



## Instrumental Role of Nuremberg trial: In protection of human rights and evolution of international criminal laws

Aman Mishra<sup>1</sup>, Diksha Tripathi<sup>2</sup>

<sup>1</sup> Assistant Professor, Department of Law, Bharati Vidhyapeeth Deemed to be University New Law College Pune, Maharashtra, India

<sup>2</sup> Assistant Professor, Arham Law College, Pune, Maharashtra, India

### Abstract

“To deny people their human rights is to challenge their very humanity” Nelson Mandela.

This paper conducts in depth study of Nuremberg trials and its influence on the development of International Human Right as well as International criminal laws, the paper has explored the course of trial from its establishment to its verdict with all the turmoil and challenges that came along with it and its influence on cultivating the new International laws. The paper has explored the works of various researchers, scholars, jurists, speeches of Judges as well as documentaries related to the trial.

The motive behind writing this paper is to bring into light Historic development of International Human Rights as well as International Criminal laws which helped in establishment of various tribunals, conventions, declarations and International Criminal Court.

The methodology used to write paper is qualitative in nature, the paper seeks to answer the question as to how denial of basic human rights can lead to waging of wars which can impact the whole society and lead towards insane destruction the recovery from which can take decades, furthermore paper also explores how a nation can play its role of penalizing the criminals committing such crimes.

In conclusion paper presents before you how changing set of circumstances after World War II and establishment of Nuremberg Tribunal had led to change in international laws of crime and Human Rights which are becoming more and more relevant as move along with changing times.

**Keywords:** Criminal laws, criminal court, IMT

### Introduction

On October 18, 1945, the opening session of international war crimes trial in history took place in Berlin, Germany. Unable to find a suitable venue in the destroyed Nazi capital, the court soon moved to the city of Nuremberg (Nürnberg) in Bavaria, where the highest profile cases were heard in the aptly named Palace of Justice between November 20, 1945 and August 31, 1946. Over the course of nine months, the International Military Tribunal (IMT) indicted 24 high-ranking military, political, and industrial leaders of the Third Reich. It charged them with war crimes, crimes against peace, crimes against humanity, and conspiracy to commit these crimes.

Nuremberg trial took place after the World War II ended, on 8<sup>th</sup> May 1945 Germany signed on surrender in Europe. After the war got over the allied leaders as well as general public called on for penalizing the Nazi (German) leaders and major war criminals, but the leaders from different countries had different views on how they would execute this important task as history had never witnessed these set of circumstances before. Some world leaders were of the view that all Nazi Military leaders should be brought together and executed, on the other hand some world leaders like Churchill of Britain were of the view that Summary Execution without trial should be performed, America had an opinion of running case against the leaders with proper trial and granting them punishment accordingly.

### A brief timeline of World War II

With Adolf Hitler leading a German invasion of Poland in 1939, World War II was launched, a deadly global conflict

waged across Europe and the Pacific until 1945. Bloody battles raged between the Allied powers, which included Britain, France, the Soviet Union and the United States, along with other nations, and the Axis, notably Germany and Japan.

When the Axis ultimately Surrendered, some 20 million soldiers were dead, along with an estimated 40 million civilians. Below is a timeline of the war's most significant battles:

