



OCTOBER 21 - NOVEMBER 21, 2013

LESSONS FROM THE

The Fragility of
the Rule of Law
in the Grip of
Power and Evil

FEATURING THE INTERNATIONAL EXHIBIT:

Lawyers Without Rights:

Jewish Lawyers in Germany Under the
Third Reich



Dr. Margarete Berent was a Jewish lawyer in Germany who was disbarred after Adolf Hitler assumed power in Nazi Germany.
Photo: Jessy Anni Golden Group
EXHIBIT created/produced by the German Federal Bar and ABA

Please join the U.S. District Court, University of Minnesota Law School, Jewish Community Relations Council of Minnesota and the Dakotas, and Justice David Stras of the Minnesota Supreme Court.

SYMPOSIUM ON THE NUREMBERG TRIALS AND THE WORLD'S RESPONSE TO GENOCIDE

November 15, 2013: 9:30 a.m.-3:30 p.m.

University of Minnesota Law School
Walter F. Mondale Hall
229 19th Avenue South
Minneapolis, MN 55455

From October 21 through November 21, the thought-provoking documentary exhibit created by the German Bar Association in 2000 – “Lawyers Without Rights: Jewish Lawyers in Germany under the Third Reich” – is traveling the world, and will be presented at the Minneapolis Federal Courthouse, the Minnesota Judicial Center, the Duluth Federal Courthouse, the University of Minnesota Law School, the IDS Center, and the Minneapolis downtown Marriott.

While the exhibit is on display at the University of Minnesota Law School, there will be a free symposium (with 3.75 CLE Elimination of Bias credits provided) addressing the importance of the Nuremberg trials for the rule of law, honoring Minnesotans who played a critical role at the Nuremberg trials, and featuring a panel of top scholars who will discuss the role of an international criminal court and the challenges of an international response to genocide. See the reverse side of this flyer for the symposium agenda.

Following this program, there will be a reception at the Law School at which time attendees will have the opportunity to view the “Lawyers Without Rights” Exhibit.

This program is free to attendees and lunch will be provided free of charge.

Please RSVP your attendance to Nuremberg_Symposium@mnd.uscourts.gov. With your response, please include your name, phone number and email address.

Parking for the event: It is recommended the attendees park at the lot behind the Law School.

THE NUREMBERG TRIALS AND THE WORLD'S RESPONSE TO GENOCIDE

- 9:00 Check in
- 9:30 Welcome by Chief Judge Michael J. Davis, Dean David Wippman and Regent Richard Beeson
- 9:35 Professor Oren Gross, Irving Younger Professor of Law and Director of the Institute for International Legal and Security Studies at the University of Minnesota Law School: *Overview of the Nuremberg Indictment and Role of War Crimes Tribunals in International Law*
- 10:00 Sandra Schulberg, overview and presentation of documentary film *Nuremberg: Its Lesson For Today*
- 11:45 Break
- 12:00-1:00 Lunch and presentation of the letters of Attorney Sid Kaplan, Nuremberg Prosecutor, by Mark Kaplan; "Two Minnesota soldiers at Nuremberg: Gerry Boe (guard) and Larry Tillemans (clerk/stenographer)" by Steve Hunegs; Allen Saeks on important role of Ben Deinard, Nuremberg prosecutor, and Melvin Siegal, Nuremberg prosecutor
- 1:10 Professor Kathryn Sikkink, Regents Professor and McKnight Chair in Political Science, University of Minnesota: *The Justice Cascade: Viability of War Crimes Tribunals in Achieving Greater Accountability For Human Rights Violations*
- 1:30 Dulce Foster, Fredrikson & Byron, P.A.: Ms. Foster worked closely with the Liberia Truth and Reconciliation Commission and will speak on her experiences in Liberia and the role of Truth and Reconciliation Commissions in responding to war crimes
- 1:50-3:00 Discussion regarding the viability of the International Criminal Court, moderated by Justice David Stras with Dean David Wippman, Professor Kathryn Sikkink and Dulce Foster
- 3:00 Reception

Schulberg Productions Presents

NUREMBERG

Its Lesson for Today

The Schulberg/Waletzky Restoration

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THE INDICTMENT

INDICTMENT

INTERNATIONAL MILITARY TRIBUNAL

THE UNITED STATES OF AMERICA, THE FRENCH REPUBLIC,
THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,
AND THE UNION OF SOVIET SOCIALIST REPUBLICS

-against-

HERMANN WILHELM Goering, RUDOLF HESS, JOACHIM VON RIBBENTROP, ROBERT LEY, WILHELM KEITEL, ERNST KALTENBRUNNER, ALFRED ROSENBERG, HANS FRANK, WILHELM FRICK, JULIUS STREICHER, WALTER FUNK, HJALMAR SCHACHT, GUSTAV KRUPP VON BOHLEN UND HALBACH, KARL Doenitz, ERICH RAEDER, BALDUR VON SCHIRACH, FRITZ SAUCKEL, ALFRED JODL, MARTIN BORMANN, FRANZ VON PAPEN, ARTHUR SEYSS-INQUART, ALBERT SPEER, CONSTANTIN VON NEURATH, and HANS FRITZSCHE, Individually and as Members of Any of the Following Groups or Organizations to which They Respectively Belonged, Namely: DIE REICHS REGIERUNG (REICH CABINET); DAS KORPS DER POLITISCHEN LEITER DER NATIONALSOZIALISTISCHEN DEUTSCHEN ARBEITERPARTEI (LEADERSHIP CORPS OF THE NAZI PARTY); DIE SCHUTZSTAFFELN DER NATIONALSOZIALISTISCHEN DEUTSCHEN ARBEITERPARTEI (commonly known as the "SS") and including DER SICHERHEITSDIENST (commonly known as the "SD"); DIE GEHEIME STAATSPOLIZEI (SECRET STATE POLICE, commonly known as the

"GESTAPO"); DIE STURM ABTEILUNGEN DER NSDAP (commonly known as the "SA"); and the GENERAL STAFF and HIGH COMMAND of the GERMAN ARMED FORCES, all as defined in Appendix B,

Defendants.

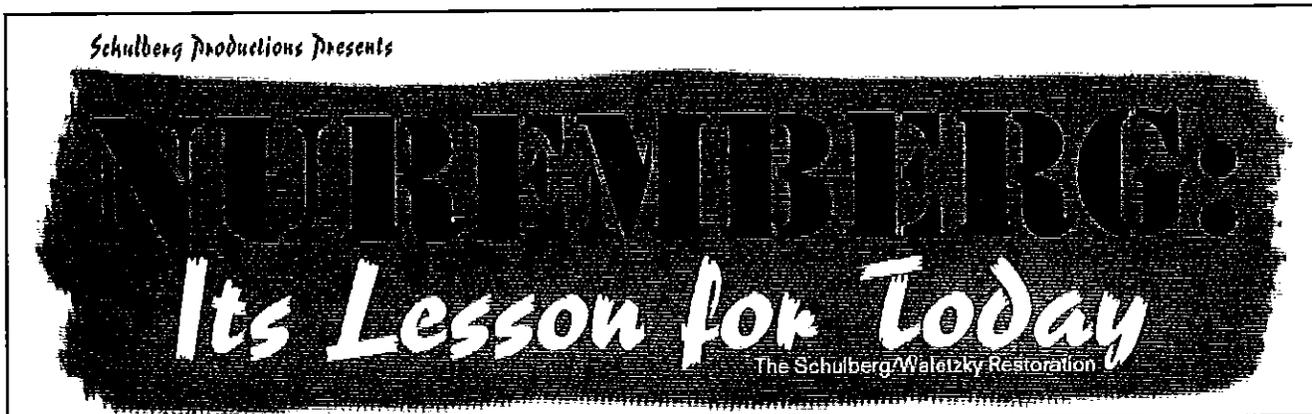
I. The United States of America, the French Republic, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics by the undersigned, Robert H. Jackson, Francois de Menthon, Hartley Shawcross, and R. A. Rudenko, duly appointed to represent their respective Governments in the investigation of the charges against and the prosecution of the major war criminals, pursuant to the Agreement of London dated 8 August 1945, and the Charter of this Tribunal annexed thereto, hereby accuse as guilty, in the respects hereinafter set forth, of Crimes against Peace, War Crimes, and Crimes against Humanity, and of a Common Plan or Conspiracy to commit those Crimes, all as defined in the Charter of the Tribunal, and accordingly name as defendants in this cause and as indicted on the counts hereinafter set out: **HERMANN WILHELM GOERING, RUDOLF HESS, JOACHIM VON RIBBENTROP, ROBERT LEY, WILHELM KEITEL, ERNST KALTENBRUNNER, ALFRED ROSENBERG, HANS FRANK, WILHELM FRICK, JULIUS STREICHER, WALTER FUNK, HJALMAR SCHACHT, GUSTAV KRUPP VON BOHLEN UND HALBACH, KARL Doenitz, ERICH RAEDER, BALDUR VON SCHIRACH, FRITZ SAUCKEL, ALFRED JODL, MARTIN BORMANN, FRANZ VON PAPEN, ARTHUR SEYSS-INQUART, ALBERT SPEER, CONSTANTIN VON NEURATH and HANS FRITZSCHE**, individually and as members of any of the groups or organizations next hereinafter named.

II. The following are named as groups or organizations (since dissolved) which should be declared criminal by reason of their aims and the means used for the accomplishment thereof and in connection with the conviction of such of the named defendants as were members thereof: **DIE REICHSREGIERUNG (REICH CABINET); DAS KORPS DER POLITISCHEN LEITER DER NATIONALSOZIALISTISCHEN DEUTSCHEN ARBEITERPARTEI (LEADERSHIP CORPS OF THE NAZI PARTY); DIE SCHUTZSTAFFELN DER NATIONALSOZIALISTISCHEN DEUTSCHEN ARBEITERPARTEI (commonly known as the "SS") and including DER SICHERHEITSDIENST (commonly known as the "SD"); DIE GEHEIME STAATSPOLIZEI (SECRET STATE POLICE, commonly known as the "GESTAPO"); DIE STURMABTEILUNGEN DER NSDAP (commonly known as the "SA"); and the GENERAL STAFF of the HIGH COMMAND of the GERMAN ARMED FORCES.**

The identity and membership of the groups or organizations referred to in the foregoing titles are hereinafter in Appendix B more particularly defined.

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Courtesy Lillian Goldman Law Library/Yale Law School:
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COUNT ONE: THE COMMON PLAN OR CONSPIRACY

III. Statement of the Offense

All the defendants, with divers other persons, during a period of years preceding 8 May 1945, participated as leaders, organizers, instigators, or accomplices in the formulation or execution of a common plan or conspiracy to commit, or which involved the commission of, Crimes against Peace, War Crimes, and Crimes against Humanity, as defined in the Charter of this Tribunal, and, in accordance with the provisions of the Charter, are individually responsible for their own acts and for all acts committed by any persons in the execution of such plan or conspiracy. The common plan or conspiracy embraced the commission of Crimes against Peace, in that the defendants planned, prepared, initiated, and waged wars of aggression, which were also wars in violation of international treaties, agreements, or assurances. In the development and course of the common plan or conspiracy it came to embrace the commission of War Crimes, in that it contemplated, and the defendants determined upon and carried out, ruthless wars against countries and populations, in violation of the rules and customs of war, including as typical and systematic means by which the wars were prosecuted, murder, ill-treatment, deportation for slave labor and for other purposes of civilian populations of occupied territories, murder and ill-treatment of prisoners of war and of persons on the high seas, the taking and killing of hostages, the plunder of public and private property, the indiscriminate destruction of cities, towns, and villages, and devastation not justified by military necessity. The common plan or conspiracy contemplated and came to embrace as typical and systematic means, and the defendants determined upon and committed, Crimes against Humanity, both within Germany and within occupied territories, including murder, extermination, enslavement, deportation, and other inhumane acts committed against civilian populations before and during the war, and persecutions on political, racial, or religious grounds, in execution of the plan for preparing and prosecuting aggressive or illegal wars, many of such acts and persecutions being violations of the domestic laws of the countries where perpetrated.

IV. Particulars of the Nature and Development of the Common Plan or Conspiracy

(A) NAZI PARTY AS THE CENTRAL CORE OF THE COMMON PLAN OR CONSPIRACY

In 1921 Adolf Hitler became the supreme leader or Fuehrer of the Nationalsozialistische Deutsche Arbeiterpartei (National Socialist German Workers Party), also known as the Nazi Party, which had been founded in Germany in 1920. He continued as such throughout the period covered by this Indictment. The Nazi Party, together with certain

of its subsidiary organizations, became the instrument of cohesion among the defendants and their co-conspirators and an instrument for the carrying out of the aims and purposes of their conspiracy. Each defendant became a member of the Nazi Party and of the conspiracy, with knowledge of their aims and purposes, or, with such knowledge, became an accessory to their aims and purposes at some stage of the development of the conspiracy.

(B) COMMON OBJECTIVES AND METHODS OF CONSPIRACY

The aims and purposes of the Nazi Party and of the defendants and divers other persons from time to time associated as leaders, members, supporters, or adherents of the Nazi Party (hereinafter called collectively the "Nazi conspirators") were, or came to be, to accomplish the following by any means deemed opportune, including unlawful means, and contemplating ultimate resort to threat of force, force, and aggressive war: (i) to abrogate and overthrow the Treaty of Versailles and its restrictions upon the military armament and activity of Germany; (ii) to acquire the territories lost by Germany as the result of the World War of 1914-18 and other territories in Europe asserted by the Nazi conspirators to be occupied principally by so-called "racial Germans"; (iii) to acquire still further territories in continental Europe and elsewhere claimed by the Nazi conspirators to be required by the "racial Germans" as "Lebensraum," or living space, all at the expense of neighboring and other countries. The aims and purposes of the Nazi conspirators were not fixed or static but evolved and expanded as they acquired progressively greater power and became able to make more effective application of threats of force and threats of aggressive war. When their expanding aims and purposes became finally so great as to provoke such strength of resistance as could be overthrown only by armed force and aggressive war, and not simply by the opportunistic methods theretofore used, such as fraud, deceit, threats, intimidation, fifth column activities, and propaganda, the Nazi conspirators deliberately planned, determined upon, and launched their aggressive wars and wars in violation of international treaties, agreements, and assurances by the phases and steps hereinafter more particularly described.

(C) DOCTRINAL TECHNIQUES OF THE COMMON PLAN OR CONSPIRACY

To incite others to join in the common plan or conspiracy, and as a means of securing for the Nazi conspirators the highest degree of control over the German community, they put forth, disseminated, and exploited certain doctrines, among others, as follows:

1. That persons of so-called "German blood" (as specified by the Nazi conspirators) were a "master race" and were accordingly entitled to subjugate, dominate, or exterminate other "races" and peoples;
2. That the German people should be ruled under the Fuehrerprinzip (Leadership Principle) according to which power was to reside in a Fuehrer from whom sub-leaders were to derive authority in a hierarchical order, each sub-leader to owe unconditional obedience to his immediate superior but to be absolute in his own sphere of jurisdiction; and the power of the leadership was to be unlimited, extending to all phases of public and private life;
3. That war was a noble and necessary activity of Germans;
4. That the leadership of the Nazi Party, as the sole bearer of the foregoing and other doctrines of the Nazi Party, was entitled to shape the structure, policies, and practices of the German State and all related institutions, to direct and supervise the activities of all individuals within the State, and to destroy all opponents.

(D) THE ACQUIRING OF TOTALITARIAN CONTROL OF GERMANY: POLITICAL

1. First steps in acquisition of control of State machinery.

In order to accomplish their aims and purposes, the Nazi conspirators prepared to seize totalitarian control over Germany to assure that no effective resistance against them could arise within Germany itself. After the failure of the Munich Putsch of 1923 aimed at the overthrow of the Weimar Republic by direct action, the Nazi conspirators set out through the Nazi Party to undermine and overthrow the German Government by "legal" forms supported by terrorism. They created and utilized, as a Party formation, Die Sturmabteilungen (SA), a semi-military, voluntary organization of young men trained for and committed to the use of violence; whose mission was to make the Party the master of the streets

2. Control acquired.

1. On 30 January 1933 Hitler became Chancellor of the German Republic. After the Reichstag fire of 28 February 1933, clauses of the Weimar constitution guaranteeing personal liberty, freedom of speech, of the press, of association and assembly were suspended. The Nazi conspirators secured the passage by the Reichstag of a "Law for the Protection of the People and the Reich" giving Hitler and the members of his then cabinet plenary powers of legislation. The Nazi conspirators retained such powers after having changed the members of the cabinet. The

conspirators caused all political parties except the Nazi Party to be prohibited. They caused the Nazi Party to be established as a paragonovernmental organization with extensive and extraordinary privileges.

3. Consolidation of control.

Thus possessed of the machinery of the German State, the Nazi conspirators set about the consolidation of their position of power within Germany, the extermination of potential internal resistance, and the placing of the German Nation on a military footing.

(a) The Nazi conspirators reduced the Reichstag to a body of their own nominees and curtailed the freedom of popular elections throughout the country. They transformed the several states, provinces, and municipalities, which had formerly exercised semi-autonomous powers, into hardly more than administrative organs of the central Government. They united the offices of the President and the Chancellor in the person of Hitler; instituted a widespread purge of civil servants; and severely restricted the independence of the judiciary and rendered it subservient to Nazi ends. The conspirators greatly enlarged existing State and Party organizations; established a network of new State and Party organizations; and "co-ordinated" State agencies with the Nazi Party and its branches and affiliates, with the result that German life was dominated by Nazi doctrine and practice and progressively mobilized for the accomplishment of their aims.

(b) In order to make their rule secure from attack and to instill fear in the hearts of the German people, the Nazi conspirators established and extended a system of terror against opponents and supposed or suspected opponents of the regime. They imprisoned such persons without judicial process, holding them in "protective custody" and concentration camps, and subjected them to persecution, degradation, despoilment, enslavement, torture, and murder. These concentration camps were established early in 1933 under the direction of the Defendant Goering and expanded as a fixed part of the terroristic policy and method of the conspirators and used by them for the commission of the Crimes against Humanity hereinafter alleged. Among the principal agencies utilized in the perpetration of these crimes were the SS and the GESTAPO, which, together with other favored branches or agencies of the State and Party, were permitted to operate without restraint of law.

(c) The Nazi conspirators conceived that, in addition to the suppression of distinctively political opposition, it was necessary to suppress or exterminate certain other movements or groups which they regarded as obstacles to their retention of total control in Germany and to the aggressive aims of the conspiracy abroad. Accordingly:

(1) The Nazi conspirators destroyed the free trade unions in Germany by confiscating their funds and properties, persecuting their leaders, prohibiting their activities, and supplanting them by an affiliated Party organization. The Leadership Principle was introduced into industrial relations, the entrepreneur becoming the leader and the workers becoming his followers. Thus any potential resistance of the workers was frustrated and the productive labor capacity of the German Nation was brought under the effective control of the conspirators.

(2) The Nazi conspirators, by promoting beliefs and practices incompatible with Christian teaching, sought to subvert the influence of the churches over the people and in particular over the youth of Germany. They avowed their aim to eliminate the Christian churches in Germany and sought to substitute therefor Nazi institutions and Nazi beliefs, and pursued a program of persecution of priests, clergy, and members of monastic orders whom they deemed opposed to their purposes, and confiscated church property.

(3) The persecution by the Nazi conspirators of pacifist groups, including religious movements dedicated to pacifism, was particularly relentless and cruel.

(d) Implementing their "master race" policy, the conspirators joined in a program of relentless persecution of the Jews, designed to exterminate them. Annihilation of the Jews became an official State policy, carried out both by official action and by incitements to mob and individual violence. The conspirators openly avowed their purpose. For example, the Defendant Rosenberg stated: "Anti-Semitism is the unifying element of the reconstruction of Germany." On another occasion he also stated: "Germany will regard the Jewish question as solved only after the very last Jew has left the greater German living space ... Europe will have its Jewish question solved only after the very last Jew has left the Continent." The Defendant LEY declared: "We swear we are not going to abandon the struggle until the last Jew in Europe has been exterminated and is actually dead. It is not enough to isolate the Jewish enemy of mankind-the Jew has got to be exterminated." On another occasion he also declared: "The second German secret weapon is anti-Semitism because if it is consistently pursued by Germany, it will become a universal problem which all nations will be forced to consider." The Defendant Streicher declared: "The sun will not shine on the nations of the earth until the last Jew is dead." These avowals and incitements were typical of the declarations of the Nazi

conspirators throughout the course of their conspiracy. The program of action against the Jews included disfranchisement, stigmatization, denial of civil rights, subjecting their persons and property to violence, deportation, enslavement, enforced labor, starvation, murder, and mass extermination. The extent to which the conspirators succeeded in their purpose can only be estimated, but the annihilation was substantially complete in many localities of Europe. Of the 9,600,000 Jews who lived in the parts of Europe under Nazi domination, it is conservatively estimated that 5,700,000 have disappeared, most of them deliberately put to death by the Nazi conspirators. Only remnants of the Jewish population of Europe remain.

(e) In order to make the German people amenable to their will, and to prepare them psychologically for war, the Nazi conspirators reshaped the educational system and particularly the education and training of the German youth. The Leadership Principle was introduced into the schools and the Party and affiliated organizations were given wide supervisory powers over education. The Nazi conspirators imposed a supervision of all cultural activities, controlled the dissemination of information and the expression of opinion within Germany as well as the movement of intelligence of all kinds from and into Germany, and created vast propaganda machines.

(f) The Nazi conspirators placed a considerable number of their dominated organizations on a progressively militarized footing with a view to the rapid transformation and use of such organizations whenever necessary as instruments of war.

(E) THE ACQUIRING OF TOTALITARIAN CONTROL IN GERMANY: ECONOMIC; AND THE ECONOMIC PLANNING AND MOBILIZATION FOR AGGRESSIVE WAR

Having gained political power the conspirators organized Germany's economy to give effect to their political aims.

1. In order to eliminate the possibility of resistance in the economic sphere, they deprived labor of its rights of free industrial and political association as particularized in paragraph (D) 3 (c) (1) herein.

2. They used organizations of German business as instruments of economic mobilization for war.

3. They directed Germany's economy towards preparation and equipment of the military machine. To this end they directed finance, capital investment, and foreign trade.

4. The Nazi conspirators, and in particular the industrialists among them, embarked upon a huge re-armament program and set out to produce and develop huge quantities of materials of war and to create a powerful military potential.

5. With the object of carrying through the preparation for war the Nazi conspirators set up a series of administrative agencies and authorities. For example, in 1936 they established for this purpose the office of the Four Year Plan with the Defendant Goering as Plenipotentiary, vesting it with overriding control over Germany's economy. Furthermore, on 28 August 1939, immediately before launching their aggression against Poland, they appointed the Defendant FUNK Plenipotentiary for Economics; and on 30 August 1939, they set up the Ministerial Council for the Defense of the Reich to act as a War Cabinet.

(F) UTILIZATION OF NAZI CONTROL FOR FOREIGN AGGRESSION

1. Status of the conspiracy by the middle of 1933 and projected plans.

By the middle of the year 1933 the Nazi conspirators, having acquired governmental control over Germany, were in a position to enter upon further and more detailed planning with particular relationship to foreign policy. Their plan was to re-arm and to re-occupy and fortify the Rhineland, in violation of the Treaty of Versailles and other treaties, in order to acquire military strength and political bargaining power to be used against other nations.

2. The Nazi conspirators decided that for their purpose the Treaty of Versailles must definitely be abrogated and specific plans were made by them and put into operation by 7 March 1936, all of which opened the way for the major aggressive steps to follow, as hereinafter set forth. In the execution of this phase of the conspiracy the Nazi conspirators did the following acts:

(a) They led Germany to enter upon a course of secret rearmament from 1933 to March 1935, including the training of military personnel and the production of munitions of war, and the building of an air force.

(b) On 14 October 1933, they led Germany to leave the International Disarmament Conference and the League of Nations.

- (c) On 10 March 1935, the Defendant Goering announced that Germany was building a military air force.
- (d) On 16 March 1935, the Nazi conspirators promulgated a law for universal military service, in which they stated the peace-time strength of the German Army would be fixed at 500,000 men.
- (e) On 21 May 1935, they falsely announced to the world, with intent to deceive and allay fears of aggressive intentions, that they would respect the territorial limitations of the Versailles Treaty and comply with the Locarno Pacts.
- (f) On 7 March 1936, they reoccupied and fortified the Rhineland, in violation of the Treaty of Versailles and the Rhine Pact of Locarno of 16 October 1925, and falsely announced to the world that "we have no territorial demands to make on Europe."

3. Aggressive action against Austria and Czechoslovakia.

(a) The 1936-1938 phase of the plan: planning for the assault on Austria and Czechoslovakia. The Nazi conspirators next entered upon the specific planning for the acquisition of Austria and Czechoslovakia, realizing it would be necessary, for military reasons, first to seize Austria before assaulting Czechoslovakia. On 21 May 1935, in a speech to the Reichstag, Hitler stated that: "Germany neither intends nor wishes to interfere in the internal affairs of Austria, to annex Austria, or to conclude an Anschluss." On 1 May 1936, within two months after the reoccupation of the Rhineland, Hitler stated: "The lie goes forth again that Germany tomorrow or the day after will fall upon Austria or Czechoslovakia." Thereafter, the Nazi conspirators caused a treaty to be entered into between Austria and Germany on 11 July 1936, Article 1 of which stated that "The German Government recognizes the full sovereignty of the Federated State of Austria in the spirit of the pronouncements of the German Fuehrer and Chancellor of 21 May 1935." Meanwhile, plans for aggression in violation of that treaty were being made. By the autumn of 1937, all noteworthy opposition within the Reich had been crushed. Military preparation for the Austrian action was virtually concluded. An influential group of the Nazi conspirators met with Hitler on 5 November 1937, to review the situation. It was reaffirmed that Nazi Germany must have "Lebensraum" in central Europe. It was recognized that such conquest would probably meet resistance which would have to be crushed by force and that their decision might lead to a general war, but this prospect was discounted as a risk worth taking. There emerged from this meeting three possible plans for the conquest of Austria and Czechoslovakia. Which of the three was to be used was to depend upon the developments in the political and military situation in Europe. It was contemplated that the conquest of Austria and Czechoslovakia would, through compulsory emigration of 2,000,000 persons from Czechoslovakia and 1,000,000 persons from Austria, provide additional food to the Reich for 5,000,000 to 6,000,000 people, strengthen it militarily by providing shorter and better frontiers, and make possible the constituting of new armies up to about twelve divisions. Thus, the aim of the plan against Austria and Czechoslovakia was conceived of not as an end in itself but as a preparatory measure toward the next aggressive steps in the Nazi conspiracy.

(b) The execution of the plan to invade Austria: November 1937 to March 1938.

Hitler, on 8 February 1938, called Chancellor Schuschnigg to a conference at Berchtesgaden. At the meeting of 12 February 1938, under threat of invasion, Schuschnigg yielded a promise of amnesty to imprisoned Nazis and appointment of Nazis to ministerial posts. He agreed to remain silent until Hitler's 20 February speech in which Austria's independence was to be reaffirmed, but Hitler in his speech, instead of affirming Austrian independence, declared himself protector of all Germans. Meanwhile, underground activities of Nazis in Austria increased. Schuschnigg, on 9 March 1938, announced a plebiscite on the question of Austrian independence. On 11 March Hitler sent an ultimatum, demanding that the plebiscite be called off or that Germany would invade Austria. Later the same day a second ultimatum threatened invasion unless Schuschnigg should resign in three hours. Schuschnigg resigned. The Defendant Seyss-Inquart, who was appointed Chancellor, immediately invited Hitler to send German troops into Austria to "preserve order". The invasion began on 12 March 1938. On 13 March, Hitler by proclamation assumed office as Chief of State of Austria and took command of its armed forces. By a law of the same date Austria was annexed to Germany.

(c) The execution of the plan to invade Czechoslovakia: April 1938 to March 1939.

1. Simultaneously with their annexation of Austria the Nazi conspirators gave false assurances to the Czechoslovak Government that they would not attack that country. But within a month they met to plan specific ways and means of attacking Czechoslovakia, and to revise, in the light of the acquisition of Austria, the previous plans for aggression against Czechoslovakia.

