

# The Nuremberg Trials

## The Indictments

In early October 1945, the four prosecuting nations—the United States, Great Britain, France and Russia—issued an indictment against 24 men and six organizations. The individual defendants were charged not only with the systematic murder of millions of people, but also with planning and carrying out the war in Europe.

## The Charges

The four powers divided the prosecution work, giving the United States the complicated job of proving Count One—the conspiracy charge.

### Count One: *Conspiracy to Wage Aggressive War*

The “common plan or conspiracy” charge was designed to get around the problem of how to deal with crimes committed before the war. The defendants charged under Count One were accused of agreeing to commit crimes.

### Count Two: *Waging Aggressive War, or “Crimes Against Peace”*

This evidence was presented by the British prosecutors and was defined in the indictment as “the planning, preparation, initiation, and waging of wars of aggression, which were also wars in violation of international treaties, agreements, and assurances.”

This charge created problems for the prosecutors. Although Hitler had clearly waged an aggressive war, beginning with the invasion of Poland in 1939, but Count Two was based on allegations that the Germans had violated international agreements, which the Soviet Union had also broken.

**Robert Jackson**, the chief U.S. prosecutor, wanted the International Military Tribunal to create new international law that would outlaw aggressive war. Clearly, the premise that it is possible to outlaw war is a questionable one.

### Count Three: *War Crimes*

The Russian and French prosecutors presented evidence on atrocities committed in the East and West, respectively.

Count Three was intended to deal with acts that violated traditional concepts of the law of war—the use of slave labor; bombing civilian populations; the Reprisal Order (issue by one of the defendants, Field Marshal *Wilhelm Keitel* this order required that 50 Soviet soldiers be shot for every German killed by partisans); the Commando Order (also issued by Keitel, it ordered that downed Allied airmen be shot rather than taken captive).

The violations of international law under Count Three were more clearly rooted in precedent than the other counts.

War crimes were defined under the *London Charter* (the document drafted by the Allies before the trial began) as “murder, ill treatment or deportation to slave labor or for any other purpose of civilian population or in occupied territory, murder or ill-treatment of prisoners-of-war or persons on the seas, killing of hostages, plunder of public or private property, wanton destruction of cities, towns, or villages or devastation not justified by military necessity.”

### Count Four: *Crimes Against Humanity*

The Russians and the French again divided responsibility along East-West lines. Count Four was applied to defendants responsible for the death camps, concentration camps and killing rampages in the East.

Initially, crimes against humanity were understood to be crimes committed by a government against its own people, and there was some question as to whether the concept could be applied internationally. Their inclusion in the London Charter was a novel extension of the concept.

The London Charter defined these crimes as “murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population before or during the war, or persecutions on political, racial, or religious grounds in execution of or in connection with any crimes within the jurisdiction of the International Military Tribunal, whether or not in violation of domestic law of the country where perpetrated.”

## Selection of Defendants

The list of the accused was to some extent arbitrary. The defendants represented the major administrative branches of the Third Reich and included prisoners held by each of the four prosecuting nations. Apparently, little attention was paid to the availability of evidence against them. Attention was generally paid to how well known they were and/or how much power they had wielded.

## The Trial

Associate United States Supreme Court Justice Robert Jackson made the opening statement in what would become known as the Nuremberg war crimes trial:

“The privilege of opening the first trial in history for crimes against the peace of the world imposes a great responsibility,” Jackson told the International Military Tribunal. “The four great nations flushed with victory and stung with injury, stay the hand of vengeance and voluntarily submit their captive enemies to the judgment of the law.”

"The crimes which we seek to condemn and punish have been so calculated, so malignant and so devastating, that civilization cannot tolerate their being ignored, because it cannot survive their being repeated," he said.

During the next ten months, prosecutors from the four victorious powers—the United States, Great Britain, France and Russia—presented their case against 22 Nazi leaders. In trying to fix German guilt, the prosecutors had charged the defendants with conspiring and launching aggressive war and committing war crimes and crimes against humanity.

