminal purposes of the Nazi organizations. With the exception of Kaltenbrunner and Funk, all of the defendants appear in person in the footage.

Unlike the American prosecution team, which screened films early in the trial, the Soviet Union's prosecution presented its film, *Film Documents on the Atrocities of the German-Fascist Invaders*, on 19 February 1946, as one of the last pieces of evidence at the crimes against humanity trial. It was a re-edited compilation of footage used in wartime Soviet newsreels and documentaries in an effort to rally the population against the enemy. Especially in its first part, shot in the territories of the Soviet Union, the filmmakers took a different and more personal approach than their American and British counterparts. The graphic images of execution, torture and burning are accompanied

by commentary that frequently emphasizes individual victims, providing their names, biographical details and stories. The grieving of victims' close relatives is shown explicitly. The film was directed and compiled by M. V. Bolshinov from footage shot by several cameramen following the Soviet Army as it pushed back the Germans. The first part of the film emphasizes the scale of destruction in the invaded territory by listing numerous locations where the mass murder and torture of Soviet prisoners of war and civilians took place. The footage from the Kharkov (Drobitski Yar) and Kiev (Babi Yar) areas includes evidence of the massacre of thousands of victims by mobile killing squads. The second part of the film shows images from areas in Poland and Germany, and includes, notably, footage from liberated death camps Majdanek and Auschwitz. The images of industrialized genocide — the crematoria, the piles of shoes, clothes and glasses — and of surviving children rolling up their sleeves to reveal their tattoos all became iconic.

Three days later, the Soviet prosecution team screened the German documentary about the destruction of Lidice. This Czech village was razed to the ground by the Nazis in retaliation for the assassination of Reinhard Heydrich in 1942. The screening was preceded by a long list of towns destroyed by Nazis

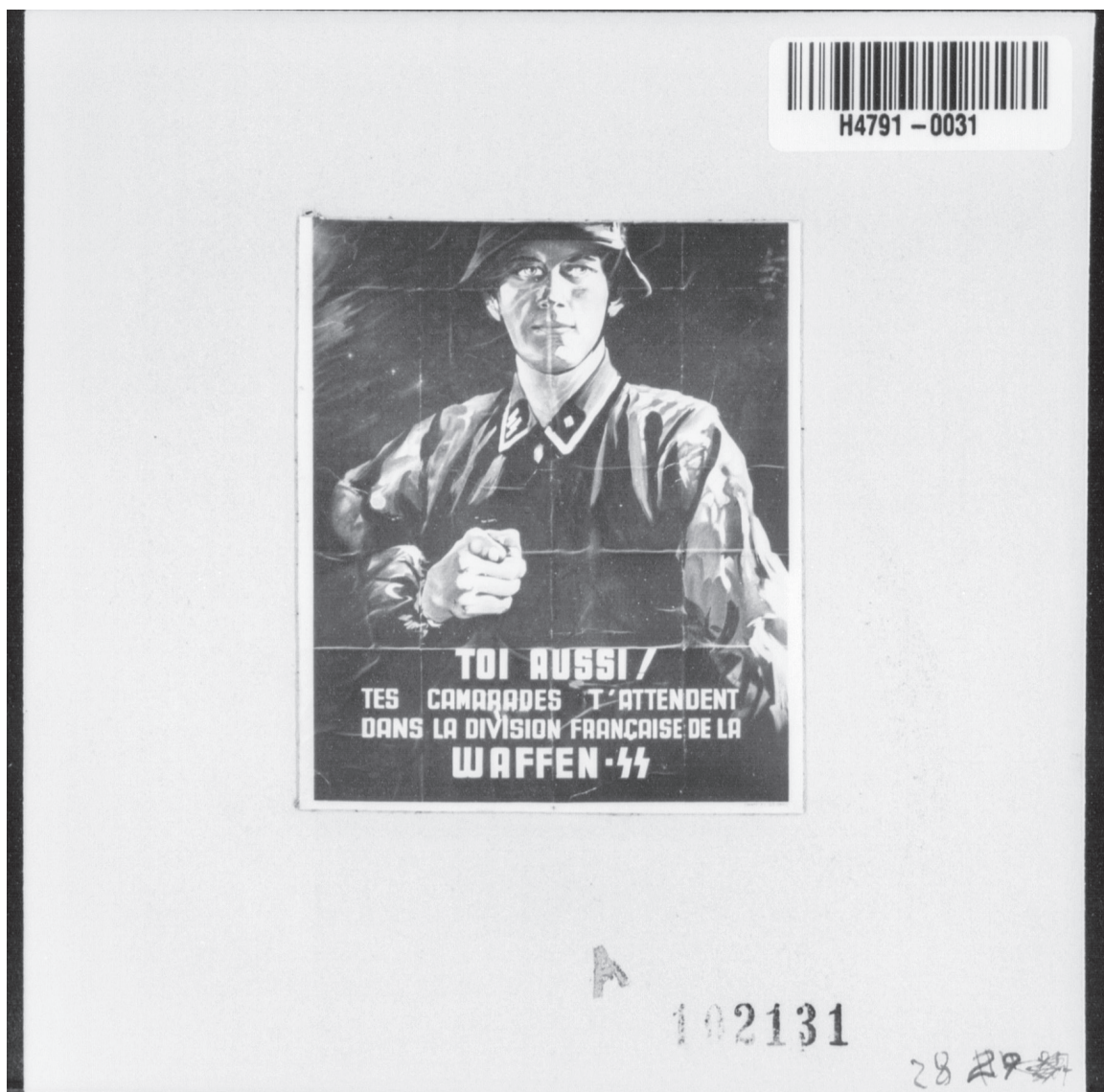


Child survivors of Auschwitz (still from the Soviet film of the liberation of Auschwitz).

in the occupied areas, read aloud by M. Y. Raginsky, one of the Soviet Union's prosecutors.

The French prosecution team also made use of film, presenting a short clip from the film *Forces Occultes (Occult Forces)* shown throughout occupied France. This anti-Masonic and antisemitic film was commissioned in 1942 by the Propaganda-Abteilung, a delegation of Nazi Germany's propaganda ministry within occupied France. In addition to the film, a number of photographs of Nazi propaganda posters distributed in France were also projected on the screen.

The following films form part of the Nuremberg Trial Archives transferred to the ICJ (as described in the inventory drawn up in 1950):



Photograph, as preserved in the Nuremberg Trial Archives, of a Nazi propaganda poster presented as evidence by the French prosecution team.

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- *[The] Nazi Plan* (USA Exhibit 167)
 - *Occult Forces* (RF Exhibit 1152)
 - *[Nazi] Concentration Camps* (USA Exhibit 79)
 - *[Film Documents on the] Atrocities [of the German-Fascist Invaders]* (USSR Exhibit 81)
 - *Destruction of Culture* (USSR Exhibit 98)
 - *Destruction of Lidice* (USSR Exhibit 370)
 - *German Destruction in USSR* (USSR Exhibit 401)
 - *Atrocities in Jugoslavia* (USSR Exhibit 443).

Extracts from the transcript of the film *Nazi Concentration Camps*

The following are extracts from the transcript submitted to the IMT to complement the film shown on 29 November 1945:

“These are the locations of the largest concentration and prison camps maintained throughout Germany and occupied Europe under the Nazi regime. This film report, covering a representative group of such camps, illustrates the general conditions which prevailed.”

[. . .]

OHRDRUF CONCENTRATION CAMP

“At this concentration camp in the Gotha area, the Germans starved, clubbed and burned to death more than 4,000 political prisoners over a period of 8 months. A few captives survived by hiding in the woods. The camp is chosen for a high command inspection led by General Dwight D. Eisenhower. Also present are Generals Omar N. Bradley and George S. Patton. The 4th Armored Division of General Patton’s 3rd Army liberated this camp early in April. The generals view the rack that was used by the Nazis to whip the inmates.

They see the woodshed where lime-covered bodies are stacked in layers and the stench is overpowering.

Former inmates demonstrate how they were tortured by the Nazis.

American congressmen invited to view the atrocities were told by General Eisenhower, ‘Nothing is covered up. We have nothing to conceal. The barbarous treatment these people received in German concentration camps is almost unbelievable. I want you to see for yourselves and be the spokesmen for the United States.’

