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# Setting Precedents for a Nation on Trial: Selection of Defendants for the International Military Tribunal at Nuremberg

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Setting Precedents for a Nation on Trial: Selection of Defendants for the  
International Military Tribunal at Nuremberg

Submitted in partial fulfillment of the requirements  
for the Murray State University Honors Diploma

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The International Military Tribunal in Nuremberg is arguably one of the most famous trials in history. A trial organized by four countries to prosecute the war criminals of one. What actions constituted these defendants at Nuremberg to be chosen as major war criminals? The United States' Justice Jackson alluded to the reason that these defendants were chosen in his pre-trial motion concerning defendant Krupp. "To drop Krupp von Bohlen from this case without substitution of Alfried, drops from the case the entire Krupp family, and defeats any effective judgment against the German armament makers."<sup>1</sup> Is this why Krupp was chosen as a defendant for the International Military Tribunal?

All of these defendants came from within the ranks of German government, military, and society. Twenty-four defendants were indicted and twenty-two defendants were tried after the suicide of Dr. Ley and the finding of Defendant Krupp to be unfit to stand trial. These defendants, from the NSDAP (*Nationalsozialistische Deutsche Arbeiterpartei*) were indicted based on their actions during and before the war. Yet these actions did not include mass killings done by the defendants personally. They were not the soldiers out on the frontlines killing civilians, nor were they the Gestapo killing political opponents, nor were they SA men who killed within the concentration camps. The men that were indicted as major war criminals were desk murderers.<sup>2</sup> Most of the defendants lived in comfy mansions and travelled in private cars and dined richly. They were not the type to brusquely shove women and children to their deaths. Instead they made laws, memorandums, and orders for others to murder millions of people on their behalf.

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<sup>1</sup> *Trial of the Major War Criminals before the International Military Tribunal Volume I* (Nuremberg, 1946), 145.

<sup>2</sup> Hannah Arendt, *Eichmann in Jerusalem: A Report of the Banality of Evil*, (New York, 1964).

When the NSDAP took control of the government of Germany it did not stay in the political sphere, instead it spread to almost all spheres of German life.<sup>3</sup> After the war the allied powers saw the state of Germany as a country that had been corrupted by the powers of the NSDAP. When the end of the war was upon them the allied powers sought to punish those who not only instigated the Second World War but also those who had corrupted the nation into committing all of the atrocities that the Reich was guilty of. This was how the International Military Tribunal was born. When choosing the defendants for this trial the allied powers could have easily picked twenty-four defendants that had done atrocious acts during their time in the Gestapo or the SS, but they did not. The allied powers wanted to hold those accountable for the corruption of the German nation and this involved more than just the Gestapo and SS. Those who were involved included individuals who supported the actions of the whole of NSDAP Germany. In order to punish those that had polluted every sphere of Germany the allied powers had to have all spheres represented. They chose each defendant to either represent an official organization, such as the SS or Gestapo, or to represent a category or an unofficial group such as industrialists. The unofficial groups were the ones who supported the NSDAP through less explicit means. My argument is that in order to do this the allied powers selected each defendant and organization in such a way that the legal precedent would affect the not only largest amount possible but also those who had supported this regime.

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<sup>3</sup> Peter Fritzsche, *Life and Death in the Third Reich* (The United States of America: Fellows of Harvard College, 2008)

In United States law the legal definition of precedent is “a case which establishes legal principles to a certain set of facts, coming to a certain conclusion, and which is to be followed from that point on when similar or identical facts are before a court.”<sup>4</sup> In layman’s terms this means that the outcome of a case will create principles of law that other cases with similar facts have to follow. This creates a judiciary system which is fluid and allows laws the ability to change to fit every circumstance that might arise. Someone of legal authority, usually a judge, makes a decision about how the law is to be applied in a particular set of circumstances. If these facts ever occur again they have to work with the decision of the judge or the precedent that was set.

Meanwhile, first impression is defined as “a new legal issue or interpretation that is brought before a court. In a case of first impression, the exact issue before the court has not been addressed by that court, or within that court’s jurisdiction, thus there is no binding authority on that matter.”<sup>5</sup> Although there had been international criminal trials of war criminals during the war, the Soviet Union did a war crimes trial against members of the NSDAP in Ukraine in December of 1943,<sup>6</sup> it had just been between a country and the criminals that committed the crimes in the country. What the International Military Tribunal was trying to do had never been done before. They were bringing the top government officials of a foreign country to be tried by multiple international powers criminally. This trial was to be the first

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<sup>4</sup> *Duhaime's Law Dictionary*, s.v. “precedent”, accessed October 31, 2016, <http://www.duhaime.org/LegalDictionary/P/Precedent.aspx>.

<sup>5</sup> *Cornell Legal Encyclopedia*, s.v. “first impression”, accessed October 31, 2016, [https://www.law.cornell.edu/wex/first\\_impression](https://www.law.cornell.edu/wex/first_impression).

<sup>6</sup> Greg Dawson, *Judgement Before Nuremberg*, (New York, 2012).

impression for international criminal trials. Everything about the trial was going to be new from the way the court was set up to the charter. The allied powers were all aware that this was going to be a first impression and that whatever the outcome, that would be the precedent that would be set for any trials with similar facts. This legal precedent not only affected the subsequent trials but also helped establish the International Criminal Court both of which I will discuss later.

When the prosecutors released the indictment it named twenty-four defendants and six organizations which were charged with at least one of the four charges; crimes against peace, conspiracy to wage an aggressive war, war crimes, and crimes against humanity. Of the four different charges the last two had already had precedent through treaties and trials that had previously happened, but count one of crimes against peace and count two of conspiracy to wage an aggressive war were without precedent. Both of these two counts deal with the planning and waging of aggressive warfare. It is true that many treaties such as the Kellogg-Briand Pact had stated that aggressive warfare was to be outlawed, but they did not state whether or not to wage an aggressive war was to be a criminal offense. In order to have the action of planning and waging aggressive warfare to be considered a crime there had to be a precedent set where a defendant was found guilty of these crimes. This was one of the reasons that at least one of the defendants was chosen. There needed to be someone in the trial whose guilt concerning planned and waged the aggressive war was undeniable in order for these two counts to become criminal acts. This need for precedent was one of the reasons that the defendant Göring was chosen.

## Literature

Much of the literature approaches these two charges and their legality in the trial. Others, when approaching the Nuremberg Trials, whether it be the International Military Tribunal or the consequential American led trials, tend to follow one of two paths; the literature either documents or analyzes the trial.

## Documentary Sources

The most common of these two forms are the sources which document the trial. These sources are introducing the trial to an audience who may have never heard of the trial or are wanting to know more of the details.

The authors of *Witnesses to Nuremberg: an oral history of American Participants at War Crimes Trials* informed their readers about the trial through the use of interviews.<sup>7</sup> The authors interviewed persons that had several different jobs within the IMT and the subsequent American trials that were held after the initial trial in Nuremberg. This book mainly focused on the overall feeling of the trial. Such as the interactions of the different persons with Germans and with the other allied power representatives. When it did discuss the defendants of the first trial it looked at the various American witness's opinion of them. Such as how they seemed to be both in and outside of the courtroom and whether they got what they deserved. It was never brought up why these were the defendants that were chosen. One of the witnesses did discuss that one of the German witnesses that they interviewed committed suicide because

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<sup>7</sup> Bruce M. Stave and Michelle Palmer with Leslie Frank, *Witnesses to Nuremberg: an oral history of American Participants at War Crimes Trials* (New York: Twayne Publishers, 1998).

they believed that they were going to be added as a defendant. Other than that they only discussed that the defendants were devils and got what they deserved.

Eugene Davidson in *The Trial of the Germans* documented the trial through biographing each of the defendants.<sup>8</sup> Davidson showed where each defendant started out at and how they ended in the positions of power within the Third Reich. Each defendant is shown to have had substantial power at some point in time within the government. Many used this power to enrich themselves or gain favor with the Führer. But all of them used it to continue on with the Führer's plans of a powerful imperialistic Germany. Although each defendant did this to varying degrees and also with varying degrees of illegal actions. Davidson often comments that there were several defendants that seemed to be out of place as a major war criminal. But, they do not look for any reason why they were chosen, they only state that it was strange that some defendants who had not had power during most of the war were indicted at the International Military Tribunal as major war criminals.

### Sources that Analyze

The other form is focused on critiquing the trial through various ways such as the politics and the law. When Herbert Wechsler looks at the International Military Tribunal, he looks at why the trial happened, why it was needed, and what were some problems with it.<sup>9</sup> Wechsler argues that in international law it is criminal to start a war, and it has been since after World War I when the different treaties such as the Kellogg-Briand Pact was made. This trial was needed to show the international community that not only was war not tolerated, but that

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<sup>8</sup> Eugene Davidson, *The Trial of the Germans* (New York: Macmillan Company, 1966).

<sup>9</sup> Herbert Wechsler, "The Issues of the Nuremberg Trial", *Political Science Quarterly* (1947): 11-26.

there would be consequences to being an aggressor in war. One of the issues with previous treaties that tried to condemn war was that the international community did not do anything to those that broke this rule. The International Military Tribunal was the first time the international community had stepped up to prosecute those who had been an aggressor in war. Some of the issues that Wechsler found with the trial included the common ones on the crimes that were in the charter, namely count one and two. Wechsler intentionally did not look at the trial as winners punishing the losers, but instead he looked at it one of the first times that the international community has policed its own policies.