Battle of the Atlantic: September 3, 1939 to May 8, 1945

Battle of Dunkirk from May 26 to June 4, 1940

Battle of Britain, July 10 to October 31, 1940

Battle of Crete: May 20 to June 1, 1941

The Siege of Leningrad: September 8, 1941 to January 27, 1944

Battle of Moscow: October 2, 1941 to January 7, 1942

Battle of Pearl Harbor, December 7, 1941

Second Battle of Kharkov: May 12-28, 1942

Battle of Midway, June 4-7, 1942

Battle of the Guadalcanal Campaign: August 7, 1942 to February 9, 1943

Battle of Stalingrad, August 23, 1942 to February 2, 1943

Operation Torch: November 8-16, 1942

Battle of Kursk, July 5 to August 23, 1943

Battle of Monte Cassino: January 17 to May 18, 1944

Battle of Anzio: January 22 to June 5, 1944

Battle of the Philippine Sea: June 19-20, 1944

Battle of Normandy, June 6 to August 30, 1944

Battle of Leyte Gulf: October 23-26, 1944

Battle of the Bulge: December 16, 1944 to January 25, 1945

Battle of Iwo Jima: February 19 to March 26, 1945

Battle of Berlin, April 16 to May 2, 1945

Battle of Okinawa: April 1 to June 22, 1945

### **Reasons for conducting and recording the trial**

After World War I ended and Germany lost the war the general public started to question the reason for the loss. They were informed by the Nazi's leaders that the reason for their loss was other leaders betrayal to them, but the truth was far from different. Later these declarations lead to misconceptions in the minds of people and they Blindly supported Nazi's. This became one of the main reasons which lead to recording of the trials, the recordings and documentaries were prepared for the reference of future generations. The motive was to set an example for coming generations, these recordings and documentaries on the trial shall time and again remind people about the reasons that lead to war as well as consequences that came after.

Secondly, another aspect that was kept in mind while recording the trials was that even after all the efforts of making treaties, conventions and international institutions if any war took place in future, then this piece of evidence that is the recordings, documentaries, researches shall guide the future generation lawyers, judges, law makers etc. on how to proceed from that present scenario.

Thirdly, this Trial had a great impact on the international laws it had changed the course of international law from being country centric, organisation centric, group centric towards individual centric. This trial made international law a law which not only governed countries as a whole rather it also governed people on individual levels. This trial not only punished the organisations that were involved but also people who worked on personal level to fulfil the intention of these organisations against the whole humanity.

Lastly, this trial also played a key role in solving the purpose of jurisdiction by trial the various major criminals from different geographical locations at one place making the work of the tribunal easy and punish the criminals without wasting any time on issues like place of trial, transfer of case from one state to another etc.

### **Establishment of the Nuremberg Tribunal**

The Nuremberg Tribunal was established for prosecution of the major war criminals of the European Axis whose crimes had no particular geographical location, the tribunal was formally known as International Military Tribunals (IMT) It was established It took place in the city of Nuremberg, Germany, from November 20, 1945, to October 1, 1946. It was established by the United Kingdom of Great Britain and Northern Ireland, the United States of America, France and Soviet Union by an agreement signed at London on 8 August 1945, the charter was annexed to London Agreement and formed an integral part thereof later other States subsequently adhered to the London Agreement.

Later United Nations also unanimously affirmed the principles of the international law that were recognized by the charter and the Judgement of the Nuremberg Trial. The key provisions of the agreement included:

1. The prosecution of individuals responsible for crimes against peace, war crimes, and crimes against humanity committed during the war.
2. The tribunal was to be composed of judges and prosecutors from each of the four Allied powers.

3. The indictment and prosecution of major war criminals, including government officials, military leaders, and influential figures from Nazi Germany.
4. A definition of crimes under international law, including crimes against peace (planning and initiating a war of aggression), war crimes (violations of the laws and customs of war), and crimes against humanity (systematic and widespread atrocities against civilian populations).

The Nuremberg Trials resulted in the indictment and prosecution of 24 top-ranking Nazi officials, including figures like Hermann Göring, Rudolf Hess, and Joachim von Ribbentrop. The tribunal found several of them guilty of various charges, and many were sentenced to death or long prison terms.

The Nuremberg Trials were significant in establishing principles of international law, including the concept that individuals could be held accountable for their actions under international law. These principles laid the groundwork for subsequent trials of war criminals and the development of modern international criminal law.

### **Appointing the Court: Judges and Prosecutors**

Each of the countries who had formed alliance named International Military Tribunal – The United States, France, Great Britain and the Soviet Union – appointed one Judge, One alternate Judge and a prosecution team. The tribunal was given responsibility to conduct a fair trial and provide defendants with the rights to speak, right to present evidence and present witnesses in their own defence, they were also given right to cross – examine the prosecution.

### **The Judges of Nuremberg Tribunal**

#### **Great Britain's Judges**

Ruddy-faced British judge Geoffrey Lawrence, the sixty-year-old former Lord Chief Justice of England, served as president of the court, presiding over the trial and breaking any ties. British alternate judge Norman Birkett, one of the foremost criminal lawyers in England, was known for representing an American woman, Wallis Simpson, in the 1936 divorce that enabled her to marry King Edward VIII.