The General and his party next see the crude woodland crematory, actually a grill made of railway tracks. Here the bodies of victims were cremated. Charred remains of several inmates still lay heaped atop the grill.

Another group to visit the Ohrdruf camp is composed of local townspeople, including prominent Nazi party members. They’ll be taken on a forced tour of the camp site by Colonel H[a]yden Sears, Commander of the 4th Armored Division’s Combat Command ‘A’, which captured Ohrdruf.

A German medical Major is compelled to accompany the townspeople.

N-2340

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*Filed Nov. 29 1945
M. J. Murphy
N. C.*



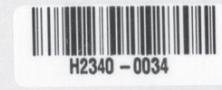
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EXHIBIT U.S.A. 79 (**2430-PS**)

See-Also-Film - 79-Drawer-F4 - 6 R



Folder from the Nuremberg Trial Archives containing the transcript of the film Nazi Concentration Camps.

Colonel Sears stands by as the Nazis are informed that they must see all the horrors of the camp.

First, the visitors view some 30 freshly-killed bodies lying in the courtyard of the camp where they had been shot on the evening preceding the entry of American tanks.

These two are identified as slave labor bosses who maltreated, tortured and killed their workers.

Next, to the woodshed, which the Nazis are reluctant to enter but Colonel Sears demands that they get a close-up look at the most gruesome of sights.

The labor bosses enter.

According to reports, the local Nazis continued their tour of the camp without apparent emotion. All denied knowledge of what had taken place at Ohrdruf.

They are taken to the crematory two miles outside the camp where the list of atrocities is read for all to hear. The 4,000 Ohrdruf victims are said to include Poles, Czechs, Russians, Belgians, Frenchmen, German Jews and German political prisoners.

The day before these Nazis visited the camp, the Burgomeister of Ohrdruf was forced to view the horrors. He and his wife were later found dead in their home, apparently suicides.”

[. . .]

BUCHENWALD CONCENTRATION CAMP

“Pictorial evidence of the almost unprecedented crimes perpetrated by the Nazis at Buchenwald concentration camp. The story, in written form, is contained in the official report of the Prisoner of War and Displaced Persons Division of the United States Group Control Council, which has been forwarded from Supreme Allied Headquarters to the War Department in Washington. It states that 1,000 boys under 14 years of age are included among the 20,000 still alive at the camp, but the survivors are males only and that the recent death rate was about 200 a day.

Nationalities and prison numbers are tattooed on the stomachs of the inmates.

The report lists the surviving inmates as representing every European nationality. It says the camp was founded when the Nazi party first came into power, in 1933, and has

been in continuous operation ever since, although its largest populations date from the beginning of the present war. One estimate put the camp's normal complement at 80,000.

In the official report, the Buchenwald camp is termed an 'extermination factory'. The means of extermination: starvation, complicated by hard work; abuse; beatings and tortures; incredibly crowded sleeping conditions and sicknesses of all types. By these means, the report continues, many tens of thousands of the best leadership personnel of Europe have been exterminated.

Bodies stacked one upon the other were found outside the crematory. The Nazis maintained a building at the camp for medical experiments and vivisections with prisoners as guinea pigs. Medical scientists came from Berlin periodically to reinforce the experimental staff. In particular, new toxins and anti-toxins were tried out on prisoners. Few who entered the experimental buildings ever emerged alive.

One of the weapons used by SS guards.

The body disposal plant. Inside, are the ovens which gave the crematorium a maximum disposal capacity of about 400 bodies per 10-hour day. Gold-filled teeth

United States Holocaust Memorial Museum, courtesy of David Cohen.



Exterior view of the crematorium in the Buchenwald concentration camp.

were extracted from bodies before incineration. The ovens, of extremely modern design and heated by coke, were made by a concern which customarily manufactures baking ovens. The firm's name is clearly inscribed.

All bodies were finally reduced to bone ash.

Twelve hundred civilians walked from the neighboring City of Weimar to begin a forced tour of the camp. There are many smiling faces and, according to observers, at first the Germans act as though this were something being staged for their benefit.

One of the first things that the German civilians see as they reach the interior of the camp is the parchment display. On a table for all to gaze upon is a lampshade made of human skin, made at the request of an SS officer's wife. Large pieces of skin have been used for painting pictures, many of an obscene nature.

There are two heads which have been shrunk to one-fifth their normal size. These, and other exhibits of Nazi origin, are shown to townspeople.

The camera records the changes in facial expressions as the Weimar citizens leave the parchment display.

The tour continues with a forced inspection of the camp's living quarters, where the stench, filth and misery defied description.

They see the result of lack of care in a bad case of trenchfoot.

Other evidences of horror, brutality and human indecency are shown and these people are compelled to see what their own government had perpetrated.

Correspondents assigned to the Buchenwald story have given wide notice to the well-fed, well-dressed appearance of the German civilian population of the Weimar area."

DACHAU CONCENTRATION CAMP

"Dachau — factory of horrors.

Dachau, near Muenchen, one of the oldest of the Nazi prison camps. It is known that from 1941 to 1944 up to 30,000 people were entombed here at one time, and 30,000 were present when the Allies reached Dachau. The Nazis said it was a prison for political dissenters, habitual criminals and religious enthusiasts.

When these scenes were filmed, over 1,600 priests, representing many denominations, still remained alive. They came from Germany, Poland, Czechoslovakia, France and Holland.

Incoming prison trains arrived, carrying more dead than living. Those strong enough to travel were brought to Dachau from outlying points which were threatened by the Allied advance. This is how they looked when they arrived.

Some survived and when the rescuers arrived they administered what aid they could.

Others died after the liberation.

They were buried by their fellow prisoners.

As in the case of other camps, local townspeople were brought in to view the dead at Dachau.

This is what the liberators found inside the buildings.

Hanging in orderly rows were the clothes of prisoners who had been suffocated in the lethal gas chamber. They had been persuaded to remove their clothing under the pretext of taking a shower for which towels and soap were provided.

This is the Brausebad—the showerbath.

Inside the showerbath—the gas vents.

On the ceiling—the dummy shower heads.

In the engineers' room—the intake and outlet pipes.

Push buttons to control inflow and outtake of gas. A hand-valve to regulate pressure.

Cyanide powder was used to generate the lethal smoke.

From the gas chamber, the bodies were removed to the crematory.

Here is what the camera crew found inside.

These are the survivors.”

BELSEN CONCENTRATION CAMP

“(British Officer) ‘I am the officer commanding the regiment of Royal Artillery guarding this camp. Our most unpleasant task has been making the SS, of which there are about 50, bury the dead. Up to press we have buried about 17,000 people and we expect to bury about half as much again. When we came here, conditions were indescribable. The people had had no food for six days and were eating turnips. The cookhouses have now been organized and although they have to be guarded so that everybody gets a fair share of the food, things are now going fairly well. The officers and men regard this job as a duty that has to be performed and none of us are likely to forget what the German people have done here.’

(Commentator) This is the woman doctor of the concentration camp Bergen-Belsen. 24th of April 1945. This is the doctor in charge of the female section of the concentration camp Bergen-Belsen. She was a prisoner at this camp.

She says there were no covers, straw sacks or beds of any kind. Persons had to lie directly on the ground. They were given 1/12 of a loaf of bread and some watery soup daily. Almost 75 per cent of the people were bloated from hunger. An epidemic of typhus broke out. 250 women and thousands of men died daily. In the men’s camp, they cut out liver, heart and other parts of the dead and ate them.

No medicines were available because the SS men had collected everything. Two days before the British Army came, the first Red Cross food was distributed.

Two months before, 150 kilograms of chocolate had been sent to the children of the camp. Ten kilograms were distributed. The rest, the commandant kept for himself and used it as barter to his personal advantage.

She adds that various medical experiments were made on the prisoners. Doctors gave some of them intravenous injections of 20 cubic centimeters of benzine which caused the victims to die. She concludes by saying that sterilizations and other gynecological experiments were performed on 19-year-old girls.

Kramer, camp commandant, is taken into custody.

United States Holocaust Memorial Museum, courtesy of Lev Sviridov.



A woman and young boy lie on the bottom bunk inside barracks at the Bergen-Belsen concentration camp.