2. On 21 April 1938, the Nazi conspirators met and prepared to launch an attack on Czechoslovakia not later than 1 October 1938. They planned specifically to create an "incident" to "justify" the attack. They decided to launch a military attack only after a period of diplomatic squabbling which, growing more serious, would lead to the excuse for war, or, in the alternative, to unleash a lightning attack as a result of an "incident" of their own creation. Consideration was given to assassinating the German Ambassador at Prague to create the requisite incident. From and after 21 April 1938, the Nazi conspirators caused to be prepared detailed and precise military plans designed to carry out such an attack at any opportune moment and calculated to overcome all Czechoslovak resistance within four days, thus presenting the world with a fait accompli, and so forestalling outside resistance. Throughout the months of May, June, July, August, and September, these plans were made more specific and detailed, and by 3 September 1938, it was decided that all troops were to be ready for action on 28 September 1938.

3. Throughout this same period, the Nazi conspirators were agitating the minorities question in Czechoslovakia, and particularly in the Sudetenland, leading to a diplomatic crisis in August and September 1938. After the Nazi conspirators threatened war, the United Kingdom and France concluded a pact with Germany and Italy at Munich on 29 September 1938, involving the cession of the Sudetenland by Czechoslovakia to Germany. Czechoslovakia was required to acquiesce. On 1 October 1938, German troops occupied the Sudetenland.

4 On 15 March 1939, contrary to the provisions of the Munich Pact itself, the Nazi conspirators caused the completion of their plan by seizing and occupying the major part of Czechoslovakia not ceded to Germany by the Munich Pact.

4. Formulation of the plan to attack Poland: preparation and initiation of aggressive war: March 1939 to September 1939.

(a) With these aggressions successfully consummated, the conspirators had obtained much desired resources and bases and were ready to undertake further aggressions by means of war. Following assurances to the world of peaceful intentions, an influential group of the conspirators met on 23 May 1939, to consider the further implementation of their plan. The situation was reviewed and it was observed that "the past six years have been put to good use and all measures have been taken in correct sequence and in accordance with our aims"; that the national-political unity of the Germans had been substantially achieved; and that further successes could not be achieved without war and bloodshed. It was decided nevertheless next to attack Poland at the first suitable opportunity. It was admitted that the questions concerning Danzig which they had agitated with Poland were not true questions, but rather that the question was one of aggressive expansion for food and "Lebensraum". It was recognized that Poland would fight if attacked and that a repetition of the Nazi success against Czechoslovakia without war could not be expected. Accordingly, it was determined that the problem was to isolate Poland and, if possible, prevent a simultaneous conflict with the Western Powers. Nevertheless, it was agreed that England was an enemy to their aspirations, and that war with England and her ally France must eventually result, and therefore that in that war every attempt must be made to overwhelm England with a "Blitzkrieg". It was thereupon determined immediately to prepare detailed plans for an attack on Poland at the first suitable opportunity and thereafter for an attack on England and France, together with plans for the simultaneous occupation by armed force of air bases in the Netherlands and Belgium.

(b) Accordingly, after having denounced the German-Polish Pact of 1934 on false grounds, the Nazi conspirators proceeded to stir up the Danzig issue, to prepare frontier "incidents" to "justify" the attack, and to make demands for the cession of Polish territory. Upon refusal by Poland to yield, they caused German armed forces to invade Poland on 1 September 1939, thus precipitating war also with the United Kingdom and France.

5. Expansion of the war into a general war of aggression: planning and execution of attacks on Denmark, Norway, Belgium, the Netherlands, Luxembourg, Yugoslavia, and Greece: 1939 to April 1941.

Thus the aggressive war prepared for by the Nazi conspirators through their attacks on Austria and Czechoslovakia was actively launched by their attack on Poland. After the total defeat of Poland, in order to facilitate the carrying out of their military operations against France and the United Kingdom, the Nazi conspirators made active preparations for an extension of the war in Europe. In accordance with those plans, they caused the German armed forces to invade Denmark and Norway on 9 April 1940; Belgium, the Netherlands, and Luxembourg on 10 May 1940; Yugoslavia and Greece on 6 April 1941. All these invasions had been specifically planned in advance, in violation of the terms of the Kellogg-Briand Pact of 1928.

6. German invasion on 22 June 1941, of the U.S.S.R. territory in violation of Non-Aggression Pact of 23 August 1939.

On 22 June 1941 the Nazi conspirators deceitfully denounced the Non-Aggression Pact between Germany and the U.S.S.R. and without any declaration of war invaded Soviet territory thereby beginning a War of Aggression against the U.S.S.R.

From the first day of launching their attack on Soviet territory the Nazi conspirators, in accordance with their detailed plans, began to carry out the destruction of cities, towns, and villages, the demolition of factories, collective farms, electric stations, and railroads, the robbery and barbaric devastation of the natural cultural institutions of the peoples of the U.S.S.R., the devastation of museums, schools, hospitals, churches, and historic monuments, the mass deportation of the Soviet citizens for slave labor to Germany, as well as the annihilation of adults, old people, women and children, especially Beilorussians and Ukrainians, and the extermination of Jews committed throughout the occupied territory of the Soviet Union.

The above mentioned criminal offenses were perpetrated by the German troops in accordance with the orders of the Nazi Government and the General Staff and High Command of the German armed forces.

7. Collaboration with Italy and Japan and aggressive war against the United States: November 1936 to December 1941.

After the initiation of the Nazi wars of aggression the Nazi conspirators brought about a German-Italian-Japanese 10-year military-economic alliance signed at Berlin on 27 September 1940. This agreement, representing a strengthening of the bonds among those three nations established by the earlier but more limited pact of 25 November 1936, stated: "The Governments of Germany, Italy, and Japan, considering it as a condition precedent of any lasting peace that all nations of the world be given each its own proper place, have decided to stand by and co-operate with one another in regard to their efforts in Greater East Asia and regions of Europe respectively wherein it is their prime purpose to establish and maintain a new order of things calculated to promote the mutual prosperity and welfare of the peoples concerned." The Nazi conspirators conceived that Japanese aggression would weaken and handicap those nations with whom they were at war, and those with whom they contemplated war. Accordingly, the Nazi conspirators exhorted Japan to seek "a new order of things." Taking advantage of the wars of aggression then being waged by the Nazi conspirators, Japan commenced an attack on 7 December 1941, against the United States of America at Pearl Harbor and the Philippines, and against the British Commonwealth of Nations, French Indo-China, and the Netherlands in the southwest Pacific. Germany declared war against the United States on 11 December 1941.

(G) WAR CRIMES AND CRIMES AGAINST HUMANITY COMMITTED IN THE COURSE OF EXECUTING THE CONSPIRACY FOR WHICH THE CONSPIRATORS ARE RESPONSIBLE.

1. Beginning with the initiation of the aggressive war on 1 September 1939, and throughout its extension into wars involving almost the entire world, the Nazi conspirators carried out their common plan or conspiracy to wage war in ruthless and complete disregard and violation of the laws and customs of war. In the course of executing the common plan or conspiracy there were committed the War Crimes detailed hereinafter in Count Three of this Indictment.

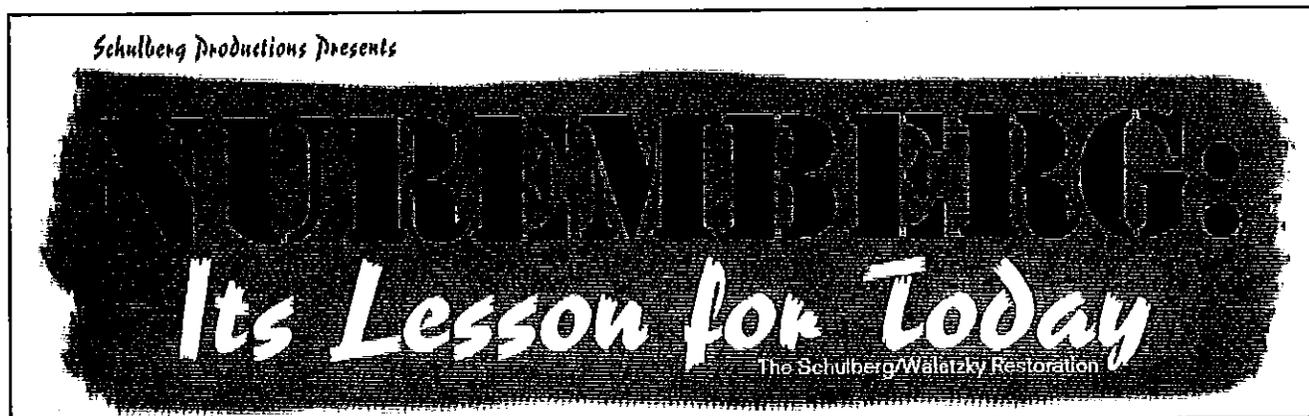
2. Beginning with the initiation of their plan to seize and retain total control of the German State, and thereafter throughout their utilization of that control for foreign aggression, the Nazi conspirators carried out their common plan or conspiracy in ruthless and complete disregard and violation of the laws of humanity. In the course of executing the common plan or conspiracy there were committed the Crimes against Humanity detailed hereinafter in Count Four of this Indictment.

3. By reason of all the foregoing, the defendants with divers other persons are guilty of a common plan or conspiracy for the accomplishment of Crimes against Peace; of a conspiracy to commit Crimes against Humanity in the course of preparation for war and in the course of prosecution of war; and of a conspiracy to commit War Crimes not only against the armed forces of their enemies but also against non-belligerent civilian populations.

(H) INDIVIDUAL, GROUP AND ORGANIZATION RESPONSIBILITY FOR THE OFFENSE STATED IN COUNT ONE

Reference is hereby made to Appendix A of this Indictment for a statement of the responsibility of the individual defendants for the offense set forth in this Count One of the Indictment. Reference is hereby made to Appendix B of this Indictment for a statement of the responsibility of the groups and organizations named herein as criminal groups and organizations for the offense set forth in this Count One of the Indictment.

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COUNT TWO: CRIMES AGAINST PEACE

V. Statement of the Offense

All the defendants with divers other persons, during a period of years preceding 8 May 1945, participated in the planning, preparation, initiation, and waging of wars of aggression, which were also wars in violation of international treaties, agreements, and assurances.

VI. Particulars of the wars planned, prepared, initiated, and waged

(A) The wars referred to in the Statement of Offense in this Count Two of the Indictment and the dates of their initiation were the following: against Poland, 1 September 1939; against the United Kingdom and France, 3 September 1939; against Denmark and Norway, 9 April 1940; against Belgium, the Netherlands, and Luxembourg, 10 May 1940; against Yugoslavia and Greece, 6 April 1941; against the U.S.S.R., 22 June 1941; and against the United States of America, 11 December 1941.

(B) Reference is hereby made to [Count One](#) of the Indictment for the allegations charging that these wars were wars of aggression on the part of the defendants.

(C) Reference is hereby made to [Appendix C](#) annexed to this Indictment for a statement of particulars of the charges of violations of international treaties, agreements, and assurances caused by the defendants in the course of planning, preparing, and initiating these wars.

VII. Individual, group and Organization Responsibility for the Offence Stated in Count Two

Reference is hereby made to [Appendix A](#) of this Indictment for a statement of the responsibility of the individual defendants for the offense set forth in this Count Two of the Indictment. Reference is hereby made to [Appendix B](#) of this Indictment for a statement of the responsibility of the groups and organizations named herein as criminal groups and organizations for the offense set forth in this Count Two of the Indictment.

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COUNT THREE: WAR CRIMES

VIII. Statement of the Offence

All the defendants committed War Crimes between 1 September 1939 and 8 May 1945, in Germany and in all those countries and territories occupied by the German Armed Forces since 1 September 1939, and in Austria, Czechoslovakia, and Italy, and on the High Seas.

All the defendants, acting in concert with others, formulated and executed a Common Plan or Conspiracy to commit War Crimes as defined in [Article 6 \(b\)](#) of the Charter. This plan involved, among other things, the practice of "total war" including methods of combat and of military occupation in direct conflict with the laws and customs of war, and the commission of crimes perpetrated on the field of battle during encounters with enemy armies, and against prisoners of war, and in occupied territories against the civilian population of such territories.

The said War Crimes were committed by the defendants and by other persons for whose acts the defendants are responsible (under [Article 6 of the Charter](#)) as such other persons when committing the said War Crimes performed their acts in execution of a common plan and conspiracy to commit the said War Crimes, in the formulation and execution of which plan and conspiracy all the defendants participated as leaders, organizers, instigators, and accomplices.

These methods and crimes constituted violations of international conventions, of internal penal laws and of the general principles of criminal law as derived from the criminal law of all civilized nations, and were involved in and part of a systematic course of conduct.

(A) MURDER AND ILL-TREATMENT OF CIVILIAN POPULATIONS OF OR IN OCCUPIED TERRITORY AND ON THE HIGH SEAS

Throughout the period of their occupation of territories overrun by their armed forces the defendants, for the purpose of systematically terrorizing the inhabitants, murdered and tortured civilians, and ill-treated them, and imprisoned them without legal process.

The murders and ill-treatment were carried out by divers means, including shooting, hanging, gassing, starvation, gross overcrowding, systematic under-nutrition, systematic imposition of labor tasks beyond the strength of those ordered to carry them out, inadequate provision of surgical and medical services, kickings, beatings, brutality and torture of all kinds, including the use of hot irons and pulling out of fingernails and the performance of experiments by means of operations and otherwise on living human subjects. In some occupied territories the defendants interfered in religious matters, persecuted members of the clergy and monastic orders, and expropriated church property. They conducted deliberate and systematic genocide, viz., the extermination of racial and national groups,

against the civilian populations of certain occupied territories in order to destroy particular races and classes of people and national, racial, or religious groups, particularly Jews, Poles, and Gypsies and others.

Civilians were systematically subjected to tortures of all kinds, with the object of obtaining information.

Civilians of occupied countries were subjected systematically to "protective arrests" whereby they were arrested and imprisoned without any trial and any of the ordinary protections of the law, and they were imprisoned under the most unhealthy and inhumane conditions.

In the concentration camps were many prisoners who were classified "Nacht und Nebel". These were entirely cut off from the world and were allowed neither to receive nor to send letters. They disappeared without trace and no announcement of their fate was ever made by the German authorities.

Such murders and ill-treatment were contrary to international conventions, in particular to Article 46 of the Hague Regulations, 1907, the laws and customs of war, the general principles of criminal law as derived from the criminal laws of all civilized nations, the internal penal laws of the countries in which such crimes were committed, and to Article 6 (b) of the Charter.

The following particulars and all the particulars appearing later in this count are set out herein by way of example only, are not exclusive of other particular cases, and are stated without prejudice to the right of the Prosecution to adduce evidence of other cases of murder and ill-treatment of civilians.

1. In France, Belgium, Denmark, Holland, Norway, Luxembourg, Italy, and the Channel Islands (hereinafter called the "Western Countries") and in that part of Germany which lies west of a line drawn due north and south through the center of Berlin (hereinafter called "Western Germany").

Such murder and ill-treatment took place in concentration camps and similar establishments set up by the defendants, and particularly in the concentration camps set up at Belsen, Buchenwald, Dachau, Breendonck, Grini, Natzweiler, Ravensbruck, Vught, and Amersfoort, and in numerous cities, towns, and villages, including Oradour-sur-Glane, Trondheim, and Oslo.

Crimes committed in France or against French citizens took the following forms:

Arbitrary arrests were carried out under political or racial pretexts: they were both individual and collective; notably in Paris (round-up of the 18th Arrondissement by the Field Gendarmerie, round-up of the Jewish population of the 11th Arrondissement in August 1941, round-up of Jewish intellectuals in December 1941, round-up in July 1942); at Clermont-Ferrand (round-up of professors and students of the University of Strasbourg, who were taken to Clermont-Ferrand on 25 November 1943); at Lyons; at Marseilles (round-up of 40,000 persons in January 1943); at Grenoble (round-up on 24 December 1943); at Cluny (round-up on 24 December 1944); at Figeac (round-up in May 1944); at Saint Pol de Leon (round-up in July 1944); at Locmine (round-up on 3 July 1944); at Eysieux (round-up in May 1944) and at Moussey (round-up in September 1944). These arrests were followed by brutal treatment and tortures carried out by the most diverse methods, such as immersion in icy water, asphyxiation, torture of the limbs, and the use of instruments of torture, such as the iron helmet and electric current, and practiced in all the prisons of France, notably in Paris, Lyons, Marseilles, Rennes, Metz, Clermont-Ferrand, Toulouse, Nice, Grenoble, Annecy, Arras, Bethune, Lille, Loos, Valenciennes, Nancy, Troyes, and Caen. and in the torture chambers fitted up at the Gestapo centers.

In the concentration camps, the health regime and the labor regime were such that the rate of mortality (alleged to be from natural causes) attained enormous proportions, for instance:

1. Out of a convoy of 230 French women deported from Compiègne to Auschwitz in January 1943, 180 died of exhaustion by the end of four months.
 2. 143 Frenchmen died of exhaustion between 23 March and 6 May 1943, in Block 8 at Dachau.
 3. 1,797 Frenchmen died of exhaustion between 21 November 1943, and 15 March 1945, in the Block at Dora.
 4. 465 Frenchmen died of general debility in November 1944, at Dora.
 5. 22,761 deportees died of exhaustion at Buchenwald between 1 January 1943, and 15 April 1945.
 6. 11,560 detainees died of exhaustion at Dachau Camp (most of them in Block 30 reserved for the sick and the infirm) between 1 January and 15 April 1945.
 7. 780 priests died of exhaustion at Mauthausen.
 8. Out of 2,200 Frenchmen registered at Flossenbürg Camp, 1,600 died from supposedly natural causes.
- Methods used for the work of extermination in concentration camps were: Bad treatment, pseudo-scientific experiments (sterilization of women at Auschwitz and at Ravensbruck, study of the evolution of cancer of the womb

at Auschwitz, of typhus at Buchenwald, anatomical research at Natzweiler, heart injections at Buchenwald, bone grafting and muscular excisions at Ravensbruck, etc.), gas chambers, gas wagons, and crematory ovens. Of 228,000 French political and racial deportees in concentration camps, only 28,000 survived.

In France systematic extermination was practiced also, notably at Asq on 1 April 1944, at Colpo on 22 July 1944, at Buzet-sur-Tarn on 6 July 1944 and on 17 August 1944, at Pluvignier on 8 July 1944, at Rennes on 8 June 1944, at Grenoble on 8 July 1944, at Saint Flour on 10 June 1944, at Ruisnes on 10 July 1944, at Nimes, at Tulle, and at Nice, where, in July 1944, the victims of torture were exposed to the population, and at Oradour-sur-Glane where the entire village population was shot or burned alive in the church.

The many charnel pits give proof of anonymous massacres. Most notable of these are the charnel pits of Paris (Cascade du Bois de Boulogne), Lyons, Saint-Genis-Laval, Besancon, Petit-Saint-Bernard, Aulnat, Caen, Port-Louis, Charleval, Fontainebleau, Bouconne, Gabaudet, Lhermitage Lorges, Morlaas, Bordelongue, Signe.

In the course of a premeditated campaign of terrorism, initiated in Denmark by the Germans in the latter part of 1943, 600 Danish subjects were murdered and, in addition, throughout the German occupation of Denmark, large numbers of Danish subjects were subjected to torture and ill-treatment of all sorts. In addition, approximately 500 Danish subjects were murdered, by torture and otherwise, in German prisons and concentration camps.

In Belgium between 1940 and 1944 tortures by various means, but identical in each place, were carried out at Brussels, Liege, Mons, Ghent, Namur, Antwerp, Tournai, Arlon, Charleroi, and Dinant.

At Vught, in Holland, when the camp was evacuated about 400 persons were murdered by shooting.

In Luxembourg, during the German occupation, 500 persons were murdered and, in addition, another 521 were illegally executed, by order of such special tribunals as the so-called "Sondergericht". Many more persons in Luxembourg were subjected to torture and mistreatment by the Gestapo. Not less than 4,000 Luxembourg nationals were imprisoned during the period of German occupation, and of these at least 400 were murdered.

Between March 1944 and April 1945, in Italy, at least 7,500 men, women, and children, ranging in years from infancy to extreme old age were murdered by the German soldiery at Civitella, in the Ardeatine Caves in Rome, and at other places.

2. In the U.S.S.R., i. e., in the Bielorussian, Ukrainian, Estonian, Latvian, Lithuanian, Karelo-Finnish, and Moldavian Soviet Socialist Republics, in 19 regions of the Russian Soviet Federated Socialist Republic, and in Poland, Czechoslovakia, Yugoslavia, Greece, and the Balkans (hereinafter called "the Eastern Countries") and in that part of Germany which lies east of a line drawn north and south through the center of Berlin (hereinafter called "Eastern Germany").

From 1 September 1939, when the German Armed Forces invaded Poland, and from 22 June 1941, when they invaded the U.S.S.R., the German Government and the German High Command adopted a systematic policy of murder and ill-treatment of the civilian populations of and in the Eastern Countries as they were successively occupied by the German Armed Forces. These murders and ill-treatments were carried on continuously until the German Armed Forces were driven out of the said countries. Such murders and ill-treatments included:

(a) Murders and ill-treatments at concentration camps and similar establishments set up by the Germans in the Eastern Countries and in Eastern Germany including those set up at Maidanek and Auschwitz.

The said murders and ill-treatments were carried out by divers means including all those set out above, as follows:

About 1,500,000 persons were exterminated in Maidanek and about 4,000,000 persons were exterminated in Auschwitz, among whom were citizens of Poland, the U.S.S.R., the United States of America, Great Britain, Czechoslovakia, France, and other countries.

In the Lwow region and in the city of Lwow the Germans exterminated about 700,000 Soviet people, including 70 persons in the field of the arts, science, and technology, and also citizens of the United States of America, Great Britain, Czechoslovakia, Yugoslavia, and Holland, brought to this region from other concentration camps.

In the Jewish ghetto from 7 September 1941 to 6 July 1943, over 133,000 persons were tortured and shot.

Mass shooting of the population occurred in the suburbs of the city and in the Livenitz forest.

In the Ganov camp 200,000 peaceful citizens were exterminated. The most refined methods of cruelty were employed in this extermination, such as disembowelling and the freezing of human beings in tubs of water. Mass shootings took place to the accompaniment of the music of an orchestra recruited from the persons interned.

Beginning with June 1943, the Germans carried out measures to hide the evidence of their crimes. They exhumed and burned corpses, and they crushed the bones with machines and used them for fertilizer.

At the beginning of 1944 in the Ozarichi region of the Bielorussian S.S.R., before liberation by the Red Army, the Germans established three concentration camps without shelters, to which they committed tens of thousands of persons from the neighboring territories. They brought many people to these camps from typhus hospitals intentionally, for the purpose of infecting the other persons interned and for spreading the disease in territories from which the Germans were being driven by the Red Army. In these camps there were many murders and crimes. In the Estonian S.S.R. they shot tens of thousands of persons and in one day alone, 19 September 1944, in Camp Kloga, the Germans shot 2,000 peaceful citizens. They burned the bodies on bonfires.

In the Lithuanian S.S.R. there were mass killings of Soviet citizens, namely: in Panerai at least 100,000; in Kaunas more than 70,000; in Alitus about 60,000; at Prenai more than 3,000; in Villiampol about 8,000; in Mariampol about 7,000; in Trakai and neighboring towns 37,640.

In the Latvian S.S.R. 577,000 persons were murdered.

As a result of the whole system of internal order maintained in all camps, the interned persons were doomed to die.

In a secret instruction entitled "the internal regime in concentration camps", signed personally by Himmler in 1941 severe measures of punishment were set forth for the internees. Masses of prisoners of war were shot, or died from the cold and torture.

(b) Murders and ill-treatments at places in the Eastern Countries and in the Soviet Union, other than in the camps referred to in (a) above, included), on various dates during the occupation by the German Armed Forces:

The destruction in the Smolensk region of over 135,000 Soviet citizens.

Among these, near the village of Kholmetz of the Sychev region, when the military authorities were required to remove the mines from an area, on the order of the Commander of the 101st German Infantry Division, Major-General Fisler, the German soldiers gathered the inhabitants of the village of Kholmetz and forced them to remove mines from the road. All of these people lost their lives as a result of exploding mines.

In the Leningrad region there were shot and tortured over 172,000 persons, including over 20,000 persons who were killed in the city of Leningrad by the barbarous artillery barrage and the bombings.

In the Stavropol region in an anti-tank trench close to the station of Mineralny Vody, and in other cities, tens of thousands of persons were exterminated.

In Pyatigorsk many were subjected to torture and criminal treatment, including suspension from the ceiling and other methods. Many of the victims of these tortures were then shot.

In Krasnodar some 6,700 civilians were murdered by poison gas in gas vans, or were tortured and shot.

In the Stalingrad region more than 40,000 persons were tortured and killed. After the Germans were expelled from Stalingrad, more than a thousand mutilated bodies of local inhabitants were found with marks of torture. One hundred and thirty-nine women had their arms painfully bent backward and held by wires. From some their breasts had been cut off and their ears, fingers, and toes had been amputated. The bodies bore the marks of burns. On the bodies of the men the five pointed star was burned with an iron or cut with a knife. Some were disembowelled.

In Orel over 5,000 persons were murdered.

In Novgorod and in the Novgorod region many thousands of Soviet citizens were killed by shooting, starvation, and torture. In Minsk tens of thousands of citizens were similarly killed.

In the Crimea peaceful citizens were gathered on barges, taken out to sea and drowned, over 144,000 persons being exterminated in this manner.

In the Soviet Ukraine there were monstrous criminal acts of the Nazi conspirators. In Babi Yar, near Kiev, they shot over 100,000 men, women, children, and old people. In this city in January 1942, after the explosion in German Headquarters on Dzerzhinsky Street the Germans arrested as hostages 1,250 persons—old men, minors, women with nursing infants.

In Kiev they killed over 195,000 persons.

In Rovno and the Rovno region they killed and tortured over 100,000 peaceful citizens.

In Dnepropetrovsk, near the Transport Institute, they shot or threw alive into a great ravine 11,000 women, old men, and children.

In Kamenetz-Podolsk Region 31,000 Jews were shot and exterminated, including 13,000 persons brought there from Hungary.

In the Odessa Region at least 200,000 Soviet citizens were killed.

In Kharkov about 195,000 persons were either tortured to death, shot, or gassed in gas vans.

In Gomel the Germans rounded up the population in prison, and tortured and tormented them, and then took them to the center of the city and shot them in public.

In the city of Lyda in the Grodnen region on 8 May 1942, 5,670 persons were completely undressed, driven into pens in groups of 100, and then shot by machine guns. Many were thrown in the graves while they were still alive.

Along with adults the Nazi conspirators mercilessly destroyed even children. They killed them with their parents, in groups, and alone. They killed them in children's homes and hospitals, burying the living in the graves, throwing them into flames, stabbing them with bayonets, poisoning them, conducting experiments upon them, extracting their blood for the use of the German Army, throwing them into prison and Gestapo torture chambers and concentration camps, where the children died from hunger, torture, and epidemic diseases.

From 6 September to 24 November 1942, in the region of Brest, Pinsk, Kobren, Dyvina, Malority, and Berezy-Kartuzsky about 400 children were shot by German punitive units.

In the Yanov camp in the city of Lwow the Germans killed 8,000 children in two months.

In the resort of Tiberda the Germans annihilated 500 children suffering from tuberculosis of the bone, who were in the sanatorium for the cure.

On the territory of the Latvian S.S.R. the German usurpers killed thousands of children, whom they had brought there with their parents from the Bielorussian S.S.R., and from the Kalinin, Kaluga, and other regions of the R.S.F.S.R.

In Czechoslovakia as a result of torture, beating, hanging, and shootings, there were annihilated in Gestapo prisons in Brno, Seim, and other places over 20,000 persons. Moreover, many thousands of internees were subjected to criminal treatment, beatings, and torture.

Both before the war, as well as during the war, thousands of Czech patriots, in particular Catholics and Protestants, lawyers, doctors, teachers, etc., were arrested as hostages and imprisoned. A large number of these hostages were killed by the Germans.

In Greece in October 1941, the male populations between 16 and 60 years of age of the Greek villages Amelofito, Kliston, Kizonia Mesovunos, Selli, Ano-Kerzilion and Kato-Kerzilion were shot—in all 416 persons.

In Yugoslavia many thousands of civilians were murdered. Other examples are given under paragraph (D), "Killing of Hostages", below.

(B) DEPORTATION FOR SLAVE LABOR AND FOR OTHER PURPOSES OF THE CIVILIAN POPULATIONS OF AND IN OCCUPIED TERRITORIES

During the whole period of the occupation by Germany of both the Western and the Eastern Countries it was the policy of the German Government and of the German High Command to deport able-bodied citizens from such occupied countries to Germany and to other occupied countries for the purpose of slave labor upon defense works, in factories, and in other tasks connected with the German war effort.