#### **The American Judges**

When he took office in April 1945, President Harry Truman had fired President Franklin Roosevelt's attorney general, Francis Biddle. To dispel hard feelings, the new president appointed Biddle as the judge for the Nuremberg trial. Truman was also considering the appointment of John Parker to a vacancy on the Supreme Court, but was reluctant to upset labour unions, which Parker had ruled against. An appointment as an alternate to the bench at Nuremberg gave Parker a prestigious post and freed Truman to make a different appointment to the Supreme Court.

#### **The French Team**

French judge Henri Donnedieu de Vabres spoke fluent German and sported a snow-white walrus mustache that he twirled for emphasis during his dramatic orations. French alternate Robert Falco spoke English and had served on France's highest court.

### Judges from the Soviet Union

Russian Ion Nikitchenko was a Nuremberg prosecutor before being recalled to Moscow and dispatched again as a judge. His alternate Alexander Volchkov was also versatile, having worked as a prosecutor, criminal judge, and a diplomat.

### The Prosecution teams

- Associate Justice Robert H Jackson (United States)
- Attorney General Sir Hartley Shawcross (United Kingdom)
- Francois de Menthon, later replaced by Auguste Champetier de Ribes (France)
- Lieutenant General Roman Andreyevich Rudenko (Soviet Union)
- The presiding Judge of the court was Lord Justice Geoffrey Lawrence of Great Britain. As the Judges and the prosecutors as well as the defendants belongs to different countries there was language barrier among all of them and therefore all the proceedings would simultaneously translated into English, French, German and Russian.

### Jurisdiction under Nuremberg Trial

One of the major highlights of this trial was that it had a different approach towards establishing the Jurisdiction for criminals from different regions of the world at same place. The Jurisdiction was set forth in the Nuremberg Charter. The Nuremberg Tribunal was allowed inter alia, to try and punish any major war criminals who while World War II took place had committed crimes against peace, including: planning, preparing, initiating or waging a war of aggression, or a war in violation of international treaties, agreements or assurances, or preparing in a common plan or conspiracy to accomplish any of the above. The Organisations were also put on trial for any of the major crimes that they promoted, planned, organised or encouraged other people join, etc.

21 defendants came to the court for the trial from different areas of States for committing major war crimes it was not an easy task as this was never done before.

### Indictments Under Nuremberg Trial

The Nuremberg Charter established the Committee for the investigation and Prosecution of Major War Criminals consisting of the Chief Prosecution appointed by the signatory States. The Committee approved the indictment against the defendants designated as major war criminals. The indictment was submitted to the Nuremberg Tribunal on 18 October 1945.

Count one of the indictments addressed the common plan or conspiracy to commit, inter alia, crimes against peace. Count two contained the charges relating to crimes.

### The Defendants under the trial

The count one and two of the indictment contained charges against total 24 defendants as follows:

1. Hermann Göring - Chief of the Luftwaffe (Nazi Air Force).
2. Rudolf Hess - Deputy Führer.
3. Joachim von Ribbentrop - Minister of Foreign Affairs.
4. Wilhelm Keitel - Chief of the Supreme High Command of the Armed Forces.
5. Ernst Kaltenbrunner - Chief of the Reich Main Security Office.

6. Alfred Rosenberg - Minister for the Eastern Territories.
7. Hans Frank - Governor-General of occupied Poland.
8. Wilhelm Frick - Minister of the Interior.
9. Julius Streicher - Publisher of the anti-Semitic newspaper "Der Stürmer."
10. Walter Funk - Minister of Economics and President of the Reichsbank.
11. Hjalmar Schacht - Economist and banker.
12. Karl Dönitz - Grand Admiral and Commander-in-Chief of the Kriegsmarine (German Navy).
13. Erich Raeder - Former Grand Admiral.
14. Baldur von Schirach - Leader of the Hitler Youth.
15. Fritz Sauckel - Plenipotentiary General for Labor Deployment.
16. Alfred Jodl - Chief of the Operations Staff of the Armed Forces High Command.
17. Franz von Papen - Diplomat and former Vice-Chancellor.
18. Arthur Seyss-Inquart - Reich Commissioner for the Netherlands.
19. Albert Speer - Minister of Armaments and War Production.
20. Konstantin von Neurath - Protector of Bohemia and Moravia (former Czechoslovakia).
21. Hans Fritzsche - Head of the Radio Division of the Ministry of Propaganda.
22. Martin Bormann - Private Secretary to Adolf Hitler (tried in absentia).
23. Franz von Papen - Diplomat and former Vice-Chancellor (acquitted).
24. Gustav Krupp von Bohlen und Halbach - Head of the Krupp industrial empire (found medically unfit for trial).