Such was the speed of the Allied advance that the guards were taken before they had time to flee.

Inside Belsen, the same story — starvation and sickness.

Liberated prisoners could not control their emotions.

Despite German attempts to cover up, we found these in the open fields.

Clear-cut evidence of beatings and outright murder was on every hand.

Nameless victims were numbered for records which the Germans destroyed.

SS guards were impressed to clean up the camp area.

German woman guards were ordered to bury the dead.

Sanitary conditions were so appalling that heavy equipment had to be brought in to speed the work of cleaning up.

This was Bergen-Belsen.”



Gramophone disc from the collection.

Audio recordings and simultaneous interpretation

Innovative in many respects, the IMT also introduced simultaneous interpretation to the modern world. The trial was conducted in multiple languages, not only the Tribunal's four working languages of English, French, German and Russian, but also in Dutch, Czech, Bulgarian and Polish for the benefit of some of the witnesses. Due process of law demanded that all actors in the trial — defendants, lawyers, judges and prosecutors — be provided with accurate translations of trial transcripts and testimonies in their respective languages. Judicial expediency and the scope of the trial demanded that translations be provided immediately.

Prior to 1920, international conferences were mostly conducted in French, and interpretation was needed only occasionally. In the aftermath of World War I, however, although French remained the primary diplomatic language, use of English and Spanish began to increase. In the League of Nations, the use of these additional languages was facilitated by whispering and consecutive interpretation methods. These methods proved unsatisfactory in many ways, and a new method, known as simultaneous interpretation, was first developed around 1926. By 1945, simultaneous interpretation was still in the early stages of its development, although IBM had already devised a process and manufactured equipment for this purpose, known as the Filene-Finlay system.

The organizers of the Nuremberg Trial were hard-pressed to find a solution to the special linguistic requirements of the trial, but sceptical of the novel extempore simultaneous interpretation method. This scepticism was based on logistical concerns, such as the pace of the interpretation and the reliability of the equipment, and, more importantly, on concerns regarding the quality and accuracy of the interpretation. This anxiety also arose from the fact that simultaneous interpretation had never before been used in a legal setting.

In order to guarantee the accuracy of the interpretation and procedural fairness, it was decided to make recordings of the oral testimony and its interpretation available for consultation and review. The system consisted of

both a shorthand recording (a stenographic record) and a sound recording of every word spoken before the Tribunal, including the interpretation. The transcripts in all languages were reviewed against the recordings of the verbatim speech at the end of each day. The reviewers corrected the mistakes of the stenographers and, if necessary, edited and polished the translations. In some cases, discrepancies in translation were discussed with the defence attorneys.

The Recording Branch formed part of the Translation Division in the organizational structure of the IMT. It is therefore not surprising that the electrical recording unit was located in the room next to the interpreters and connected to the IBM microphones in the courtroom. All the operations of the Recording, Reviewing and Printing Branches of the Translation Division were organized, financed and managed by the United States delegation. The recording equipment itself was provided and operated by United States Army Signal Corps officers and consisted of wire, disc and tape recorders. Although the specifics of the workflow of the Recording Branch are unclear, it is highly likely that the sound for the phonographic record of the trial was first recorded on wire recorders and subsequently copied onto Presto Recording



The interpreters' section.

Corporation gramophone discs. The discs received audio from “Channel One” at all times, meaning they recorded original speech without interpretation. The specific language channels, including interpretation, were recorded on tape but were not archived and, unfortunately, are no longer available.

Since one of the primary reasons for recording the Tribunal’s sessions was to ensure the accuracy of transcripts and translations, due care was taken to preserve the verbatim recordings for posterity.

Repositories of audio recordings of the IMT’s trial sessions

Independently of the official recordings managed by the United States Army Signal Corps, verbatim speeches were recorded for the BBC by an engineer named Timothy Eckersley. This collection of 12-inch aluminium discs is now housed at the Imperial War Museum in London. It is not a complete record of the trial, but it does include recordings of some speech from every day of the proceedings.



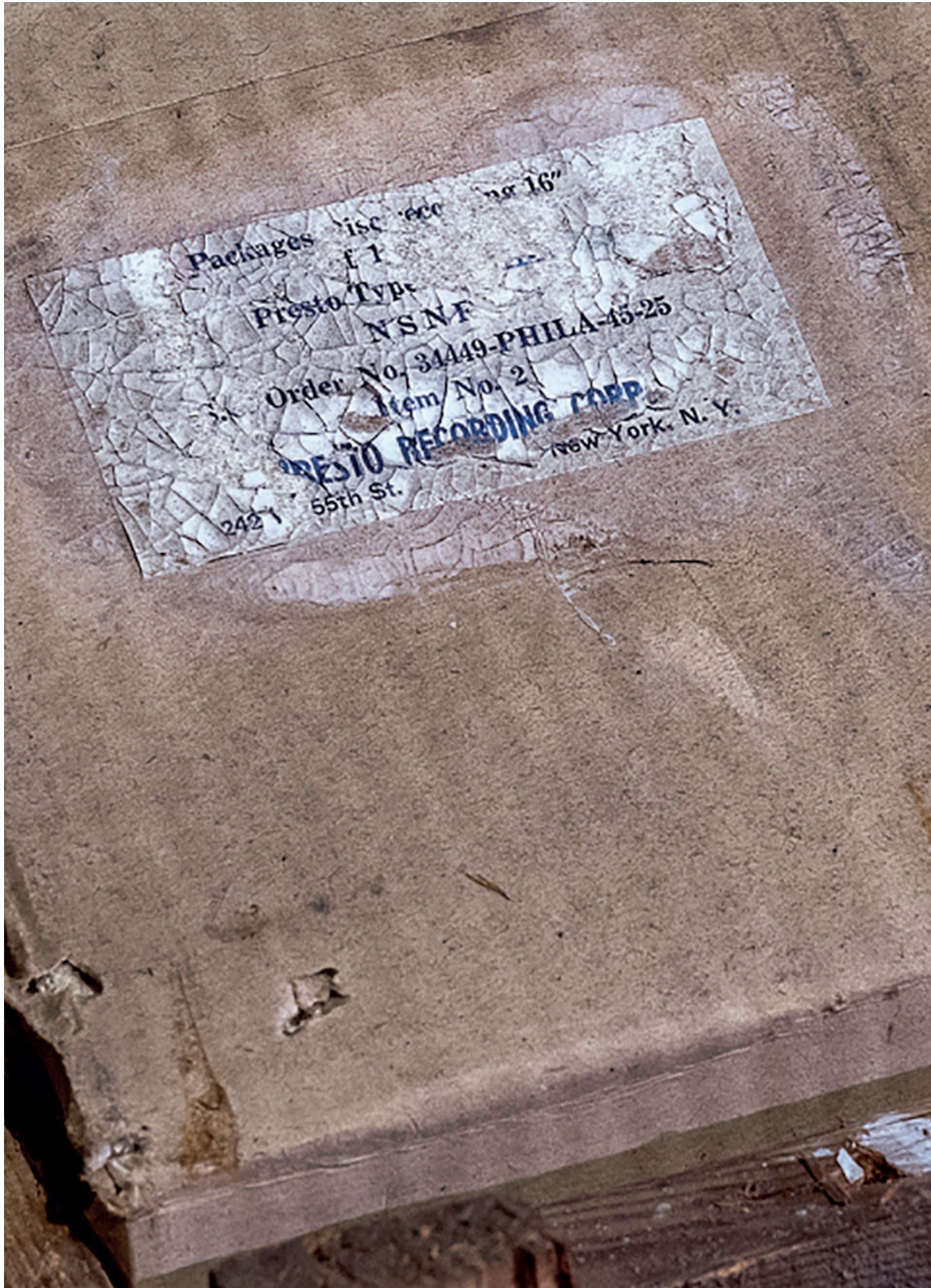
Several sound recordings, previously part of the papers of Robert H. Jackson collection, are also held at the Library of Congress in Washington, D.C. These recordings are probably additional copies of some of the original official recordings.