In pursuance of such policy there were mass deportations from all the Western and Eastern Countries for such purposes during the whole period of the occupation.

Such deportations were contrary to international conventions, in particular to Article 46 of the Hague Regulations, 1907, the laws and customs of war, the general principles of criminal law as derived from the criminal laws of all civilized nations, the internal penal laws of the countries in which such crimes were committed, and to Article 6 (b) of the Charter.

Particulars of deportations, by way of example only and without prejudice to the production of evidence of other cases are as follows:

1. From the Western Countries:

From France the following deportations of persons for political and racial reasons took place-each of which consisted of from 1,500 to 2,500 deportees:

1940	3 Transports
1941	14 Transports
1942	104 Transports
1943	257 Transports
1944	326 Transports

Such deportees were subjected to the most barbarous conditions of overcrowding; they were provided with wholly insufficient clothing and were given little or no food for several days.

The conditions of transport were such that many deportees died in the course of the journey, for example: In one of the wagons of the train which left Compiègne for Buchenwald, on 17 September 1943, 80 men died out of 130;

On 4 June 1944, 484 bodies were taken out of the train at Sarrebourg;

In a train which left Compiègne on 2 July 1944 for Dachau, more than 600 dead were found on arrival, i.e. one-third of the total number;

In a train which left Compiègne on 16 January 1944 for Buchenwald, more than 100 men were confined in each wagon, the dead and the wounded being heaped in the last wagon during the journey;

In April 1945, of 12,000 internees evacuated from Buchenwald, 4,000 only were still alive when the marching column arrived near Regensburg.

During the German occupation of Denmark, 5,200 Danish subjects were deported to Germany and there imprisoned in concentration camps and other places.

In 1942 and thereafter 6,000 nationals of Luxembourg were deported from their country under deplorable conditions as a result of which many of them perished.

From Belgium between 1940 and 1944 at least 190,000 civilians were deported to Germany and used as slave labor. Such deportees were subjected to ill-treatment and many of them were compelled to work in armament factories.

From Holland, between 1940 and 1944, nearly half a million civilians were deported to Germany and to other occupied countries.

2. From the Eastern Countries:

The German occupying authorities deported from the Soviet Union to slavery about 4,978,000 Soviet citizens.

Seven hundred and fifty thousand Czechoslovakian citizens were taken away from Czechoslovakia and forced to work in the German war machine in the interior of Germany.

On 4 June 1941, in the city of Zagreb (Yugoslavia) a meeting of German representatives was called with the Councillor Von Troll presiding. The purpose was to set up the means of deporting the Yugoslav population from Slovenia. Tens of thousands of persons were deported in carrying out this plan.

(C) MURDER AND ILL-TREATMENT OF PRISONERS OF WAR, AND OF OTHER MEMBERS OF THE ARMED FORCES OF THE COUNTRIES WITH WHOM GERMANY WAS AT WAR, AND OF PERSONS ON THE HIGH SEAS

The defendants murdered and ill-treated prisoners of war by denying them adequate food, shelter, clothing and medical care and attention; by forcing them to labor in inhumane conditions; by torturing them and subjecting them to inhuman indignities and by killing them. The German Government and the German High Command imprisoned prisoners of war in various concentration camps, where they were killed and subjected to inhuman treatment by the various methods set forth in paragraph VIII (A). Members of the armed forces of the countries with whom Germany was at war were frequently murdered while in the act of surrendering. These murders and ill-treatment were contrary to International Conventions, particularly Articles 4, 5, 6, and 7 of the Hague Regulations, 1907, and to Articles 2, 3, 4, and 6 of the Prisoners of War Convention (Geneva 1929), the laws and customs of war, the general principles of criminal law as derived from the criminal laws of all civilized nations, the internal penal laws of the countries in which such crimes were committed, and to Article 6 (b) of the Charter.

Particulars by way of example and without prejudice to the production of evidence of other cases, are as follows:

1. In the Western Countries:

French officers who escaped from Stalag X C were handed over to the Gestapo and disappeared; others were murdered by their guards; others sent to concentration camps and exterminated. Among others, the men of Stalag VI C were sent to Buchenwald.

Frequently prisoners captured on the Western Front were obliged to march to the camps until they completely collapsed. Some of them walked more than 600 kilometers with hardly any food; they marched on for 4-8 hours running, without being fed; among them a certain number died of exhaustion or of hunger; stragglers were systematically murdered.

The same crimes have been committed in 1943, 1944, and 1945 when the occupants of the camps were withdrawn before the Allied advance; particularly during the withdrawal of the prisoners of Sagan on 8 February 1945.

Bodily punishments were inflicted upon non-commissioned officers and cadets who refused to work. On 24 December 1943, three French non-commissioned officers were murdered for that motive in Stalag IV A. Many ill-treatments were inflicted without motive on other ranks: stabbing with bayonets, striking with riflebutts, and whipping; in Stalag XX B the sick themselves were beaten many times by sentries; in Stalag III B and Stalag III C, worn-out prisoners were murdered or grievously wounded. In military jails in Graudenz for instance, in reprisal camps as in Rava-Ruska, the food was so insufficient that the men lost more than 15 kilograms in a few weeks. In May 1942, one loaf of bread only was distributed in Rava-Ruska to each group of 35 men.

Orders were given to transfer French officers in chains to the camp of Mauthausen after they had tried to escape. At their arrival in camp they were murdered, either by shooting or by gas, and their bodies destroyed in the crematorium.

American prisoners, officers and men, were murdered in Normandy during the summer of 1944 and in the Ardennes in December 1944. American prisoners were starved, beaten, and otherwise mistreated in numerous Stalags in Germany and in the occupied countries, particularly in 1943, 1944, and 1945.

2. In the Eastern Countries:

At Orel prisoners of war were exterminated by starvation, shooting, exposure, and poisoning.

Soviet prisoners of war were murdered en masse on orders from the High Command and the Headquarters of the SIPO and SD. Tens of thousands of Soviet prisoners of war were tortured and murdered at the "Gross Lazaret" at Slavuta.

In addition, many thousands of the persons referred to in paragraph VIII (A) 2, above, were Soviet prisoners of war. Prisoners of war who escaped and were recaptured were handed over to SIPO and SD for shooting. Frenchmen fighting with the Soviet Army who were captured were handed over to the Vichy Government for "proceedings".

In March 1944, 50 R.A.F. officers who escaped from Stalag Luft III at Sagan, when recaptured, were murdered.

In September 1941, 11,000 Polish officers who were prisoners of war were killed in the Katyn Forest near Smolensk.

In Yugoslavia the German Command and the occupying authorities in the person of the chief officials of the Police, the SS troops (Police Lieutenant General Rosener) and the Divisional Group Command (General Kubler and others) in the period 1941-43 ordered the shooting of prisoners of war.

(D) KILLING OF HOSTAGES

Throughout the territories occupied by the German Armed Forces in the course of waging aggressive wars, the defendants adopted and put into effect on a wide scale the practice of taking, and of killing, hostages from the civilian population. These acts were contrary to international conventions, particularly Article 50 of the Hague Regulations, 1907, the laws and customs of war, the general principles of criminal law as derived from the criminal laws of all civilized nations, the internal penal laws of the countries in which such crimes were committed, and to Article 6 (b) of the Charter.

Particulars by way of example and without prejudice to the production of evidence of other cases, are as follows:

1. In the Western Countries:

In France hostages were executed either individually or collectively; these executions took place in all the big cities of France, among others in Paris, Bordeaux, and Nantes, as well as at Chateaubriant.

In Holland many hundreds of hostages were shot at the following among other places-Rotterdam, Apeldoorn, Amsterdam, Benschop, and Haarlem.

In Belgium many hundreds of hostages were shot during the period 1940 to 1944.

2. In the Eastern Countries:

At Kragnevatz in Yugoslavia 2,300 hostages were shot in October 1941.

At Kralevo in Yugoslavia 5,000 hostages were shot.

(E) PLUNDER OF PUBLIC AND PRIVATE PROPERTY

The defendants ruthlessly exploited the people and the material resources of the countries they occupied, in order to strengthen the Nazi war machine, to depopulate and impoverish the rest of Europe, to enrich themselves and their adherents, and to promote German economic supremacy over Europe.

The defendants engaged in the following acts and practices, among others:

1. They degraded the standard of life of the people of occupied countries and caused starvation, by stripping occupied countries of foodstuffs for removal to Germany.
2. They seized raw materials and industrial machinery in all of the occupied countries, removed them to Germany and used them in the interest of the German war effort and the German economy.
3. In all the occupied countries, in varying degrees, they confiscated businesses, plants, and other property.
4. In an attempt to give color of legality to illegal acquisitions of property, they forced owners of property to go through the forms of "voluntary" and "legal" transfers.
5. They established comprehensive controls over the economies of all of the occupied countries and directed their resources, their production and their labor in the interests of the German war economy, depriving the local populations of the products of essential industries.
6. By a variety of financial mechanisms, they despoiled all of the occupied countries of essential commodities and accumulated wealth, debased the local currency systems and disrupted the local economies. They financed extensive purchases in occupied countries through clearing arrangements by which they exacted loans from the occupied countries. They imposed occupation levies, exacted financial contributions, and issued occupation currency, far in

excess of occupation costs. They used these excess funds to finance the purchase of business properties and supplies in the occupied countries.

7. They abrogated the rights of the local populations in the occupied portions of the U.S.S.R. and in Poland and in other countries to develop or manage agricultural and industrial properties, and reserved this area for exclusive settlement, development, and ownership by Germans and their so-called racial brethren.

8. In further development of their plan of criminal exploitation, they destroyed industrial cities, cultural monuments, scientific institutions, and property of all types in the occupied territories to eliminate the possibility of competition with Germany.

9. From their program of terror, slavery, spoliation, and organized outrage, the Nazi conspirators created an instrument for the personal profit and aggrandizement of themselves and their adherents. They secured for themselves and their adherents:

- (a) Positions in administration of business involving power, influence, and lucrative perquisites.
- (b) The use of cheap forced labor.
- (c) The acquisition on advantageous terms of foreign properties, business interests, and raw materials.
- (d) The basis for the industrial supremacy of Germany.

These acts were contrary to international conventions, particularly Articles 46 to 56 inclusive of the Hague Regulations, 1907, the laws and customs of war, the general principles of criminal law as derived from the criminal laws of all civilized nations, the internal penal laws of the countries in which such crimes were committed and to Article 6 (b) of the Charter.

Particulars (by way of example and without prejudice to the production of evidence of other cases) are as follows:

1. Western Countries:

There was plundered from the Western Countries, from 1940 to 1944, works of art, artistic objects, pictures, plastics, furniture, textiles, antique pieces, and similar articles of enormous value to the number of 21,903.

In France statistics show the following:

Removal of Raw Materials.

Coal	63,000,000 tons
Electric energy	20,976 Mkw/h
Petrol and fuel	1,943,750 tons
Iron ore	74,848,000 tons
Siderurgical products	3,822,000 tons
Bauxite	1,211,800 tons
Cement	5,984,000 tons
Lime	1,888,000 tons
Quarry products	25,872,000 tons

and various other products to a total value of 79,961,423,000 francs.

Removal of Industrial Equipment.

Total: 9,759,861,000 francs, of which 2,626,479,000 francs of machine tools.

Removal of Agricultural Produce.

Total: 126,655,852,000 francs, i. e., for the principal products.

Wheat	2,947,337 tons
Oats	2,354,080 tons
Milk	790,000 hectolitres
(concentrated and in powder)	460,000 hectolitres
Butter	76,000 tons
Cheese	49,000 tons
Potatoes	725,975 tons
Various vegetables	575,000 tons
Wine	7,647,000 hectolitres
Champagne	87,000,000 bottles
Beer	3,821,520 hectolitres
Various kinds of alcohol	1,830,000 hectolitres

Removal of Manufactured Products.

To a total of 184,640,000,000 francs.

Plundering.

Francs: 257,020,024,000 from private enterprise.

Francs: 55,000,100,000 from the State.

Financial Exploitation.

From June 1940 to September 1944 the French Treasury was compelled to pay to Germany 631,866,000,000 francs.

Looting and Destruction of Works of Art.

The museums of Nantes, Nancy, Old-Marseilles were looted.

Private collections of great value were stolen. In this way Raphaels, Vermeers, Van Dycks, and works of Rubens, Holbein, Rembrandt, Watteau, Boucher disappeared. Germany compelled France to deliver up "The Mystic Lamb" by Van Eyck, which Belgium had entrusted to her.

In Norway and other occupied countries decrees were made by which the property of many civilians, societies, etc., was confiscated. An immense amount of property of every kind was plundered from France, Belgium, Norway, Holland, and Luxembourg.

As a result of the economic plundering of Belgium between 1940 and 1944 the damage suffered amounted to 175 billions of Belgian francs.

2. Eastern Countries:

During the occupation of the Eastern Countries the German Government and the German High Command carried out, as a systematic policy, a continuous course of plunder and destruction including:

On the territory of the Soviet Union the Nazi conspirators destroyed or severely damaged 1,710 cities and more than 70,000 villages and hamlets, more than 6,000,000 buildings and made homeless about 25,000,000 persons.

Among the cities which suffered most destruction are Stalingrad, Sevastopol, Kiev, Minsk, Odessa, Smolensk, Novgorod, Pskov, Orel, Kharkov, Voronexh, Rostov-on-Don, Stalino, and Leningrad.

As is evident from an official memorandum of the German command, the Nazi conspirators planned the complete annihilation of entire Soviet cities. In a completely secret order of the Chief of the Naval Staff (Staff Ia No; 1501/41, dated 29. IX. 1941) addressed only to Staff officers, it was said:

"The Fuehrer has decided to erase from the face of the earth St Petersburg. The existence of this large city will have no further interest after Soviet Russia is destroyed. Finland has also said that the existence of this city on her new border is not desirable from her point of view. The original request of the Navy that docks, harbor, etc. necessary for the fleet be preserved—is known to the Supreme Commander of the Military Forces, but the basic principles of carrying out operations against St. Petersburg do not make it possible to satisfy this request.

"It is proposed to approach near to the city and to destroy it with the aid of an artillery barrage from weapons of different calibers and with long air attacks....

"The problem of the life of the population and the provisioning of them is a problem which cannot and must not be decided by us.

"In this war . . . we are not interested in preserving even a part of the population of this large city."

The Germans destroyed 427 museums, among them the wealthy museums of Leningrad, Smolensk, Stalingrad, Novgorod, Poltava, and others. In Pyatigorsk the art objects brought there from the Rostov museum were seized.

The losses suffered by the coal mining industry alone in the Stalin region amount to 2,000,000,000 rubles. There was colossal destruction of industrial establishments in Makerevka, Carlovka, Yenakievo, Konstantinovka, Marinpol, from which most of the machinery and factories were removed.

Stealing of huge dimensions and the destruction of industrial, cultural, and other property was typified in Kiev. More than 4,000,000 books, magazines, and manuscripts (many of which were very valuable and even unique) and a large number of artistic productions and valuables of different kinds were stolen and carried away.

Many valuable art productions were taken away from Riga.

The extent of the plunder of cultural valuables is evidenced by the fact that 100,000 valuable volumes and 70 cases of ancient periodicals and precious monographs were carried away by ROSENBERG'S staff alone.

Among further examples of these crimes-are:

Wanton devastation of the city of Novgorod and of many historical and artistic monuments there. Wanton devastation and plunder of the city of Rovno and of its province. The destruction of the industrial, cultural, and other property in Odessa. The destruction of cities and villages in Soviet Karelia. The destruction in Estonia of cultural, industrial, and other buildings.

The destruction of medical and prophylactic institutes, the destruction of agriculture and industry in Lithuania, the destruction of cities in Latvia.

The Germans approached monuments of culture, dear to the Soviet people, with special hatred. They broke up the estate of the poet Pushkin in Mikhailovskoye, desecrating his grave, and destroying the neighboring villages and the Svyatogor monastery.

They destroyed the estate and museum of Leo Tolstoy, "Yasnaya Polyana," and desecrated the grave of the great writer. They destroyed in Klin the museum of Tchaikovsky and in Penaty, the museum of the painter Repin and many others.

The Nazi conspirators destroyed 1,670 Greek Orthodox churches, 237 Roman Catholic churches, 67 chapels, 532 synagogues, etc. They broke up, desecrated, and senselessly destroyed also the most valuable monuments of the Christian Church, such as Kievo-Pecherskaya Lavra, Novy Jerusalem in the Istrin region, and the most ancient monasteries and churches.

Destruction in Estonia of cultural, industrial, and other premises: burning down of many thousands of residential buildings; removal of 10,000 works of art; destruction of medical and prophylactic institutions; plunder and removal to Germany of immense quantities of agricultural stock including horses, cows, pigs, poultry, beehives, and agricultural machines of all kinds.

Destruction of agriculture, enslavement of peasants, and looting of stock and produce in Lithuania.

In the Latvian Republic destruction of the agriculture by the looting of all stock, machinery, and produce.

The result of this policy of plunder and destruction was to lay waste the land and cause utter desolation.

The overall value of the material loss which the U.S.S.R. has borne, is computed to be 679,000,000,000 rubles, in state prices of 1941.

Following the occupation of Czechoslovakia on 15 March 1939 the defendants seized and stole large stocks of raw materials, copper, tin, iron, cotton, and food; caused to be taken to Germany large amounts of railway rolling stock, and many engines, carriages, steam vessels, and trolley buses; plundered libraries, laboratories, and art museums of books, pictures, objects of art, scientific apparatus, and furniture; stole all gold reserves and foreign exchange of Czechoslovakia, including 23,000 kilograms of gold of nominal value of 5,265,000; fraudulently acquired control and thereafter looted the Czech banks and many Czech industrial enterprises; and otherwise stole, looted, and misappropriated Czechoslovak public and private property. The total sum of defendants' economic spoliation of Czechoslovakia from 1938 to 1945 is estimated at 2,000,000,003,000 Czechoslovak crowns.

(F) THE EXACTION OF COLLECTIVE PENALTIES

The Germans pursued a systematic policy of inflicting, in all the occupied countries, collective penalties, pecuniary and otherwise, upon the population for acts of individuals for which it could not be regarded as collectively responsible; this was done at many places, including Oslo, Stavanger, Trondheim, and Rogaland.

Similar instances occurred in France, among others in Dijon, Nantes, and as regards the Jewish population in the occupied territories. The total amount of fines imposed on French communities add up to 1,157,179,484 francs made up as follows:

A fine on the Jewish population	1,000,000,000
Various fines	157,179,484

These acts violated Article 50, Hague Regulations, 1907, the laws and customs of war, the general principles of criminal law as derived from the criminal laws of all civilized nations, the internal penal laws of the countries in which such crimes were committed. and Article 6 (b) of the Charter.

(G) WANTON DESTRUCTION OF CITIES, TOWNS, AND VILLAGES AND DEVASTATION NOT JUSTIFIED BY MILITARY NECESSITY

The defendants wantonly destroyed cities, towns, and villages and committed other acts of devastation without military justification or necessity. These acts violated Articles 46 and 50 of the Hague Regulations, 1907, the laws

and customs of war, the general principles of criminal law as derived from the criminal laws of all civilized nations, the internal penal laws of the countries in which such crimes were committed, and Article 6 (b) of the Charter.

Particulars by way of example only and without prejudice to the production of evidence of other cases are as follows

1. Western Countries:

In March 1941, part of Lofoten in Norway was destroyed.

In April 1942, the town of Telerag in Norway was destroyed.

Entire villages were destroyed in France, among others Oradour-sur-Glane, Saint-Nizier and, in the Vercors, La Mure, Vassieux, La Chapelle en Vercors. The town of Saint Die was burnt down and destroyed. The Old Port District of Marseilles was dynamited in the beginning of 1943 and resorts along the Atlantic and the Mediterranean coasts, particularly the town of Sanary, were demolished

In Holland there was most widespread and extensive destruction, not justified by military necessity, including the destruction of harbors, locks, dikes, and bridges: immense devastation was also caused by inundations which equally were not justified by military necessity.

2. Eastern Countries:

In the Eastern Countries the defendants' pursued a policy of wanton destruction and devastation: some particulars of this (without prejudice to the production of evidence of other cases) are set out above under the heading "Plunder of Public and Private Property

In Greece in 1941, the villages of Amelofito, Kliston, Kizonia, Messovunos, Selli, Ano-Kerzilion, and Kato-Kerzilion were utterly destroyed.

In Yugoslavia on 15 August 1941, the German military command officially announced that the village of Skela was burned to the ground and the inhabitants killed on the order of the command.

On the order of the Field Commander Hoersterberg a punitive expedition from the SS troops and the field police destroyed the villages of Machkovats, and Kriva Reka in Serbia and all the inhabitants were killed.

General Fritz Neidhold (369 Infantry Division) on 11 September 1944, gave an order to destroy the villages of Zagniezde and Udora, hanging all the men and driving away all the women and children.

In Czechoslovakia the Nazi conspirators also practiced the senseless destruction of populated places. Lezaky and Lidice were burned to the ground and the inhabitants killed.

(H) CONSCRIPTION OF CIVILIAN LABOR

Throughout the occupied territories the defendants conscripted and forced the inhabitants to labor and requisitioned their services for purposes other than meeting the needs of the armies of occupation and to an extent far out of proportion to the resources of the countries involved. All the civilians so conscripted were forced to work for the German war effort. Civilians were required to register and many of those who registered were forced to join the Todt Organization and the Speer Legion, both of which were semi-military organizations involving some military training. These acts violated Articles 46 and 52 of the Hague Regulations, 1907, the laws and customs of war, the general principles of criminal law as derived from the criminal laws of all civilized nations, the internal penal laws of the countries in which such crimes were committed, and Article 6 (b) of the Charter.

Particulars, by way of example only and without prejudice to the production of evidence of other cases, are as follows:

1. Western Countries:

In France, from 1942 to 1944, 963,813 persons were compelled to work in Germany and 737,000 to work in France for the German Army.

In Luxembourg in 1944 alone, 2,500 men and 500 girls were conscripted for forced labor.

2. Eastern Countries:

Of the large number of citizens of the Soviet Union and of Czechoslovakia referred to under Count Three VIII (B) 2 above many were so conscripted for forced labor.

(I) FORCING CIVILIANS OF OCCUPIED TERRITORIES TO SWEAR ALLEGIANCE TO A HOSTILE POWER

Civilians who joined the Speer Legion, as set forth in paragraph (H) above, were required, under threat of depriving them of food, money, and identity papers, to swear a solemn oath acknowledging unconditional obedience to Adolf Hitler, the Fuehrer of Germany, which was to them a hostile power.

In Lorraine, civil servants were obliged, in order to retain their positions, to sign a declaration by which they acknowledged the "return of their country to the Reich", pledged themselves to obey without reservation the orders of their chiefs and put themselves "at the active service of the Fuehrer and the Great National Socialist Germany".

A similar pledge was imposed on Alsatian civil servants by threat of deportation or internment.

These acts violated Article 45 of the Hague Regulations, 1907, the laws and customs of war, the general principles of international law, and Article 6 (b) of the Charter.

(J) GERMANIZATION OF OCCUPIED TERRITORIES

In certain occupied territories purportedly annexed to Germany the defendants methodically and pursuant to plan endeavored to assimilate those territories politically, culturally, socially, and economically into the German Reich. The defendants endeavored to obliterate the former national character of these territories. In pursuance of these plans and endeavors, the defendants forcibly deported inhabitants who were predominantly non-German and introduced thousands of German colonists.

This Plan included economic domination, physical conquest, installation of puppet governments, purported de jure annexation and enforced conscription into the German Armed Forces.

This was carried out in most of the occupied countries including: Norway, France (particularly in the Departments of Upper Rhine, Lower Rhine, Moselle, Ardennes, Aisne, Nord, Meurthe and Moselle), Luxembourg, the Soviet Union; Denmark, Belgium, and Holland.

In France in the Departments of Aisne, The Nord, Meurthe and Moselle, and especially in that of Ardennes, rural properties were seized by a German state organization which tried to have them exploited under German direction; the landowners of these exploitations were dispossessed and turned into agricultural laborers.

In the Department of Upper Rhine, Lower Rhine, and Moselle, the methods of Germanization were those of annexation followed by conscription.

1. From the month of August 1940, officials who refused to take the oath of allegiance to the Reich were expelled. On 21 September expulsions and deportation of populations began and on 22 November 1940, more than 70,000 Lorrainers or Alsations were driven into the south zone of France. From 31 July 1941 onwards, more than 100,000 persons were deported into the eastern regions of the Reich or to Poland. All the property of the deportees or expelled persons was confiscated. At the same time, 80,000 Germans coming from the Saar or from Westphalia were installed in Lorraine and 2,000 farms belonging to French people were transferred to Germans.

2. From 2 January 1942, all the young people of the Departments of Upper Rhine and Lower Rhine, aged from 10 to 18 years, were incorporated in the Hitler Youth. The same thing was done in Moselle from 4 August 1942. From 1940 all the French schools were closed, their staffs expelled, and the German school system was introduced in the three Departments.

3. On the 28 September 1940, an order applicable to the Department of Moselle ordained the Germanization of all the surnames and Christian names which were French in form. The same thing was done from 15 January 1943, in the Departments of Upper Rhine and Lower Rhine.

4. Two orders from 23 to 24 August 1942 imposed by force German nationality on French citizens.

5. On 8 May 1941, for Upper Rhine and Lower Rhine, 23 April 1941, for Moselle, orders were promulgated enforcing compulsory labor service on all French citizens of either sex aged from 17 to 25 years. From 1 January 1942 for young men and from 26 January 1942 for young girls, national labor service was effectively organized in Moselle. It was from 27 August 1942 in Upper Rhine and in Lower Rhine for young men only. The classes 1940, 1941, 1942 were called up.

6. These classes were retained in the Wehrmacht on the expiration of their time and labor service. On 19 August 1942, an order instituted compulsory military service in Moselle. On 25 August 1942, the classes 1940-44 were called up in three departments. Conscription was enforced by the German authorities in conformity with the provisions of German legislation. The first revision boards took place from 3 September 1942. Later in Upper Rhine and Lower Rhine new levies were effected everywhere on classes 1928 to 1939 inclusive. The French people who refused to obey these laws were considered as deserters and their families were deported, while their property was confiscated. These acts violated Articles 43, 46, 55, and 56 of the Hague Regulations, 1907, the laws and customs of war, the general principles of criminal law as derived from the criminal laws of all civilized nations, the internal penal laws of the countries in which such crimes were committed, and Article 6 (b) of the Charter.

IX. Individual, group and organization responsibility for the offense stated in Count Three

Reference is hereby made to Appendix A of this Indictment for a statement of the responsibility of the individual defendants for the offense set forth in this Count Three of the Indictment. Reference is hereby made to Appendix B of this Indictment for a statement of the responsibility of the groups and organizations named herein as criminal groups and organizations for the offense set forth in this Count Three of the Indictment.

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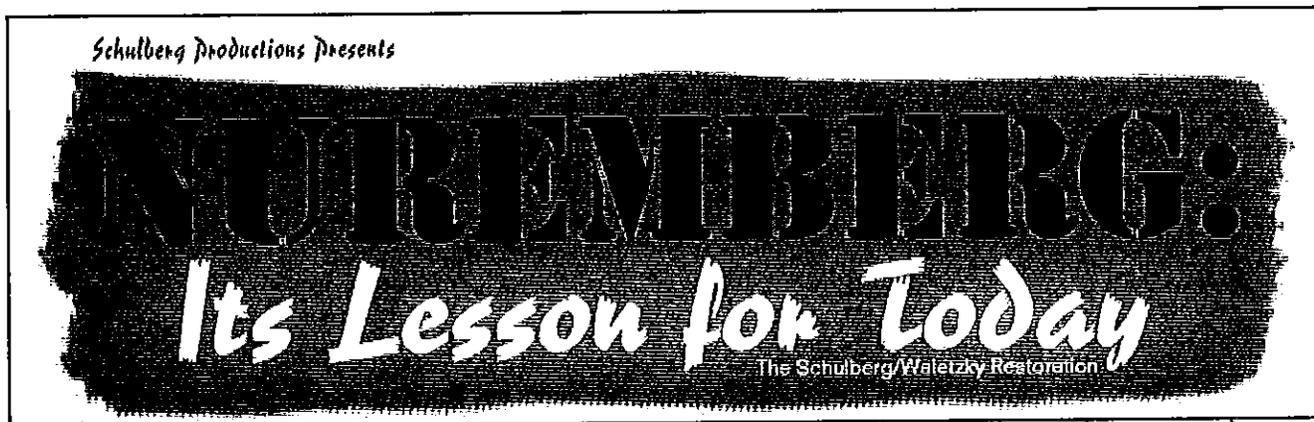


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COUNT FOUR: CRIMES AGAINST HUMANITY

X. Statement of the Offense

All the defendants committed Crimes against Humanity during a period of years preceding 8 May 1945 in Germany and in all those countries and territories occupied by the German armed forces since 1 September 1939 and in Austria and Czechoslovakia and in Italy and on the High Seas.