Two of the defendants did not stand trial: Robert Ley committed suicide in prison on 25 October 1945; and Gustav Krupp von Bohlen und Halbach could not be tried because of his physical and mental condition, by decision of Nuremberg Tribunal of 15 November 1945.

Martin Bormann was tried in his absence, in accordance with article 12 of Nuremberg Charter, by decision of the Nuremberg Tribunal of 17 November 1945. All of the defendants entered a plea of "not guilty", except for the defendant Bormann who was not present but was represented by counsel in accordance with article 16 of the Nuremberg charter.

The incitements lodged against the defendants under the Nuremberg Trial were contained under counts and other:

1. **Count one:** The common plan or conspiracy to commit crimes against peace
2. **Count two:** Planning, preparing, initiating and waging war as crimes against peace
3. **Count Three:** Crime against Humanity
4. The indictment also had specific charges against the defendants

These charges were grounded on the principles that were established by the London Charter of the International Military Tribunal (IMT) and the Nuremberg Principles. The idea behind establishing these principles was that individuals can also be held liable for the committing these crimes even if they were acting on behalf of a government or a state.

### The List of Organisations under Trial:

- The Secret State Police (Gestapo)
- The Protection Squad (SS)
- The Reich Cabinet
- The Leadership Corps of the Nazi Party
- The Stormtroopers (SA)
- The Security Service (SD)
- The General Staff and High Command of the German Armed Forces.

The indictment was read on November 20, 1945 with 21 defendants appearing in court. The suicides of top Nazi leaders such as Adolf Hitler, Joseph Goebbels, and Heinrich Himmler prevented them from standing trial. Head of the German Labor Front, Robert Ley, committed suicide the day before the trial.

### The Beginning of the Trial

The Journey of the Nuremberg Trial began on November 20, 1945 in Palace of Justice in Nuremberg Germany to October 1, 1946. The was to be done of 24 defendants and some organisations who were involved in committing major war crimes in World War II. There were many requests to postpone the trial on various grounds from Soviet prosecution but all the plead were rejected by the court. The court was of the view that the role of trial is much more than just punishing people and organisations for major War crimes they have committed rather it is about setting an example for future generations. The main motive behind organizing this trial was to lay a precedent in the field of international law.

When the trial started many people came in the Palace of Justice to watch the trial take place or to be the witness of changing history more than 400 people attended the proceedings each day, plus 325 correspondents representing 23 different countries were in attendance, moreover translators for all the four languages were also present.

During the trial, the Tribunal—and the world—learned about the the Nazi Party and its "planning, initiating and waging of aggressive war" from the beginning. Footage of Nazi concentration camps taken by Allied military photographers during liberation was shown to the court. The graphic scenes of what had taken place in Europe were the most powerful evidence presented at the trial. Other memorable moments of the trial were the screenings of the *Nazi Concentration and Prison Camps* and *The Nazi Plan* films, the detailed description of the Final Solution, the murders of prisoners of war, atrocities in extermination camps, and countless cruel acts to prosecute Jews.

### Presentation of Evidence during the Trial

During the Nuremberg Trial one of the important tasks was to collect evidences as during those times technology was little in use and less people had access cameras, telephones etc. The work of the court had become more difficult but Judges were determined to keep the trial as authentic as possible therefore most of the evidences on which court relied on were the documentary evidences and affidavits rather than testimonies from survivors.

The American prosecution drew on reports of the Office of Strategic Services, an American intelligence agency, and information provided by the YIVO Institute for Jewish Research and the American Jewish Committee, while the French prosecution presented many documents that it had

obtained from the Centre of Contemporary Jewish Documentation. The prosecution called 37 witnesses compared to the defence's 83, not including 19 defendants who testified on their own behalf. The prosecution examined 110,000 captured German documents and entered 4,600 into evidence, along with 30 kilometres (19 mi) of film and 25,000 photographs.