The United States Army Signal Corps produced two sets of gramophone discs, marked A and B. They are not exact copies. The B set is held at the United States National Archives and Records Administration (NARA) in Washington, D.C. As noted by Jackson in his report to the United States President, 4,000 discs were produced in total. This number corresponds roughly to the combined number of the discs in both sets. It might be interesting to note that a portion of the discs in the B set were manufactured with a fibre or cardboard core, while the rest of the discs were manufactured with an aluminium core.

The audio recordings at the International Court of Justice

Nine of the 37 crates of IMT archives delivered to the ICJ contained gramophone discs, the official recordings of the IMT sessions. Almost all of the 1,942 discs are double-sided. The recordings on each side last an average of 15 to 17 minutes. The disc format is 16-inch, with the sound starting at the inside and moving outwards with a rotation speed of 33 1/3 rpm. The direct-cut discs were manufactured by the Presto Recording Corporation and are made of cellulose trinitrate on an aluminium core. The labels bear the inscription “International Military Trials”, the Tribunal’s logo, the date and hour of the recording, and a brief description of the contents. All disc numbers are followed by the letter A, indicating the A set.

A project to digitize the discs has been initiated by the Registry, in co-operation with the United States Holocaust Memorial Museum and the Mémorial de la Shoah (France), and is due to be completed in 2018.



Original packaging used for gramophone discs.

Project to digitize the gramophone discs in the Nuremberg Trial Archives: Note by the digitization service provider on expectations for the project and the transfer methods to be used

“The Nuremberg Trial disc recordings provide a complete record of the unedited original words actually pronounced during the trial.

The content of the discs will be transferred to a digital medium using carefully chosen cartridges and styli, a fine-tuned turntable, and the best phono preamplifier available.

With regards to the quality of the recordings, it can be expected, based on a test batch already examined, that most of the digitized discs will have better sound quality than the copies that were used to create soundtracks for films released at the time of the trial. The sound quality, however, will most likely not be consistent across all discs. It can also be anticipated that some recordings will prove to be copies made from either other discs or from other recording systems, such as the Hart ‘Recordgraph’. Although the content of each disc side is well documented by the information typed on its label, given the high levels of pressure likely experienced by audio recording technical staff during the trial,



Gramophone disc from the collection.

errors and anomalies can be expected. The digitization process is set up so as to manage these peculiarities as they are encountered and to document them in the metadata to be archived alongside the audio files.

A set of digitally-restored audio files will also be created, resulting from the use of hand-picked processing tools and hand-tweaked parameters for each disc side. When compared to the raw unrestored audio files, the restored files will provide clearer and cleaner sound quality and, through the use of time-stretching processing, will return speech to its original speed as needed. Overall, the restoration job will aim at providing more comprehensible speech while preserving the overall ambience and audio context of the trial recordings.

Finally, a set of digital images of the disc labels will also be included in the delivered digital archive.”

Emiliano Flores, 9 October 2017.



Gecko.

The digitization studio, Montreuil, France.



Transfer of the Nuremberg Trial Archives to the Peace Palace, 14 March 1950.

Nuremberg Military Tribunals (NMTs), the subsequent Nuremberg Trials

In the summer of 1945, while preparing the IMT, the Four Powers were also considering creating a subsequent international military tribunal for high-profile Nazis not prosecuted before the IMT. However, as the relations between the Four Powers soured, it soon became apparent that there would be no further proceedings under the IMT quadripartite formula.

In December 1945, the Allied Control Council governing occupied Germany enacted an occupation law, Control Council Law No. 10, authorizing each of the Four Powers to organize trials of war criminals in their respective zones of occupation.

The Office of the United States Chief of Counsel for War Crimes conducted 12 trials, referred to as the Nuremberg Military Tribunals (formally the “Trials of War Criminals before the Nuremberg Military Tribunals”), against 177 defendants in the same courtroom used by the IMT.

Those 12 trials were as follows:

Case No. 1. *United States v. Karl Brandt, et al.*, “Doctors’ Trial” (also referred to as “The Medical Case”). This was a case against 23 leading Nazi physicians and scientists charged with war crimes and crimes against humanity, including murder and medical experiments. The defendants were tried for carrying out a systematic “euthanasia” programme, the victims of which included the mentally ill and physically impaired. Nazi physicians also performed pseudoscientific medical experiments on thousands of Jewish, Polish, Russian and Roma concentration camp prisoners, killing or impairing most victims. Seven of the defendants were acquitted. Of the 16 found guilty, seven were sentenced to death and five to life imprisonment. The remainder received sentences ranging from ten to 20 years.

Case No. 2. *United States v. Erhard Milch*, “The Milch Case”. Erhard Milch, former German Air Force Field Marshal, was the only defendant. He was accused of (1) participation in the planning and execution of war crimes, namely, the subjection of prisoners of war and foreign nationals to murder,

cruel treatment and forced labour; (2) participation in the planning and execution of war crimes, specifically participation in two medical experiments dealing with the effects of high-altitude and freezing; and (3) crimes against humanity. The Tribunal found Milch guilty of counts one and three and sentenced him to life imprisonment, later commuted to 15 years.

Case No. 3. *United States v. Josef Altstötter, et al.*, “Judges’ Trial” or “The Justice Case”. The defendants in this case were 16 German jurists and lawyers, namely, judges, officials in the Ministry of Justice and high-ranking court administrators. They were charged with “judicial murder and other atrocities, which they committed by destroying law and justice in Germany, and then utilizing the emptied forms of legal process for the persecution, enslavement and extermination on a large scale”. They were notably held responsible for implementing and furthering the Nazi “racial purity” programme through Nazi eugenic and race laws. There was no verdict for two of the defendants, as Carl Westphal committed suicide after indictment and a mistrial was declared in the case of Karl Engert, who was largely unable to attend the trial due to illness. Of the remaining defendants, ten were found guilty and four were acquitted. Four defendants were sentenced to life imprisonment. The others received sentences of between five and ten years.



The prosecution team at “The Milch Case”.

Case No. 4. *United States v. Oswald Pohl, et al.*, “The Pohl Case” (also known as “The WVHA Trial”). This was the first of three cases brought against high-ranking SS officials involved in the operation of concentration and labour camps and factories. Charges against 18 defendants, all employed at the WVHA (SS-Wirtschafts-Verwaltungshauptamt, the SS Main Economic and Administrative Office), included imprisonment of civilians of foreign countries and prisoners of war, exploitation, plundering of property and medical experiments. The Tribunal sentenced four of the defendants to death, three to life in prison and eight to prison terms of ten, 20 or 25 years.

Case No. 5. *United States v. Friedrich Flick, et al.*, “The Flick Case”. This was the first of three trials involving leading industrialists. The charges against Friedrich Flick and five other officials of the Flick organization centred on slave labour and economic plunder of public and private property. Three of the defendants were acquitted. Flick was sentenced to seven years’ imprisonment and two of his co-defendants received sentences of five and two-and-a-half years, respectively.

Case No. 6. *United States v. Carl Krauch, et al.*, or “The IG Farben Case”. The indictment against 24 directors of the IG Farben industrial concern (one of whom was removed from the trial before delivery of the verdict) listed five counts: (1) the planning, preparation, initiation and waging of wars of aggression and invasions of other countries; (2) plunder and spoliation; (3) slave labour; (4) (for defendants Christian Schneider, Heinrich Buete fish and Erich von der Heyde) membership of the SS, an organization declared criminal by the IMT’s judgment; and (5) engagement in a common plan or conspiracy to commit crimes against peace. IG Farben worked closely with the Nazi leadership and co-ordinated the takeover of factories in conquered countries. The organization built the Buna factory in Auschwitz, co-operating with the SS, which supplied slave labour. Nonetheless, as many as ten defendants were acquitted, while the others received lenient sentences of between one and eight years of imprisonment. Most of those convicted were quickly released, and some became senior executives in German post-war industry.