All the defendants, acting in concert with others, formulated and executed a common plan or conspiracy to commit Crimes against Humanity as defined in [Article 6 \(c\)](#) of the Charter. This plan involved, among other things, the murder and persecution of all who were or who were suspected of being hostile to the Nazi Party and all who were or who were suspected of being opposed to the common plan alleged in [Count One](#).

The said Crimes against Humanity were committed by the defendants and by other persons for whose acts the defendants are responsible (under [Article 6](#) of the Charter) as such other persons, when committing the said War Crimes, performed their acts in execution of a common plan and conspiracy to commit the said War Crimes, in the formulation and execution of which plan and conspiracy all the defendants participated as leaders, organizers, instigators, and accomplices.

These methods and crimes constituted violations of international conventions, of internal penal laws, of the general principles of criminal law as derived from the criminal law of all civilized nations and were involved in and part of a systematic course of conduct. The said acts were contrary to Article 6 of the Charter.

The Prosecution will rely upon the facts pleaded under [Count Three](#) as also constituting Crimes against Humanity.

(A) MURDER, EXTERMINATION, ENSLAVEMENT, DEPORTATION, AND OTHER INHUMANE ACTS COMMITTED AGAINST CIVILIAN POPULATIONS BEFORE AND DURING THE WAR

For the purposes set out above, the defendants adopted a policy of persecution, repression, and extermination of all civilians in Germany who were, or who were believed to be, or who were believed likely to become, hostile to the Nazi Government and the common plan or conspiracy described in [Count One](#). They imprisoned such persons without judicial process, holding them in "protective custody" and concentration camps, and subjected them to persecution, degradation, despoilment, enslavement, torture, and murder.

Special courts were established to carry out the will of the conspirators; favored branches or agencies of the State and Party were permitted to operate outside the range even of nazified law and to crush all tendencies and elements which were considered "undesirable". The various concentration camps included Buchenwald, which was established in 1933, and Dachau, which was established in 1934. At these and other camps the civilians were put to slave labor, and murdered and ill-treated by divers means, including those set out in Count Three above, and these acts and policies were continued and extended to the occupied countries after 1 September 1939, and until 8 May 1945.

(B) PERSECUTION ON POLITICAL, RACIAL, AND RELIGIOUS GROUNDS IN EXECUTION OF AND IN CONNECTION WITH THE COMMON PLAN MENTIONED IN COUNT ONE

As above stated, in execution of and in connection with the common plan mentioned in Count One, opponents of the German Government were exterminated and persecuted. These persecutions were directed against Jews. They were also directed against persons whose political belief or spiritual aspirations were deemed to be in conflict with the aims of the Nazis.

Jews were systematically persecuted since 1933; they were deprived of their liberty, thrown into concentration camps where they were murdered and ill-treated. Their property was confiscated. Hundreds of thousands of Jews were so treated before 1 September 1939.

Since 1 September 1939, the persecution of the Jews was redoubled: millions of Jews from Germany and from the occupied Western Countries were sent to the Eastern Countries for extermination.

Particulars by way of example and without prejudice to the production of evidence of other cases are as follows:

The Nazis murdered amongst others Chancellor Dollfuss, the Social Democrat Breitscheid, and the Communist Thalmann. They imprisoned in concentration camps numerous political and religious personages, for example Chancellor Schuschnigg and Pastor Niemoeller.

In November 1938, by orders of the Chief of the Gestapo, anti-Jewish demonstrations all over Germany took place. Jewish property was destroyed, 30,000 Jews were arrested and sent to concentration camps and their property confiscated.

Under paragraph VIII (A), above, millions of the persons there mentioned as having been murdered and ill-treated were Jews.

Among other mass murders of Jews were the following:

At Kislovodsk all Jews were made to give up their property: 2,000 were shot in an anti-tank ditch at Minerallye Vodi: 4,300 other Jews were shot in the same ditch.

60,000 Jews were shot on an island on the Dvina near Riga.

20,000 Jews were shot at Lutsk.

32,000 Jews were shot at Sarny.

60,000 Jews were shot at Kiev and Dniepropetrovsk.

Thousands of Jews were gassed weekly by means of gas-wagons which broke down from overwork.

As the Germans retreated before the Soviet Army they exterminated Jews rather than allow them to be liberated. Many concentration camps and ghettos were set up in which Jews were incarcerated and tortured, starved, subjected to merciless atrocities, and finally exterminated.

About 70,000 Jews were exterminated in Yugoslavia.

XI. Individual, group and organisation responsibility for the offence stated in Count Four

Reference is hereby made to Appendix A of this Indictment for a statement of the responsibility of the individual defendants for the offense set forth in this Count Four of the Indictment. Reference is hereby made to Appendix B of this Indictment for a statement of the responsibility of the groups and organizations named herein as criminal groups and organizations for the offense set forth in this Count Four of the Indictment.

Wherefore, this Indictment is lodged with the Tribunal in English, French, and Russian, each text having equal authenticity, and the charges herein made against the above named defendants are hereby presented to the Tribunal.

/s/ ROBERT H. JACKSON.

Acting on Behalf of the United States of America.

/s/ FRANCOIS DE MENTHON.

Acting on Behalf of the French Republic.

/s/ HARTLEY SHAWCROSS.

Acting on Behalf of the United Kingdom of Great Britain and Northern Ireland.

/s/ R. RUDENKO.

Acting on Behalf of the Union of Soviet Socialist Republics.
- Berlin, 6 October 1945.

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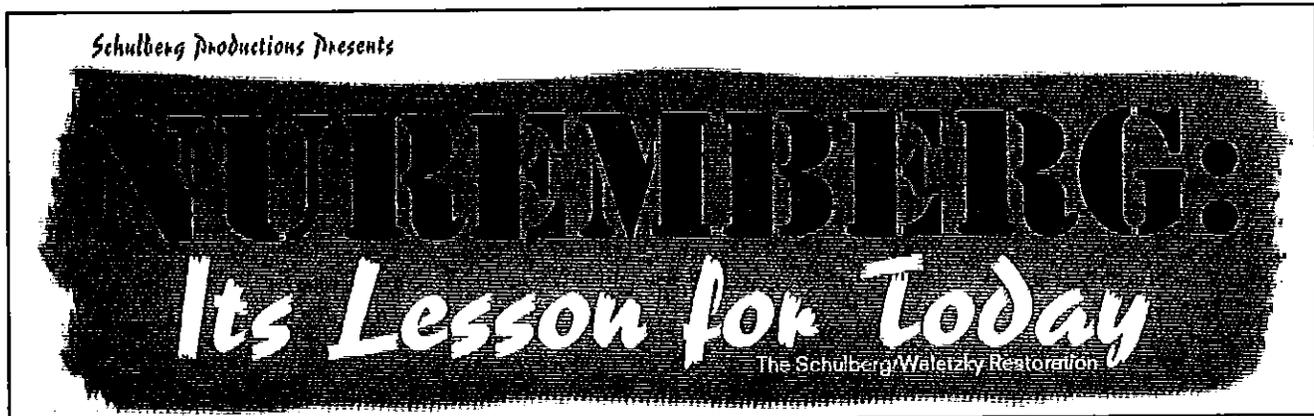


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APPENDIX A

STATEMENT OF INDIVIDUAL RESPONSIBILITY FOR CRIMES SET OUT IN COUNTS ONE, TWO, THREE, AND FOUR

The statements hereinafter set forth following the name of each individual defendant constitute matters upon which the prosecution will rely inter alia as establishing the individual responsibility of the defendant according to [Article 6](#) of the Charter of the Tribunal.

GOERING:

The Defendant Goering between 1932 and 1945 was: A member of the Nazi Party, Supreme Leader of the SA, General in the SS, a member and President of the Reichstag, Minister of the Interior of Prussia, Chief of the Prussian Police and Prussian Secret State Police, Chief of the Prussian State Council, Trustee of the Four Year Plan, Reich Minister for Air, Commander-in-Chief of the Air Force, President of the Council of Ministers for the Defense of the Reich, member of the Secret Cabinet Council, head of the Hermann Goering Industrial Combine, and Successor Designate to Hitler. The Defendant Goering used the foregoing positions, his personal influence, and his intimate connection with the Fuehrer in such a manner that: He promoted the accession to power of the Nazi conspirators and the consolidation of their control over Germany set forth in [Count One](#) of the Indictment; he promoted the military and economic preparation for war set forth in [Count One](#) of the Indictment; he participated in the planning and preparation of the Nazi conspirators for Wars of Aggression and Wars in Violation of International Treaties, Agreements, and Assurances set forth in [Counts One and Two](#) of the Indictment; and he authorized, directed, and participated in the War Crimes set forth in [Count Three](#) of the Indictment; and the Crimes against Humanity set forth in [Count Four](#) of the Indictment, including a wide variety of crimes against persons and property.

RIBBENTROP:

The Defendant RIBBENTROP between 1932 and 1945 was: A member of the Nazi Party, a member of the Nazi Reichstag, Advisor to the Fuehrer on matters of foreign policy, representative of the Nazi Party for matters of foreign policy, special German delegate for disarmament questions, Ambassador Extraordinary, Ambassador in London, organizer and director of Dienststelle Ribbentrop, Reich Minister for Foreign Affairs, member of the Secret Cabinet Council member of the Fuehrer's political staff at general headquarters, and General in the SS. The Defendant

RIBBENTROP used the foregoing positions, his personal influence, and his intimate connection with the Fuehrer in such a manner that: He promoted the accession to power of the Nazi conspirators as set forth in Count One of the Indictment; he promoted the preparations for war set forth in Count One of the Indictment; he participated in the political planning and preparation of the Nazi conspirators for Wars of Aggression and Wars in Violation of International Treaties, Agreements, and Assurances as set forth in Counts One and Two of the Indictment; in accordance with the Fuehrer Principle he executed and assumed responsibility for execution of the foreign policy plans of the Nazi conspirators set forth in Count One of the Indictment; and he authorized, directed, and participated in the War Crimes set forth in Count Three of the Indictment, and the Crimes against Humanity set forth in Count Four of the Indictment, including more particularly the crimes against persons and property in occupied territories.

HESS:

The Defendant HESS between 1921 and 1941 was: a member of the Nazi Party, Deputy to the Fuehrer, Reich Minister without Portfolio, member of the Reichstag, member of the Council of Ministers for the Defense of the Reich, member of the Secret Cabinet Council, Successor Designate to the Fuehrer after the Defendant Goering, a General in the SS and a General in the SA. The Defendant HESS used the foregoing positions, his personal influence, and his intimate connection with the Fuehrer in such a manner that: He promoted the accession to power of the Nazi conspirators and the consolidation of their control over Germany set forth in Count One of the Indictment; he promoted the military, economic, and psychological preparations for war set forth in Count One of the Indictment; he participated in the political planning and preparation for Wars of Aggression and Wars in Violation of International Treaties, Agreements, and Assurances set forth in Counts One and Two of the Indictment; he participated in the preparation and planning of foreign policy plans of the Nazi conspirators set forth in Count One of the Indictment; he authorized, directed and participated in the War Crimes set forth in Count Three of the Indictment and the Crimes against Humanity set forth in Count Four of the Indictment, including a wide variety of crimes against persons and property.

KALTENBRUNNER:

The Defendant KALTENBRUNNER between 1932 and 1945 was: A member of the Nazi Party, a General in the SS, a member of the Reichstag, a General of the Police, State Secretary for Security in Austria in charge of the Austrian Police, Police Leader of Vienna, Lower and Upper Austria, Head of the Reich Main Security Office, and Chief of the Security Police and Security Service. The Defendant KALTENBRUNNER used the foregoing positions and his personal influence in such a manner that: He promoted the consolidation of control over Austria seized by the Nazi conspirators as set forth in Count One of the Indictment; and he authorized, directed, and participated in the War Crimes set forth in Count Three of the Indictment and the Crimes against Humanity set forth in Count Four of the Indictment, including particularly the Crimes against Humanity involved in the system of concentration camps.

ROSENBERG:

The Defendant ROSENBERG between 1920 and 1945 was: A member of the Nazi Party, Nazi member of the Reichstag, Reichsleiter in the Nazi Party for Ideology and Foreign Policy, the editor of the Nazi newspaper Volkischer Beobachter and of the NS Monatshefte, head of the Foreign Political Office of the Nazi Party, Special Delegate for the entire Spiritual and Ideological Training of the Nazi Party, Reich Minister for the Eastern Occupied Territories, organizer of the "Einsatzstab Rosenberg", a General in the SS and a General in the SA. The Defendant ROSENBERG used the foregoing positions, his personal influence, and his intimate connection with the Fuehrer in such a manner that: He developed, disseminated, and exploited the doctrinal techniques of the Nazi conspirators set forth in Count One of the Indictment; he promoted the accession to power of the Nazi conspirators and the consolidation of their control over Germany set forth in Count One of the Indictment; he promoted the psychological preparations for war set forth in Count One of the Indictment; he participated in the political planning and preparation for Wars of Aggression and Wars in Violation of International Treaties, Agreements, and Assurances set forth in Counts One and Two of the Indictment; and he authorized, directed, and participated in the War Crimes set forth in Count Three of the Indictment and the Crimes against Humanity set forth in Count Four of the Indictment, including a wide variety of crimes against persons and property.

FRANK:

The Defendant FRANK between 1932 and 1945 was: A member of the Nazi Party, a General in the SS, a member of the Reichstag, Reich Minister without Portfolio, Reich Commissar for the Coordination of Justice, President of the International Chamber of Law and Academy of German Law, Chief of the Civil Administration of Lodz, Supreme Administrative Chief of the military district of West Prussia, Poznan, Lodz and Krakow, and Governor General of the occupied Polish territories. The Defendant FRANK used the foregoing positions, his personal influence, and his intimate connection with the Fuehrer in such a manner that: He promoted the accession to power of the Nazi conspirators and the consolidation of their control over Germany set forth in Count One of the Indictment; he

authorized, directed, and participated in the War Crimes set forth in Count Three of the Indictment and the Crimes against Humanity set forth in Count Four of the Indictment, including particularly the War Crimes and Crimes against Humanity involved in the administration of occupied territories.

BORMANN:

The Defendant BORMANN between 1925 and 1945 was: A member of the Nazi Party, member of the Reichstag, a member of the Staff of the Supreme Command of the SA, founder and head of "Hilfskasse der NSDAP, Reichsleiter, Chief of Staff Office of the Fuehrer's Deputy, head of the Party Chancery, Secretary of the Fuehrer, member of the Council of Ministers for the Defense of the Reich, organizer and head of the Volkssturm, a General in the SS and a General in the SA. The Defendant BORMANN used the foregoing positions, his personal influence, and his intimate connection with the Fuehrer in such a manner that: He promoted the accession to power of the Nazi conspirators and the consolidation of their control over Germany set forth in Count One of the Indictment; he promoted the preparations for war set forth in Count One of the Indictment; and he authorized, directed, and participated in the War Crimes set forth in Count Three of the Indictment and the Crimes against Humanity set forth in Count Four of the Indictment, including a wide variety of crimes against persons and property.

FRICK:

The Defendant FRICK between 1932 and 1945 was: A member of the Nazi Party, Reichsleiter, General in the SS, member of the Reichstag, Reich Minister of the Interior, Prussian Minister of the Interior, Reich Director of Elections, General Plenipotentiary for the Administration of the Reich, head of the Central Office for the Reunification of Austria and the German Reich, Director of the Central Office for the Incorporation of Sudetenland, Memel, Danzig, the eastern incorporated territories, Eupen, Malmedy, and Moresnet, Director of the Central Office for the Protectorate of Bohemia and Moravia, the Governor General of Lower Styria, Upper Carinthia, Norway, Alsace, Lorraine and all other occupied territories and Reich Protector for Bohemia and Moravia. The Defendant FRICK used the foregoing positions, his personal influence, and his intimate connection with the Fuehrer in such a manner that: He promoted the accession to power of the Nazi conspirators and the consolidation of their control over Germany set forth in Count One of the Indictment; he participated in the planning and preparation of the Nazi conspirators for Wars of Aggression and Wars in Violation of International Treaties, Agreements, and Assurances set forth in Count One and Count Two of the Indictment; and he authorized, directed, and participated in the War Crimes set forth in Count Three of the Indictment and the Crimes against Humanity set forth in Count Four of the Indictment, including more particularly the crimes against persons and property in occupied territories.

LEY:

The Defendant LEY between 1932 and 1945 was: A member of the Nazi Party, Reichsleiter, Nazi Party Organization Manager, member of the Reichstag, leader of the German Labor Front, a General in the SA, and Joint Organizer of the Central Inspection for the Care of Foreign Workers. The Defendant LEY used the foregoing positions, his personal influence, and his intimate connection with the Fuehrer in such a manner that: He promoted the accession to power of the Nazi conspirators and the consolidation of their control over Germany as set forth in Count One of the Indictment; he promoted the preparation for war set forth in Count One of the Indictment; he authorized, directed, and participated in the War Crimes set forth in Count Three of the Indictment, and in the Crimes against Humanity set forth in Count Four of the Indictment, including particularly the War Crimes and Crimes against Humanity relating to the abuse of human beings for labor in the conduct of the aggressive wars.

SAUCKEL:

The Defendant SAUCKEL between 1921 and 1945 was: A member of the Nazi Party, Gauleiter and Reichsstatthalter of Thuringia, a member of the Reichstag, General Plenipotentiary for the Employment of Labor under the Four Year Plan, Joint Organizer with the Defendant Ley of the Central Inspection for the Care of Foreign Workers, a General in the SS and a General in the SA. The Defendant SAUCKEL used the foregoing positions and his personal influence in such a manner that: He promoted the accession to power of the Nazi conspirators set forth in Count One of the Indictment; he participated in the economic preparations for Wars of Aggression and Wars in Violation of Treaties, Agreements, and Assurances set forth in Count One and Count Two of the Indictment; he authorized, directed, and participated in the War Crimes set forth in Count Three of the Indictment and the Crimes against Humanity set forth in Count Four of the Indictment including particularly the War Crimes and Crimes against Humanity devolved in forcing the inhabitants of occupied countries to work as slave laborers in occupied countries and in Germany.

SPEER:

The Defendant SPEER - between 1932 and 1945 was: A member of the Nazi Party, Reichsleiter, member of the Reichstag, Reich Minister for Armament and Munitions, Chief of the Organization Todt, General Plenipotentiary for Armaments in the Office of the Four Year Plan, and Chairman of the Armaments Council. The defendant SPEER

used the foregoing positions and his personal influence in such a manner that: He participated in the military and economic planning and preparation of the Nazi conspirators for Wars of Aggression and Wars in Violation of International Treaties, Agreements, and Assurances set forth in Count One and Count Two of the Indictment; and he authorized, directed, and participated in the War Crimes set forth in Count Three of the Indictment and the Crimes against Humanity set forth in Count Four of the Indictment, including more particularly the abuse and exploitation of human beings for forced labor in the conduct of aggressive war.

FUNK:

The Defendant FUNK between 1932 and 1945 was: A member of the Nazi Party, Economic Adviser of Hitler, National Socialist Deputy to the Reichstag, Press Chief of the Reich Government, State Secretary of the Reich Ministry of Public Enlightenment and Propaganda, Reich Minister of Economics, Prussian Minister of Economics, President of the German Reichsbank, Plenipotentiary for Economy, and member of the Ministerial Council for the Defense of the Reich. The Defendant FUNK used the foregoing positions, his personal influence, and his close connection with the Fuehrer in such a manner that: He promoted the accession to power of the Nazi conspirators and the consolidation of their control over Germany set forth in Count One of the Indictment; he promoted the preparations for war set forth in Count One of the Indictment; he participated in the military and economic planning and preparation of the Nazi conspirators for Wars of Aggression and Wars in Violation of International Treaties, Agreements, and Assurances set forth in Count One and Count Two of the Indictment; and he authorized, directed, and participated in the War Crimes set forth in Count Three of the Indictment and the Crimes against Humanity set forth in Count Four of the Indictment, including more particularly crimes against persons and property in connection with the economic exploitation Of occupied territories.

SCHACHT:

The Defendant SCHACHT between 1932 and 1945 was: A member of the Nazi Party, a member of the Reichstag, Reich Minister of Economics, Reich Minister without Portfolio and President of the German Reichsbank, The Defendant SCHACHT used the foregoing positions, his personal influence, and his connection with the Fuehrer in such a manner that: He promoted the accession to power of the Nazi conspirators and the consolidation of their control over Germany set forth in Count One of the Indictment; he promoted the preparations for war set forth in Count One of the Indictment; and he participated in the military and economic plans and preparation of the Nazi conspirators for Wars of Aggression, and Wars in Violation of International Treaties, Agreements, and Assurances set forth in Count One and Count Two of the Indictment.

PAPEN:

The Defendant PAPEN between 1932 and 1945 was: A member of the Nazi Party, a member of the Reichstag, Reich Chancellor, Vice Chancellor under Hitler, special Plenipotentiary for the Saar, negotiator of the Concordat with the Vatican, Ambassador in Vienna and Ambassador in Turkey. The Defendant PAPEN used the foregoing positions, his personal influence, and his close connection with the Fuehrer in such manner that: He promoted the accession to power of the Nazi conspirators and participated in the consolidation of their control over Germany set forth in Count One of the Indictment; he promoted the preparations for war set forth in Count One of the Indictment; and he participated in the political planning and preparation of the Nazi conspirators for Wars of Aggression and Wars in Violation of International Treaties, Agreements, and Assurances set forth in Count One and Count Two of the Indictment.

KRUPP:

The Defendant KRUPP was between 1932 and 1945: Head of Friedrich KRUPP A.G., a member of the General Economic Council, President of the Reich Union of German Industry, and head of the Group for Mining and Production of Iron and Metals under the Reich Ministry of Economics. The Defendant KRUPP used the foregoing positions, his personal influence, and his connection with the Fuehrer in such a manner that: He promoted the accession to power of the Nazi conspirators and the consolidation of their control over Germany set forth in Count One of the Indictment; he promoted the preparation for war set forth in Count One of the Indictment; he participated in the military and economic planning and preparation of the Nazi conspirators for Wars of Aggression and Wars in Violation of International Treaties, Agreements, and Assurances set forth in Count One and Count Two of the Indictment; and he authorized, directed, and participated in the War Crimes set forth in Count Three of the Indictment and the Crimes against Humanity set forth in Count Four of the Indictment, including more particularly the exploitation and abuse of human beings for labor in the conduct of aggressive wars.

NEURATH:

The Defendant NEURATH between 1932 and 1945: A member of the Nazi Party, a General in the SS, a member of the , Reichstag, Reich Minister, Reich Minister of Foreign Affairs, President of the Secret Cabinet Council, and Reich

Protector for Bohemia and Moravia. The Defendant NEURATH used the foregoing positions, his personal influence, and his close connection with the Fuehrer in such a manner that: He promoted the accession to power of the Nazi conspirators set forth in Count One of the Indictment; he promoted the preparations for war set forth in Count One of the Indictment; he participated in the political planning and preparation of the Nazi conspirators for Wars of aggression and Wars in Violation of International Treaties, Agreements, and Assurances set forth in Count One and Count Two of the Indictment; in accordance with the Fuehrer Principle he executed, and assumed responsibility for the execution of the foreign policy plans of the Nazi conspirators set forth in Count One of the Indictment; and he authorized, directed, and participated in the War Crimes set forth in Count Three of the Indictment and the Crimes against Humanity set forth in Count Four of the Indictment, including particularly the crimes against persons and property in the occupied territories.

SCHIRACH:

The Defendant SCHIRACH between 1924 and 1945 was: A member of the Nazi Party, a member of the Reichstag, Reich Youth Leader on the Staff of the SA Supreme Command, Reichsleiter in the Nazi Party for Youth Education, Leader of Youth of the German Reich, head of the Hitler Jugend, Reich Defense Commissioner and Reichsstatthalter and Gauleiter of Vienna. The Defendant SCHIRACH used the foregoing positions, his personal influence, and his intimate connection with the Fuehrer in such a manner that: He promoted the accession to power of the Nazi conspirators and the consolidation of their control over Germany set forth in Count One of the Indictment; he promoted the psychological and educational preparations for war and the militarization of Nazi dominated organizations set forth in Count One of the Indictment; and he authorized, directed, and participated in the Crimes against Humanity set forth in Count Four of the Indictment, including, particularly, anti-Jewish measures.

SEYSS-INQUART:

The Defendant SEYSS-INQUART between 1932 and 1945 was: A member of the Nazi Party, a General in the SS, State Councillor of Austria, Minister of the Interior and Security of Austria, Chancellor of Austria, a member of the Reichstag, a member of the Reich Cabinet, Reich Minister without Portfolio, Chief of the Civil Administration in South Poland, Deputy Governor-General of the Polish Occupied Territory, and Reich Commissar for the Occupied Netherlands. The Defendant SEYSS-INQUART used the foregoing positions and his personal influence in such a manner that: he promoted the seizure and consolidation of control over Austria by the Nazi conspirators set forth in Count One of the Indictment; he participated in the political planning: and preparation of the Nazi conspirators for Wars of Aggression and Wars in Violation of International Treaties, Agreements, and Assurances set forth in Count One and Count Two of the Indictment; and he authorized, directed, and participated in the War Crimes set forth in Count Three of the Indictment and the Crimes against Humanity set forth in Count Four of the Indictment, including a wide variety of crimes against persons and property.

STREICHER:

The Defendant STREICHER between 1932 and 1945 was: A member of the Nazi Party, a member of the Reichstag, a General in the SA, Gauleiter of Franconia, editor-in-chief of the anti-Semitic newspaper Der Sturmer. The Defendant STREICHER used the foregoing positions, his personal influence, and his close connection with the Fuehrer in such a manner that: He promoted the accession to power of the Nazi conspirators and the consolidation of their control over Germany set forth in Count One of the Indictment: he authorized, directed, and participated in the Crimes against Humanity set forth in Count Four of the Indictment, including particularly the incitement of the persecution of the Jews set forth in Count One and Count Four of the Indictment.

KEITEL:

The Defendant KEITEL between 1938 and 1945 was: Chief of the High Command of the German Armed Forces, member of the Secret Cabinet Council, member of the Council of Ministers for the Defense of the Reich, and Field Marshal. The Defendant KEITEL used the foregoing positions, his personal influence, and his intimate connection with the Fuehrer in such a manner that: He promoted the military preparations for war set forth in Count One of the Indictment; he participated in the political planning and preparation of the Nazi conspirators for Wars of Aggression and Wars in Violation of International Treaties, Agreements, and Assurances set forth in Count One and Count Two of the Indictment. He executed and assumed responsibility for the execution of the plans of the Nazi conspirators for Wars of Aggression and Wars in Violation of International Treaties, Agreements, and Assurances set forth in Count One and Count Two of the Indictment; he authorized, directed and participated in the War Crimes set forth in Count Three of the Indictment and the Crimes against Humanity set forth in Count Four of the Indictment, including particularly the War Crimes and Crimes against Humanity involved in the ill-treatment of prisoners of war and of the civilian population of occupied territories.

JODL:

The Defendant JODL between 1932 and 1945 was: Lt. Colonel, Army Operations Department of the Wehrmacht, Colonel, Chief of (OKW Operations Department, Major-General, Chief of Staff OKW and Colonel-General. The Defendant JODL used the foregoing positions, his personal influence, and his close connection with the Fuehrer in such a manner that: He promoted the accession to power of the Nazi conspirators and the consolidation of their control over Germany set forth in Count One of the Indictment; he promoted the preparations for war set forth in Count One of the Indictment; he participated in the military planning and preparation of the Nazi conspirators for Wars of Aggression and Wars in Violation of International Treaties, Agreements, and Assurances set forth in Count One and Count Two of the Indictment; and he authorized, directed, and participated in the War Crimes set forth in Count Three of the Indictment and the Crimes against Humanity set forth in Count Four of the Indictment, including a wide variety of crimes against persons and property.