Meanwhile, Nicholas Doman analyzes the trial from a political perspective, mainly the political consequences of the trial.<sup>10</sup> A positive consequence was the successful cooperation of multiple world powers within the trial which he believes is a sign of encouragement for more international cooperation. One of the major political drawbacks that Doman believes the trial brought up was the decline of national sovereignty. This trial placed the law of the international community above that of Germany, it took German citizens and put them in an international court to be prosecuted by multiple other nations. After all, the trial did not only have what was done to other countries during the war as crimes, but also the action of planning a war and bringing an organization to power was a crime. Both of these actions are domestic policies which before would have been under national sovereignty. Along with this, Doman argues that this trial also made it where national organs could be considered criminal. When this trial took place the defendants were not the only ones who were being tried, multiple groups that were

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<sup>10</sup> Nicholas Doman, "The Political Consequences of the Nuremberg Trial", *The Annals of the American Academy of Political and Social Science* (1946): 81-90.

government organizations were put on trial also. This led to large groups of people being considered criminal because they were in a certain group. Doman concludes that we will not know the whole extent of the political consequences until many years after the trial is over, but the way it is shaping the interactions between the international community and domestic sovereignty will have a lasting impact on the world. Such as the breakdown of sovereignty that happens from this trial.

Unlike Doman, Henry L. Stimson analyzes the International Military Tribunal in a legal way.<sup>11</sup> Stimson argues that the charges in the Nuremberg trial did have legal standing and that it was a fair trial. Not only from the legally binding charter which outlined all of the charges, but from the standpoint of international law. The main charge that was seen as having little to no legal standing is the charge of crimes against peace since this basically made war an illegal act. Although there had been several treaties to make war an illegal act there was not any actual law to support this as a crime. Stimson argues that since there is not an international parliament which creates international laws that the laws come from a mixture of treaties and what the international community believes to be correct. The act of war was already seen as being an unlawful act through multiple treaties and within the international community. Stimson believes that many lawyers have argued that this charge should not have been included since the defendants did not know that it was an illegal act at the time the act was committed, but Stimson disagrees. Stimson believes that it should only matter if this knowledge would have changed the actions of those who committed the crime, in this case the

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<sup>11</sup> Henry L. Stimson, "The Nuremberg Trial: Landmark in Law", *Foreign Affairs* (1947): 179-189.

defendants. Stimson argues that this knowledge would not have changed anything based on the other crimes that the defendants committed with the knowledge that they were crimes. Stimson argues that this trial was carried out with the utmost legality and fairness to the defendants. Although they were tried by the victors of the war, they were tried instead of being killed after capture. They were also given the best part of both continental and common law. Stimson concludes that although this trial was constructed very well and fair it did not create the world of peace the allied powers had been trying for.

Telford Taylor would disagree with Stimson on the trials overall impact. But, Telford Taylor wrote about the Nuremberg trials after all of the Nuremberg proceedings had finished, meaning after the subsequent American trials had finished. Taylor begins his reflection about what the trials were and how many defendants there were and who they were. Taylor told of their fate within these trials such as how many were hung and how many were not guilty and how many were given jail sentences. Taylor then argues that the significance of these trials was their lasting impact on global affairs.<sup>12</sup> Starting with the charter which proclaimed that “there are certain standards of conduct, generally observed in civilized countries, which all men are bound as a matter of international law,” and that “men who violate these international standards are criminals and may be convicted and punished under international law”, and some of these standards include “the deliberate planning and launching of an aggressive war, violations of the laws and customs of war... and certain categories of inhumane persecutions of

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<sup>12</sup> Telford Taylor, “The Nuremberg War Crimes Trials: An Appraisal” *Proceedings of the Academy of Political Science* (1949): 19-34.

racial, religious, or other groups.”<sup>13</sup> To Taylor the importance of these trials was the impact that they would have on the international community based on the laws that they introduced. These trials were an example of the proceedings that could occur in the future in international law. These trials are important not because they are condemning these few major war criminals, but because of their lasting impression on the international penal law.

### Gap in Literature

Although some of the literature about the International Military Tribunal has analyzed different aspects of the trial such as the politics involved, many have not discussed the selection of the defendants which creates a gap in the literature. The question of why them does not seem to have been asked by many scholars before. The questions that most are worried about is the belief that these were political trials of the winners punishing the loser in the war. But if this was true what made the defendants selected the ultimate losers? Why not just punish the entirety of Germany? It is not as though there were few persons in the Third Reich who had committed crimes before and during the war. It is correct that these defendants were in seats of power during different times throughout the history of the Reich but some such as Göring and Hess had been without power for a good portion of the war. By the time the trial was being formulated they did not have any power within the government of NSDAP Germany. Several scholars did specify what actions the defendants had done that were considered criminal but in a time where most if not all of the government of a country had done criminal actions what got them chosen? This gap in literature about these trials is what I aim to talk about.

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<sup>13</sup> Telford Taylor, “The Nuremberg War Crimes Trials: An Appraisal” *Proceedings of the Academy of Political Science* (1949): 21.

One of the reasons that there may be a gap in the literature is from the lack of documentation of the selection process of the defendants. Although there was a meeting where the allied powers did discuss the selection of the defendants that would be indicted, I have yet to find any meeting minutes or transcript of said discussion in all of the hundreds of documents that I have looked at. As far as I can find these minutes are not with the International Military Tribunal collection in the Library of Congress nor are they with the different primary sources that are in the Nuremberg Trials collections at Harvard, Yale, or Cornell. What I did find about this meeting and the selection of the defendants was that it “was hastily and negligently discharged, mainly because no guiding principles of selection had been agreed on.”<sup>14</sup> It seems as though the activity of selecting the defendants was very unorganized and with a lesser degree of cooperation as there had been when creating the Charter.<sup>15</sup> The confusion and lack of cooperation may be the reason that the meeting minutes are not widely available to the public.

My argument is based on the other primary sources in the trial. With the International Military Tribunal being one of the most well documented trials in the world there are large volumes of primary sources available. Most that I am analyzing are the transcripts of the trials, motions filed by both the defense team and the prosecution about the defendant Krupp, and the transcripts of the London Conference of 1945. Through the use of these documents I am attempting to construct as to why these defendants were chosen.

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<sup>14</sup> Telford Taylor, *The Anatomy of the Nuremberg Trials: A Personal Memoir* (New York: Skyhorse Publishing, 1993), 90.

<sup>15</sup> Telford Taylor, *The Anatomy of the Nuremberg Trials: A Personal Memoir* (New York: Skyhorse Publishing, 1993), 79-94.

## Background Information

### Previous Attempts of an International Trial

In the meeting minutes of the London Conference the allied powers reference the failure of the First World War. This comment refers to the lack of legal action against the Germans. With Germany instigating the war, the Germans were supposed to have legal action taken against them. But, the allies had different views on what legal action should be taken. The United States President Woodrow Wilson, with the backing of Congress, chose to have the legal action to be done by Germany for sovereignty reasons, which I will discuss further later. Meanwhile, several western countries wanted Kaiser Wilhelm II to be indicted. This plot failed with the Kaiser being protected by the Netherlands who would not allow an indictment. The other western countries squabbled until it became impossible to do a united legal action against the Germans. The step that was taken was the Germans would deal with their criminals. What followed was seen as an enormous farce by the rest of the world. None of the higher government officials were among the few that were indicted and convicted. Those who were indicted got light sentences for major crimes. The outside world was completely dissatisfied with the legal action. When the Second World War came around the allies thought back to this travesty and decided it was not going to happen again. There would no longer be any leaders who instigated violent international uproars without any legal action being taken against them.

### NSDAP Leadership Structure

One of the prevailing thoughts about the selection of the defendants is that they were the high command of NSDAP Germany that was still left alive. It is correct that some of the persons in the highest positions were already dead at this point with Hitler and Goebbels committing suicide in Berlin and Himmler committing suicide in the hands of the British. But, these three

men were not the full list of those on the top tier of the NSDAP government. There were several others that had huge impacts on the German government that were still alive at the time. Many of the different government organizations had overlapping duties and powers with large bureaucracies. This was a result of Hitler's idea to have his subordinates to fight each other for power and his favor. There were the offices that Germany had before the NSDAP took over which the party added to with its own different branches of party government. This meant that when it came to the second-tier of government officials there were several that could be chosen. Some of the different offices that were within the government of the NSDAP included the Reich Ministry for Propaganda and Public Enlightenment, Reich Education Ministry, the Hitler Youth and Association of German Girls, the Reich Justice Ministry and People's Court, the Gestapo, the *Schutzstaffel* (SS), the *Sturmabteilung* (SA), the Reich Ministry of the Interior, and the Reich Chancellery and NSDAP Chancellery.<sup>16</sup> Within the military there was the *Oberkommando der Wehrmacht/OKW* (Armed Forces High Command), the *Oberkommando des Heeres/OKH* (Army High Command), the *Oberkommando der Marine/OKM* (Naval High Command), the *Luftwaffe* (air force), the *Volkssturm* (German National Militia), the National Socialist Motor Corps, and the National Socialist Flyers Corps.<sup>17</sup> This created a large list of potential defendants for the International Military Tribunal who could fit within the parameters of a major war criminal. So, taking this into account, what made the defendants that were indicted unique?

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<sup>16</sup> World Future Fund. n.d. *Nazi Germany-Government Structure Ministries and Party Organizations*. Accessed October, 15, 2016. [www.worldfuturefund.org/wffmaster/Reading/Germany/Structure%20of%Nazi%20Govt.htm](http://www.worldfuturefund.org/wffmaster/Reading/Germany/Structure%20of%Nazi%20Govt.htm).