Case No. 7. *United States v. Wilhelm List, et al.*, or “The Hostage Case” (also known as the “Southeast Case”). This case dealt with 12 generals involved in Germany’s conquest and occupation of Greece, Albania and Yugoslavia. The

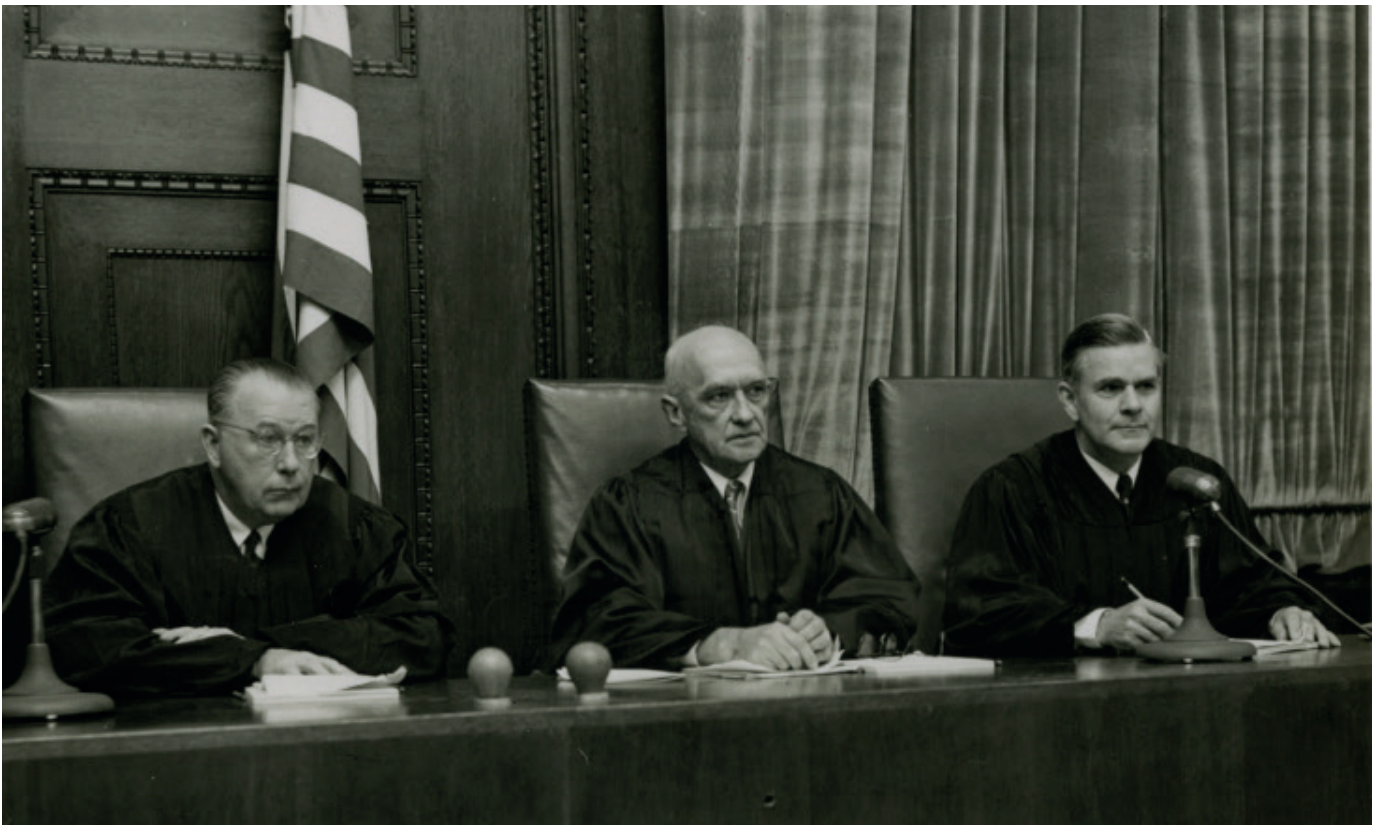
general summary of the charges was as follows: (1) the murder of thousands of persons from the civilian populations of Greece, Yugoslavia and Albania in connection with alleged hostage or reprisal actions; (2) participation in plundering, looting or wanton destruction of private and public property; (3) participation in the initiation, distribution or execution of illegal orders, such as orders directing that enemy troops be denied quarters and the status and rights of prisoners of war; and (4) the illegal treatment of civilian populations by murder, torture, persecution, imprisonment in concentration camps, deportation to slave labour and other related acts. Franz Böhme committed suicide after the indictment, Maximilian von Weichs was removed from the trial due to illness. Two of the other generals were sentenced to life imprisonment and two were acquitted; the remaining defendants received sentences of between 15 and 20 years.

Case No. 8. *United States v. Ulrich Griefelt, et al.*, “The RuSHA Case”. This case was brought against 14 leading officials of the Rasse und Siedlungshauptamt (RuSHA) or Race and Settlement Main Office, the Main Staff Office of the Reich Commissioner for the Strengthening of Germanism, the Lebensborn Society and the Office for Repatriation of Ethnic Germans, all organizations implementing the racial programmes of the Third Reich. The defendants were accused, among other things, of being responsible for the kidnapping of children for Germanization, the forcible evacuation of foreign nationals from their homes in favour of Germans, and the persecution and extermination of Jews. One defendant was acquitted of all charges; five were convicted solely of criminal membership and sentenced to time served, less than three years in each case. The others received sentences ranging from ten years to life imprisonment.

Case No. 9. *United States v. Otto Ohlendorf, et al.*, “The Einsatzgruppen Case”. Einsatzgruppen were special mobile killing units of the SS, which followed the regular German Army as it advanced into Soviet territory and whose task was to round up and execute Jews and Soviet political commissars. From 1941 to 1943, they murdered more than one million Jews and tens of thousands of “partisans”, Roma and Sinti, disabled persons, political commissars and Slavs — men, women and children. Otto Ohlendorf, the commanding officer of Einsatzgruppe D, was a high-profile witness before the IMT. The 24 defendants

were all leaders of the killing units and were indicted on three counts: crimes against humanity, war crimes and membership in organizations declared criminal by the IMT. While 24 defendants had been indicted, only 22 were tried (one committed suicide and one was deemed too ill to stand trial). The Tribunal found 20 defendants guilty on all three counts and two guilty solely of criminal membership. Fourteen defendants were sentenced to death, but only four of the sentences were ever carried out, the others having been commuted or the defendants having been paroled. Two defendants were sentenced to life imprisonment, and five received sentences ranging from ten to 20 years. One was released with time served. By 1958, none of the defendants convicted in the Einsatzgruppen Case remained in prison.

Case No. 10. *United States v. Alfried Krupp, et al.*, “The Krupp Case”. This was the last of the three industrialist cases. Prosecuted were Alfried Krupp, Head of Krupp Industries, and 11 of his associates. They were accused of having enabled the armament of the German military forces and thus having actively participated in the Nazis’ preparations for an aggressive war. They were also indicted for plunder and spoliation activities during belligerent occupations by Germany of neighbouring countries, and for war crimes and crimes against



Judges' Bench during "The Krupp Case".

humanity in connection with the slave labour programme of the Third Reich. One defendant was acquitted, the others found guilty and given prison terms ranging from two to 12 years. Krupp received the lengthiest sentence and his family business was taken from him. He was released from prison after four years and his properties were restored to him.

Case No. 11. *United States v. Ernst von Weizsäcker, et al.*, “The Ministries Case”. Twenty-one members of the German diplomatic corps and others involved in international affairs during the Nazi era were brought to Nuremberg to stand trial. Charges depended on the functions and roles of the individual defendants in the Nazi system, and included crimes against peace by participating in the planning and waging of wars of aggression; participating in a common plan or conspiracy to commit crimes against peace; war crimes; crimes against humanity by participating in atrocities and offences; plunder of public and private property, exploitation and spoliation of countries under German occupation; and membership in criminal organizations. The Tribunal acquitted two of the accused and imposed prison terms ranging from time served to 25 years for the remaining 19 defendants.



United States Holocaust Memorial Museum, courtesy of John W. Mosenthal.

Defendant Ernst Von Weizsäcker at the conclusion of “The Ministries Case”.

Case No. 12. *United States v. Wilhelm von Leeb, et al.*, “The High Command Case”. The 14 defendants, generals, field marshals and an admiral, were charged generally with (1) committing crimes against peace by participating in wars and invasions aggressive in character and violative of international treaties; (2) committing war crimes and crimes against humanity by the murder and ill-treatment of prisoners of war; (3) committing crimes involving the conduct of the German Army in occupied countries, including execution of hostages, killing of civilians, plunder, persecution on religious, political and racial grounds, and commitment of civilians to slave labour; and (4) participating in the formulation of a common plan and conspiracy to commit crimes against peace. The verdict came as a surprise to the prosecution as none of the defendants were convicted of crimes against peace. Two of the generals were acquitted and the remaining 11 (Johannes Blaskowitz committed suicide on the first day of the trial) were found guilty of war crimes and crimes against humanity. Of the 11, two were sentenced to life imprisonment and the other nine received prison terms ranging from three to 20 years.