RAEDER:

The Defendant RAEDER between 1928 and 1945 was: Commander-in-Chief of the German Navy, Generaladmiral, Grossadmiral, Admiralsinspekteur of the German Navy, and a member of the Secret Cabinet Council. The Defendant RAEDER used the foregoing positions and his personal influence in such a manner that: He promoted the preparations for war set forth in Count One of the Indictment; he participated in the political planning and preparation of the Nazi conspirators for Wars of Aggression and Wars in Violation of International Treaties, Agreements, and Assurances set forth in Count One and Count Two of the Indictment; he executed, and assumed responsibility for the execution of the plans of the Nazi conspirators for Wars of Aggression and Wars in Violation of International Treaties, Agreements, and Assurances set forth in Count One and Count Two of the Indictment; and he authorized, directed, and participated in the war crimes set fourth in Count Three of the Indictment, including particularly war crimes arising out of sea warfare.

DOENITZ:

The Defendant DOENITZ between 1932 and 1945 was: Commanding Officer of the Weddigen U-boat flotilla, Commander-in-Chief of the U-boat arm, Vice-Admiral, Admiral, Grossadmiral and Commander-in-Chief of the German Navy, Advisor to Hitler, and Successor to Hitler as head of the German Government. The defendant DOENITZ used the foregoing positions, his personal influence, and his intimate connection with the Fuehrer in such a manner that: He promoted the preparations for war set forth in Count One of the Indictment; he participated in the military planning and preparation of the Nazi conspirators for Wars of Aggression and Wars in Violation of International Treaties, Agreements, and Assurances set forth in Count One and Count Two of the Indictment; and he authorized, directed, and participated in the War Crimes set forth in Count Three of the Indictment, including particularly the crimes against persons and property on the High Seas.

FRITZSCHE:

The Defendant FRITZSCHE between 1933 and 1945 was: A member of the Nazi Party, editor-in-chief of the official German news agency, "Deutsche Nachrichten Buro", head of the Wireless News Service and of the Home Press Division of the Reich Ministry of Propaganda, Ministerialdirektor of the Reich Ministry of Propaganda, head of the Radio Division of the Propaganda Department of the Nazi Party, and Plenipotentiary for the Political Organization of the Greater German Radio. The Defendant FRITZSCHE used the foregoing positions and his personal influence to disseminate and exploit the principal doctrines of the Nazi conspirators set forth in Count One of the Indictment, and to advocate, encourage and incite the commission of the War Crimes set forth in Count Three of the Indictment and the Crimes against Humanity set forth in Count Four of the Indictment including, particularly, anti Jewish measures and the ruthless exploitation of occupied territories.

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APPENDIX B

INDICTMENT OF THE ORGANIZATIONS

Statement of criminality of Groups and Organizations

The statements hereinafter set forth, following the name of each group or organization named in the Indictment as one which should be declared criminal, constitute matters upon which the prosecution will rely inter alia as establishing the criminality of the group or organization:

DIE REICHSREGIERUNG (REICH CABINET)

"Die Reichsregierung (Reich Cabinet)" referred to in the Indictment consists of persons who were:

(i) Members of the ordinary cabinet after 30 January 1933, the date on which Hitler became Chancellor of the German Republic. The term "ordinary cabinet" as used herein means the Reich Ministers, i.e., heads of departments of the central Government; Reich Ministers without portfolio; State Ministers acting as Reich Ministers; and other officials entitled to take part in meetings of this cabinet.

(ii) Members of der Ministerrat fur die Reichsverteidigung (Council of Ministers for the Defense of the Reich).

(iii) Members of der Geheimer Kabinettsrat (Secret Cabinet Council).

Under the Fuehrer, these persons functioning in the foregoing capacities and in association as a group, possessed and exercised legislative, executive, administrative, and political powers and functions of a very high order in the system of German Government. Accordingly, they are charged with responsibility for the policies adopted and put into effect by the Government including those which comprehended and involved the commission of the crimes referred to in [Counts One](#), [Two](#), [Three](#), and [Four](#) of the Indictment.

DAS KORPS DER POLITISCHEN LEITER DER NATIONALSOZIALISTISCHEN DEUTSCHEN ARBEITERPARTEI (LEADERSHIP CORPS OF THE NAZI PARTY)

"Des Korps der Politischen Leiter der Nationalsozialistischen Deutschen Arbeiterpartei (Leadership Corps of the Nazi

Party)" referred to in the Indictment consists of persons who were at any time, according to common Nazi terminology, "Politischen Leiter" (Political Leaders) of any grade or rank.

The Politischen Leiter comprised the leaders of the various functional offices of the Party (for example, the Reichsleitung, or Party Reich Directorate, and the Gauleitung, or Party Gau Directorate), as well as the territorial leaders of the Party (for example, the Gauleiter).

The Politischen Leiter were a distinctive and elite group within the Nazi Party proper and as such were vested with special prerogatives. They were organized according to the Leadership Principle and were charged with planning, developing and imposing upon their followers the policies of the Nazi Party. Thus the territorial leaders among them were called Hoheitstrager, or bearers of sovereignty, and were entitled to call upon and utilize the various Party formations when necessary for the execution of Party policies.

Reference is hereby made to the allegations in Count One of the Indictment showing that the Nazi Party was the central core of the common plan or conspiracy therein set forth. The Politischen Leiter, as a major power within the Nazi Party proper, and functioning in the capacities above described and in association as a group, joined in the common plan or conspiracy, and accordingly share responsibility for the crimes set forth in Counts One, Two, Three, and Four of the Indictment.

The prosecution expressly reserves the right to request, at any time before sentence is pronounced, that Politische Leiter of subordinate grades or ranks or of other types or classes, to be specified by the Prosecution, be excepted from further proceedings in this Case No. 1, but without prejudice to other proceedings or actions against them.

DIE SCHUTZSTAFFELN DER NATIONALSOZIALISTISCHEN DEUTSCHEN ARBEITERPARTEI (COMMONLY KNOWN AS THE SS) INCLUDING DER SICHERHEITSDIENST (COMMONLY KNOWN AS THE SD).

"Die Schutzstaffeln der Nationalsozialistische Deutsche Arbeiterpartei (commonly known as the SST) including Derby Sicherheitsdienst (commonly known as the SD)" referred to in the Indictment consists of the entire corps of the SS and all offices, departments, services, agencies, branches, formations, organizations, and groups of which it was at any time comprised or which were at any time integrated in it, including but not limited to, the Allgemeine SS, the Waffen SS, the SS Totenkopfverbände, SS Polizei Regimenter, and the Sicherheitsdienst des Reichsfuehrers-SS' (commonly known as the SD).

The SS, originally established by Hitler in 1925 as an elite section of the SA to furnish a protective guard for the Fuehrer and Nazi Party leaders, became an independent formation of the Nazi Party in 1934 under the leadership of the Reichsfuehrer-SS, Heinrich Himmler. It was composed of voluntary members, selected in accordance with Nazi biological, racial, and political theories, completely indoctrinated in Nazi ideology and pledged to uncompromising obedience to the Fuehrer. After the accession of the Nazi conspirators to power, it developed many departments, agencies, formations, and branches and extended its influence and control over numerous fields of Governmental and Party activity. Through Heinrich Himmler, as Reichsfuehrer-SS and Chief of the German Police, agencies and units of the SS and of the Reich were joined in operation to form a unified repressive police force. The Sicherheitsdienst des Reichsfuehrers-SS (commonly known as the SD), a department of the SS, was developed into a vast espionage and counter-intelligence system which operated in conjunction with the Gestapo and criminal police in detecting, suppressing and eliminating tendencies, groups and individuals deemed hostile or potentially hostile to the Nazi Party, its leaders, principles and objectives, and eventually was combined with the Gestapo and criminal police in a single security police department, the Reich Main Security Office.

Other branches of the SS developed into an armed force and served in the wars of aggression referred to in Counts One and Two of the Indictment. Through other departments and branches the SS controlled the administration of concentration camps and the execution of Nazi racial, biological, and resettlement policies. Through its numerous functions and activities it served as the instrument for insuring the domination of Nazi ideology and protecting and extending the Nazi regime over Germany and occupied territories. It thus participated in and is responsible for the crimes referred to in Counts One, Two, Three, and Four of the Indictment.

DIE GEHEIME STAATSPOLIZEI (SECRET STATE POLICE, COMMONLY KNOWN AS THE GESTAPO)

"Die Geheime Staatspolizei (Secret State Police, commonly known as the Gestapo)" referred to in the Indictment consists of the headquarters, departments, offices, branches, and all the forces and personnel of the Geheime

Staatspolizei organized or existing at any time after 30 January 1933, including the Geheime Staatspolizei of Prussia and equivalent secret or political police forces of the Reich and the components thereof.

The Gestapo was created by the Nazi conspirators immediately after their accession to power, first in Prussia by the Defendant Goering and shortly thereafter in all other states in the Reich. These separate secret and political police forces were developed into a centralized, uniform organization operating through a central headquarters and through a network of regional offices in Germany and in occupied territories. Its officials and operatives were selected on the basis of unconditional acceptance of Nazi ideology, were largely drawn from members of the SS, and were trained in SS and SD schools. It acted to suppress and eliminate tendencies, groups, and individuals deemed hostile or potentially hostile to the Nazi Party, its leaders, principles, and objectives; and to repress resistance and potential resistance to German control in occupied territories. In performing these functions it operated free from legal control, taking any measures it deemed necessary for the accomplishment of its missions.

Through its purposes, activities, and the means it used, it participated in and is responsible for the commission of the crimes set forth in Counts One, Two, Three, and Four of the Indictment.

DIE STURMABTEILUNGEN DER NATIONALSOZIALISTISCHEN DEUTSCHEN ARBEITERPARTEI (COMMONLY KNOWN AS THE SA)

"Die Sturmabteilungen der Nationalsozialistischen Deutschen Arbeiterpartei (commonly known as the SA)" referred to in the Indictment was a formation of the Nazi Party under the immediate jurisdiction of the Fuehrer, organized on military lines, whose membership was composed of volunteers serving as political soldiers of the Party. It was one of the earliest formations of the Nazi Party and the original guardian of the National Socialist movement. Founded in 1921 as a voluntary militant formation, it was developed by the Nazi conspirators before their accession to power into a vast private army and utilized for the purpose of creating disorder, and terrorizing and eliminating political opponents. It continued to serve as an instrument for the physical, ideological, and military training of Party members and as a reserve for the German Armed Forces. After the launching of the Wars of aggression, referred to in Counts One and Two of the Indictment, the SA not only operated as an organization for military training but provided auxiliary police and security forces in occupied territories, guarded prisoner-of-war camps and concentration camps and supervised and controlled persons forced to labor in Germany and occupied territories.

Through its purposes and activities and the means it used, it participated in and was responsible for the commission of the crimes set forth in Counts One, Two, Three, and Four of the Indictment.

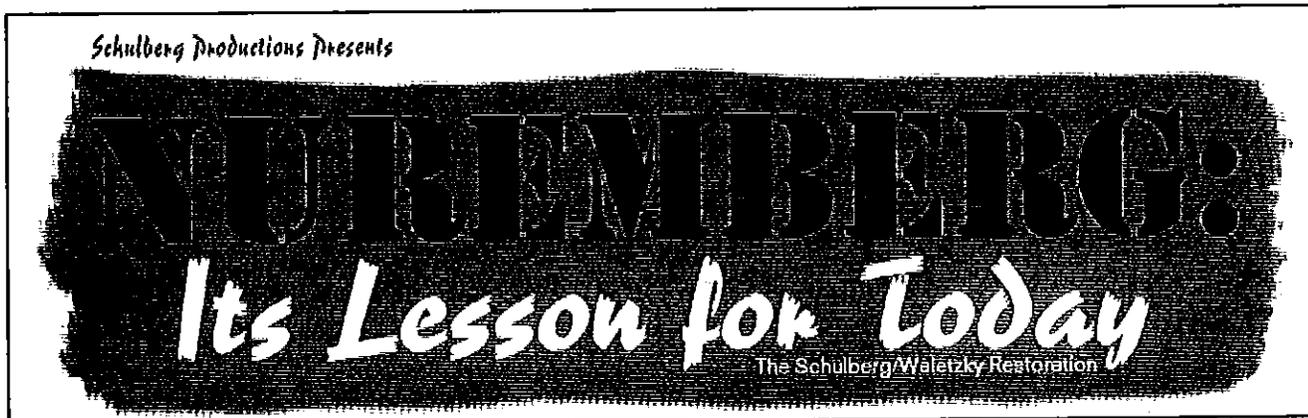
GENERAL STAFF AND HIGH COMMAND OF THE GERMAN ARMED FORCES

The "General Staff and High Command of the German Armed Forces" referred to in the Indictment consist of those individuals who between February 1938 and May 1945 were the highest commanders of the Wehrmacht, the Army, the Navy, and the Air Forces. The individuals comprising this group are the persons who held the following appointments:

- Oberbefehlshaber der Kriegsmarine (Commander in Chief of the Navy);
- Chef (and, formerly, Chef des Stabes) der Seekriegsleitung (Chief of Naval War Staff);
- Oberbefehlshaber des Heeres (Commander in Chief of the Army);
- Chef des Generalstabes des Heeres (Chief of the General Staff of the Army);
- Oberbefehlshaber der Luftwaffe (Commander in Chief of the Air Force);
- Chef des Generalstabes der Luftwaffe (Chief of the General Staff of the Air Force);
- Chef des Oberkommandos der Wehrmacht (Chief of the High Command of the Armed Forces);
- Chef des Führungsstabes des Oberkommandos der Wehrmacht (Chief of the Operations Staff of the High Command of the Armed Forces);
- Stellvertretender Chef des Führungsstabes des Oberkommandos der Wehrmacht (Deputy Chief of the Operations Staff of the High Command of the Armed Forces);
- Commanders-in-Chief in the field, with the status of Oberbefehlshaber, of the Wehrmacht, Navy, Army, Air Force.

Functioning in such capacities and in association as a group at the highest level in the German Armed Forces Organization these persons had a major responsibility for the planning, preparation, initiation, and waging of illegal wars as set forth in Counts One and Two of the Indictment and for the War Crimes and Crimes against Humanity involved in the execution of the common plan or conspiracy set forth in Counts Three and Four of the Indictment.

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APPENDIX C

CHARGES AND PARTICULARS OF VIOLATIONS OF INTERNATIONAL TREATIES, AGREEMENTS, AND ASSURANCES CAUSED BY THE DEFENDANTS IN THE COURSE OF PLANNING, PREPARING, AND INITIATING THE WARS

I

CHARGE: Violation of the Convention for the Pacific Settlement of International Disputes, signed at The Hague, 29 July 1899.

PARTICULARS: In that Germany did, by force and arms, on the dates specified in Column 1, invade the territory of the Sovereigns specified in Column 2, respectively, without first having attempted to settle its disputes with said Sovereigns by pacific means.

Column 1	Column 2
6 April 1941	Kingdom of Greece
6 April 1941	Kingdom of Yugoslavia

II

CHARGE: Violation of the Convention for the Pacific Settlement of International Disputes, signed at The Hague, 18 October 1907.

PARTICULARS: In that Germany did, on or about the dates specified in Column 1, by force of arms invade the territory of the Sovereigns specified in Column 2, respectively, without having first attempted to settle its dispute with said Sovereigns by pacific means.

Column 1	Column 2
1 September 1939	Republic of Poland
9 April 1940	Kingdom of Norway
9 April 1940	Kingdom of Denmark
10 May 1940	Grand Duchy of Luxembourg
10 May 1940	Kingdom of Belgium
10 May 1940	Kingdom of the Netherlands
22 June 1941	Union of Soviet Socialist Republics

III

CHARGE: Violation of Hague Convention III Relative to the Opening of Hostilities, Signed 18 October 1907.

PARTICULARS: In that Germany did, on or about the dates specified in Column 1, commence hostilities against the Countries specified in Column 2, respectively, without previous warning in the form of a reasoned declaration of war or an ultimatum with conditional declaration of war.

Column 1	Column 2
1 September 1939	Republic of Poland
9 April 1940	Kingdom of Norway
9 April 1940	Kingdom of Denmark
10 May 1940	Kingdom of Belgium
10 May 1940	Kingdom of the Netherlands

10 May 1940	Grand Duchy of Luxembourg
22 June 1941	Union of Soviet Socialist Republics

IV

CHARGE: Violation of Hague Convention V Respecting the Rights and Duties of Neutral Powers and Persons in Case of War on Land, signed 18 October 1907.

PARTICULARS: In that Germany did, on or about the dates specified in Column 1, by force and arms of its military forces cross into, invade, and occupy the territories of the Sovereigns specified in Column 2, respectively, then and thereby violating the neutrality of said Sovereigns.

Column 1	Column 2
9 April 1940	Kingdom of Norway
9 April 1940	Kingdom of Denmark
10 May 1940	Grand Duchy of Luxembourg
10 May 1940	Kingdom of Belgium
10 May 1940	Kingdom of the Netherlands
22 June 1941	Union of Soviet Socialist Republics

V

CHARGE: Violation of the Treaty of Peace between the Allied and Associated Powers and Germany, signed at Versailles, 28 June 1919, known as the Versailles Treaty.

PARTICULARS: (1) In that Germany did, on and after 7 March 1936, maintain and assemble armed forces and maintain and construct military fortifications in the demilitarized zone of the Rhineland in violation of the provisions of Articles 42 to 44 of the Treaty of Versailles.

(2) In that Germany did, on or about 13 March 1938 annex Austria into the German Reich in violation of the provisions of Article 80 of the Treaty of Versailles.

(3) In that Germany did, on or about 22 March 1939, incorporate the district of Memel into the German Reich in violation of the provisions of Article 99 of the Treaty of Versailles.

(4) In that Germany did on or about 1 September 1939, incorporate the Free City of Danzig into the German Reich in violation of the provisions of Article 100 of the Treaty of Versailles.

(5) In that Germany did, on or about 16 March 1939, incorporate the Provinces of Bohemia and Moravia, formerly part of Czechoslovakia, into the German Reich in violation of the provisions of Article 81 of the Treaty of Versailles.

(6) In that Germany did, at various times in March 1935 and thereafter, repudiate various parts of Part V, Military,

Naval, and Air Clauses of the Treaty of Versailles, by creating an air force, by use of compulsory military service, by increasing the size of the army beyond treaty limits, and by increasing the size of the navy beyond treaty limits.

VI

CHARGE: Violation of the Treaty between the United States and Germany Restoring Friendly Relations, signed at Berlin, 25 August 1921.

PARTICULARS: In that Germany did, at various times in March 1935 and thereafter, repudiate various parts of Part V, Military, Naval, and Air Clauses of the Treaty between the United States and Germany Restoring Friendly Relations by creating an air force, by use of compulsory military service, by increasing the size of the army beyond treaty limits, and by increasing the size of the navy beyond treaty limits.

VII

CHARGE: Violation of the Treaty of Mutual Guarantee between Germany, Belgium, France, Great Britain, and Italy, done at Locarno, 16 October 1925.

PARTICULARS:

- (1) In that Germany did, on or about 7 March 1936, unlawfully send armed forces into the Rhineland demilitarized zone of Germany, in violation of Article 1 of the Treaty of Mutual Guarantee.
- (2) In that Germany did, in or about March 1936, and thereafter, unlawfully maintain armed forces in the Rhineland demilitarized zone of Germany, in violation of Article 1 of the Treaty of Mutual Guarantee.
- (3) In that Germany did, on or about 7 March 1936, and thereafter, unlawfully construct and maintain fortifications in the Rhineland demilitarized zone of Germany, in violation of Article 10 of the Treaty of Mutual Guarantee.
- (4) In that Germany did, on or about 10 May 1940, unlawfully attack and invade Belgium, in violation of Article 2 of the Treaty of Mutual Guarantee.
- (5) In that Germany did, on or about 10 May 1940, unlawfully attack and invade Belgium, without first having attempted to settle its dispute with Belgium by peaceful means, in violation of Article 3 of the Treaty of Mutual Guarantee.

VIII

CHARGE: Violation of the Arbitration Treaty between Germany and Czechoslovakia, done at Locarno, 16 October 1925.

PARTICULARS: In that Germany did, on or about 15 March 1939, unlawfully by duress and threats of military might force Czechoslovakia to deliver the destiny of Czechoslovakia and its inhabitants into the hands of the Fuehrer and Reichschancellor of Germany without having attempted to settle its dispute with Czechoslovakia by peaceful means.

IX

CHARGE: Violation of the Arbitration Convention between Germany and Belgium, done at Locarno, 16 October 1925.

PARTICULARS: In that Germany did, on or about 10 May 1940, unlawfully attack and invade Belgium without first having attempted to settle its dispute with Belgium by peaceful means.

X

CHARGE: Violation of the Arbitration Treaty between Germany and Poland, done at Locarno, 16 October 1925.

PARTICULARS: In that Germany did, on or about 1 September 1939, unlawfully attack and invade Poland without first having attempted to settle its dispute with Poland by peaceful means.

XI

CHARGE: Violation of Convention of Arbitration and Conciliation entered into between Germany and the Netherlands on 20 May 1926.

PARTICULARS: In that Germany, without warning, and notwithstanding its solemn covenant to settle by peaceful means all disputes of any nature whatever which might arise between it and the Netherlands which were not capable of settlement by diplomacy and which had not been referred by mutual agreement to the Permanent Court of International Justice, did, on or about 10 May 1940, with a military force, attack, invade, and occupy the Netherlands, thereby violating its neutrality and territorial integrity and destroying its sovereign independence.

XII

CHARGE: Violation of Convention of Arbitration and Conciliation entered into between Germany and Denmark on 2 June 1926.

PARTICULARS: In that Germany, without warning, and notwithstanding its solemn covenant to settle by peaceful means all disputes of any nature whatever which might arise between it and Denmark which were not capable of settlement by diplomacy and which had not been referred by mutual agreement to the Permanent Court of International Justice, did, on or about 9 April 1940, with a military force, attack, invade, and occupy Denmark; thereby violating its neutrality and territorial integrity and destroying its sovereign independence.

XIII

CHARGE: Violation of Treaty between Germany and other Powers providing for Renunciation of War as an Instrument of National Policy, signed at Paris 27 August 1928, known as the Kellogg-Briand Pact.

PARTICULARS: In that Germany did, on or about the dates specified in Column 1, with a military force, attack the Sovereigns specified in Column 2, respectively, and resort to war against such Sovereigns, in violation of its solemn declaration condemning recourse to war for the solution of international controversies, its solemn renunciation of war as an instrument of national policy in its relations with such Sovereigns, and its solemn covenant that settlement or solution of all disputes or conflicts of whatever nature or origin arising between it and such Sovereigns should never be sought except by pacific means.

Column 1	Column 2
1 September 1939	Republic of Poland
9 April 1940	Kingdom of Norway
9 April 1940	Kingdom of Denmark
10 May 1940	Kingdom of Belgium
10 May 1940	Grand Duchy of Luxembourg
10 May 1940	Kingdom of the Netherlands

6 April 1941	Kingdom of Greece
6 April 1941	Kingdom of Yugoslavia
22 June 1941	Union of Soviet Socialist Republics
11 December 1941	United States of America

XIV

CHARGE: Violation of Treaty of Arbitration and Conciliation entered into between Germany and Luxembourg on 11 September 1929

PARTICULARS: In that Germany, without warning, and notwithstanding its solemn covenant to settle by peaceful means all disputes which might arise between it and Luxembourg which were not capable of settlement by diplomacy, did, on or about 10 May 1940, with a military force, attack, invade, and occupy Luxembourg, thereby violating its neutrality and territorial integrity and destroying its sovereign independence.

XV

CHARGE: Violation of the Declaration of Non-Aggression entered into between Germany and Poland on 26 January 1934.

PARTICULARS: In that Germany proceeding to the application of force for the purpose of reaching a decision did, on or about 1 September 1939, at various places along the German-Polish frontier employ military forces to attack, invade, and commit other acts of aggression against Poland.

XVI

CHARGE: Violation of German Assurance given on 21 May 1935 that the Inviolability and Integrity of the Federal State of Austria Would Be Recognized.

PARTICULARS: In that Germany did, on or about 11 March 1938, at various points and places along the German-Austria frontier, with a military force and in violation of its solemn declaration and assurance, invade and annex to Germany the territory of the Federal State of Austria.

XVII

CHARGE: Violation of Austro-German Agreement of 11 July 1936.

PARTICULARS: In that Germany during the period from 12 February 1938 to 13 March 1938 did by duress and various aggressive acts, including the use of military force, cause the Federal State of Austria to yield up its sovereignty to the German State in violation of Germany's agreement to recognize the full sovereignty of the Federal State of Austria.

XVIII

CHARGE: Violation of German Assurances given on 30 January 1937, 28 April 1939, 26 August 1939, and 6

October 1939 To Respect the Neutrality and Territorial Inviolability of the Netherlands.

PARTICULARS: In that Germany, without warning, and without recourse to peaceful means of settling any considered differences did, on or about 10 May 1940, with a military force and in violation of its solemn assurances, invade, occupy, and attempt to subjugate the sovereign territory of the Netherlands.

XIX

CHARGE: Violation of German Assurances given on 30 January 1937, 13 October 1937, 28 April 1939, 26 August 1939, and 6 October 1939 To Respect the Neutrality and Territorial Integrity and Inviolability of Belgium.

PARTICULARS: In that Germany, without warning, did on or about 10 May 1940, with a military force and in violation of its solemn assurances and declarations, attack, invade, and occupy the sovereign territory of Belgium.

XX

CHARGE: Violation of Assurances given on 11 March 1938 and 26 September 1938 to Czechoslovakia.

PARTICULARS: In that Germany, on or about 15 March 1939 did, by establishing a Protectorate of Bohemia and Moravia under duress and by the threat of force, violate the assurance given on 11 March 1938 to respect the territorial integrity of the Czechoslovak Republic and the assurance given on 26 September 1938 that, if the so-called Sudeten territories were ceded to Germany, no further German territorial claims on Czechoslovakia would be made.

XXI

CHARGE: Violation of the Munich Agreement and Annexes of 29 September 1938.

PARTICULARS: (1) In that Germany on or about 15 March 1939, did by duress and the threat of military intervention force the Republic of Czechoslovakia to deliver the destiny of the Czech people and country into the hands of the Fuehrer of the German Reich.

(2) In that Germany refused and failed to join in an international guarantee of the new boundaries of the Czechoslovakia state as provided for in Annex No. 1 to the Munich Agreement.

XXII

CHARGE: Violation of the Solemn Assurances of Germany given on 3 September 1939, 28 April 1939, and 6 October 1939 Not to Violate the Independence or Sovereignty of the Kingdom of Norway.

PARTICULARS: In that Germany, without warning did, on or about 9 April 1940, with its military and naval forces attack, invade, and commit other acts of aggression against the Kingdom of Norway.

XXIII

CHARGE: Violation of German Assurances given on 28 April 1939 and 28 August 1939 To Respect the Neutrality and Territorial Inviolability of Luxembourg.

PARTICULARS: In that Germany, without warning, and without recourse to peaceful means of settling any considered differences, did, on or about 10 May 1940, with a military force and in violation of the solemn assurances, invade, occupy, and absorb into Germany the sovereign territory of Luxembourg.

XXIV

CHARGE: Violation of the Treaty of Non-Aggression between Germany and Denmark, signed at Berlin, 31 May 1939.

PARTICULARS: In that Germany without prior warning, did, on or about 9 April 1940, with its military forces, attack, invade, and commit other acts of aggression against the Kingdom of Denmark.

XXV

CHARGE: Violation of Treaty of Non-Aggression entered into between Germany and U.S.S.R. on 23 August 1939.

PARTICULARS: (1) In that Germany did, on or about 22 June 1941, employ military forces to attack and commit acts of aggression against the U.S.S.R.

(2) In that Germany without warning or recourse to a friendly exchange of views or arbitration did, on or about 22 June 1941, employ military forces to attack and commit acts of aggression against the U.S.S.R.

XXVI

CHARGE: Violation of German Assurance given on 6 October 1939 To Respect The Neutrality and Territorial Integrity of Yugoslavia.

PARTICULARS: In that Germany without prior warning did, on or about 6 April 1941, with its military forces attack, invade, and commit other acts of aggression against the Kingdom of Yugoslavia.