<sup>17</sup> American-Israel Cooperative Enterprise. 2016. *The Nazi Party: Military Organizations of the Third Reich*. Accessed October 15, 2016. [www.jewishvirtuallibrary.org/jsource/Holocaust/Third\\_Reich.html](http://www.jewishvirtuallibrary.org/jsource/Holocaust/Third_Reich.html).

Each of the twenty-four defendants indicted represent a certain organization or type of person in Germany. Their backgrounds were diverse with different jobs within NSDAP Germany. That was not a coincidence. Instead of having several major war criminals from one type of group such as the SS, the prosecution chose to select a wide variety of individuals. This was so they could set precedent of indicting certain persons who had never been indicted before as war criminals such as government leaders, persons of the media, and youth leaders. Each defendant was selected with this in mind. The defendants represented diplomats, military governors, ministers with in Hitler's cabinet, military personnel, and the media. The prosecution had decided that they did not want what happened in the last world war to happen again. So, they decided to cover just about every sphere of the government and society within Germany.

### Hermann Göring

One of the defendants who had the most power within Germany was Hermann Göring. He was once the Reichsmarschall of the NSDAP regime who answered only the to the Führer. Although this does sound as though he had plenty influence and deserved to be on the list of defendants he did not stay in power. He started out being the second in command to Hitler but he ended the war being imprisoned by Hitler with orders to kill Göring if Berlin fell.<sup>18</sup> This does not lead one to believe that during at least the latter years of the war that Göring was in any position of power. But, he was one of the few people alive that could not only be directly connected to the rise of the NSDAP but also to the planning and waging of the war. Göring was there to set the

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<sup>18</sup> Eugene Davidson, 1966. *The Trial of the Germans* (New York: The Macmillan Company), 60.

precedent for count one and two along with the precedent of prosecuting the top tier of government officials.

### Biography

Göring's life started out as most Germans did, he was born to a family of seven in Rosenheim, Bavaria and grew up educated at several cadet schools. He served during World War I first as a cadet and but was later transferred to the air force after a bout of rheumatism in 1914.<sup>19</sup> After the war he had several different jobs both inside and outside of Germany. In 1921 he heard Hitler speak and it changed everything for him.<sup>20</sup> He became a devoted follower of the future Führer even accepting the position as the head of the SA and participating in the attempted putsch. When it ended in disaster Göring's wife fled the country with her wounded husband who remained in exile until the party could reconvene in Germany.

Once the party was allowed to convene again, Göring became the chief of the Party delegation in the *Reichstag*. In 1932 he became the President of the *Reichstag* and relinquished his leadership in the SA to give his attention fully to the national goals of the Party.<sup>21</sup> His devotion to the party was not left unnoticed by Hitler, Hitler granted Göring several positions in the government until April 23, 1945 when he stripped them all and calls Göring a traitor.<sup>22</sup> His first appointed position was after he helped Hitler gain the chancellorship in January 1933, he became a minister in Hitler's cabinet and was also appointed the Prussian Ministry of the Interior.<sup>23</sup> That April he becomes the permanent Minister-President and Minister of the Interior

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<sup>19</sup> Davidson, *The Trial of the Germans*, 64.

<sup>20</sup> Davidson, *The Trial of the Germans*, 65.

<sup>21</sup> Davidson, *The Trial of the Germans*, 66.

<sup>22</sup> "Hermann Goering: Timeline," United States Holocaust Memorial Museum, Accessed October 6, 2016, <https://www.ushmm.org/wlc/en/article.php?ModuleId=10007772>.

<sup>23</sup> "Hermann Goering: Timeline."

of Prussia. In May of 1933 he is appointed the Reich Minister for Aviation.<sup>24</sup> In December of 1934 Göring, through a secret decree, is appointed as Hitler's successor should anything happen to make Hitler unable to govern.<sup>25</sup> He later becomes the commander-in-chief of the German Air Force in 1935.<sup>26</sup> In April of 1936 he is appointed as the Commissar for Raw Materials and Foreign Currency and in October he is made the Commissar of the Four-Year Plan.<sup>27</sup> In 1938 Göring is promoted from a captain to a Field Marshall General, a jump that was unheard of in the German military.<sup>28</sup> In 1939 he is appointed as the Chairman of the Reich Defense Council and a year later he is appointed the Reich Marshall of the Greater German Reich.<sup>29</sup> Beginning in November of 1941 Göring starts to lose influence and his titles are gradually stripped away until the order of his arrest in April of 1945.<sup>30</sup>

## Crimes

When Göring was indicted at the International Military Tribunal is was for all four counts; conspiracy, crimes against peace, war crimes, and crimes against humanity.<sup>31</sup> By the end of the trial he was convicted of all four charges and was sentenced to death by hanging, although he never made it to the noose. But, what did Göring actually do that got him charged?

For the first count of conspiracy Göring was indicted and later convicted based on the premise that he was a leading planner of the rise to power of Hitler and the NSDAP and also of

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<sup>24</sup> "Hermann Goering: Timeline."

<sup>25</sup> "Hermann Goering: Timeline."

<sup>26</sup> "Hermann Goering: Timeline."

<sup>27</sup> "Hermann Goering: Timeline."

<sup>28</sup> "Hermann Goering: Timeline."

<sup>29</sup> "Hermann Goering: Timeline."

<sup>30</sup> "Hermann Goering: Timeline."

<sup>31</sup> *Trial of the Major War Criminals before the International Military Tribunal Volume I* (Nuremberg: 1947), 68-69.

the plan to go to war.<sup>32</sup> This started with his goals within the Reichstag in 1928 through 1932 to enlarge the power of the NSDAP in the Reichstag and then later gain Hitler the Chancellorship. How this was done was through the removal Franz von Papen from office which he was able to do through a vote of no confidence in 1932.<sup>33</sup> This led to Hitler being named Chancellor by President Hindenburg. Then to continue the enlargement of power Göring created the new secret police, the Gestapo, and the concentration camps that the police would bring the enemies of the regime. During this time the future defendant used the violence of the Gestapo to silence any that were seen as potential threats to either himself or to Hitler. After the NSDAP had complete control of the government he moved towards the economy through the Four-Year plan. The goals of the Four-Year plan were rearmament, employment, and self-sufficiency which Göring strove for through acquiring property and businesses, directing industry, controlling financing, and through directing economic policies.<sup>34</sup> Within this economic policy the rearmament was what added this to the conspiracy charge. Then there was also the creation of *Luftwaffe*, the German air force, which went directly against the Versailles Treaty which had disbanded the air force in 1920.<sup>35</sup>

Göring was indicted on count two of crimes against peace and later found guilty based on his involvement in the rearmament that was referenced in the first count and also his part in the planning and execution of the *Anschluss*, the invasion of Czechoslovakia, Poland, Norway,

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<sup>32</sup> *Trial of the Major War Criminals before the International Military Tribunal Volume I*, 68-69.

<sup>33</sup> Davidson, *The Trial of the Germans*, 67.

<sup>34</sup> "Hermann Goering and the 4 Year Plan", Accessed October 8, 2016, [www.gschistory.org.uk/modernworld/Germany/4yearplan.html](http://www.gschistory.org.uk/modernworld/Germany/4yearplan.html).

<sup>35</sup> "Luftwaffe", BBC, Accessed October 8, 2016, [www.bbc.co.uk/history/topics/luftwaffe](http://www.bbc.co.uk/history/topics/luftwaffe).

and the Soviet Union.<sup>36</sup> In the *Anschluss* Göring was exceedingly active such as him ordering “that the plans for the Austrian elections were to be immediately halted.”<sup>37</sup> Additionally he “ordered Seyss-Inquart to telegraph Berlin demanding assistance from German troops to preserve internal order, Goering stated that the real purpose in the desire to have German troops in Austria.”<sup>38</sup> When it came to the invasion of Czechoslovakia Göring was not quite as active as he only made two separate statements to the Czechoslovak Minister in March of 1938 and he was among those who threatened the Czech President and Foreign Minister with military action, including the bombing of Prague which was made entirely by Göring, unless Czechoslovakia was incorporated into Germany.<sup>39</sup> One of the larger actions that Göring did was his creation of the *Luftwaffe*, the German Air Force. This act was illegal due to the terms in the Versailles Treaty.<sup>40</sup> But, Hitler wanted one and he chose Göring to be leader behind it, based on Göring’s previous background as a pilot. Göring first used this air force to bomb Poland into submission, this air attack caused much devastation in Poland. This air force ended the war with roughly 70,000 victories.<sup>41</sup> But, after the failed victory during the Battle of Britain, Hitler started to doubt Göring and the *Luftwaffe* and started turning to his other subordinates instead of Göring. When it came to other parts of the war, Göring “opposed Hitler's plans against Norway

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<sup>36</sup> *International Military Tribunal (Nuremberg) Judgement*, (Nuremberg: 1946), 101-102.

<sup>37</sup> “The Interrogation of Hermann Goering” Colonel Amen, Accessed October 15, 2016, [hydrastg.library.cornell.edu/fedora/objects/nur:01035/datastreams/pdf/content](http://hydrastg.library.cornell.edu/fedora/objects/nur:01035/datastreams/pdf/content).

<sup>38</sup> “The Interrogation of Hermann Goering” Colonel Amen, Accessed October 15, 2016, [hydrastg.library.cornell.edu/fedora/objects/nur:01035/datastreams/pdf/content](http://hydrastg.library.cornell.edu/fedora/objects/nur:01035/datastreams/pdf/content).