Telford Taylor, US Chief Prosecutor, pleading in “The High Command Case”.

The NMTs were reduced to these 12 trials on account of changing political circumstances and a lack of funding. However, Chief Prosecutor Telford Taylor's intention at the outset was to conduct at least 36 trials and to indict between 2,000 and 20,000 individuals from groups representing particular elements of the Nazi system. Although the United States ultimately indicted only 185 defendants (of whom 177 were judged), the scope of the NMTs nonetheless allowed for a representative sample of the worst-offending Nazi groups. The legacy of the NMTs is quite impressive. These Tribunals further developed concepts identified by the IMT and were of great jurisprudential importance to international criminal law. The evidence gathered and submitted to the Tribunals by the prosecution, as well as the testimonies of the witnesses and defendants, documented Nazi criminality in detail and, in the words of Robert Kempner, one of Taylor's deputies, turned the trials into "the greatest history seminar ever held". The transcripts of the trials run to 132,855 pages and contain the testimony of over 1,300 witnesses. More than 30,000 separate documents were presented before the Tribunals. It should be stressed that the archives of the NMTs, unlike those of the IMT, were not transferred to the ICJ and are held by the United States National Archives and Records Administration (NARA).

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Judge Antônio Augusto Cançado Trindade visiting the exhibition at the Memorium Nürnberger Prozesse (Memorium Nuremberg Trials), Nuremberg, 2017.

All questions regarding consultation of the Nuremberg Trial Archives should be addressed to the *Registrar of the International Court of Justice, Peace Palace, 2517 KJ The Hague, Netherlands.*

Appendix

Event celebrating the contribution of the United States Holocaust Memorial Museum (USHMM) and the Mémorial de la Shoah (France) to the project to digitize the audio-visual material in the Nuremberg Trial Archives

Peace Palace, 1 February 2018

On 1 February 2018 at the Peace Palace (The Hague), the ICJ held an event to mark the important contribution the United States Holocaust Memorial Museum (USHMM) and the Mémorial de la Shoah (France) have made to the process of digitizing the audio-visual material in the Nuremberg Trial Archives.

The speeches from that event are included in this booklet in the order delivered.



ICJ-CIJ, Bastian van Musscher.

The representatives of the United States Memorial Museum, Mr. Radu Ioanid (left) and of the Mémorial de la Shoah, Mr. Serge Klarsfeld (right), holding the letters of gratitude presented by the President of the Court, Judge Ronny Abraham (centre).

Address Delivered at the Presentation of the Letters of Gratitude to the Representatives of the Mémorial de la Shoah and the United States Holocaust Memorial Museum

H.E. Judge Ronny Abraham, President of the International Court of Justice

I am delighted to welcome you to the Peace Palace this evening, and thank you for being here on this very special occasion.

I welcome the representatives of the Mémorial de la Shoah and the United States Holocaust Memorial Museum, who do us the very great honour of attending this event: Mr. Serge Klarsfeld, his wife Mrs. Beate Klarsfeld, and Mr. Jacques Fredj, Director of the Mémorial de la Shoah, who have just arrived from Paris; and Mr. Radu Ioanid, Director of the International Archival Programs of the United States Holocaust Memorial Museum, who has made the long journey from Washington.



It is my very great pleasure this evening to express the gratitude of the International Court of Justice to the Mémorial de la Shoah and the Holocaust Memorial Museum for their contribution to the project to digitize the audio-visual archives of the Nuremberg Trial. These two institutions have agreed to undertake, *ex gratia*, the digitization of the audio-visual archives of the Nuremberg International Military Tribunal and to prepare them for their long-term preservation. The archives to be digitized consist of audio components, in the form of gramophone discs of recordings of the hearings of the Tribunal, and reels of film and microfilm that formed part of the case file.

I would recall that it was further to the decision taken by the Nuremberg Tribunal, in 1946, to entrust its archives to the Permanent Court, and following discussions with the United Nations General Assembly, that the Court officially agreed to take custody of those archives in 1949. They were transferred to The Hague in 1950. The contribution of the two institutions to whom we are showing our appreciation this evening will allow the Court to continue fulfilling its important responsibility to safeguard those archives.

Today's celebrations come a few days after 27 January, the anniversary of the liberation of Auschwitz and the date of the annual International Day of Commemoration in memory of the victims of the Holocaust, as announced by the United Nations General Assembly in its resolution 60/7 of 1 November 2005. In a message broadcast on this year's anniversary, the Secretary-General of the United Nations, Mr. António Guterres, recalled the importance of education and understanding, through which we can "build a future of dignity, human rights and peaceful co-existence for all". Working on the conservation of the archives of the Nuremberg Tribunal is a vital contribution to our duty of remembrance.

The letters of gratitude which I now have the honour to present to the representatives of the Mémorial de la Shoah and the United States Holocaust Memorial Museum bear witness to the deep appreciation of the Court, and of the United Nations as a whole, towards these two institutions for their invaluable contribution to this project.

The ICJ, Custodian of the Nuremberg Trial Archives: Steps Taken to Ensure Their Preservation

H.E. Mr. Philippe Couvreur, Registrar of
the International Court of Justice

I would like to thank you for being here today to celebrate with us the project to digitize the audio-visual archives of the Nuremberg Trial, in collaboration with the United States Holocaust Memorial Museum and the Mémorial de la Shoah.

This project will complete the digitization of the archives in their entirety, an undertaking in which the Registry of the Court has, for many years now, spared no effort. Here I must applaud the tireless work of the staff in the Registry's Library Division.

In the early 2000s steps were taken to digitize all the paper documents, some 250,000 pages. First of all, these documents went through a special de-acidification process in 2006. Once they had been digitized in 2008, an agreement was reached



with the Ministry of Foreign Affairs of the Kingdom of the Netherlands in 2010, allowing the originals — of which the Court remains the custodian — to be stored in optimal preservation conditions in a dedicated area of the Dutch National Archives.

It was, unfortunately, not possible to complete the project to digitize the audio-visual archives of the Nuremberg Trial at the same time. The audio-visual material includes 1,942 gramophone discs, representing 775 hours of hearings; 37 reels of film used as evidence in the trial; and, finally, 12 reels of microfilm containing a copy of “Hans Frank’s diary”, a document written between 1939 and 1945 which was included in the files of the Nuremberg Trial.

Very early on, in 1988, the Court had made the necessary arrangements for the long-term preservation of the films, copying them from their original, and extremely delicate, nitrate-based reels to acetate ones. But the project to digitize these films, the gramophone discs and the microfilms of Hans Frank’s diary was to encounter other obstacles.

These difficulties were partly technical, and required the Court to seek appropriate advice from experts in the digitization of older mediums, in order to choose the most suitable technology available in a rapidly evolving field. The Court was further hampered by financial constraints. The General Assembly of the United Nations had agreed, in 1949, that the Organization would finance the preservation of the Nuremberg Archives; the Registry therefore made a number of approaches to the United Nations Secretariat in an attempt to obtain *ad hoc* financing and the requisite technical assistance, such as it had been able to secure for the earlier projects.

It was against this backdrop of initiatives, which were challenging in a time of financial crisis and budgetary constraints, that I was approached by Mr. Radu Ioanid and Maître Klarsfeld, who submitted a proposal to contribute to the project from their respective institutions. That proposal was of course welcomed with a profound sense of relief and deep gratitude.

Today, as well as once again expressing our gratitude for their contribution, I must also extend our thanks to the Holocaust Memorial Museum and the Mémorial de la Shoah for the patience they have shown. Before we could accept their proposal, we had, of course, first of all to consult the Governments of the four Allied Powers, to ensure that they had no objection. It was also necessary to obtain the approval and assistance of the United Nations Secretariat for the technical, financial and legal aspects of the project. These hurdles were eventually overcome, and I should mention here the invaluable contribution made by various departments of

the Secretariat (the Office of Legal Affairs, the Office of the Controller of the United Nations and the shared support services of the Department of Management, and the Archives and Records Management Section), which helped to seal the partnership with the institutions in Washington and Paris. It was finally possible to launch the project in July last year. The digitization process is now well under way and should be completed in the course of this year.