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Nuremberg: Its Lesson
for Today

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FROM:
PUBLIC INFORMATION DIVISION
U.S. COAST GUARD
WASHINGTON, D.C.

OFFICIAL COAST GUARD PHOTO

COAST GUARD OFFICER TO AID WAR CRIMINAL PROSECUTION

COMMANDER SIDNEY J. KAPLAN, OF THE U.S. COAST GUARD'S LEGAL DIVISION, HAS BEEN ASSIGNED TO THE STAFF OF JUSTICE ROBERT H. JACKSON, CHIEF OF COUNSEL FOR THE PROSECUTION OF AXIS WAR CRIMINALS. PRIOR TO BEING COMMISSIONED IN THE COAST GUARD IN JULY, 1943, COMMANDER KAPLAN WAS SPECIAL ASSISTANT TO THE ATTORNEY GENERAL. HE RESIDES AT 4400 LELAND STREET, CHEVY CHASE, MD.

Sidney Kaplan began writing home on July 30, 1945, a week before Hiroshima. After preparations in London he shuttled to Nuremberg on September 16th. He wrote his October 19th letter after a particularly eventful previous three weeks. Returning to London, Telford Taylor, Ben Kaplan and Sidney negotiated terms of the Indictment with the British, the French and the Russians. All was not concluded when they proceeded to Berlin, the initial location of the International Military Tribunal. After several days of delay, Francis M. Shea, Gordon Dean and Sidney presented the indictment in a "very dignified ceremony." At this point he had been in England and Germany for almost three months working with legal teams assembled by Supreme Court Justice Robert H. Jackson for the trial. Many of the American attorneys were chosen from the U.S. Department of Justice. Most had been in active or reserve military service, in Sidney's case the Coast Guard.

(Sidney's wife Leonore)

Dear Robert,

50 Lindenstrasse
Dresden, Germany

Friday Evening, October 19

(a large house about 10 km from
the Palace of Justice)

An evening from my new billet. It's a big old house in Dresden, a suburb of Turth, which is the town adjoining Nuremberg. Twelve of us are billeted here. I didn't move in when I left for London and Berlin on October 1, so last night was my first night at the billet. The fact that I can stay for the joint is that the fellows are all wonderful - a very fine group. Ben Kaplan, Jim Farrell, Paul Johnston, Warren Parr, Cy Kraeger, Cy Rorer, Roy Higger, John Tachney, David Heymann, Jim Manning, Ted Harston. There is a nice little cafe 1/2 km from here where we have breakfast. There is also the the Nuremberg court house where we are sitting by trial. A cafe is also being opened at the court house. I think we are required to have our lunch. I have still to send Helen's letters long. I suppose that will be changed and will have to take dinner with me near the billet.

(Sidney's baby daughter)

I wish I could see the babies in custody. I have had some letters from
(Ruth and Jeanne - 2 of Leonore's sisters)

also another copy of the original indictment of the Nuremberg trial.

(Sidney's brother Sheldon married Helene on December 7, 1941.)

I'm glad you got the master's knife for Helene and Sheldon. Found a letter
Sidney's father Max and sister Ruth)
from them waiting me on my return here. Also one from H.S., and one from Ruth.

I already wrote you that your two letters postmarked October 8 and 11 were
waiting for me. Still have no real idea of how long this job will last. I
doubt that the case will be over by December 26. Maybe I can find some way
of getting out before the thing is over. Tomorrow would be none too soon for
me. But I don't quite see the way out.

(a friend)

The description of Jerry's position at Justice is technically accurate,
but misleading. The term "head attorney" is a technical term for the particular
civil service classification Jerry was in. It doesn't mean he was "the head att
attorney". There are any number of "head attorneys" in the Claims Division.

Am very pleased to learn that Hattie has added da-da to ma-ma in her
vocabulary. I was getting worried. Don't worry about finances. German cooks
(M.G. = Military Government)
at Grand Hotel. My impression is that M.G. is snafu. I certainly got that

impression in talking with the fellows in Berlin, the seat of M.G. Hope
(Francis M. "Frank" Shea, Sidney's boss at Claims)
Hattie's picture arrives soon. F.M.S. is the same ego-centric guy he always
(apparently a friend)
has been. Think of the taxes Mary Edwards and husband will have to pay on
their 25 room inherited house!

(the family dog, a white husky) (a neighbor?)

Distressed to hear of Buck's bad behavior in biting Peter DeVos. As to
your thought of sending Buck to a large farm, anything you think best will be
o.k. with me. You have enough problems, and if giving Buck away will help
and you want to do it, I don't think I should raise any objection. Am feeling
(Ben Deinard) (Frankfurt-am-Main, Germany)
o.k. and no colds. B. Deinard has been stationed at Frankfurt working on the
"economic case" there. Mel Seigel and several others are there. They arrived
in Nuremberg today for a couple of days. The hotel is staffed with Germans.
Most of them know at least elementary English, but not all. From time to time
I do have occasion to use German phrases, and I feel very proud of myself when

I succeed in making myself understood to any extent. In Berlin this was particularly necessary. Nuremberg made a profound impression on me, as did Berlin. Did you ever receive some color prints of Bench and Bar personalities I had sent from London? Two sets of four. I thought we could frame some and use some for presents. I think Sheldon would like them. Everyone complains about the slowness of mail. Perhaps poor flying weather may account for it. Or else general snafu.

All my love for you and Hattie.

Sidney

Nuremberg, Monday Evening, October 29

Lena dearest, (a Nuremberg resident?)

On Saturday last one Gunther Marx turned up bearing your letter and bottle of Scotch, both of which I was happy to receive. I was even happier (honestly!) to get the letter than the Scotch. Your comments on Hattie intrigue me. Take for example your casual sentence, "Hattie had her second diphtheria shot yesterday, and was furious." I try hard to reconstruct in my mind's eye the scene thus so neatly described. I'd give anything to be home now with you and the Hattie. Do you think I'll recognize Hattie when I get home? I can't wait for the pictures you're sending.

I damned near decided to go home this past week - just out of sheer frustration. What touched things off was a reorganization of the staff that's absolute nonsense. (I am a Section Chief of one of seven sections, which would be o.k. if the organizational set-up were any good, which it isn't. (Tel= Telford Taylor; Alderman = Sidney Alderman, Chief Counsel, Southern Railway F.M.S., Tel. and Alderman are "consultants" to a "Review Board", which is in charge, and which consists of three dopes plus Ben Kaplan, who is excellent.)

Well, I just simply decided that I was tired and wanted to go home. I told (Frank Shea) Frank that I had decided to do exactly that. He pleaded with me to stay, but (Justice Robert H. Jackson) I remained adamant. However, I would have to see Jackson before taking such

a step, and somehow I've found that a difficult thing to bring myself to do. So maybe I won't quit the thing after all. I wish it were possible to talk this all over with you and have your advice. I guess the main reason I'm hesitating to walk out is that I would hate to have any unpleasantness connected with my departure, and also that making explanations back home would be difficult. Well, if I decide to get out of this snafu I'll send you a cable - which you would probably receive before receiving this letter. At this moment my tendency is to stay on - but I'm still very much in doubt. Unless you get a cable from me in the next two or three days announcing that I'm leaving, you will know that I have decided not to quit.

The letter G. Marx brought was written on October 16. Our indictment was filed October 18. I'm very anxious to learn how the American press handled it, both as news and editorially. Ben Kaplan and I personally wrote a very large part of it.

Am now quite settled in the billet on Lindenstrasse. We eat breakfast and dinner at an army mess two blocks from the billet, and lunch in a cafeteria in the court house (Palace of Justice). No more meals for us at Grand Hotel except on special occasions. We travel by bus between the billet and the court house. Our household staff consists of three maids (one frau and two fraulein - but don't worry) who come in at 5:00 a.m. and work until 5:00 p.m., making beds, housecleaning, etc., and one D.P. (displaced person), a Pole who tends to the fires. We don't have central heating. Stoves in the rooms. No hot water. We heat kettles of hot water for shaving and for an occasional bath. This Pole, a young man somewhere in his 20s, is a very sad case. His family wiped out - no roots or connections anywhere. I guess there are millions of such persons in Europe.

We had quite a gay time the other evening. Ben Kaplan was awarded the Legion of Merit for his work in the War Department, and in celebration got himself (letter incomplete)

(perhaps incomplete; perhaps redacted by Sally Erickson who transcribed the letters around 1962)

Wednesday, November 7, 9:30 a.m.

Lena dearest,

I have your letter brought by Sidney Alderman. Also your letter of
 (brother Sheldon Kaplan)
 October 24 enclosing Sheldon's letter re Buck. Also a very nice package
 arrived from New York containing foodstuffs, but with no indication whatsoever
 (his mother-in-law's sister)
 who had sent it. Stella? The pictures of Hattie were fun to see. I was
 (friend in D.C.)
 broken-hearted to read of Elaine Strauss' illness. Perhaps by now she had
 staged a nice recovery - but your letter seemed so pessimistic about her prospects.

Work is now proceeding here night and day in an effort to meet some
 deadlines. There now seems to be some real chance that the case will go to
 trial on November 20, but God only knows the prosecution will not really be
 ready at that time. One has reason to fear a great fiasco. At any rate, we
 have been directed to produce briefs by November 10, and we're doing the best
 that we can.
 (Frank Shea)

News: F.M.S. resigned from this job last week. As a matter of friendship
 for him, I thought it really too bad that things had come to such a pass. As
 to me, I am hoping to leave as soon as possible - in a nice way, of course. My big
 job will have been completed by November 10 (that is, the briefs). Some revision
 of the briefs will be needed. I don't expect to be assigned anything of
 consequence in connection with the actual trial, so that the completion of this
 present stage of the work affords a suitable opportunity for leaving (I hope).
 I would put it on the ground that my original assignment was for four months
 only; that when it appeared that the termination of my orders would interfere
 with the work on the indictment on which I was engaged, I myself took the
 initiative to obtain an extension. Now that the indictment has been filed and
 (Robert H. Jackson)
 the briefs will be completed, it is my plan to leave. I sent R.H.J. a memo to
 (Frank Shea)
 that effect (since all my arrangements had been made with F.M.S., he naturally

would not be informed concerning the duration of my assignment, and therefore I gave him a brief memo, stating that I trusted my plans were consistent with the needs of Office Chief of Counsel). I have received no reaction as yet to my memo, and if I receive none I shall be leaving Nuremberg about November 15. On the other hand, something may come up to alter that plan, and I can't yet count on being able to get away. At least I'm trying, and am putting it on the routine ground that such was the original arrangement made with me, and that I have completed my job. Tel plans to stay on - and he may have a fairly important role at the trial. Don't count on my getting away. I still may find myself stuck with this thing for months. Don't stop writing unless I cable you.

All is not work here. The other night I heard the Nuremberg Opera do Mozart's Magic Flute, and very good it was.

All my love to you and Hattie.

Sidney

Friday Evening, November 9

Lena dearest,

Am at the office (in the Palace of Justice, Nuremberg, room 243) with all the members of my section and stenographic personnel, trying to meet a deadline tomorrow on preparation of briefs. At the moment there is a lull for me, waiting for some parts of the briefs to be ready for me to review. We've been at this day and night for over two weeks.

(Robert H. Jackson)

Ignore my last letter about leaving. Today R.H.J. called me into his office and asked me to stay. I didn't have the strength of character to refuse. What the Hell could I do? So I'm stuck with this for a while longer. But maybe I can use the December 26 expiration of my orders as the basis for getting out this year. At least I laid a foundation for that in my talk with R.H.J. this afternoon. (God, what a fiasco this trial may turn out to be!) It looks to me as though the trial may run a couple of months into 1946. But I'll make

every effort to get out by the first of the year. I told R.H.J. about Hattie, and he was very sympathetic with my wish to get home. Tell Hattie. Your letter of October 25 arrived. Your letters are the happiest thing that happen to me. All my love to you and Hattie.

Sidney

Saturday, November 10

Lena dearest,

This is a note to show you what our new letterhead looks like. We're slaving away trying to make a deadline of midnight tonight on briefs. It looks now as though we'll make it, more or less. This is a deadline within the organization, not for submission to the International Military Tribunal.

My responsibility is the case on planning, preparation, initiation, and waging of aggressive war. That's really the important part of the case. I start in 1933 after the Nazi seizure of power, cover the period of abrogation of Versailles, secret rearmament, reoccupation and militarization of the Rhineland, etc., all as preparation for foreign aggression. Then the respective aggressions against Austria, Czechoslovakia, and Poland, with the resulting war in 1939. Then the conversion of the war by expansion into a general war of aggression, including invasions of Norway and Denmark, Netherlands, Belgium, and Luxemburg, and Greece and Yugoslavia. Then the aggression against Russia, and the collaboration with Japan and resulting war with the U.S. Rather a large order, not I have a very good staff: Lt. Col. Krusker, Maj. Dainow, Maj. Hinely, Lt. Comdr. Leventhal, Lt. Gorrall, Lt. Woolsey U.S.N.R., Lt. (j.g.) Steger. They've all been working terribly hard, and considering the circumstances have been doing a fine job - the best job in this whole snafu organization.

I wrote you yesterday about the Justice's asking me to stay on and my agreement to do so (but not indefinitely). So disregard my earlier letter

about leaving November 15. I'm a sap. No sane man would stay on here one second beyond the earliest opportunity for leaving. Must get back to work.

All my love to you and Hattie;

Sidney

Monday Evening, November 19

Lena dearest,

Here we are on the eve of the opening of the second most important trial in the history of the world (No. 1: the trial of Jesus Christ). Tomorrow morning the trial opens. And believe me, the prosecution is utterly, completely, hopelessly unprepared. Jackson will deliver a sensational opening statement - and from that point on we're in the soup.

These have been nerve-wracking days for those seriously working on the case. Some people (just between us) have a more "touristic" attitude. Today was a particularly bad day. All sorts of adjournment prospects were in the air. The case was scheduled to be on again, off again, on again three or four times. At six p.m. it was definitely determined that the case will open tomorrow a.m. and proceed without interruption. On the latest reorganization, presentation of the case on planning, preparing, initiating, and waging aggressive war is assigned to me and Sidney Alderman. (Sidney Alderman) I think S.A. expects to do all the talking, which is o.k. with me. I want no glory out of this colossal snafu - I just want to get it over with and go home to Lena and Hattie. Am at the office working away. . . . (interruption) . . .

(Next morning) Couldn't finish this last night. And now I have to go to court. But I'll mail this anyway and write you more later.

All my love to you and Hattie.

Sidney

Saturday a.m., December 1

Lena dearest,

(Jackson's key man in D.C. during the trials)

Charlie Rorsky is leaving early tomorrow morning, so that this is the last day to write my letter to you for him to carry with him. The pictures of Hattie (and Lena) are just wonderful. You can have no idea of how they affect me. I keep them on a kind of chest in my bedroom so that I can look at them the first thing in the morning when I get up, and the last thing at night when I get to bed. In the last week I have received four letters from you. Your letters are my greatest pleasure. They are just right. Full, newsy - and they give me a very real picture of what's going on at home. As you see, I did not leave after all. But I am anxious to leave at the earliest moment possible with grace. I'm going to try to get away about the 15th of December (but I haven't too much hope that I will be able to do that). By that time the part of the case that I have prepared will have been presented to the court, and I can make a legitimate argument for being permitted to leave.

You are probably reading all about the trial in the papers. Are the papers still interested in the case? It's being handled in a pretty dull way, with very little in the way of dramatics. The very best part of the case (and everyone admits it) is the part I prepared (aided of course by my staff), and which Sidney Alderman is presenting. He's our mouthpiece. I sit with him in the courtroom as he presents the case, accompanied also by the particular member of my staff who worked on the subject being presented at the moment. Court convenes at 10:00 a.m., recesses for lunch at 12:30 p.m., reconvenes at 2:00, and sits until 4:30. We've been putting in a tremendous amount of hard work, with some interludes of play, consisting primarily of drinking. Have been having all dinners at Grand Hotel, for two reasons: (1) The mess we're supposed to eat at near the billet on Lindenstrasse (and where we do have

breakfast) is so terrible; and (2) working evenings makes it impossible to go out there for dinner and come back to the court house to work.

Don't count on my getting out of here by the middle of December as I would like to. I have sent a memo to Jackson saying my part of the case will be completed by then, and won't he please approve my leaving at that time, also reminding him of my discussion with him a couple of weeks ago in which, at his request, I agreed to stay on for the trial, and he agreed that I would be considered for release at an early date. Maybe it will work. However, a lot of people are anxious to leave, and releases have been frozen for the time being. On the other hand, I do have his assurance of several weeks ago, and perhaps on that basis I can escape the "freeze". What bothers me most is that if I can't get out at this opportunity, goodness only knows how long I'd have to stay. Well, we shall see. Whenever I have a really definite arrangement for leaving I'll cable you, and in the meanwhile just consider this so much conversation.

When I leave Furemberg (whenever that may be) I will go to Paris to get transportation from there to the U.S. That should give me a few days at least in Paris. Transportation to the States is very, very crowded, and I don't know just how long it would take to get space. Perhaps the quickest way would be to go by ship rather than by plane. It would be nice to see Switzerland, etc., but I really have been around quite a bit, and I want to get home to Lena and Hattie.

I think I may have interesting things to talk about when I get home, if I can remember the details. Everything has been so mixed up that it will be hard to unravel the threads. And also things that happened over here weeks and months ago tend to fade out of memory - at least the details do. For example, it now seems years ago that I was in London. I have proved to be a

very poor correspondent (here I go apologising again). Somehow, I find it so hard to get details down on paper. General observations are about as much as I can do. But when I get home I think I will remember enough of the details to fill in. Of course, so much of my time has been spent on the professional details of the case, that perhaps what I have to say will not really be of interest anyway.

My health is o.k., and I'm certainly warm enough. Really, we've had no cold weather to speak of. Will try to find out something for Hans Marcus, but it's probably impossible. Millions of people in Europe are looking for millions of others. Received the proofs of Hattie. Very fine. And not bad of you, either. I scarcely recognise Hattie from the pictures. I wonder whether Hattie will cry when she sees me! Let's talk about selling the harmonium when I get home.

I don't have a German-English dictionary, but I manage to get along reasonably well when called upon to express myself in Deutsch. The German staff at the hotel are neither depressed nor overbearing. They're servile. We really have no source of news that's worth a damn. Stars and Stripes is our principal source.

I've got to get back to work now. Part of our case goes on again Monday morning. We were on all this past week, and are by no means ready for our presentation next week. I've tried to make this a full letter, but on looking it over it seems to me I've covered very little ground. Will write again soon, but giving this letter to Charlie will upset the schedule of mail deliveries, so don't worry if there is delay in getting the next letter from me.

All my love for you and Hattie.

Sidney

Sunday, December 2, 4:45 p.m.

Lena dearest,

Yesterday I gave Charlie Horsky a letter for you. He left Nuremberg this morning and should be back in Washington by Wednesday or Thursday. Special arrangements were made for his trip so that he probably will not be delayed by transportation difficulties. This is just a note to fill in the gap in your receipt of mail which results from a letter being carried by personal courier. Perhaps if the mail service on this letter is good, there will be no large time lag.

Am at the office now preparing materials for tomorrow's presentation at the trial. Our subject tomorrow will be aggression against Czechoslovakia - the inside story underlying Munich. Last night went to a party at one of the billets. Lots to drink, and late to bed. Slept late this morning. Lunch at Grand Hotel. Not a good meal, which is unusual. Then to the office, where I have been all afternoon.

I understand this is Hamukah. Don't suppose you have candles. Nothing new to report on when I can leave. Haven't heard from Jackson yet on my latest memo.

All my love for Lena and Hattie.

Sidney

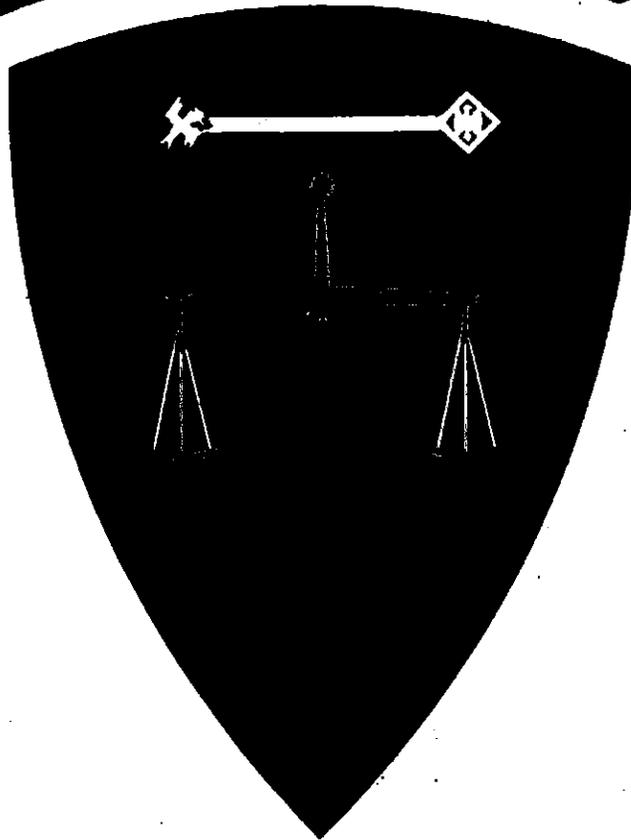
TELEGRAMS:

DECEMBER 12, 1945: MY WORK COMPLETED LEAVING TOMORROW FOR PARIS THEN HOME (Nuremberg) EXPECT SUBSTANTIAL TRANSPORTATION DELAY WILL CABLE FROM PARIS BEFORE DEPARTURE LOVE SIDNEY

DECEMBER 18, 1945: POSSIBLY DEPARTING BY AIR TODAY TOMORROW OR LATER THIS WEEK LOVE YOU AND HATTIE SIDNEY

CALL FOR

JUSTICE



INTERNATIONAL CRIMINAL JUSTICE TIMELINE

created by Prof. Gregory S. Gordon to accompany the film

NUREMBERG: ITS LESSON FOR TODAY

[The Schulberg/Waletzky Restoration]

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DATE _____

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DESTROY ALL PREVIOUS ISSUES

1474 Trial of Peter von Hagenbach

In connection with offenses committed while governing territory in the Upper Alsace region on behalf of the Duke of Burgundy, Peter von Hagenbach is tried and sentenced to death by an ad hoc tribunal of twenty-eight judges representing different local polities. The crimes charged, including murder, mass rape and the planned extermination of the citizens of Breisach, are characterized by the prosecution as "trampling under foot the laws of God and man." Considered history's first international war crimes trial, it is noted for rejecting the defense of superior orders and introducing an embryonic version of crimes against humanity.

1758 Emerich de Vattel Lays Foundation for Formulating Crime of Aggression

In his seminal treatise *The Law of Nations*, Swiss jurist Emerich de Vattel alludes to the great guilt of a sovereign who undertakes an "unjust war" because he is "chargeable with all the evils, all the horrors of the war: all the effusion of blood, the desolation of families, the rapine, the acts of violence, the ravages, the conflagrations, are his works and his crimes . . . in consequence of it [he] is guilty of a crime against mankind . . ." De Vattel thus provides the theoretical underpinnings for the modern formulation of the crime of aggression.

1856 Paris Declaration Respecting Maritime Law

Issued following the Crimean War, the *Paris Declaration Respecting Maritime Law* abolishes all forms of piracy and privateering (government authorization of privately owned ships to attack and capture enemy vessels during wartime). It also provides rules for maritime neutrality and regulates the conduct of blockades.

1625 Hugo Grotius Publishes On the Law of War and Peace

Dutch jurist and philosopher Hugo Grotius, one of the principal founders of international law with such works as *Mare Liberum* (*On the Freedom of the Seas*), publishes *De Jure Belli ac Pacis* (*On the Law of War and Peace*). Considered his masterpiece, the book elucidates and secularizes the topic of just war, including analysis of belligerent status, adequate grounds for initiating war and procedures to be followed in the inception, conduct, and conclusion of war.

1815 Declaration Relative to the Universal Abolition of the Slave Trade

The first international instrument to condemn slavery, the *Declaration Relative to the Universal Abolition of the Slave Trade* is issued by the Congress of Vienna to resolve issues arising from the Napoleonic wars. The Declaration qualifies slavery as a scourge to humanity and recalls that numerous European governments have either abolished the trade or resolved to do so. Subsequently, countries enter into a skein of piecemeal multilateral and bilateral agreements prohibiting slavery that are enforced with varying degrees of success. More effective abolition is realized with the 1926 *Convention to Suppress the Slave Trade and Slavery* and the 1956 *Supplementary Convention*, which together define and criminalize slavery and related practices such as debt bondage and serfdom. In 2000, the UN adopts the *Trafficking Protocol* to the *Convention against Transnational Organized Crime* that aims to prevent and combat trafficking in persons, especially women and children; protect and assist victims of trafficking; and promote cooperation among states in order to meet those objectives.

1863 Lieber Code

During the US Civil War, German-American jurist Francis Lieber prepares for the Union Army *Instructions for the Government of Armies of the United States in the Field*, promulgated by President Lincoln in April 1863 as *General Order No. 100*. This document, the first codification of the laws and customs of war, lays out specific rules for protecting civilians and their property, treating prisoners and enemy wounded humanely, and limiting military targets to those that are deemed essential.

1868 St. Petersburg Declaration

Adopted at an international conference convened by Russia, the *St. Petersburg Declaration* prohibits "the employment of such arms" as "would uselessly aggravate the suffering of disabled men, or render their death inevitable" and would be "contrary to the laws of humanity." To this end, the Declaration forbids the use of certain fragmenting, explosive and incendiary ammunition.

1915 Allied Joint Declaration Regarding the Armenian Genocide

On May 24, 1915, as the Ottoman Empire is massacring the Armenian population within its territories during World War I (1914-1918), France, Great Britain and Russia issue a joint declaration asserting that "[i]n the presence of these new crimes of Turkey against humanity and civilization, the allied Governments publicly inform the [Ottoman Government] that they will hold personally responsible for the said crimes all members of the Ottoman Government as well as those of its agents who are found to be involved in such massacres." This is thought to constitute the first use, within an international law context, of the term "crimes against humanity."

1864 First Geneva Convention

A book about the bloody Battle of Solferino (1859) in Italy, written by Swiss eyewitness Henri Dunant, shocks the world. It leads to creation of the International Committee of the Red Cross (1863), and to a 16-nation conference convened in Geneva in August 1864, which adopts the *Convention for the Amelioration of the Condition of the Wounded in Armies in the Field*, commonly known as the "Geneva Convention of 1864." The Convention provides for: (1) relief to the wounded regardless of nationality; (2) neutrality/inviolability of medical personnel; and (3) the distinctive sign of the red cross on a white ground. The subsequent Geneva Conventions of 1906, 1929 and 1949 will build on this platform. Dunant is awarded the first Nobel Peace Prize in 1901, sharing it with Frédéric Passy.

1899 & 1907 The Hague Conventions

Adopted, respectively, at 1899 and 1907 international peace conferences held in The Hague, Netherlands, these Conventions are considered the foundational treaties for the regulation of the conduct of hostilities during wartime. The Hague Conventions set forth parameters regarding the means and methods of warfare, including a ban on a number of weapons and methods of warfare (including use of "dum dum" bullets which expand in the body, poison weapons, and attacks from hot air balloons), categorization of prisoners of war, protection of neutral parties, occupation of territory, and rules for attacks on military targets. They also take many of the principles of the 1864 Geneva Convention and adapt them to maritime warfare. Finally, they also include what is known as the "Martens Clause" (drafted by Russian delegate Fyodor Martens), which embeds an overarching moral code into humanitarian law by providing: "Until a more complete code of the laws of war has been issued, the High Contracting Parties deem it expedient to declare that, in cases not included in the Regulations adopted by them, the inhabitants and the belligerents remain under the protection and the rule of the principles of the law of nations, as they result from the usages established among civilized peoples, from the laws of humanity, and the dictates of the public conscience."

1919 Treaty of Versailles

The *Treaty of Versailles*, signed June 28, 1919, formally ends hostilities between the Allies and Germany in the wake of World War I and provides, in Article 227, for creation of an ad hoc international criminal tribunal to prosecute Germany's Kaiser Wilhelm II for initiating the war; and, in Article 228, for prosecution of German military personnel accused of violating the laws and customs of war. The ad hoc tribunal is never established, the Kaiser is never prosecuted, and only a few low-level German war criminals are tried and lightly punished.