<sup>39</sup> “Judgement: The Seizure of Czechoslovakia,” The Avalon Project, Accessed October 8, 2016, <http://avalon.law.yale.edu/imt/judseize.asp>.

<sup>40</sup> *Treaty of Peace with Germany (Treaty of Versailles)*, (Versailles/Paris, 1919/1920), 129.

<sup>41</sup> “Luftwaffe.”

and the Soviet Union”, although he “did so only for strategic reasons; once Hitler had decided the issue, he followed him without hesitation.”<sup>42</sup>

Göring was indicted on count three of war crimes and later found guilty based on his participation in the slave labor being used during the war and the plundering of economic resources of the nations that Germany controlled.<sup>43</sup> With Göring being the Plenipotentiary General for the Four-Year plan anything that dealt with the economy was within the powers of his office, this would include the use of slave labor from the occupied territories. But, his participation in this was from the fact he was the overseer of the whole project, in reality “Fritz Sauckel and Albert Speer are principally responsible for the formulation of this policy and for its execution.”<sup>44</sup> When it came to the using of resources of occupied territories Göring made use of them to feed, clothe, and arm the German Reich.

The last count of crimes against humanity, Göring was indicted and later found guilty based on his policy against people of the Jewish faith, namely his seizure of their property and his endorsement of the laws and actions against them.<sup>45</sup> Most of Göring’s actions against people of the Jewish faith was in an economic field. Although he did sign off on some laws against people of the Jewish faith. Göring wanted the property of people of the Jewish faith in order to make the Four-Year plan more successful. These actions were terrible crimes yet during a time when whole families were being sent to concentration camps and murdered the

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<sup>42</sup> *International Military Tribunal (Nuremberg) Judgement*, (Nuremberg: 1946), 102

<sup>43</sup> *International Military Tribunal (Nuremberg) Judgement*, (Nuremberg: 1946), 102-103.

<sup>44</sup> “Judgement: The Seizure of Czechoslovakia.”

<sup>45</sup> *International Military Tribunal (Nuremberg) Judgement*, (Nuremberg: 1946), 102-103.

action of stealing is a much lesser crime than murder. This is what Göring did to be found guilty on count four, he stole from those of Jewish faith.

### Reasons Chosen

When looking at what Göring was actually indicted and found guilty and comparing it with others who had actively participated in the murders committed in the Third Reich it seems strange that they chose Göring. This party created several persons who would easily be found guilty of counts three and four for the devastating effects that they had on whole communities who they sent to their graves. If the prosecution was really looking for the major war criminals of the Third Reich, they would not have chosen someone who by the end of the war was called a traitor and ordered to be killed by Hitler himself. By the time the war was in full swing Göring had already lost much of his power and influence. He was no longer the active right hand man of the Führer. In addition to his loss of influence, when it comes to war crimes and crimes against humanity these two charges are rather weak for an active NSDAP member. When many leaders were going against almost every code of war, Göring had subordinates that brought in slave labor and he signed off on it. I am not saying that he did not deserve to be guilty on these charges, rather I am making the point that there were several persons who could have been brought to the court in his stead. The only charges that Göring has that are very strong are the first two. These charges also happen to be the most controversial of the four because of their lack of precedent in international law. The precedent that came from this ultimately made the waging of aggressive warfare illegal and punishable in international penal law. That was why Göring was chosen, along with the act that he was one of the last living heads of states, even though his time as the head of state had long passed. This trial was setting the precedent that

even heads of state would be held accountable for their actions. Out of all the defendants Göring was one of the only ones whose involvement in creating the Third Reich was undeniable. With him being indicted there was a person who would be found guilty of crimes against peace and conspiracy. Now with Göring being successfully prosecuted there was a legal precedent that meant under international law any head of state could now be prosecuted for planning and waging aggressive warfare.

### Baldur von Schirach

Unlike Göring who was indicted to set the precedent for not only organizations but also the charges, Baldur von Schirach was indicted to set precedent for organizations that were not indicted. Baldur von Schirach is a lesser known official within the Third Reich. He was also one of the younger defendants at the Nuremberg trial being in his early forties when it began. His most notable role was being in charge of the Hitler Youth from 1933-1940.<sup>46</sup> What made the leader of the Hitler Youth more of a major war criminal than Rudolph Höss, the commandant of the Auschwitz-Birkenau concentration camp? Baldur von Schirach was chosen for his role as the leader of the Hitler Youth so there could be a precedent set that could be used to prosecute others within the NSDAP that had corrupted the youth.

### Biography

Baldur von Schirach was born in Berlin in 1907, which made him too young to have served in the First World War.<sup>47</sup> He joined his first organization in 1917 when he was ten years old; The organization was the Young Germans' League which was focused on hiking, singing songs on

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<sup>46</sup> "Baldur von Schirach" Victor Smart, Accessed October 1, 2016, <http://www.holocaustresearchproject.org/holoprelude/bvs.html>.

<sup>47</sup> Davidson, *The Trial of the Germans*, 285.

marches and around a campfire.<sup>48</sup> At the end of the First World War Schirach joined the *Knappenschaft* which was a semi-political youth group that discussed the negatives of the Versailles treaty and the crimes of the Communists and Jews.<sup>49</sup> This group also heard many anti-Semitic speakers and read anti-Semitic books. When Schirach met Hitler in 1926 he was already informed about most of the positions that the NSDAP were involved in.<sup>50</sup>

In 1926 Hitler advised Schirach to go to Munich and Schirach showed his willingness to follow the future Führer early.<sup>51</sup> Schirach attended the University of Munich where he attempted to lead many of his classmates to the party and when he was eighteen he joined the SA.<sup>52</sup> His devotion towards the party was recognized and he was made the leader of the National Socialist Students' Union in 1929.<sup>53</sup> Titles came quickly after that with him gaining Reich youth leader of the National Socialist Party in 1931 and Reich Leader for Youth Education of the NSDAP in 1932.<sup>54</sup> In 1933 gained his most notable leadership position as Youth Leader for the German Reich.<sup>55</sup> Schirach took his role very seriously with the educating the youth to become perfect German citizens under the NSDAP rule. When the war broke out he lost his position to Artur Axmann after slowly losing power because of his political opponents. In 1940 he enlisted in the Germany army where he received an Iron Cross for organizing the evacuation of five million children from multiple cities that were either bombed by allied air forces or that

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<sup>48</sup> Davidson, *The Trial of the Germans*, 285.

<sup>49</sup> Davidson, *The Trial of the Germans*, 286.

<sup>50</sup> Davidson, *The Trial of the Germans*, 286.

<sup>51</sup> Davidson, *The Trial of the Germans*, 286.

<sup>52</sup> Davidson, *The Trial of the Germans*, 286.

<sup>53</sup> Davidson, *The Trial of the Germans*, 286.

<sup>54</sup> Davidson, *The Trial of the Germans*, 286.

<sup>55</sup> Davidson, *The Trial of the Germans*, 286.

had the threat of being bombed.<sup>56</sup> Later that year he was recalled from the army and was appointed to the position of Gauleiter of the Reichsgau Vienna.<sup>57</sup> He stayed in this position until the end of the war.

### Crimes

Under count one of conspiracy Schirach was indicted and not found guilty.<sup>58</sup> Although, he was the youth leader for the Reich he did not plan any of the aggressive warfare. His job was mainly to educate the youth to become the best future citizens within the Third Reich. This did include making these youth organizations into semi-military organizations and indoctrinating the policies and propaganda of the NSDAP, but there was no conspiracy on Schirach's part to make these children into war machines or anything of the like.

The other count that Schirach was indicted and the only count he was found guilty of was count four crimes against humanity.<sup>59</sup> In 1940, after he lost his post as Youth Leader, he was made Gauleiter of the Reichsgau Vienna this is the position that led to this charge.<sup>60</sup> When he arrived in Vienna there was only 60,000 out of the 190,000 Jewish population living in Vienna.<sup>61</sup> Schirach's involvement with these people was on a statistic basis and where his actions were controlled by his superiors and on "3rd December, 1940, Schirach received a letter from Lammers stating that after the receipt of the reports made by Schirach, Hitler had decided to deport the 60,000 Jews still remaining in Vienna to the Government General."<sup>62</sup> With this

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<sup>56</sup> "Baldur von Schirach" Victor Smart, Accessed October 1, 2016, <http://www.holocaustresearchproject.org/holoprelude/bvs.html>.

<sup>57</sup> Davidson, *The Trial of the Germans*, 302-303.

<sup>58</sup> *International Military Tribunal (Nuremberg) Judgement*, (Nuremberg: 1946), 134.

<sup>59</sup> *International Military Tribunal (Nuremberg) Judgement*, (Nuremberg: 1946), 134-136.

<sup>60</sup> *International Military Tribunal (Nuremberg) Judgement*, (Nuremberg: 1946), 134-136.

<sup>61</sup> *International Military Tribunal (Nuremberg) Judgement*, (Nuremberg: 1946), 135.

<sup>62</sup> *International Military Tribunal (Nuremberg) Judgement*, (Nuremberg: 1946), 135.

order, Schirach started deporting people of the Jewish faith at the same time he was receiving reports from the eastern territories of the different fates of people of the Jewish faith. Schirach continued deporting the 60,000 Jews knowing what may happen to them would not be pleasant. For these deportations he was found guilty for crimes against humanity.