This important milestone in the preservation of the Nuremberg Trial Archives is nonetheless still only one step towards their being used to full advantage. Other projects remain to be completed, in particular with a view to making the entire digitized archives available to the public in electronic format. I was very pleased to learn recently that a Russian institution might also be interested in working with the Court on such projects in the future, possibly alongside the United States Holocaust Memorial Museum and the Mémorial de la Shoah.

I do not think I need to emphasize the importance of this digitization project for the long-term preservation and enhancement of the Nuremberg Archives. It will enable the Court in particular, and the United Nations as a whole, to fulfil its responsibility to conserve a vital piece of history, and to ensure greater public access to the archives and their survival for future generations. Such an undertaking is not only essential to facilitate and foster research and teaching about the Nuremberg Trial; it is also crucial that this unique piece of history should help perpetuate the memory of the Holocaust and other crimes committed by the Nazi régime.

I wish to express the Court's gratitude once again to the two institutions that have so generously offered to contribute to this project.

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The Nuremberg Archives: The Legacy of the Nuremberg Tribunal

H.E. Judge Antônio Augusto Cançado Trindade,
Member of the International Court of Justice

1. The Nuremberg Tribunal was the first international criminal tribunal to convene a trial, in the aftermath of the collapse of the Third Reich, the destruction caused by World War II, and the horror of the unparalleled atrocities committed by the Axis Powers. In August 1945, the four Allied Powers (France, the Soviet Union, the United Kingdom and the United States) signed the London Agreement, paving the way for the prosecution of major war criminals before the International Military Tribunal (IMT).

2. The IMT's Charter (Art. 6) listed three broad categories of crimes, namely, (a) crimes against peace; (b) war crimes; and (c) crimes against humanity. The main judges of the IMT were appointed by the four Allied Powers. The 24 accused,



ICJ-CIJ, Bastian van Musscher.

Judge Antônio Augusto Cançado Trindade, the Chairman of the ICJ Library Committee.

charged with being “leaders, organizers, instigators of, and accomplices” in, the crimes defined in the Charter, represented a cross-section of the Nazi political, military, diplomatic and economic leadership; of the 24 accused, one committed suicide before the start of the trial, and another was tried *in absentia*.

3. The choice of Nuremberg as the location for the trial was symbolic. The city lay in ruins, but the courtroom had survived the Allied bombings almost intact. The very name “Nuremberg” was also evocative of Nazi Germany itself: it was there that the infamous 1935 laws were promulgated and that the Nazi party’s annual mass rallies were staged. By the time the trial opened, on 20 November 1945, Europe sought to rebuild itself by the rule of law.

4. The trial extended itself for 403 sessions, held over 216 days, after which the IMT delivered its verdict on 1 October 1946. Twelve defendants were sentenced to death (one of them — H. Göring — committed suicide the night before the execution); three defendants were sentenced to life imprisonment, and four others lengthy prison terms; the remaining three defendants were acquitted. But the IMT did not stop there, it went further than that.

5. Significantly, the IMT also indicted several Nazi organizations, namely, the Reich Cabinet, the Leadership Corps of the Nazi party, the Nazi party Schutzstaffel (SS), the Security Service (SD), the Secret State Police (the “Gestapo”), the Sturmabteilung of the Nazi party (SA), and the General Staff and High Command of the German Armed Forces. This was done pursuant to Article 9 of the IMT Charter, so that subsequent tribunals would have jurisdiction to prosecute any individual belonging to a proven criminal organization. The IMT ruled to be criminal the Leadership Corps of the Nazi party, the Gestapo, the SS and the SD. May I dwell upon this point a bit more.

6. The Nuremberg Trial was conducted with a clear two-fold objective, namely: (a) to bring the perpetrators to justice; and (b) to educate the German public and to assist German society in rebuilding the country and coping with the past. The Nuremberg Trial, thus, was not intended to be only a historical event; further than that, it was intended to initiate a new *era of accountability*, both for governments and for their representatives. The holding of the trial was regarded as a proper occasion to establish the acceptable treatment of a population by its own State.

7. The Nuremberg Trial came thus to be remembered as far more than a symbolic, judicial postscript to World War II, marking the origins of international criminal law (as known nowadays); its Charter and the trial were to contribute to the evolution of contemporary international law itself.

In the aftermath of the historical trial, such contribution of the IMT was promptly acknowledged by the UN General Assembly in its unanimously adopted resolution 95 (1) (of 11 December 1946) on the Affirmation of the Principles of International Law Recognized by the Charter of the Nuremberg Tribunal, subsequently codified, in 1950, by the United Nations International Law Commission in its formulation of the seven “Principles of International Law Recognized in the Charter of the Nuremberg Tribunal and in the Judgment of the Tribunal” (the “Nuremberg Principles”).

8. The IMT itself contributed to the definition of war crimes and the outlawing of wars of aggression. Furthermore, *inter alia*, it enabled the formulation of the offences listed in count four of the indictment, namely, crimes against humanity, and the prosecution of high-ranking State officials. It became beyond dispute that an individual could be held to account under international law, and that war crimes and crimes against humanity constitute criminal offences under general international law.

9. The Nuremberg Tribunal, followed by the Tokyo Tribunal, as already pointed out, marked the origins of international criminal law as we know it today. With the passing of time, it became the predecessor, almost five decades later (in the 1990s), after the Cold War-period, of *ad hoc* international criminal tribunals (for the former Yugoslavia — ICTY, and for Rwanda — ICTR); of “internationalized” or “hybrid” or “mixed” tribunals (e.g., Special Court for Sierra Leone — SCSL; Extraordinary Chambers in the Courts of Cambodia — ECCC; Special Tribunal for Lebanon — STL; and of the International Criminal Court — ICC).

10. Two *ad hoc* international tribunals have already completed their work and closed their doors (e.g., ICTR in 2015, and ICTY in 2017), as well as one “internationalized” or “hybrid” tribunal (the SCSL in 2013). Added to all the other international criminal tribunals which keep on operating today, they secure that the evolution remains in course, as time goes on, and attentively reckon the legacy of the pioneering Nuremberg Tribunal, which continues to be cultivated today, and will keep on being so.

11. The realization of the old ideal of justice at international level has considerably advanced in recent years, with the operation of multiple contemporary international tribunals. One of the most important aspects of this evolution lies in the assertion and recognition of the international legal personality and capacity of human beings as subjects of international law. The Nuremberg Tribunal and contemporary international criminal tribunals have given their contribution thereto.

In effect, the individuals' subjectivity is manifested as being not only active (exercised before the international tribunals of human rights) but also passive (before international criminal tribunals).

12. Thus, the expansion of international jurisdiction advances *pari passu* with the expansion of international responsibility, as well as the expansion of international legal personality and capacity. Contemporary international tribunals have much contributed to such expansion in all its dimensions. The co-existence of contemporary international tribunals is a phenomenon of our times, in this second decade of the twenty-first century.

13. The aforementioned consolidation of the Nuremberg Principles counts nowadays on a research centre, the International Nuremberg Principles Academy, established as a foundation in 2014. The Palace of Justice in Nuremberg, which I had the occasion to visit last October, wherein (in its Court Room 600) the historical Nuremberg Trial was held, will very soon be the location of the Academy. Initiatives of the kind, encompassing the digitalization of the Nuremberg Archives under the custody of the International Court of Justice (ICJ) here at The Hague, which we



ICJ-CIJ, Bastian van Musscher.

Registrar of the Court, Mr. Philippe Couvreur (left) and Judge Antônio Augusto Cançado Trindade (right).

celebrate today, secure the preservation of memory, so necessary to the ongoing historical process of the humanization of international law.