1919 Turkish Courts Martial of Armenian Genocide Perpetrators

Following the Ottoman Empire's defeat in World War I, a new government is formed and, in February 1919, it establishes courts martial to prosecute members of the "Young Turk" regime responsible for the Armenian genocide. Pursuant to these courts martial, a small group of lower-level officials is punished, but the fate of the major perpetrators is supposed to be decided by a treaty between the Allies and the Ottoman Empire, and they are ultimately able to evade justice.

1928 Kellogg-Briand Pact

On August 27, 1928, in Paris, per the initiative of US Secretary of State Frank Kellogg and French Minister of Foreign Affairs Aristide Briand, several nations sign the *General Treaty for Renunciation of War as an Instrument of National Policy*, commonly known as the "Kellogg-Briand Pact." Although the Pact contains only three articles and no enforcement mechanism, it renounces war as a solution for international controversies and dictates that all disputes be settled by pacific means.

1919 Covenant of the League of Nations

The *Covenant of the League of Nations* is concluded as part of the Treaty of Versailles. Article 10 of the Covenant provides that member States will "respect and preserve as against external aggression the territorial integrity and existing political independence" of the other member States.

1920 Treaty of Sèvres

The *Treaty of Sèvres* formally ends hostilities between the Allies and the Ottoman Empire after World War I and provides for the trial by the Allies of Turkish war criminals accused of violating the laws and customs of war and of engaging in the Armenian massacres. The Treaty never enters into force and is superseded by the *Treaty of Lausanne* (1923), which is silent on the issue of criminal responsibility pursuant to an accompanying Declaration of Amnesty.

1933 Founding of the International Rescue Committee

Founded at the suggestion of Albert Einstein in order to assist victims of Adolf Hitler's persecution in Germany, and designed to assist victims of the world's worst humanitarian and human rights crises, the United States-based International Rescue Committee (IRC) provides emergency relief, post-conflict development and resettlement services, and human rights protection and advocacy. It operates in the United States and in over 40 countries worldwide.

1937 **Convention for the Creation of an International Criminal Court**

On November 16, 1937, in response to the assassination of King Alexander of Yugoslavia, a *Convention for the Creation of an International Criminal Court* is opened for signature in Geneva under the auspices of the League of Nations. But this Convention, along with its companion *Convention for the Prevention and Punishment of Terrorism*, does not secure the minimum number of ratifications necessary to enter into force.

1945 **Yalta Conference**

At the February 4-11, 1945 Yalta Conference, the US, USSR and UK agree to prosecute Axis leaders by judicial trial after Allied victory in Europe. Summary execution of the major German war criminals had been considered before Yalta but the United States preference for a judicial solution prevails.

1945 **London Agreement for Establishment of the International Military Tribunal**

On August 8, 1945, the US, USSR, UK and France sign the London Agreement, providing for prosecution of the major German war criminals by an International Military Tribunal (IMT) in Nuremberg. The constitution, jurisdiction, and functions of the IMT are set forth in an attached Charter, which provides that each signatory will exercise a prosecutorial and judicial role in the proceedings, and that the defendants will have certain basic rights. The offenses to be prosecuted are defined as Crimes against Peace, War Crimes, Crimes against Humanity, and Conspiracy to commit each of those underlying crimes. The Charter provides that Nazi organizations can be indicted along with individual Nazi leaders.

1943 **Moscow Declaration**

As evidence mounts of Germany's gross and widespread human rights violations during World War II (1939-1945), the United States, the Soviet Union and the United Kingdom sign a "Statement of Atrocities" as part of the Allies' *Moscow Declaration* of October 30, 1943. The Declaration states that those responsible will be brought to justice, and it establishes the War Crimes Commission, which will meet in London in 1944 to compile lists of war criminals and to determine effective ways of bringing them to justice.

1945 **Founding of United Nations (UN) and International Court of Justice (ICJ)**

The *United Nations Charter* is drafted (April), signed (June) and goes into effect (October) in 1945. A cornerstone of the Charter is its Chapter I prohibition in Article 2(4) against the threat or use of force "against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations." Chapter XIV of the Charter also establishes the *International Court of Justice*, the UN's principal judicial organ, which has both "contentious case jurisdiction" (allowing states to sue one another in civil lawsuits) and "advisory opinion jurisdiction" (for which the ICJ provides legal opinions when requested by authorized entities). NB: The ICJ does not have jurisdiction to hear criminal cases but has had before it cases with international criminal law implications, such as the case of *Bosnia v. Serbia* (2007), wherein the Court had to decide whether Serbia violated its obligations under the Genocide Convention.

1945-46 IMT Trial of the Major War Criminals at Nuremberg

The *International Military Tribunal* indicts twenty-four individuals, eventually prosecuting twenty-two of them: Martin Bormann (in absentia), Karl Dönitz, Hans Frank, Wilhelm Frick, Hans Fritzsche, Walther Funk, Hermann Göring, Rudolf Hess, Alfred Jodl, Ernst Kaltenbrunner, Wilhelm Keitel, Konstantin von Neurath, Franz von Papen, Erich Raeder, Joachim von Ribbentrop, Alfred Rosenberg, Fritz Sauckel, Hjalmar Schacht, Baldur von Schirach, Arthur Seyss-Inquart, Albert Speer, Julius Streicher, and seven Nazi organizations. Proceedings open at Nuremberg's Palace of Justice on November 20, 1945, and conclude on October 1, 1946 when the judges deliver their verdicts. Twelve are sentenced to death; three are condemned to prison for life; four receive sentences of ten to twenty years; and three are acquitted. Four of the organizations are found to be "criminal": the Nazi leadership corps, Schutzstaffel (SS), Sicherheitsdienst (SD), and Geheime Staatspolizei (Gestapo).

1946-48 Creation of International Military Tribunal for the Far East

On January 19, 1946, General Douglas MacArthur issues a "special proclamation" creating the *International Military Tribunal for the Far East* (IMTFE), commonly referred to as the Tokyo Tribunal. The Tribunal convenes on April 29, 1946, and prosecutes twenty-eight high-level Japanese leaders (both military and civilian) for crimes parallel to those charged at the IMT, but three defendants die or are incapacitated during the trial. The judges and prosecutors are from eleven countries (US, USSR, UK, Netherlands, Australia, Canada, China, France, Philippines, New Zealand, and India). On November 12, 1948, the judges find the remaining 25 defendants guilty, sentencing seven to death by hanging, sixteen to life imprisonment, and two to lesser terms.

1946-47 Paris Congress and Creation of the International Law Commission (ILC)

Soon after the Nuremberg judgment, an international congress meets in Paris and calls for adoption of an international criminal code prohibiting crimes against humanity, and for the prompt establishment of an international criminal court. The UN General Assembly passes Resolution 94, establishing a committee of legal experts to make recommendations on ways the UN could encourage the progressive development of international law and its codification. Accordingly, in 1947, the General Assembly creates the International Law Commission.

1946-49 Subsequent Twelve Nuremberg Military Tribunals

As of December 9, 1946, the American military prosecutes 185 lower-ranking officials of the Nazi regime in the same Nuremberg courtroom, in proceedings known as the *Nuremberg Military Tribunals* (NMTs), organized pursuant to Allied Control Council Law No. 10. General Telford Taylor serves as chief of prosecution for the twelve trials:

1. The *Medical Case* (Dec 9, 1946 - Aug 20, 1947)
2. The *Milch Case* (Jan 2 - Apr 14, 1947)
3. The *Justice Case* (Mar 5 - Dec 4, 1947)
4. The *Pohl Case* (Apr 8 - Nov 3, 1947)
5. The *Flick Case* (Apr 19 - Dec 22, 1947)
6. The *IG Farben Case* (Aug 27, 1947 - Jul 30, 1948)
7. The *Hostage Case* (July 8, 1947 - Feb 19, 1948)
8. The *RuSHA Case* (Oct 20, 1947 - Mar 10, 1948)
9. The *Einsatzgruppen Case* (Sep 29, 1947 - Apr 10, 1948)
10. The *Krupp Case* (Dec 8, 1947 - Jul 31, 1948)
11. The *Ministries Case* (Jan 6, 1948 - Apr 13, 1949)
12. The *High Command Case* (Dec 30, 1947 - Oct 28, 1948)

Four defendants are excused due to illness and four commit suicide. Of the remaining defendants, 142 are found guilty of at least one of the charges; 24 receive death sentences, of which 11 are subsequently converted to life sentences; 20 are sentenced to life imprisonment; 98 receive sentences of varying lengths; and 35 are acquitted.

1948 Universal Declaration of Human Rights

Drafted in response to the human rights horrors of World War II, and adopted by the UN General Assembly on December 10, 1948, the *Universal Declaration of Human Rights* (UDHR) consists of thirty articles setting out a variety of rights, including due process protections in criminal cases, that will underpin subsequent human rights treaties, including the *International Covenant on Civil and Political Rights* (1966) and the *International Covenant on Economic, Social and Cultural Rights* (1966). These form, along with the UDHR, the so-called "International Bill of Rights." The International Bill of Rights inspires a new generation of human rights treaties elaborating on its basic protections, including the *Convention on the Elimination of All Forms of Discrimination against Women* (1979) and the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (1984).

1949-54 International Criminal Court Statute Drafted by ILC

From 1949 to 1954, the UN's International Law Commission formulates draft statutes for an international criminal court but Cold War politics hinder its progress. The UN General Assembly tables the drafts, pending agreement on a definition of the crime of aggression and on a code of international crimes.

1948 Genocide Convention

On December 9, 1948, the UN General Assembly adopts the *Convention on the Prevention and Punishment of the Crime of Genocide*. Article VI of the Convention provides for alleged criminals to "be tried by a competent tribunal of the State in the territory of which the act was committed or by such international tribunal as may have jurisdiction." Related to this, members of the UN General Assembly ask the International Law Commission to study the possibility of establishing an international criminal court. (The US ratifies the Genocide Convention 40 years later, in 1988.)

1949 Geneva Conventions

On August 12, 1949, over fifty countries sign the four *Geneva Conventions*:

1. First Convention, dealing with the wounded and sick in armed forces in the field, (a revision and development of the 1929 Geneva Convention)
2. Second Convention, dealing with wounded, sick and shipwrecked members of armed forces at sea (a revision and development of the 1907 Hague Convention No. X)
3. Third Convention, dealing with prisoners of war (a revision and development of the 1929 Geneva Convention)
4. Fourth Convention, dealing with civilians (a supplement to provisions in the 1899 Hague Convention No. II and the 1907 Hague Convention No. IV).

The four Conventions contain a common Article 3 relating to the protection of victims of armed conflicts that are not international in character. Each Convention sets forth a list of "grave breaches" that justify criminal prosecution, including willful killing, torture or inhuman treatment, biological experiments, willfully causing great suffering, causing serious injury to body or health, and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.

1950 Nuremberg Principles Adopted

The International Law Commission formulates seven "Nuremberg Principles," to codify the principles of international law recognized by the IMT Charter and Judgment:

1. Any person who commits an act that constitutes a crime under international law is responsible therefor and liable to punishment.
2. The fact that internal law does not impose a penalty for an act that constitutes a crime under international law does not relieve the person who committed the act from responsibility under international law.
3. 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.
4. 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.
5. Any person charged with a crime under international law has the right to a fair trial on the facts and law.
6. 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 of slave labor 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: Murder, extermination, enslavement, deportation and other inhumane 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.

1950 Nuremberg Principles Cont'd

7. 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.

1954 ILC Draft Code of Offenses against the Peace and Security of Mankind

The International Law Commission (ILC) issues *The Draft Code of Offenses against the Peace and Security of Mankind*. It contains a list of crimes (including the crime of aggression, for which no definition is provided) and a series of progressive principles such as command responsibility, individual criminal liability for international crimes, and negation of Head of State immunity. General Assembly consideration of the Draft Code is deferred until the ILC can make further progress on the definition of the crime of aggression.

1961 Trial of Adolf Eichmann

In 1960, the Israeli government seizes key Holocaust organizer and SS commandant Adolf Eichmann in Argentina and puts him on trial in Jerusalem the following year. Asserting passive personality and universal jurisdiction over Eichmann's crimes, the Israelis conduct the first trial in history for the crime of genocide – in the form of "Crimes against the Jewish People" – an offense largely mirroring Article II of the 1948 Genocide Convention. Unlike the Nuremberg trials, this proceeding's focus is the crimes of the Holocaust and it becomes a watershed in terms of raising international awareness about the Final Solution and its victims. Eichmann is found guilty as charged, a verdict upheld by the Israeli Supreme Court, and he is executed on May 31, 1962.

1961 Founding of Amnesty International

Amnesty International is founded in London in July 1961 by English labor lawyer Peter Benenson to highlight the plight of political prisoners and advocate for human rights. In addition to traditional human rights work, it provides guidance, education and advocacy regarding international criminal justice issues. Human Rights Watch (originally founded in 1978 as Helsinki Watch to monitor the USSR's compliance with the 1975 Helsinki Accords) is another influential NGO that has played a significant education and advocacy role with respect to the development of international criminal justice.

1974 UN General Assembly Adopts Resolution on Aggression

On December 14, 1974, the UN General Assembly adopts Resolution 3314, a broad definition of aggression, drawn largely from Article 2(4) of the Charter (though omitting reference to threats) and then enumerates specific examples of acts of aggression including, but not limited to: (a) the invasion or attack by the armed forces of a State of the territory of another State (including related military occupation); (b) bombardment by the armed forces of a State against the territory of another State; (c) the blockade of the ports or coasts of a State by the armed forces of another State; (d) an attack by the armed forces of a State on the land, sea or air forces, or marine and air fleets of another State; (e) the use of armed forces of one State which are within the territory of another State with the agreement of the receiving State; (f) the action of a State in allowing its territory to be used by another State for perpetrating an act of aggression against a third State; and (g) the sending by a State of armed bands, groups, irregulars or mercenaries, which carry out acts of armed force against another State. This resolution takes on new life when, many years later, the ICC member states debate whether the crime of aggression should be within the jurisdiction of the International Criminal Court (ICC).

1973 Apartheid Convention

On November 30, 1973, the UN General Assembly adopts the *International Convention on the Suppression and Punishment of the Crime of Apartheid*. The Convention declares that apartheid is a crime for which individuals can be held accountable and defines the crime as a series of "inhuman acts committed for the purpose of establishing and maintaining domination by one racial group of persons over any other racial group of persons and systematically oppressing them." Such acts include denial of the right to life and liberty, imposition of living conditions designed to destroy the group, legislative measures to prevent the group's participation in national life, division of the population along racial lines, and exploitation of the group's labor force. Moreover, the Convention characterizes apartheid as a crime against humanity.

1977 Additional Protocols to the Geneva Conventions

In 1977, the Geneva Conventions (GC) are supplemented by two further agreements. Additional Protocol I (API) applies to international armed conflict and expands the GC protections in various ways, including detailed protections for civilians during military operations, command responsibility and a prohibition on methods of warfare that are intended to cause or may cause widespread, long-term, and severe damage to the environment. Additional Protocol II (AP II) is the first international treaty devoted exclusively to situations of non-international armed conflict (NIAC), defined by the ICRC as "protracted armed confrontations occurring between governmental armed forces and the forces of one or more armed groups, or between such groups, arising from the territory of a state." AP II expands upon the minimal humanitarian NIAC regulations previously covered by Common Article 3 alone. Both AP I and AP II prohibit recruiting or using child soldiers (i.e., children under the age of fifteen).

1984 Convention Against Torture

The 1984 *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* provides a detailed definition of torture and other cruel, inhuman or degrading treatment, and prescribes a series of measures to deal with these crimes, including, in Articles 5-7, a state obligation, premised on universal jurisdiction, to either institute criminal proceedings against the torturer or to extradite the person to another state to stand trial there.

1989 Trinidad and Tobago Request Statute for Permanent ICC

Motivated in part by an effort to combat drug trafficking, Trinidad and Tobago resurrects a pre-existing proposal for the establishment of a permanent international criminal court, and petitions the UN General Assembly to prepare a draft statute. The International Law Commission then prepares a draft statute for presentation at a diplomatic conference.

1994 Establishment of the ICTR

The April-July 1994 genocide in Rwanda motivates the UN Security Council to establish, pursuant to Resolution 955 of November 8, 1994, a second ad hoc tribunal, the *International Criminal Tribunal for Rwanda* (ICTR). The ICTR has jurisdiction over offenses of genocide, crimes against humanity and war crimes (in violation of Common Article 3 and/or Additional Protocol II) committed during the year 1994. It indicts 92 individuals, including former Prime Minister Jean Kambanda (who pleads guilty to genocide), and genocide mastermind Colonel Théoneste Bagosora, who is tried and convicted. In all, it convicts 60 persons in 40 judgments and acquits 10 persons while transferring four persons for trial to national jurisdictions (one each to the Netherlands and Rwanda and two to France). The ICTR also makes significant contributions to the development of international criminal law, particularly with respect to the law of genocide and atrocity speech.

1987 Trial of Klaus Barbie

Extradited from Bolivia three years previously, former Lyon Gestapo chief Klaus Barbie is tried in France, found guilty of crimes against humanity, and sentenced to life in prison. In the course of the proceedings, French courts find that crimes against humanity need not be limited to civilians; they may also be committed against military personnel, e.g., members of the French Resistance. The French eventually prosecute and convict former Vichy officials Paul Touvier (1994) and Maurice Papon (1997) of Holocaust-related crimes against humanity.

1993 Establishment of the ICTY

Atrocities committed in Bosnia-Herzegovina and Croatia in connection with the dissolution of the former Yugoslavia provoke the UN Security Council to establish the ad hoc *International Criminal Tribunal for the Former Yugoslavia* (ICTY) on May 25, 1993, pursuant to Resolution 827. The ICTY has jurisdiction over war crimes, genocide and crimes against humanity committed on the territory of the former Yugoslavia as of 1991. It indicts 161 persons, including former Serbian president Slobodan Milosovic (who dies before the end of his trial), and Bosnian-Serb leaders Radovan Karadzic and Ratko Mladic. In all, it convicts and sentences 64 persons in 50 separate proceedings, acquits 13 persons and transfers 8 cases involving 13 persons to national jurisdictions. In the process, the ICTY generates groundbreaking jurisprudence in the area of international criminal law.

1998 Adoption of the Rome Statute of the International Criminal Court (ICC)

On July 17, 1998, working from the draft ILC statute, a diplomatic conference of 120 countries adopts the *Rome Statute of the International Criminal Court (ICC)*. The ICC is given jurisdiction over the crimes of genocide, crimes against humanity, war crimes, and aggression (pending future review, aggression is not defined or activated) committed by citizens of signatory states or committed on their territories, regardless of the perpetrator's citizenship. The Court may be seized of a case in one of three ways: (1) referral by a state party; (2) referral by the Security Council (in which case the crimes alleged need not be perpetrated by a signatory's citizen or on a signatory's territory); and (3) a Prosecutor-initiated investigation. The Statute provides that the ICC is to operate on the principle of "complementarity," providing that the ICC intervene only when domestic institutions are unwilling or unable to act on their own.

2000 Establishment of the East Timor Special Panels

In March 2000, after Indonesian military personnel commit atrocities in East Timor, the UN Transitional Administration in East Timor (UNTAET) establishes the *Special Panels of the Dili District Court* to prosecute genocide, war crimes, crimes against humanity, murder, sexual offenses and torture. The Special Panels, which close in 2005, constitute a "hybrid" tribunal in that they blend East Timorese and international personnel and law. The Tribunal issues indictments against 391 persons, conducts 55 trials, and secures 84 convictions and 4 acquittals.

2002 Rome Statute Enters Into Force

The 60th ratification of the Rome Statute is deposited on April 11, 2002, and the ICC officially comes into being on July 1, 2002. The inaugural meeting of the ICC's Assembly of States Parties (ASP) is held in New York City from September 3-10, 2002.

1998 Universal Jurisdiction Case of Augusto Pinochet

In a landmark case, on October 10, 1998, Spanish magistrate Baltasar Garzon indicts for human rights crimes former Chilean dictator General Augusto Pinochet, who is arrested in London and deemed by the British Law Lords to be extraditable to Spain pursuant to the principle of universal jurisdiction. Although he is ultimately released on grounds of ill-health, the unprecedented detention of Pinochet on foreign soil for atrocity crimes committed in his homeland, without a warrant or request for extradition from Chile, represents a watershed in international criminal law with respect to the principle of universal jurisdiction.

2002 Establishment of the Special Court for Sierra Leone

In 2002, after horrific atrocities are committed during the Sierra Leone Civil War, the UN and the government of Sierra Leone enter into an agreement to create a "treaty-based sui generis court of mixed jurisdiction and composition" in Sierra Leone's capital, Freetown, with the aim of trying "those who bear greatest responsibility" for the war crimes and crimes against humanity committed as of November 30, 1996, including chopping off the limbs of those who failed to profess loyalty to the rebels. This hybrid tribunal consists of two trial chambers with two international and one Sierra Leone judge each, an Appeals Chamber with three international and two Sierra Leone judges, and a Prosecutor appointed by the UN Secretary-General and a Deputy Prosecutor appointed by the Sierra Leone government. The Court indicts 11 persons, and secures 9 convictions from among the following military groups: the Revolutionary United Front (RUF); the Armed Forces Revolutionary Council (AFRC), the Civil Defence Forces (CDF). In a special courtroom in The Hague, it also prosecutes former Liberian President Charles Taylor and convicts him of aiding and abetting the RUF. Taylor's conviction on April 26, 2012, is the first conviction of a head of state pursuant to trial since Admiral Doenitz's conviction at Nuremberg.

2003 Establishment of the Extraordinary Chambers in the Courts of Cambodia

On June 6, 2003, the *Extraordinary Chambers in the Courts of Cambodia* (ECCC) are established, pursuant to an agreement between the Royal Government of Cambodia and the United Nations to try senior members of the Khmer Rouge for serious violations of Cambodian penal law and international criminal law. On July 26, 2010, the ECCC indicts Kaing Guek Eav (aka "Comrade Duch"), the commandant of Security Prison 21 (aka "Tuol Sleng"), the Khmer Rouge's torture and detention facility in Phnom Penh, for crimes against humanity and war crimes, and he is later sentenced to life in prison. Senior Khmer Rouge leaders Nuong Chea, Khieu Samphan, Ieng Sary, and Ieng Thirith are also indicted.

2005-06 Trial of Saddam Hussein by the Supreme Iraqi Criminal Tribunal

Beginning in October 2005, Saddam Hussein and seven other defendants are prosecuted by the *Supreme Iraqi Criminal Tribunal* (formerly known as the *Iraqi Special Tribunal*), established under Iraqi national law as a special domestic court to try atrocity and corruption crimes committed between July 17, 1968 and May 1, 2003. Hussein and his co-defendants are charged with crimes against humanity with regard to events that took place after a failed assassination attempt in Dujail in 1982. Hussein is convicted on November 5, 2006 and hanged on December 30, 2006. Hussein and five of his subordinates, including Ali Hassan al-Majid (aka "Chemical Ali") are also indicted on genocide charges in connection with the al-Anfal "Kurdish Genocide" Campaign, and all five are convicted in that case. In all, the Tribunal indicts 24 persons, of whom 17 are sentenced in five separate trials for genocide, war crimes and crimes against humanity, including Tariq Aziz, the former minister of foreign affairs. Three persons are acquitted.

2003 ICC Becomes Operational

On March 11, 2003, the first ICC judges are sworn in at a ceremony hosted by the Netherlands in The Hague. Fifteen cases in the following seven situations are then brought before the ICC: Situation in Uganda; Situation in the Democratic Republic of the Congo; Situation in Darfur, Sudan; Situation in the Central African Republic; Situation in the Republic of Kenya; Situation in Libya; Situation in Côte d'Ivoire.

2005 Establishment of the Court of Bosnia and Herzegovina War Crimes Chamber

After war crimes chambers had been established to deal with 1990s atrocities committed in Kosovo (so-called "Regulation 64" panels, set up within the domestic Kosovo court system in 1999) and Serbia (War Crimes Panel within the Belgrade District Court, created in 2003), a joint initiative between the ICTY, and the Office of High Representative (OHR) in Bosnia and Herzegovina (BiH) established the War Crimes Chamber (WCC) in the Court of BiH. The WCC has five panels of both domestic and international judges who preside over cases involving human rights or war crimes that took place in BiH during the 1992-1995 Balkans conflict. The WCC has several cases transferred to it by the ICTY as part of the ICTY's completion strategy; it also handles new cases not originating from the ICTY.

2006 Hamdan v. Rumsfeld

In *Hamdan v. Rumsfeld*, 548 U.S. 557 (2006), the US Supreme Court invalidates the Bush Administration's military commissions – which had been established to prosecute prisoners detained at Guantanamo Bay in connection with the Administration's "war on terror" – because the commissions do not comply with due process guarantees in the Uniform Code of Military Justice and the Geneva Conventions' Common Article 3. The Court rejects the Bush Administration's argument that Common Article 3 does not protect the prisoners at Guantanamo, concluding that the conflict with al Qaeda is a non-international armed conflict within the meaning of Common Article 3.

2007 Establishment of the Special Tribunal for Lebanon

To prosecute the perpetrators of the 2005 assassination of Lebanese Prime Minister Rafiq Hariri, on May 30, 2007, the UN Security Council creates the Special Tribunal for Lebanon (STL). Seated in The Hague, the STL's subject matter jurisdiction is limited to terrorism-related offenses under Lebanese law and its personnel are a mix of international and Lebanese. On June 28, 2011, the STL confirms the indictment of four defendants, Mustafa Amine Badreddine, Salim Jamil Ayyash, Hussein Hassan Oneissi, and Assad Hassan Sabra - all members of Hezbollah accused of coordinating and executing the assassination.

2012 Liechtenstein Becomes First Nation to Ratify Kampala Amendments on Aggression

On May 8, 2012, the Principality of Liechtenstein deposits at the United Nations its instrument of ratification of the aggression-related Amendments to the Rome Statute that were adopted at the 2010 Kampala Review Conference. This constitutes the first ratification of the Amendments that include a definition for the crime of aggression and a procedure for the ICC to exercise its jurisdiction over individuals who, as leaders of States Parties, plan, prepare, initiate or execute acts of aggression against other States Parties of the ICC.

2010 ICC Review Conference Amends 1998 Rome Treaty as to Crime of Aggression

On June 11, 2010, after nearly two weeks of intense debate and years of preparatory work, the Review Conference of the Rome Statute, meeting in Kampala, Uganda, adopts Amendments to the Statute that include a definition of the crime of aggression and a regime establishing how the Court will exercise its jurisdiction over this crime. At the earliest, the ICC will be empowered to exercise jurisdiction over the crime of aggression after January 1, 2017, assuming that at least 30 ratifications have been obtained by that date, and that a decision is made by a 2/3 majority of the States Parties to activate the jurisdiction.

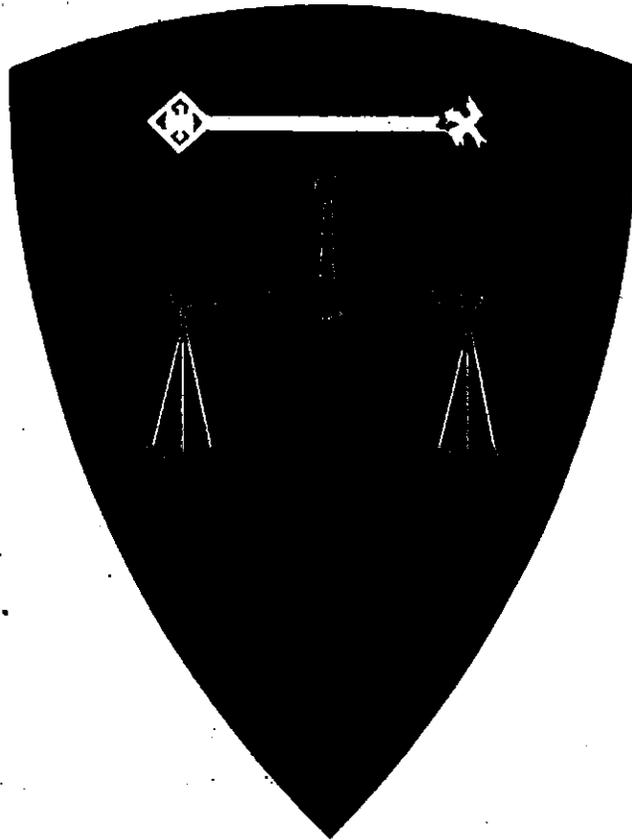
2012 ICC's First Trial Verdict: Thomas Lubanga Found Guilty

On March 14, 2012, a panel of ICC judges finds Thomas Lubanga guilty of the war crimes of conscripting, enlisting, and using children under the age of fifteen years for combat purposes while he served as political head of the Union of Congolese Patriots (UPC), a rebel group in the Ituri region of the Democratic Republic of the Congo (DRC). This is the ICC's first verdict since becoming operational in 2003. On July 10, 2012, the ICC sentences Lubanga to fourteen years imprisonment.