### Reasons Chosen

As you can see from above, out of the defendants that were found guilty Schirach had one of the weaker cases. He started out being indicted of counts one and four, but was only found guilty of count four of crimes against humanity. For crimes against humanity he was found guilty of following the order of deporting all of the people of the Jewish faith out of Vienna. Again, I am not arguing that Schirach should have been found not guilty, instead I am arguing about whether he would be considered a major war criminal. Out of all the different persons that were in the various places of government, the allied powers decided that the leader of the Hitler Youth was a major war criminal. They chose to indict Schirach instead of any of the other persons who had murdered hundreds of people throughout the time that the Third Reich was created. Why? Although the deportation of persons based on their religion is a terrible crime but compared to the atrocities that were committed during this war deportation was not the major crime committed. Yet, those who had committed the worse crimes were not considered major war criminals and a man found guilty only of illegal deportation was. "The British delegates were generally pleased with the list, but suggested the addition of Baldur von Schirach, the Nazi Youth leader, on the ground of his 'vicious indoctrination' of the young."<sup>63</sup> It was not the deportations that got Schirach on that list of major war criminals, it was his role as

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<sup>63</sup> Taylor, *The Anatomy of the Nuremberg Trials: A Personal Memoir*, 86.

the Youth Leader. The only thing that makes Schirach unique is the fact he was the Youth Leader. He did what many of the allies would think is the more horrifying crime of leading the youths of Germany into the hands of the NSDAP. When the allies chose Schirach they chose a person who could represent all those different leaders who led the youth of Germany to be ready to fight for their homeland against those that Hitler and the rest of the NSDAP said were enemies. These people would include other officers within the youth organizations such as Gustav Lenk, the first leader of the new Hitler Youth Party, and Artur Axmann, the Hitler Youth leader after Schirach.<sup>64</sup> Schirach was supposed to set the precedent that those who led the youth astray could and would be charged for their crimes. Sadly, for the allies, Schirach was only deemed guilty of the deportation of people of the Jewish faith he did as Gauleiter.

## Julius Streicher

Like Schirach, Julius Streicher was also indicted to make a category of the German sphere able to be criminalized. When looking at Julius Streicher the allies saw a man whose words moved the ideas of an entire nation. This man was one of the largest anti-Semites within the NSDAP and Germany. He represented an area that had yet to be held accountable for their actions in supporting not only a war but also criminal actions within the war. He was indicted to set the precedent that a person of the media could and would be held accountable for their persuasion on their audience to commit criminal actions.

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<sup>64</sup> "The Hitler Youth" Holocaust Education & Archive Research Team, Accessed December 1, 2016, <http://www.holocaustresearchproject.org/holoprelude/hitleryouth.html>.

## Biography

Julius Streicher was born on February 12 of 1885 in Swabia.<sup>65</sup> He had trained to be a school teacher and in 1909 took a job as a school teacher and administrator in Nuremberg.<sup>66</sup> When World War I came around Streicher enlisted and became a highly decorated veteran. During the tumultuous interwar years Streicher became politically active and joined a right-wing political party called the Society for Defensive and Protective Action.<sup>67</sup> This party did not fit with his political ideas so shortly afterwards he helped set up the local German Socialist Party, a party which was extremely nationalist, anti-Catholic, and anti-Semitic.<sup>68</sup> In 1922 Streicher and his followers merged with the newly formed NSDAP.<sup>69</sup> In 1923 Streicher started the infamous *Der Stürmer* newspaper.<sup>70</sup> In this year he also participated in the failed putsch which led him to be suspended from teaching which had him looking at government positions. From 1924 to 1932 he held a seat in the Bavarian parliament.<sup>71</sup> When Hitler was released he gave Streicher the position of Gauleiter of Middle Franconia. Later Streicher chaired the Central Committee to Repulse Jewish Atrocity and Boycott Agitation which goals included boycotting all of the Jewish businesses' that they could.<sup>72</sup> 1938 was the big year for his newspaper with it reaching its

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<sup>65</sup> Davidson, *The Trial of the Germans*, 42.

<sup>66</sup> "Julius Streicher: Biography" United States Holocaust Memorial Museum, Accessed October 15, 2016, <https://www.ushmm.org/wlc/en/article.php?ModuleId=10007316>.

<sup>67</sup> "Julius Streicher: Biography" United States Holocaust Memorial Museum, Accessed October 15, 2016, <https://www.ushmm.org/wlc/en/article.php?ModuleId=10007316>.

<sup>68</sup> "Julius Streicher: Biography" United States Holocaust Memorial Museum, Accessed October 15, 2016, <https://www.ushmm.org/wlc/en/article.php?ModuleId=10007316>.

<sup>69</sup> "Der Stürmer", Carmelo Lisciotto, Accessed October 15, 2016, <http://www.holocaustresearchproject.org/holoprelude/dersturmer.html>.

<sup>70</sup> "Julius Streicher: Biography" United States Holocaust Memorial Museum, Accessed October 15, 2016, <https://www.ushmm.org/wlc/en/article.php?ModuleId=10007316>.

<sup>71</sup> "Julius Streicher: Biography" United States Holocaust Memorial Museum, Accessed October 15, 2016, <https://www.ushmm.org/wlc/en/article.php?ModuleId=10007316>.

<sup>72</sup> "Julius Streicher: Biography" United States Holocaust Memorial Museum, Accessed October 15, 2016, <https://www.ushmm.org/wlc/en/article.php?ModuleId=10007316>.

largest readership, by this time Streicher's publishing house also released anti-Semitic children's literature.<sup>73</sup> In 1939 he tried to humiliate the then powerful Göring and was stripped of all his titles because of it.<sup>74</sup> Yet he continued to publish his newspaper until the end of the war when he was captured by the allies.

### Crimes

Streicher was indicted and found not guilty on count one of conspiracy.<sup>75</sup> He was found not guilty quite simply because he did not have the power or connections to plan aggressive war. He was not within Hitler's inner circle and he did not in any military field which would have allowed him to be involved with the war efforts. He also was not economically involved in the planning and preparation of aggressive war. His only job in the regime was media, not being a politics or military.

On count four of crimes against humanity, Streicher was indicted and found guilty.<sup>76</sup> He was found guilty on the terms that he spread violently anti-Jewish propaganda through his newspaper, *Der Stürmer*, before the war. Although personally he did not physically harm any persons of the Jewish faith that were ultimately murdered during the Holocaust he did promote it. Streicher's newspaper was not the official newspaper of the party, it was actually more for working class citizens.<sup>77</sup> But, Hitler liked Streicher and his newspaper so he supported it financially before and throughout the war, even though it was unable to print during the war

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<sup>73</sup> "Julius Streicher: Biography" United States Holocaust Memorial Museum, Accessed October 15, 2016, <https://www.ushmm.org/wlc/en/article.php?ModuleId=10007316>.

<sup>74</sup> "Julius Streicher: Biography" United States Holocaust Memorial Museum, Accessed October 15, 2016, <https://www.ushmm.org/wlc/en/article.php?ModuleId=10007316>.

<sup>75</sup> *International Military Tribunal (Nuremberg) Judgement*, (Nuremberg: 1946), 120.

<sup>76</sup> *International Military Tribunal (Nuremberg) Judgement*, (Nuremberg: 1946), 120-123.

<sup>77</sup> "Der Stürmer", Carmelo Lisciotto, Accessed October 15, 2016, <http://www.holocaustresearchproject.org/holoprelude/dersturmer.html>.

due to paper shortage. The newspaper was the equal to a trashy tabloid, anyone could mail in a story without evidence and if it was liked it got published. The pages of *Der Stürmer* would often be filled with anti-Semitic caricatures and stories of the wronging's of those of the Jewish faith. The front page would almost always have "*Die Juden sind unser Unglück!*" (The Jews are our misfortune) at the bottom of the page.<sup>78</sup> It would say that they were worse than a plague on the German populace and they needed to be extinguished. It spread the anti-Semitic feelings that were already being felt throughout Germany. In 1938 *Der Stürmer* got its largest readership yet with 473,000 in circulation.<sup>79</sup> For this newspaper Streicher was found guilty of crimes against humanity. This was seen as a crime because of its demonizing the Jewish minority through its stories of them committing murders and rapes of Christians for their faith. Anyone reading these papers would see it as imperative to get rid of this minority. That is the crime. Streicher normalized hatred of the Jewish minority. Later, when *Der Stürmer* released some of its more violent topics Streicher normalized violence against the Jewish minority. The allies charge Streicher with creating a populace that would not only follow orders to eliminate an entire race but to support the orders. The NSDAP may have created the government who believed in the eliminating of untold amounts of people of the Jewish faith, but according to the allies Streicher helped create a population that would support it.

### Reasons Chosen

Yet another of the defendants that were brought before the tribunal had not committed any atrocities themselves. Although by most standards Streicher was a vile and repulsive person

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<sup>78</sup> "Der Stürmer", Carmelo Lisciotto, Accessed October 15, 2016, <http://www.holocaustresearchproject.org/holoprelude/dersturmer.html>.

<sup>79</sup> "Der Stürmer", Carmelo Lisciotto, Accessed October 15, 2016, <http://www.holocaustresearchproject.org/holoprelude/dersturmer.html>.

who even many within the NSDAP could not stand he did not actually do any physical act against anyone nor did he order any acts. Yet, a man who wrote and edited a newspaper, a vile one, was considered a major war criminal while the leaders of the multiple different concentration and death camps were not. This was because like the others, Streicher was brought before the International Military Tribunal as a defendant because he would set a precedent for the allies. Him being included as a major war criminal meant that those who helped spread propaganda and hate through the media could be prosecuted. Unlike the other defendants who dealt with media Streicher was the editor of a private newspaper. This meant that the media did not have to be a sector of the government in order to be found guilty of criminal charges connected with said government. The media could be working on its own to spread propaganda that the government could then harnesses for its own plan. After Streicher was found guilty there was a legal precedent that in international penal law that it is a criminal act to spread propaganda that tells its viewers to hate and harm others and ultimately leads them to doing so.