14. The most learned historians who lived in the twentieth century conveyed their understanding that the works of the human spirit succeed in challenging the passing of time, by disclosing the knowledge extracted from human suffering in face of cruelty, and thus the true sense of history. We concretize today, 1 February 2018, after long-standing work of the Library Committee of the ICJ, in this ceremony here at the Peace Palace at The Hague, with the presence of the Directors of our supporters, namely — the United States Holocaust Memorial Museum and France's Mémorial de la Shoah, the initiative of the digitalization of the Nuremberg Archives — securing their preservation.

15. Such initiative is a significant contribution to the cause we sustain, namely, that of the primacy of memory over human cruelty. We stand firmly against the denial or distortion of history. Fundamental human values are to prevail, and memory is to keep on being cultivated, in honour of millions of victims of atrocities and human cruelty. The passing of time is the greatest enigma of human existence, intensified



ICJ-CIJ, Bastian van Muscher.

Address by Judge Antônio Augusto Cançado Trindade.

by the occurrence of successive atrocities. Victims assume a central position, and one is to focus on their suffering with its projection in time, the acknowledgment of which forms itself part of the realization of justice.

16. The remembrance of the victims' suffering, for its part, shows that the tragic vulnerability of the human condition is not to lead to despair, but instead to nourish hope. Memory feeds justice, which, for its part, feeds hope. Memory, justice and hope are to be kept on being cultivated, in the extremely dangerous world in which we live — or survive — today. Hence the great significance of this ceremony today, here in the Peace Palace.

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Address by Mr. Serge Klarsfeld, representative of the Mémorial de la Shoah (France)

No history centre working on the Second World War over the last 72 years has been able to do so without recourse to the reference material made available from the great Nuremberg Trials, material which comes in many volumes and a number of languages, in particular English, French and German. However, not all the written, audio, film and photographic material was reproduced or made accessible and much that was could not be seen in its original form. Our knowledge of these archives was incomplete, is still incomplete, but will no longer be so thanks to the co-operation established between the Washington and Paris Memorial Museums and the International Court of Justice, which has been especially understanding. Often, those in possession of such important archives feel they have a power which they do not want to let go of and which prevents them from making those archives public and allowing researchers to seek the truth. The Registry of the ICJ — and I would like to offer my very sincere thanks to Mr. Philippe Couvreur — did not behave in this way;



ICJ-ClJ, Bastian van Musscher.

Mr. Serge Klarsfeld.

it co-operated fully and our Shoah Memorial is extremely grateful for that.

I would simply like to add that in 1959, almost 59 years ago now, I attended a summer course here at The Hague Academy of International Law. I put the remarkable lessons I learned here to good effect in our efforts in pursuit of justice, which have often been deployed in a complex international context. In 1982, I contacted the Registry of the ICJ and was able to get the first authentic copy of the Izieu Telex.

At the beginning of this century, I became aware of the fundamental importance of the only official repository of the archives that had been discreetly entrusted to the ICJ by the Nuremberg Tribunal. I returned to The Hague to work here and did my utmost to persuade the Washington and Paris Memorials to acquire copies of this incomparable historical material. My friends Radu Ioanid and Jacques Fredj managed to achieve a great deal thanks to the constant support of the Registry and Members of the Court.

The ICJ's mission was to keep and preserve these documents which bore the mark of inhumanity and which victorious humanity entrusted to it. The ICJ has fulfilled its mission and will continue to do so. Once copies have been entrusted to our Memorials and made available to all, this original repository in The Hague will serve as a beacon, and I would not be surprised if, one day, the Peace Palace and what it holds within its walls, which is so precious for history and for our memory, was enshrined by UNESCO as a World Heritage Site.

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Address by Mr. Radu Ioanid, representative of the United States Holocaust Memorial Museum (USHMM)

Since 1950, the International Court of Justice is officially in the possession of the Nuremberg IMT official records. They include 250,000 pages of records, a number of films, a few objects, photographs and close to eight hundred hours of recordings — the soundtrack of the Court proceedings.

Two important personalities suggested that the United States Holocaust Memorial Museum (USHMM) and the Mémorial de la Shoah reproduce the official Nuremberg IMT records:

Thomas Buergenthal, survivor of the Kielce ghetto and of the Auschwitz and Sachsenhausen camps, a former member of the board of the USHMM and former judge at the International Court of Justice between 2000 and 2010 and



Mr. Radu Ioanid.

Serge Klarsfeld who has documented cases and located former German and French officials for prosecution such as Klaus Barbie, René Bousquet, Jean Leguay, Maurice Papon and Paul Touvier, who have been implicated in the deaths of hundreds of thousands of French and foreign Jews during the Second World War.

Special thanks to them.

A special thank you needs to be addressed also to Mr. Philippe Couvreur, Registrar of the International Court of Justice. Without his kind and elegant support this operation would not have happened.

Artur Brodowicz, the Associate Librarian, and Cyril Emery, Head of the Documentation Division and of the Library of the International Court of Justice, supported with patience and a lot of goodwill the complicated logistics of the reproduction of the audio and film records of the Nuremberg IMT trial.

A thank you goes also to the ambassadors of the four Allied Powers who are attending this ceremony and whose governments also supported the reproduction of the Nuremberg IMT records.

The Nuremberg Trials

After the war, some of those responsible for crimes committed during the Holocaust were brought to trial. Nuremberg, Germany was chosen as a site for trials that took place in 1945 and 1946. Judges from the Allied Powers — Great Britain, France, the Soviet Union, and the United States — presided over the hearings of 22 major Nazi criminals.

Twelve prominent Nazis were sentenced to death. Most of the defendants admitted to the crimes of which they were accused, although most claimed that they were simply following the orders of a higher authority. Those individuals directly involved in the killing received the most severe sentences. Other people who played key roles in the Holocaust, including high-level government officials, and business executives who used concentration camp inmates as forced labourers, received short prison sentences or no penalty at all.

The Nazis' highest authority, the person most to blame for the Holocaust, was missing at the trials. Adolf Hitler had committed suicide in the final days of the war, as had several of his closest aides. Many more criminals were never tried. Some fled Germany to live abroad, including hundreds who came to the United States.

Trials of Nazis continued to take place both in Germany and many other countries. Simon Wiesenthal, a Nazi-hunter, provided leads for war crimes investigators about Adolf Eichmann. Eichmann, who had helped plan and carry out the deportations of millions of Jews, was brought to trial in Israel. The testimony of hundreds of witnesses, many of them survivors, was followed all over the world. Eichmann was found guilty and executed in 1962.

The International Military Tribunal (IMT) was composed of judges from the United States, Great Britain, France and the Soviet Union. Leading Nazi officials were indicted and placed on trial in Nuremberg, Germany, under Article 6 of the IMT's Charter for the following crimes:

- (a) Crimes against Peace: namely, planning, preparation, initiation or waging of a war of aggression, or a war in violation of international treaties, agreements or assurances, or participation in a common plan or conspiracy for the accomplishment of any of the foregoing;
- (b) War Crimes: namely, violations of the laws or customs of war. Such violations shall include, but not be limited to, murder, ill-treatment or deportation to slave labour or for any other purpose of the civilian population of, 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;
- (c) Crimes against Humanity: namely, 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 crime within the jurisdiction of the Tribunal, whether or not in violation of domestic law of the country where perpetrated.

The Court handed down indictments against 24 leading Nazi officials. It imposed the death sentence on 12 defendants, three were sentenced to life imprisonment, four received prison terms ranging from 10 to 20 years, and the Court acquitted three defendants.

I was convinced for a long time that the history of the Holocaust was only very important in terms of remembrance and learning about the implications of a shattering major historical event. Unfortunately, recent trends in Europe and the United States — extremism, nationalism, and attempts to rewrite history — convinced me that the work of the United States Holocaust Memorial Museum is needed now more than ever. The 1.7 million people who visit our museum every year can see

the immensity of the crime: the fact that the Holocaust took the lives of at least 5.2 million Jews. They can also see how other groups of people, such as Soviet POWs, Roma, political prisoners, people belonging to ethnic, sexual or religious groups were persecuted as well and sometimes targeted for destruction.

There is another feature of our museum which makes it powerful: one cannot be critical about the history of other nations without acknowledging one's own country's failures. Therefore, the American antisemitism before and during World War II, the reluctance of the United States in helping the Jewish refugees, and America's unwillingness to bomb Auschwitz are all part of our exhibitions, be they permanent or temporary, making them especially effective.

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