The charter allowed the admissibility of any evidence deemed to have probative value, Including depositions. Because of the loose evidentiary rules, photographs, charts, maps, and films played an important role in making incredible crimes believable. After the American prosecution submitted many documents at the beginning of the trial, the judges insisted that all of the evidence be read into the record, which slowed the trial. The structure of the charges also caused delays as the same evidence ended up being read out multiple times, when it was relevant to both conspiracy and the other charges.

The trial hearings ended on September 1, 1946. On October 1, 1946, the judges delivered their verdict. They convicted 19 of the defendants and acquitted three.

The judges of the IMT sentenced twelve defendants to death, including Hermann Göring and Martin Bormann.

On October 16, 1946, ten of the condemned were hanged, cremated in Dachau, and their ashes dropped in the Isar River. Hermann Göring escaped the hangman's noose by committing suicide the night before. Martin Bormann, who was convicted *in absentia*, was much later proved to have died in Berlin during the final days of the war.

The IMT also declared the following Nazi party organizations to be criminal organizations:

- the Leadership Corps of the Nazi Party;
- the Gestapo;
- the SS;
- the SD (SS intelligence service).

The court concluded that the criminality of SS membership did not apply to persons whose membership ceased before the start of World War II or to persons who were drafted into the SS and did not participate in its crimes.

The Nuremberg Charter's definition of crimes against humanity specified that they included acts committed "before or during the war." The IMT judges decided, however, that they could only consider crimes against humanity committed *during* the war. Although the judges acknowledged that Nazi Germany committed terrible crimes before the war, including the persecution of Jews, they did not judge the defendants for their role in prewar crimes.

An important legacy of the Nuremberg Charter and the IMT is that they established crimes against humanity as crimes under international law. The IMT judgment addressed the evidence proving war crimes and crimes against humanity together and did not differentiate between the two. Consequently, the judgment provided no precedent for distinguishing crimes against humanity from war crimes.

After this major verdict of Nuremberg trials subsequent series of trials took place, from December 1946 to April 1949, a series of twelve additional military tribunals for war crimes against Nazi Germany leaders were held by the United States in the Palace of Justice. The defendants were 177 high-ranking physicians, judges, industrialists, SS commanders and police commanders, military personnel, civil servants, and diplomats. The trials uncovered the German leadership that supported the Nazi

dictatorship. Of the 177 defendants, 24 were sentenced to death, 20 to lifelong imprisonment, and 98 other prison sentences. Twenty five defendants were found not guilty. Many of the prisoners were released early in the 1950s as a result of pardons. Thirteen of the 24 death sentences were executed.

### Conclusion

After the Nuremberg trial was concluded it received mixed reception which ranged from glorification of the trial to its condemnation, some even called the four allied countries who conducted the trial as hypocrites, but as time has passed by the positive influence of the trial as come across very well. This trial has played crucial role in changing the International criminal laws, earlier it was easy for the individuals to immune themselves from taking responsibility for the wars that has been caused between the nations but after the trials now individuals could be held liable along with nations and organisations. The right to seek justice at an International Court was also recognised by the law. Following are some of the most important changes which came because of this trial –

- The Genocide Convention 1948
- The Universal Declaration of Human Rights 1948
- The Geneva Convention 1949
- The Nuremberg Principles 1950
- The Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity 1968
- The establishment of International Criminal Court 2002

The Nuremberg trial Shape shifted the International criminal laws from shifting responsibility from state to individual, setting legal precedents, to providing right to speak to providing framework to the prosecutors on how to conduct the trial many things have changed or have come to picture which did not exist earlier. These trials have brought into picture how important it for a nation is to protect and provide human rights to its individuals for the development of nations and to maintain peace with other nations.

All in all we can say Nuremberg trial have laid the foundation for the establishment of a new era in the field of International criminal law as well as Human rights, it has with its principles laid many foundations for law formation as well establishment of many institutions which are playing pivotal in delivering justice to states and individuals.

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