### Gustav Krupp von Bohlen und Halbach

Like Schirach and Streicher, Krupp was also indicted to set the precedent for a category of the German sphere of life. Gustav Krupp von Bohlen und Halbach is often not within many of the literature about the International Military Tribunal simply because he never got past being indicted. Despite the best efforts of the prosecutors Krupp was found unfit to stand trial due to his long-standing illness. Some of the prosecutors, namely the American, wanted to put his son in his place but ultimately his son was not added to the docket instead Krupp was to be tried

had he ever regained his health which he did not.<sup>80</sup> Krupp was there to represent the industrialists who without their support the war could not have happened and also who had illegal used slave labor throughout the war. This group which Krupp was there to represent were almost never considered criminal from their supplying a war, but the allies sought to change that with the use of Krupp as a defendant.

### Biography

Gustav Krupp von Bohlen und Halbach was born in The Hague in 1870 under the name of Gustav Bohlen und Halbach.<sup>81</sup> His family was a family of successful bankers which led to a comfortable childhood for Krupp. He was well-educated and after finishing college he went into the German Diplomatic Corps and travelled around the world. 1906 he married Bertha Krupp and added the surname Krupp to his own because of the prestigious family.<sup>82</sup> After his marriage he worked for his wife's family company until he became ill and was succeeded by his son in 1943.<sup>83</sup> During both World Wars Krupp Works made a fortune out of the monopoly on munitions and other wartime manufacturing. After the Versailles Treaty, which greatly limited Germany's need for Krupp weapons, Krupp turned the firm towards agricultural equipment on the surface while still developing the military. Krupp did this through setting up factories abroad which did not come under the terms of the treaty. When the NSDAP first started gaining power Krupp was against them since he saw the party going away from monarchy, which he was in favor of from his connections with the Kaiser. Krupp only started to support the NSDAP

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<sup>80</sup> *Trial of the Major War Criminals before the International Military Tribunal Volume I* (Nuremberg, 1946), 143.

<sup>81</sup> "Gustav Krupp von Bohlen und Halbach" The Editors of Encyclopaedia Britannica, Accessed November 6, 2016, <https://www.britannica.com/biography/Gustav-Krupp-von-Bohlen-und-Halbach>.

<sup>82</sup> William Manchester, *The Arms of Krupp*, (New York, 1970), 280-282.

<sup>83</sup> "Gustav Krupp von Bohlen und Halbach" The Editors of Encyclopaedia Britannica, Accessed November 6, 2016, <https://www.britannica.com/biography/Gustav-Krupp-von-Bohlen-und-Halbach>.

once Hitler was given the position as Chancellor. Before he actively tried to prevent Hitler's rise through his connection with President Hindenburg.<sup>84</sup> Krupp said this change was the result of a meeting he had with Hitler that promised to reject disarmament, which would benefit Krupp's firm. Shortly after Hitler's rise to power Krupp Works started to move away from agricultural manufacturing into military manufacturing. Krupp's firm was one of the suppliers for the German military before and during the war and Krupp headed it. Until his health started failing in 1942 with a stroke Krupp was the head of the firm, but his health became so bad that by 1943 his son Alfred inherited the leadership role.<sup>85</sup>

### Crimes

Although, Krupp was ultimately seen as unfit to stand trial he was indicted on all four counts. According to the indictment "He promoted the accession to power of the NSDAP 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 NSDAP 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 more particularly the exploitation and abuse of human beings for labor in the conduct of aggressive wars."<sup>86</sup>

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<sup>84</sup> William Manchester, *The Arms of Krupp*, (New York, 1970), 399-406.

<sup>85</sup> *Trial of the Major War Criminals before the International Military Tribunal Volume I* (Nuremberg, 1946), 120-123.

<sup>86</sup> *Trial of the Major War Criminals before the International Military Tribunal Volume I* (Nuremberg, 1946), 75.

When Krupp was found to be unfit to stand trial Justice Jackson made a motion to have his son stand in his place, this motion was denied, but it shows that at least the prosecution for the US thought that these two were interchangeable when it came to their prosecution. Since Krupp was not tried there is not a judgement for him nor are there any transcripts of the trial. Also, few of the literature talks about what he did to get him indicted. Because of the lack of sources directly referring to him are available I will be looking at his son's case as to what was done within the firm to look as to why he would have been indicted.

The first count of conspiracy applies to Krupp through his companies continued production of armaments, even though German companies were no longer supposed to do such a thing. After the Versailles treaty Krupp Works moved its armament manufacturing and productions off-shore. The Versailles treaty states "The manufacture of arms, munitions, or any war material, shall only be carried out in factories or works the location of which shall be communicated to and approved by the Governments of the Principal Allied and Associated Powers, and the number of which they retain the right to restrict."<sup>87</sup> But, this only states about the manufacturing and production in Germany, if any of the German factories moved out of Germany this would not apply. That is what Krupp Works did, they moved their armament factories to places outside of Germany's border. Meanwhile, Krupp Works became an agricultural manufacturing firm inside of Germany. This way the firm complied with the treaty while still maintaining armament manufacturing.

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<sup>87</sup> *Treaty of Peace with Germany (Treaty of Versailles)*, (Versailles/Paris, 1919/1920), 118.

Within count one there is also the conspiracy to promote the NSDAP to power. Krupp started out disliking the NSDAP, he tried everything in his power to either promote other parties or to control this one. He had a personal relationship with President Hindenburg and Von Papen both of which he tried to use in order to stop Hitler from being named Chancellor. This effort, as history has shown, did not work. Krupp was a devout monarchist who wanted the Kaiser back onto the throne. It was only about three weeks after Hitler took the Chancellorship that Krupp started to support the party and this was after Hitler talked to him and several other industrialists personally. It is believed that at this time Hitler revealed to the industrialists that he was going to flout the Versailles Treaty and restart armament factories inside of Germany. After this Krupp not only started to agree with the party but he also supporting them through his efforts to reach out to other industrialists to get them to the side of the NSDAP.

When it comes to count two of crimes against peace, Krupp was active only in the restart of the armaments production inside of Germany. His firm had been keeping up with the industrial and technological advancements since their banishment from Germany so when Hitler called for them to come back they were ready. Like it is stated above, Krupp Works never really stopped armament manufacturing and production, they only moved out of the country for a little while.

For count three of war crimes Krupp was charged for their involvement in the use of occupied territories, according to the case against his son and firm, although this was count two of plunder and spoliation in the Krupp trials.<sup>88</sup> The plundering that was Alfried was convicted

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<sup>88</sup> *US Military Tribunal Nuremberg, Judgement of 31 July 1948, (Nuremberg: 1948), 4-5.*

was done “through physical removal of machines and materials. Other acts were committed through changes of corporate property, contractual transfer of property rights, and the like.”

<sup>89</sup>There were also many instances where “through ‘contracts’ imposed upon others, the illegal results, namely, the deprivation of property, was achieved just as though materials had been physically shipped to Germany.”<sup>90</sup> Although the firm did much during the war Gustav Krupp was not the owner during about two years of the war. In “December 1943 the owner of the family enterprise” <sup>91</sup>was given to his son Alfried. But, one of the things that were done during his time was seizure of the Austin factory located at Liancourt, France<sup>92</sup>. This factory had been owned by a Jewish business man who fled from the approaching German Army who then seized the property since it was owned by someone Jewish. Krupp Works then came to purchase the factory but only managed to get a three-year lease and purchase all but thirty of the machines at a below market value price.<sup>93</sup> This factory was then used for weapons of war for the German military. This is just one of the several different industry properties that the Krupp firm took over once the German military took control of the area. Most of these factories were used for the military armament of Germany against the original factory owners will. There were also several instances where the firm either took machines against the will of the owners or they paid below value for the machines against the owners will. The firm also used the Raw Materials Trading Company (ROGES) which took materials from occupied territories or bought materials off the black market of the occupied territories and sent it back to Germany.<sup>94</sup> It is

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<sup>89</sup> *US Military Tribunal Nuremberg, Judgement of 31 July 1948*, (Nuremberg: 1948), 14.

<sup>90</sup> *US Military Tribunal Nuremberg, Judgement of 31 July 1948*, (Nuremberg: 1948), 19.

<sup>91</sup> *US Military Tribunal Nuremberg, Judgement of 31 July 1948*, (Nuremberg: 1948), 11.

<sup>92</sup> *US Military Tribunal Nuremberg, Judgement of 31 July 1948*, (Nuremberg: 1948), 20-24.

<sup>93</sup> *US Military Tribunal Nuremberg, Judgement of 31 July 1948*, (Nuremberg: 1948), 20-24.

<sup>94</sup> *US Military Tribunal Nuremberg, Judgement of 31 July 1948*, (Nuremberg: 1948), 31-32.

estimated that “the Krupp firm received wares and goods of all kinds from ROGES, a total valuation of 14,243,000 RM.”<sup>95</sup> Each of these actions Krupp was head of until 1943 when his son took over.