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To propose additions to this Timeline, please contact Sandra Schulberg: ssschulberg@aol.com



The cover image for this edition of the International Criminal Justice Timeline is adapted from the actual cover of the 1945 telephone directory created for the staff of the International Military Tribunal who worked in the Nuremberg Palace of Justice from 1945 to 1946. Liselotte Balte Ashkins, a member of the OSS Field Photographic Branch - War Crimes Unit, kept her copy of the phone book until her death in 2012 at age 93.

(Courtesy Ashkins Family Archive)

The shield featured on the phone directory cover was designed by Colonel Burton C. Andrus (1892 - 1977), Commandant of the 6850th Internal Security Detachment (ISD), International Military Tribunal, United States Forces, European Theater (USFET).

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Perspective

*223 THE UNITED STATES AND THE INTERNATIONAL CRIMINAL COURT: THE CASE FOR
"DEXTEROUS MULTILATERALISM"

Eric P. Schwartz [FN1]

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I. Introduction

On Sunday, December 31, 2000, the United States signed the Rome Statute of the International Criminal Court ("ICC"), and thus became one of the 139 nations that met the New Year's Eve, 2000 deadline for signature established in the Treaty. [FN1] David Scheffer, who served as the Clinton Administration's Ambassador-at-Large for War Crimes Issues, signed on the President's behalf, after traveling to the United Nations on the Sunday morning at the direction of the National Security Advisor, Samuel R. "Sandy" Berger.

Scheffer's last major diplomatic mission for the outgoing Administration came after an eleventh-hour Presidential decision that marked a major shift in US policy toward the ICC. The President's decision was hailed by Court proponents, who have long advocated the establishment of a permanent international judicial tribunal with jurisdiction over genocide, crimes against humanity, and war crimes. But the decision was also roundly condemned by conservative commentators and members of Congress, who see the ICC as a threat to US sovereignty. John Bolton, now Undersecretary of State for Arms Control and International Security, writing in the *Washington Post*, accused the President of "a stealth approach to eroding our constitutionalism and undermining the independence and flexibility that our military forces need to *224 defend our interests around the world." [FN2] He urged the incoming Administration, of which he is now a part, to "unsign" the Treaty.

Despite highly charged criticism by ICC opponents, President Clinton's signature was far from the unequivocal endorsement of the ICC that Court advocates would have most welcomed. In fact, the President's signature statement complained about "significant flaws in the Treaty," and indicated that US concerns should be effectively addressed before the Senate considered consent to ratification of the Rome Statute. [FN3] Signature offered neither unqualified support nor unbridled rejection of the Rome Statute. Rather, it represented an effort to manage effectively legitimate yet conflicting policy imperatives to reach an equilibrium that best addressed US interests. This effort at "dexterous multilateralism" is worth examining closely, as it relates to an issue of growing importance in US foreign policy: the tension between sovereign prerogatives and deference to multilateral institutions. It is this issue which increasingly bedevils US policymakers as they consider how to address the war on terrorism, the situation in Iraq, and related national security challenges.

II. Background to Signature

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In many respects, President Clinton's decision to sign the Rome Statute grew out of his Administration's forward-leaning approach toward multilateral engagement on international human rights issues. This included successful Administration efforts to establish the post of the United Nations High Commissioner for Human Rights; to secure Senate consent to ratification of the International Convention on the Elimination of All Forms of Racial Discrimination; to sign the Convention on the Rights of the Child; and to negotiate the International Labor Organization Convention on the Worst Forms of Child Labor, as well as UN protocols against trafficking in persons, exploitation of children, and use of child soldiers. The Clinton Administration combined its emphasis on promoting international human rights norms with an effort to encourage political accountability for human rights abuses--for example, through active US involvement in the UN Human Rights Commission. US officials also recognized that the United States could not easily urge upon others standards of behavior and accountability that the US government was unprepared to accept for itself, and the Administration spent a great deal of time and energy in preparing reports on human rights practices in the United States, which were submitted to UN bodies pursuant to treaties relating to civil and political rights, torture, and racial discrimination.

*225 The Clinton Administration also embraced the concept of international criminal accountability for massive human rights violations and played a leading role in efforts to establish the International Criminal Tribunals for the Former Yugoslavia and Rwanda. In the case of the Balkans, in particular, the Administration viewed the Tribunal not only as a means to ensure justice for victims of grave abuses, but also as part of an international political effort to marginalize extremists and thereby encourage regional peace, stability, and reconciliation.

In 1995, on the strength of this general orientation toward human rights and accountability, several factors set the stage for a Clinton Administration commitment in principle to an International Criminal Court. These included sympathy within the Administration for a permanent structure which might obviate the need for ad hoc tribunals, and the completion of a draft statute on an International Criminal Court by the UN's International Law Commission--a draft that envisioned a "gatekeeper" role for the UN Security Council analogous in many ways to the role played by the Security Council in the Yugoslavia and Rwanda Tribunals.

Senior US officials saw an opportunity to advance the issue at an October 1995 event at the University of Connecticut. It was there that the President was to inaugurate a research center named for Senator Thomas J. Dodd, who had been a senior prosecutor at the International Military Tribunal at Nuremberg. At the event, the President affirmed the importance of successful prosecution of war criminals in the former Yugoslavia and Rwanda, and noted that the "signal will come across even more loudly and clearly if nations all around the world who value freedom and tolerance establish a permanent international court to prosecute, with the support of the United Nations Security Council, serious violations of humanitarian law." [FN4]

III. Initial US Posture Toward the ICC

The President's endorsement of a "permanent international court" laid the groundwork for the next several years of US diplomacy on the ICC. To be sure, the President's reference to a role for the Security Council reflected a US desire to make certain that the United States, through its veto power in the Council, would have the ability to prevent Court action against US officials. But the reference, and the resulting diplomacy in support of US objectives, reflected a US desire to ensure that the ICC would not undermine the role of the UN Security Council in managing global peace and security issues. US officials were particularly concerned that a Court that was independent of--and therefore not accountable to--the Security Council risked "shoe-horning" into a judicial

*226 framework controversies that are the appropriate province of politics and diplomacy. American officials thought this problem could play out in a number of ways.

First, the Administration argued that the absence of a requirement for Security Council endorsement of ICC action would risk inappropriate, and possibly dangerous, Court interference in international peace and security issues. If, for example, the Security Council were involved in sensitive negotiations to prevent war on the Korean peninsula, it might not be prudent for an institution not accountable to the Security Council to be filing charges against Kim Jong Il for massive violations of human rights. Similarly, the Court could run roughshod over a domestic political consensus that a South African-style truth and reconciliation model, rather than one focused on criminal accountability and punishment, would best serve the cause of political reconciliation in a particular country.

Second, with judges chosen by states parties, US officials feared the Court could become politicized and seek to target Americans. It is difficult to dismiss this concern out of hand. After all, the United States has worldwide responsibilities for international security and maintains more than two-hundred thousand American troops overseas during peacetime. While friends and allies welcome this US role, it is in many cases resented by America's adversaries. Why wouldn't they seek to use the Court to level the playing field--that is, strike out against the American government through judicial proceedings when other avenues of attack were unavailable? Proponents of a highly independent Court claimed that US officials would be protected by the Treaty's incorporation of complementarity, or deferral of cases to domestic courts unless it was determined that the state with jurisdiction was genuinely unable or unwilling to investigate (and prosecute if warranted). [FN5] But this did not quell official US concerns, as the complementarity provision under discussion (and ultimately adopted) left to judges of the Court the final decision on the adequacy of domestic judicial institutions.

It is also worth noting that for many opponents of a highly independent ICC, the integrity of Court judges was not necessarily the key issue. Rather, it was that an ICC not subservient to the UN Security Council would be insufficiently accountable to US political, legislative, and judicial processes. This concern was heightened by the existence of differing perspectives internationally regarding the specific requirements of international humanitarian law. In short, there could well be situations where the US interpreted the law to permit actions that other states (and ICC prosecutors and judges) believed to be prohibited.

*227 Finally, US officials expressed concerns regarding the impact of an independent ICC on the willingness of capable states to engage in international humanitarian actions. They argued that, in the absence of Security Council supervision, the United States and other militarily capable states might be deterred from deploying militaries to save lives if they feared that their soldiers might be put before the ICC for alleged human rights violations in the conduct of a humanitarian rescue operation.

In essence, advocates of a strong and independent Court not directly accountable to the UN Security Council argued that the United States had it backwards. The problem was not that a strong Court would seek to impose law where politics and diplomacy should govern. Rather, an ICC whose actions could be vetoed by the most powerful states in the international system (that is, the permanent members of the Security Council) would ensure the imposition of politics where law ought to prevail, and thereby sustain the prerogative of the United States and others to disregard human rights norms when compliance proved inconvenient. They argued that an international judicial institution of this nature needed to be accountable to a much broader constituency than the fifteen members of the Security Council.

Advocates of a more independent Court also noted that international law already sanctions trials of foreign nationals by sovereign states for crimes committed in their territories, and that governments ratifying an ICC Treaty would only be transferring that prerogative to an international institution. Thus, US concerns about the limited accountability of this institution to the US political and legal process were overblown. Finally, proponents of a strong Court contended that US fears of politicization were also exaggerated; the institution itself would be properly accountable to the states parties to the Treaty, which would choose judges and a prosecutor and otherwise influence the Court's growth and development.

In sum, the debate on the ICC reflects sharply divergent views about the constituencies to which an International Criminal Court should be accountable. This should not be surprising, as the two sides of the debate have widely differing beliefs about the nature of sovereign prerogatives, the role of existing international institutions designed to maintain international peace and security, and the potential integrity and capacity of new structures. The dilemma, of course, is that the position of each side is defensible. The risks that each has identified are real, and it is only in the practical evolution of the Court that we will discover how these issues will be managed.

But the fact remains that the US position on a gatekeeper role for the Security Council did not prevail. Instead, the US is left with a Rome Statute that will, in specified circumstances, enable the ICC to assert jurisdiction over US *228 citizens for alleged acts of genocide, crimes against humanity, and war crimes. [FN6] Moreover, the US refusal to ratify will not insulate Americans from the Court's claims of jurisdiction, though any such claims will be subject to the provisions of complementarity previously described. The US is also left with a Treaty that came into force with its sixtieth ratification in 2002 and is expected to begin operations in earnest this year.

So how should the United States manage this situation?

IV. Dexterous Multilateralism

It was in the context of this dilemma that President Clinton faced the decision on signature in late 2000. By December, it had become clear that US diplomatic efforts to obtain significant additional protections--efforts which had continued even after adoption of the Rome Statute--would not succeed. At the same time, the President had reviewed material describing the impending December 31 deadline for signature and asked National Security Advisor Sandy Berger about its status. As the principal White House Advisor on the ICC, I was tasked with drafting a response, and I concluded that the President's inquiry demanded more than a simple reiteration of US policy against the Rome Statute. In a memorandum to Berger, prepared in conjunction with other offices at the National Security Council ("NSC"), I recommended that NSC staff develop an options paper, laying out the cases for and against signature. Berger endorsed the exercise and ultimately sent a memorandum to the President presenting both sides of the issue, and reflecting a strong divergence of views not only within the NSC staff, but among Administration agencies.

It is worth noting that Berger insisted that the case against signature be made as robustly as possible; in fact, he returned an early memorandum I drafted and instructed me to strengthen the arguments behind the "no" option. I did not believe he was seeking to stack the deck against signature. Rather, I was convinced he believed the President was inclined toward signature and wanted the President to be well aware of the downsides before taking such action. Berger's posture was in keeping with his integrity, his excellent political instincts, and his loyalty to the President.

The case against signature was straightforward. In essence, signing could undermine US opposition to key elements of the Rome Statute by sending the confusing message that the US now endorsed a Treaty that it had opposed *229 strongly only two years before, and accepted provisions that the Administration continued to believe conflicted with US interests. Moreover, signing might not even serve the ultimate objectives of Court proponents, as it could enhance momentum for efforts in the Congress and the incoming Administration to take action against the Treaty.

The argument for signing was more complicated. Of course, signing would send a powerful signal of United States support for the principle of international accountability for massive abuses of human rights. From the time of the Nuremberg Tribunal to the formation of the International Criminal Tribunals for the Former Yugoslavia and Rwanda, the United States has been at the forefront of efforts to ensure such accountability. And, like it or not, the ICC had become the most likely inheritor of the Nuremberg legacy. Signing also sent a signal to other governments of US engagement with the ICC, which might help to persuade them to consider seriously US concerns.

But could the United States sign and sustain its opposition to key elements of the Treaty? Administration legal experts agreed that the US government could do so: that signature would not prevent the United States from conditioning ratification on the satisfaction of its concerns (especially if those concerns could be addressed without altering the text of the Rome Statute—that is, in documents that supplemented the Treaty); and that signing would not preclude the government from rejecting Court efforts to assert jurisdiction over US officials.

As the end of the year approached, the issue was briefed to the President and, on Saturday night, December 30, the National Security Advisor informed me that the President had decided to sign. The President's statement upon signature expressed support for the principle of accountability, but also emphasized that the Administration retained its serious concerns about jurisdictional issues in the Rome Statute. In particular, the statement emphasized US opposition to the Court's assertion of jurisdiction over the nationals of nonparty states, with the President asserting that he would not submit the Treaty to the Senate for advice and consent to ratification, nor recommend that his successor do so, "until our fundamental concerns are satisfied." [FN7] Nonetheless, the statement argued that "signature is the right action to take at this point," as it would put the United States "in a position to influence the evolution of the Court." [FN8]

*230 V. Assessing the Case for Signature

While US signature was far from an unequivocal endorsement of the Rome Statute of the ICC, it did indeed suggest a willingness to be a "good neighbor" to the Court, and to avoid attacks on the institution as the United States sought to encourage modifications to address US concerns. Signing also implied a willingness to consider the functioning of the Court over time, and to be prepared to adjust US approaches accordingly.

Noting that the United States retained its fundamental concerns about the Court, critics of signature question why this good neighbor approach was more appropriate than one designed to thwart the functioning of the Court. They argue that the United States could have diminished the Treaty's power and influence by refusing to sign it, even while recognizing the inevitability of the Treaty coming into force.

A good neighbor approach makes more sense for both tactical and philosophical reasons. On the tactical level, the United States has increasingly found itself outnumbered in multilateral treaty negotiations, where the principle of one nation, one vote often prevails. When confronted with the reality that a preferred US position

does not command majority support, US officials must decide whether to remain engaged and offer (or accept) compromises that are far from ideal, or whether to stick to their guns, walk away from a process that the United States cannot dictate, and risk an outcome that is worse than compromises that could have been achieved.

The correct choice is not always self-evident. As a general matter, treaty provisions are not binding upon nonparties. Thus, rejecting a compromise about which US officials are not enthusiastic--even if it assures that other countries adopt a treaty that is unacceptable to the United States--is an option. But it can be an option with serious costs.

In some cases, the obligations agreed upon by others and formalized in a treaty to which the US is not party will, at a minimum, negatively impact US diplomacy and, in the more extreme cases, have implications for US freedom of action on important peace and security issues. Such was the case with the Ottawa process leading to the Convention on the Prohibition of Landmines. While the United States is not bound by the Ottawa Treaty provisions, many of its allies are, raising complicated questions about US use and deployment of landmines in combined operations.

In other cases, obligations agreed upon by others will inform the development of general international norms affecting US equities. That was certainly true with the Landmines Convention. It was also the case in negotiations on rules relating to the Rome Statute of the ICC, where, for example, Pentagon officials played a central role in establishing the definitions of crimes. But to play this sort of a role, the United States must remain engaged.

*231 The experiences of the Clinton Administration in two negotiations involving human rights issues provide contrasting models of US engagement, and offer valuable insights into how the US might position itself on issues of this kind.

The first negotiation involved the ICC itself and, in particular, the US posture prior to the international conference that resulted in the Rome Statute in 1998. As indicated above, US support at the time for a "gatekeeper" role for the UN Security Council reflected an Administration consensus that the United States should not permit its nationals to be subject to the jurisdiction of the Court without some prior act of US consent. As we now well know, that position ran up against substantial sentiment among negotiating parties in favor of more expansive jurisdiction for the Court.

But before the final Rome negotiations began in earnest, US and foreign diplomats suggested that a deal was possible: in return for accepting ICC jurisdiction over the nationals of states that ratified the Treaty, the United States could secure protection from prosecution for officials from nonratifying states. Although this outcome would have ensured that the United States would not be an early ratifier of the Rome Statute, proponents of the deal, including senior officials in the Department of State, argued that nonaccession was worth the benefits of the protection accorded US officials and continued US engagement in the ICC process. [FN9]

However, the Administration could not reach an early consensus on whether to offer such a compromise. Thus, until the very end of the Rome Conference, the Administration insisted that Treaty parties--that is, governments that chose to ratify--be entitled to limit the ICC's jurisdiction over their nationals through broad opt-out provisions in the Statute.

Proponents of this tougher US position, led by senior defense and military officials, argued that the Clinton Administration should not agree to a Treaty that it could not ratify in due course, and that, through more vigor-

ous diplomatic efforts, the United States could achieve the more ambitious negotiating objective. Frankly, proponents of the tougher line may also have been concerned that, after accepting a compromise and obtaining an agreed text, the Clinton Administration or a successor might be tempted to seek ratification even if it meant ICC jurisdiction over US officials. In any event, the divergence of views within the government was not resolved prior to the Rome Conference, and the outcome was a Treaty which asserts Court jurisdiction over nationals of both parties and nonparties.

*232 The irony of this situation is that the deal that the Administration might have achieved, but did not seek, in Rome quickly became the fix that the US sought in the post-Treaty negotiations. Some may question whether the Administration, even in Rome, could have achieved the compromise arrangement. [FN10] But there is no question that whatever opportunity there had been to do so had long passed once the Rome Statute had been adopted.

This diplomatic outcome contrasts with the result of a second negotiation, which ended in 2000 and involved a draft Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict. [FN11] For several years prior to 2000, there had been broad international consensus that the Convention's minimum age for recruitment into the armed forces and participation in hostilities--set at fifteen years of age--should be raised. Many US negotiating counterparts were urging the Administration to accept an eighteen-year-old minimum for both recruitment and participation in hostilities. The US position had long been that seventeen-year-olds, with permission of their parents, should be permitted to enter the armed forces and to participate in hostilities. The Administration believed, with great merit, that the real issue was not seventeen versus eighteen, but rather the question of much younger children conscripted into combat in many parts of the developing world. US Defense Department officials contended that US military readiness requirements, and the need to tap into the nationwide pool of potential candidates in high school, made it essential that the United States be able to recruit seventeen-year-olds. Moreover, US military leaders were hardly eager to place restrictions on the deployment of seventeen-year-olds once they were recruited.

In negotiations that took place during much of the 1990s, the US stood firm on a seventeen-year-old floor for both recruitment and participation in hostilities. However, it became apparent in 1999 that US unwillingness to bend on this across-the-board position could diminish incentives for compromise among US negotiating counterparts, and risk the hardening of a consensus among many other governments on behalf of an eighteen-year-old minimum for both recruitment and participation in hostilities.

Thus, with the ICC and Landmines experiences fresh in the minds of civilian and military leaders at the Pentagon, officials began to consider carefully what might be an acceptable, if not an ideal, arrangement. Upon review, the Department of Defense ("DOD") determined that taking "all feasible measures" to withhold seventeen-year-olds from "direct participation" in hostilities would not have a discernible impact on readiness or on other national security interests. *233 Reversing a longstanding insistence on retaining the existing policy, DOD officials signaled their willingness to accept an eighteen-year-old standard for participation in hostilities, a position that the Administration adopted and presented to US negotiating partners. The US shift on this issue averted pressures for an eighteen-year-old standard for recruitment, and the result was a Protocol that garnered broad support within the international community. [FN12]

In the Child Soldiers Protocol negotiations, and for the first time in recent memory, the United States expressed a willingness to change a major US military practice solely to conform to the requirements of an international human rights treaty. In so doing, officials diminished the likelihood that future US administrations would

face international pressures to alter US practices with respect to the recruitment and training of seventeen-year-olds. The action also made sense in terms of building US goodwill among a range of other governments and sustaining American engagement in the development of international human rights law.

US engagement on the Child Soldiers Protocol provides the right model for thinking about the US posture toward the ICC. Of course, the stakes in the case of the ICC are higher, and the US is probably without the ability to modify the text of the Rome Statute. At the same time, the ICC will soon be up and running in earnest, and the Court, as well as Treaty parties, will consider many issues impacting US interests. For example, the United States has a critical interest in influencing decisions on the general role of the UN Security Council in determining whether a crime of aggression has occurred. Similarly, with the proliferation of international legal actions against human rights violators in domestic courts from Chile to Belgium to the United Kingdom, some have suggested that the ICC might play a role in rationalizing decisions on difficult jurisdictional issues. As in the case of aggression, the US government would have a keen interest in influencing action that the ICC might take in this area. Also, with the advent of the ICC, the UN Security Council may be unlikely to adopt ad hoc tribunals for crimes committed after entry into force of the Rome Statute. Thus, in the context of a Security Council consensus to go after a future Slobodan Milosevic, the United States would not want to have foreclosed any possibility of US-ICC cooperation.

Finally, it is important to consider the US posture toward the ICC in terms of the historic commitment of the United States to international human rights, the rule of law, and accountability for grave abuses--commitments that hardly began with the Clinton Administration. In fact, it was not Madeleine Albright,^{*234} but rather Lawrence Eagleburger, President George H.W. Bush's last Secretary of State, who arguably set the United States on a course that ultimately fostered the adoption of the Treaty to establish an International Criminal Court. In December 1992, at the International Conference on the Former Yugoslavia in Geneva, Switzerland, the then-Secretary declared that it was "time for the international community to begin identifying individuals who may have to answer for having committed crimes against humanity." [FN13] He also endorsed the UN process to establish accountability, and urged the incoming Clinton Administration to carry forward the effort. Eagleburger's tough language was the logical extension of Bush Administration support, two months earlier, for the creation of a UN commission of experts to examine evidence of war crimes and to recommend further appropriate steps to address this issue.

VI. The Bush Administration and the Way Ahead

As reflected by US efforts to ensure the delivery of Slobodan Milosevic to the Hague to face prosecution by the International Criminal Tribunal for the Former Yugoslavia, the second Bush Administration has sought to use the concept of international criminal accountability in the Balkans in much the same way as did the Clinton Administration: to marginalize extremists and thereby promote the process of democratization. To be sure, it is nowhere ordained that American support for the principles of universality and international accountability through an ad hoc international criminal tribunal compels the United States to embrace the ICC in its current form. But unequivocal opposition, reflected, for example, in efforts to force other governments to modify their commitments to the Court, cannot reasonably be reconciled with the United States' historic posture on the question of human rights and accountability.

Unfortunately, the Bush Administration's posture toward the ICC has tended toward this more extreme position. Shortly after formally renouncing US signature (and any obligations attendant to that act) in May 2002, the

Administration sought Security Council endorsement of an indefinite exemption from ICC jurisdiction for all US officials engaged in peacekeeping operations anywhere in the world. Moreover, the US threatened not only to withdraw official US personnel from all UN operations if the US did not get its way, but also threatened to veto continuation of a UN law enforcement assistance mission in Bosnia and Herzegovina that was up for renewal in June 2002. The overwhelming majority of other governments opposed the US position, and while US allies sought some sort of compromise, they argued that the Rome Statute effectively authorized the Security Council to provide only one year, and *235 not indefinite, exemptions from prosecution. [FN14] Thus, even US friends and allies were loath to accept a US proposal that would force them to undermine the text of a Treaty they had only recently ratified. Nonetheless, the Administration held firm and, on July 1, 2002, vetoed extension of the UN mission in Bosnia. At the time, Administration critics, including this author, noted that the US is now depending on the leadership of other governments in peacekeeping missions in Afghanistan, the Balkans, and East Timor, and argued that US threats of disengagement sent the wrong message to allies whose support in the war on terrorism, Iraq, and other issues will be critical in the years ahead. [FN15] Although the Administration ultimately changed its approach and accepted a one-year exemption (which enabled continuation of the Bosnia mission), the compromise came after much of the diplomatic damage had already been done. [FN16]

As the Bush Administration confronts additional ICC-related issues in the months and years to come, a far more prudent course would be to restore the prior Administration's posture of dexterous multilateralism. In that posture, the Bush Administration could still emphasize that it is not prepared to support ratification or endorse Treaty provisions on Court jurisdiction over the nationals of nonparties. But the Administration could also make it clear that it is keeping its options open and avoiding actions that would undermine the Court and imperil a future US relationship with the institution.

In view of Administration statements and actions over the past two years, it is unrealistic to expect President Bush to embrace the ICC. At the same time, it is not unreasonable to expect the Administration to avoid a self-defeating and hostile approach toward the Court, which will serve only to antagonize valued allies and undermine US leadership around the world.

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[FN1]. See Rome Statute of the International Criminal Court, UN Doc No A/CONF.183/9, reprinted in 37 ILM 999 (1998) (hereinafter Rome Statute).

[FN2]. John R. Bolton, *Unsign That Treaty*, Wash Post A21 (Jan 4, 2001).

[FN3]. Statement by the President, *Signature of the International Criminal Court Treaty* (Dec 31, 2000), available online at <<http://usinfo.state.gov/topical/pol/usandun/00123101.htm>> (visited Mar 30, 2003).

[FN4]. William J. Clinton, Remarks at the University of Connecticut in Storrs, 2 Pub Papers 1595, 1597 (Oct 15, 1995).

[FN5]. See Rome Statute at art 17 (cited in note 1) ("A case is inadmissible where: ... (a) The case is being investigated or prosecuted by a State which has jurisdiction over it, unless the State is unwilling or unable genuinely to carry out the investigation or prosecution.").

[FN6]. The Rome Statute would permit the Court to assert jurisdiction over US citizens if the alleged crimes were committed in the territory of a state that was a party to the Treaty or in a state that accepted the Court's jurisdiction. In addition, US citizens could in theory be prosecuted as a result of UN Security Council referral of a situation to the ICC, although the US veto in the Council would enable the US Government to prevent such a referral. See Rome Statute at arts 12-13 (cited in note 1).

[FN7]. Statement by the President (cited in note 3).

[FN8]. *Id.*

[FN9]. Had such a provision been included in the Rome Statute, it would not have necessarily barred all ICC action against officials of nonratifying states. This is because Security Council resolutions could have established jurisdiction over officials of nonratifying states in specific cases.

[FN10]. Of course, many would argue that such a compromise would have rendered the Treaty fatally flawed.

[FN11]. See Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, General Assembly Res No 54/263, UN Doc No A/Res/54/263 (2000) (hereinafter Child Soldiers Protocol).

[FN12]. See *id.* at arts 1-4. The Clinton Administration signed, and the Bush Administration ultimately ratified this important measure. See US Dept of State, Ratification of Optional Protocols to the Convention on the Rights of the Child (Dec 23, 2002), available online at <<http://www.state.gov/r/pa/prs/ps/2002/16198.htm>> (visited Mar 30, 2003).

[FN13]. Lawrence Eagleburger, The Need to Respond to War Crimes in the Former Yugoslavia, 3 US Dept of State Dispatch 923, 923 (1992).

[FN14]. The relevant provision is Article 16 of the Rome Statute, which provides: "No investigation or prosecution may be commenced or proceeded with under this Statute for a period of 12 months after the Security Council, in a resolution adopted under Chapter VII of the Charter of the United Nations, has requested the Court to that effect; that request may be renewed by the Council under the same conditions." Rome Statute at art 16 (cited in note 1).

[FN15]. For the author's views at the time, see Eric Schwartz, The US Assault on World Criminal Court, Boston Globe A11 (July 1, 2002).

[FN16]. UNSC Resolution 1422, adopted on July 12, 2002, provides a one year exemption for "current or former officials or personnel from a contributing State not a Party to the Rome Statute over acts or omissions relating to a United Nations established or authorized operation." Security Council Res No 1422, UN Doc No S/RES/1422 (2002).

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