On the issue of count four of crimes against humanity, Krupp was involved through his firm’s use of labor. Mainly that they used slave labor by using the inmates of concentration camps including prisoners of war. The slave laborers that his firm used were not treated humanely:

“The inmates were deliberately assigned to heavy and dirty work in plants of the Krupp firm. The food, consisting of liquid and little else, at night was inadequate for men performing the labor required by the inmates. On occasions the earlier arrivals in the evening would consume the soup which was often sour, and nothing was left for the others upon their arrival. A witness who had been confined in the Neerfeldschule penal camp, testified that inmates ate the mice that infested the camp. Because of the improper nourishment, at least fifteen died on account of illness and malnutrition. Mistreatment in the camp was a daily occurrence. Beatings were a part of the life at Dechenschule.”<sup>96</sup>

There was also not adequate protection for these workers should an air raid occur.<sup>97</sup> There was also little to no medical attention for these workers.<sup>98</sup> Krupp knew about these conditions and did nothing about it.

When you look at what Krupp was indicted on you can easily see that on the first two counts the case is much weaker than those who were convicted of it. The only thing he did was

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<sup>95</sup> *US Military Tribunal Nuremberg, Judgement of 31 July 1948*, (Nuremberg: 1948), 32.

<sup>96</sup> *US Military Tribunal Nuremberg, Judgement of 31 July 1948*, (Nuremberg: 1948), 62.

<sup>97</sup> *US Military Tribunal Nuremberg, Judgement of 31 July 1948*, (Nuremberg: 1948), 62.

<sup>98</sup> *US Military Tribunal Nuremberg, Judgement of 31 July 1948*, (Nuremberg: 1948), 62.

to continue manufacturing weapons that were bought by other countries outside of Germany. Also, he did not want Hitler and the NSDAP to be in power and only supported them after they were in power already when Hitler made it clear to Krupp that he would help him expand his firm. For count three of war crimes each of these interactions with foreign companies did not end with death unlike many others within the NSDAP. His crime was to use the war to steal from the occupied countries. But, his actions within count four of crimes against humanity were not as minor as the first counts. His firm's use and abuse of prisoners of war and slave labor ended with many lives lost through malnutrition and maltreatment. At the same time, Krupp did not personally harm any of these prisoners nor did he order for them to be killed or harmed. He only ordered for there to be workers which he was supplied. Overall, the actions that got Krupp indicted were criminal but would they be considered the actions of a major war criminal?

### Reasons Chosen

Krupp was among the other twenty-four defendants who were indicted because of the non-official organization that he represents. He represents the industrialists, and through his prosecution there would be a precedent set that would allow for the prosecution of the rest of the industrialists who were corrupted by their interactions with the NSDAP. In this way the allied powers would not leave any of those corrupted people without punishment. Justice Jackson stated his opinion on the inclusion of Krupp when he wrote in his motion "To drop Krupp von Bohlen from this case without substitution of Alfried, drops from the case the entire Krupp family, and defeats any effective judgment against the German armament makers."<sup>99</sup>

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<sup>99</sup> *Trial of the Major War Criminals before the International Military Tribunal Volume I* (Nuremberg, 1946), 145.

The issue was not that Krupp would not be held responsible for his actions during the war, but rather that the German armament makers could not be responsible for their actions during the war.

## Selection of Defendants

Of the few defendants that were discussed none of them personally did any of the horrors that they were charged with. These defendants were the ones who sat behind desks and, for most of them, carried out and made orders. These defendants were not the only people left at the top of the NSDAP bureaucracy. All of the defendants that were indicted were, by the end of the war, second tier leaders. None of them were Hitler's right hand man, although Göring refused to believe his fall from grace until his dying day, and none of them were the top of their ministries. The ones with the highest leadership were the military men who were still under Hitler and were one of many. What made them more of a major war criminal than their colleagues? As we can see from above although there are multiple crimes committed, there was not any major ones that would have been extraordinary in a position of NSDAP leadership. What made them unique?

By the end of the trial there were only twenty-two of the twenty-four defendants that were judged. Along the way they lost Dr. Ley to suicide and Krupp to infirmary. When the judgement came out three defendants were acquitted, eight out of twenty-two were found guilty on count one of conspiracy, twelve out of sixteen were found guilty on count two of crimes against peace, sixteen out of eighteen were found guilty on count three of war crimes,

and sixteen out of eighteen were found guilty on count four of crimes against humanity.<sup>100</sup>

Although Göring was sentenced to death like the eleven of others by hanging he took his own life by cyanide shortly before his execution could be carried out.<sup>101</sup> The rest of the twenty-two defendants that were tried found guilty were imprisoned in Spandau prison for varying amount of time except for three who were acquitted.<sup>102</sup>

### Official Organizations

When the defendants were looked at by the allied powers they wanted to bring in “the highest ranking German leaders to a number fairly representative of the groups and organizations charged with complicity in the basic criminal plan.”<sup>103</sup> Later, in the same conference the allied powers state their reason as that the tribunal should seek “not only of the guilt of those individuals physically before the tribunal, but also of the complicity of the members of the organizations included within the charge.”<sup>104</sup> Meaning, that with these twenty-four defendants the allied powers were wanting them to represent the six organizations that were also indicted. With the trial of the member and the organization there would be a precedent set upon the judgement of both. This made it where the allied powers had to indict defendants that were representatives of these groups. So when the allied powers chose Bormann and Hess it was not only for their own actions it was also for them to represent the Leadership Corps of the NSDAP. When Justice Jackson said the “plan has been, as I have said here, to include key men in a single

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<sup>100</sup> *US Military Tribunal Nuremberg, Judgement of 31 July 1948*, (Nuremberg: 1948), 101-156.

<sup>101</sup> The United States Holocaust Memorial Museum, “The Nuremberg Trials” Accessed November 6, 2016, <https://www.ushmm.org/outreach/en/article.php?ModuleId=10007722>.

<sup>102</sup> *US Military Tribunal Nuremberg, Judgement of 31 July 1948*, (Nuremberg: 1948), 101-156.

<sup>103</sup> Robert H. Jackson, *Report of Robert H. Jackson United States Representative to the International Conference on Military Trials*, (London, 1945), 32.

<sup>104</sup> Robert H. Jackson, *Report of Robert H. Jackson United States Representative to the International Conference on Military Trials*, (London, 1945), 32.

trial and to reach others through that trial of organizations”<sup>105</sup> he meant to use the defendants in order to reach the whole of the organizations that they were involved in. Some of these organizations had been within the government of Germany from before the time that the NSDAP took control of the government. These were the ones that the allies saw as corrupted by the NSDAP leadership whom they were trying to reach through this trial. The other organizations had been first apart of the NSDAP and later became connected with the government after the party took control of the government.

Although by the end of the war these two types of organizations were no longer inseparable, the NSDAP had corrupted the government ones to such an extreme that they were a part of the party. In the judgement section of the first volume of the International Military Tribunal volumes states the different organizations each of the defendants are connected to the organizations that they were chosen to represent. In the conclusion for the Leadership Corps of the NSDAP “The Defendants Bormann and Sauckel, who were members of this organization”<sup>106</sup> represented all of the organization. When looking at the Gestapo and SD they chose “The Defendant Kaltenbrunner, who was a member of this organization,”<sup>107</sup> to represent all these organization members. Meanwhile, “The Defendant Kaltenbrunner was a member of the SS implicated”<sup>108</sup> with the organization. Although the Reich Cabinet and the General Staff and High Command was eventually not considered organizations they had representatives also. For the Reich Cabinet there was the politicians such as Bormann, Hess, and Göring. For the

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<sup>105</sup> Robert H. Jackson, *Report of Robert H. Jackson United States Representative to the International Conference on Military Trials*, (London, 1945), 342.

<sup>106</sup> *Trial of the Major War Criminals before the International Military Tribunal Volume I* (Nuremberg, 1946), 261.

<sup>107</sup> *Trial of the Major War Criminals before the International Military Tribunal Volume I* (Nuremberg, 1946), 267.

<sup>108</sup> *Trial of the Major War Criminals before the International Military Tribunal Volume I* (Nuremberg, 1946), 273.

General Staff and High Command there was the military men including Keitel, Doenitz, Raeder, and Jodl. The SA did not have a representative at the trial because of on “30 June and 1 and 2 July 1934 a purge of SA leaders occurred. The pretext which was given for this purge, which involved the killing of Rohm, the Chief of Staff of the SA, and many other SA leaders.”<sup>109</sup> This meant that there were not any leaders left that could be used to represent the SA so the SA was indicted without a defendant representing them.

Although many of the leaders of the SA were no longer alive and the top tier of leadership had mostly committed suicide by 1945 the pool of choices for the major war criminals was quite large. There had been many illegal actions that were done during and before the war. Many of the actions were done by groups of people that were not connected in any official capacity. An example of this would be the many industrialists that were involved in the war. Although there was not an official organization of industrialists many met and worked together and made the same choices through the war such as using slave labor and illegally gaining property and materials from occupied territories. These groups were groups not from meetings or anything of the sort but rather from shared traits and actions. Many of these groups have never been tried before such as the leading officials in government. It was unheard of for government officials to be charged of criminal activities in the 1940s and earlier. The ones who were charged were always lower down in the bureaucracy. By 1945 there was not a precedent for government leaders to be tried, or for newspaper editors to be considered criminal for their influence on the public. The allied powers were aware of their mistake at the

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<sup>109</sup> *Trial of the Major War Criminals before the International Military Tribunal Volume I* (Nuremberg, 1946), 274.

end of the First World War, many of the allies wanted to go ahead and charge the Kaiser and others in the German government for criminal actions but nothing was ever done internationally. Even when Germany took to prosecuting the criminals of the First World War none of the leaders of the nation were on the docket, they were never charged with any criminal actions. If they had been charged the International Military Tribunal would not have been the first impression for criminalizing leading a nation to war and corruption, the precedent would have been already set. So when approaching this tribunal, the allied powers wanted to change that. Each of the organizations that the defendants represented were among the largest within the Reich. Most of them touched multiple spheres of life within the Reich and included many Germans who were active within the NSDAP. Through the prosecution of these individuals the allied powers would be able to reach the multiple other people who had led Germany into its corrupt state.

### Unofficial Organizations

The allies could have just chosen the defendants for the six organizations and then indicted defendants who had committed the worst atrocities. This would have been made for a much easier trial, there was no shortage of documents that named specific individuals and their criminal actions. But, instead they indicted defendants that would represent the areas that the NSDAP had corrupted that had never been tried before, not only the six organizations that were already being represented, but also the categories of people who influence many spheres of life but whose influence had rarely been made criminal before. These were the people that they used to fill the rest of the indictment so that all who had used their power to make Germany

into the Third Reich would be held responsible. Especially, the hundreds of people who could not be tried through the first trial but could be through its precedent.

When they were setting up the charter they did “not know exactly all the names of the defendants but know what categories of persons are going to be tried.”<sup>110</sup> This shows that the issue of who was going to be a defendant was not based on whether they were a major war criminal or not but rather based on the category they were in. Since this tribunal was the first of its kind it would set a precedent for everything including those who would be chosen as defendants. Each category would represent certain groups of people who are connected either formally or informally based on their attributes and actions. This is one of the reasons that the allied powers selected organizations to be on the list of defendants in the first place, so they “would reach, through the trial of organizations, almost all of these people by our methods.”<sup>111</sup> The allied powers weren’t looking at trying the major war criminals, they were looking at trying the NSDAP and other connected groups and organizations. By the end of the war the NSDAP was not just a party with the majority in the German parliament, it was the government, society, and culture. There was no part of the daily life of a German which the NSDAP did not influence. During this time being a German included being a part of the party, reading NSDAP supported newspapers, listening to Hans Fritzsche on the radio at night, having your children in the Hitler Youth, going to a job that was controlled by the party, every part of German life was a part of NSDAP life. This is why the allied powers did not indict defendants who would only represent the groups that were on trial or the people who had done the most repugnant actions. The NSDAP had corrupted and made criminal almost all spheres of

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<sup>110</sup> Robert H. Jackson, *Report of Robert H. Jackson United States Representative to the International Conference on Military Trials*, (London, 1945), 117.

<sup>111</sup> Robert H. Jackson, *Report of Robert H. Jackson United States Representative to the International Conference on Military Trials*, (London, 1945), 342.

German life, the allied powers sought to punish those who had perverted German life so much. They did this through making these actions criminal from prosecuting defendants who were among those who corrupted the different spheres of German life. The allied powers chose their defendants based on the different categories that they would represent which would allow for a precedent to be set for those categories to be able to be made criminal.

The different categories that the allied powers wanted to have within the trial included many different unofficial groups. One would include the industrialists which was represented by Krupp, the head of Krupp Works. Another would include the media which was represented by Streicher, the creator and editor of the newspaper *Der Stürmer*, and Fritzsche, a radio broadcaster for the Reich. There was also the corruption of the economy which was represented by the bankers Funk and Schacht. The allied powers indicted Frick and Frank to prosecute the law men who had made legal the criminal actions that the Reich made policy. Seyss-Inquart and Papen represented the many politicians who did not start out as a part of the NSDAP but were eventually persuaded to use their own power to expand the party's power. Meanwhile, Ribbentrop, Rosenberg, and Neurath represented the foreign diplomats and those with their hands in foreign affairs. These were the people who helped the NSDAP get out of limiting treaties and gain international support while surveying the international community to see what amount of force could be used before war broke out. Then there was the defendant Schirach who represented all those who were responsible for the corruption of the youth of Germany.

Each of these two types of organizations were being represented so that the prosecution could establish a precedent which it could use against the rest of Germany in the

subsequent trials. The allied powers were planning on bring all of the leaders within the government, NSDAP, and Germany that were responsible for the corruption of Germany to trial.

## Sovereignty

The International Military Tribunal did what no other trial had done before by bringing government leaders to court run by external nations for crimes committed within the leader's nation. At the time this action was seen to be a direct violation of sovereignty which is why the United States did not want to pursue an international trial when it came to the war criminals from the First World War. A nation's sovereignty is the right of the nation to have control over what happens within their own borders.<sup>112</sup> The principle of sovereignty was established so that other countries could not control the governing of other nations. This includes prosecuting other citizens for committing crimes outside the nation's borders. The International Military Tribunal went directly against this portion of sovereignty by not only indicting German citizens for actions done within Germany but also for government policy.

The biggest of these two actions that went against sovereignty was the prosecution of legal actions; government policies. Under sovereignty each government had the right to govern their nation the way that the government saw fit. Yet, this trial indicted defendants based on actions that the government had set as policy. One of these was the indictment on count four of crimes against humanity for the what was known as the Nuremberg Laws. Although these laws allowed for the vicious persecution of those of the Jewish faith they were also within

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<sup>112</sup> "Sovereignty", The Editors of the Encyclopaedia Britannica, accessed December 2, 2016, <https://www.britannica.com/topic/sovereignty>.

Germany's power to do under sovereignty. These laws were set up by the government of Germany for the citizens of Germany. This is only one of the actions that the defendants were indicted on that had previously been protected under sovereignty.

The result of the International Military Tribunal was that it not only set a precedent for the selection of the defendants and for the crimes but also for the breakdown of sovereignty. This trial showed that the actions the government leaders made that affected those within their nation could be brought to court for criminal actions by the international community. This meant that every government official could be brought before an international court to be tried for actions that they had done within their country that had previously been protected by sovereignty. The International Military Tribunal made a nation's sovereignty mean not as much since any action that a nation's government did could be looked over by an international court which meant the international community could control the governance of a nation.

### International Criminal Court

The international court that could go against sovereignty and indict leaders of nations for their actions within the nation was the International Criminal Court (ICC). This court was established after the adoption of the Rome Statute of the International Criminal Court in 1998 and the entry into force of this statute in 2002.<sup>113</sup> According to the preamble of this statute the ICC is meant to intervene when a nation will not investigate and prosecute those who had committed international crimes. Through this action the international community hopes to prevent actions that would be detrimental to the international community as a whole.

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<sup>113</sup>"Understanding the International Criminal Court", The International Criminal Court, accessed December 2, 2016, <https://www.icc-cpi.int/iccdocs/pids/publications/uicceng.pdf>.

The International Military Tribunal relates to this court through being its forefather which established the precedents for the ICC to exist. Not only was this trial the first where the international community got involved but also it established what crimes would be seen as international crimes. The crimes that the ICC deal with is “namely the crime of genocide, crimes against humanity, war crimes and the crime of aggression.”<sup>114</sup> Each of these was laid out in count one, three and four in the International Military Tribunal. The ICC was established after “the Nuremberg and Tokyo tribunals were established in the wake of the Second World War. In 1948, when the Convention on the Prevention and Punishment of the Crime of Genocide was adopted, the United Nations General Assembly recognised the need for a permanent international court to deal with the kinds of atrocities which had just been perpetrated.”<sup>115</sup> The ICC was the permanent version of the International Military Tribunal which was to concern itself with international crimes.

## Conclusion

The literature within the past decade and a half now agrees with the allied powers view on the pervasiveness of the NSDAP. For many years most scholars believed that the main criminals led the country to the war and crimes unwillingly, now the scholars think differently. These scholars believe that the country not only knew about the atrocities being committed but also that the people of Germany supported these acts. The country was not being forced into a war, they welcomed and supported it. One of these scholars is Peter Fritzsche who in his book, *Life and Death in the Third Reich*, argues that “more Germans were Nazis and Germans more National

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<sup>114</sup> “Understanding the International Criminal Court”.

<sup>115</sup> “Understanding the International Criminal Court”.

Socialist than was previously thought.”<sup>116</sup> There were not two separate groups in Germany, the NSDAP and Germans, who had no idea what the others were doing. Instead most Germans were deeply involved with the NSDAP and knew about almost everything that was happening. The party was involved in all spheres of the lives of the Germans and that is why the defendants were chosen to represent all spheres of life. Robert Gellately also argued this in *Backing Hitler: Consent and Coercion in Nazi Germany*, here he uses primary sources and case studies to show that many Germans were supporters of the NSDAP till the end.<sup>117</sup>

When approaching this trial, the allied powers were not looking to just convict the criminals of NSDAP Germany. Instead they wanted to make those who were responsible for the rapid corruption of Germany to pay for their crimes. It was not just a few spheres of life that were made criminal, almost all spheres of life in Germany had been involved in committing major crimes by the end of the war. Yet, many of these leaders within these spheres of life had never been in a position where they were charged as criminal. Meaning there was no precedent for many of these spheres to be considered criminal, their leaders had never been indicted for criminal actions with connection to these spheres. The allied powers, through this trial, selected defendants from these spheres in order to represent the categories of people that influenced Germany into becoming a nation in which criminal acts were no longer seen as criminal in order to punish these acts. Since there were so many that had committed these acts the defendants were not just chosen because they did criminal acts but also to make it where there was legal precedent in order to prosecute the rest of the persons responsible for the corruption of

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<sup>116</sup> Peter Fritzsche, *Life and Death in the Third Reich*, (The United States of America, 2008), 7.

<sup>117</sup>Robert Gellately, *Backing Hitler: Consent and Coercion in Nazi Germany*, (New York, 2001).

Germany. It would have been easy to pick twenty-four defendants that had committed atrocities to convict, instead the allied powers picked defendants so they could set precedent to prosecute what they saw as a criminal nation.

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