In the end, three of the defendants were acquitted. Eight received long prison sentences and the rest were sentenced to death. At 10:45 p.m. on October 15, 1946, Hermann Goering cheated the hangman with a cyanide capsule. Two hours later, the executions began.

The trial of Goering, Rudolf Hess, Albert Speer and the others was part show trial and part noble effort to create new international law in the face of crimes that negated civilization's progress. To some extent, it reflected the optimistic sentiments for world cooperation (which were rapidly eclipsed by the Cold War) that led to the creation of the United Nations. It was a political effort to find human-sized justice for crimes that were so hideous.

This was the trial of the century. In the words of Norman Birkett, who served as a British alternate judge: it was "the greatest trial in history."

### **The Legacy of Nuremberg**

In the view of most historians, Nuremberg's legacy is mixed. They are generally favorable to the attempt made by the Allies to bring some form of international judicial accounting for the horrors of the Nazi regime. To this day, Nuremberg remains the most thorough record of Hitler's rise to power, and the planning, launching and execution of World War II. As such, it was no small achievement, and one that was forged out of the chaos and rubble immediately following World War II.

But some argue that the International Military Tribunal was a victor's justice, and the trial has been criticized for a variety of reasons. The list of those accused was somewhat arbitrary. There also were basic misgivings. The accused had been charged with violations of international law, but such law was binding on nations, not individuals. Individuals, it was argued, could be brought to justice only under the laws of their own country, not on the basis of a new order established after a war. It may have been imperfect justice, but there was no alternative.

Nuremberg has never fulfilled its brightest promise—a permanent international tribunal for war crimes. Various efforts have been made in the ensuing half century, but all have languished. Only recently, with the establishment of the U.N.'s International Criminal Tribunal that is addressing war crimes in the Former Yugoslavia and Rwanda, have the ideals set at Nuremberg taken a tangible form.

The final business of Nuremberg remains unfinished.

### **The Defendants**

On November 20, 1945, twenty-one Nazi defendants filed into the dock at the Palace of Justice in Nuremberg to stand trial for war crimes.

<b>Karl Doenitz</b> Supreme Commander of the Navy; in Hitler's last will and testament he was made Third Reich President and Supreme Commander of the Armed Forces <i>10 Years in Prison</i>	<b>Hermann Goering</b> Reichsmarschall, Chief of the Air Force <i>Sentenced to Hang; committed suicide before sentence could be executed</i>	<b>Hjalmar Schacht</b> Minister of the Economics <i>Acquitted</i>
<b>Hans Frank</b> Governor-General of occupied Poland <i>Hanged</i>	<b>Rudolf Hess</b> Deputy to Hitler <i>Life in Prison</i>	<b>Arthur Seyss-Inquart</b> Governor of the Netherlands <i>Hanged</i>
<b>Wilhelm Frick</b> Minister of the Interior <i>Hanged</i>	<b>Alfred Jodl</b> Chief of Army Operations <i>Hanged</i>	<b>Albert Speer</b> Minister of Armaments and War Production <i>20 Years in Prison</i>
<b>Hans Fritzsche</b> Ministerial Director and head of the radio division in the Propaganda Ministry <i>Acquitted</i>	<b>Ernst Kaltenbrunner</b> Chief of Reich Main Security Office whose departments included the Gestapo and SS <i>Hanged</i>	<b>Julius Streicher</b> Editor of the newspaper <i>Der Sturmer</i> <i>Hanged</i>
<b>Walther Funk</b> President of the Reichsbank <i>Life in Prison</i>	<b>Wilhelm Keitel</b> Chief of Staff of the High Command of the Armed Forces <i>Hanged</i>	<b>Constantin von Neurath</b> Governor of Bohemia and Moravia <i>15 Years in Prison</i>
	<b>Erich Raeder</b> Grand Admiral of the Navy <i>Life in Prison</i>	<b>Franz von Papen</b> One-time Chancellor of Germany <i>Acquitted</i>
	<b>Alfred Rosenberg</b> Minister of the Occupied Eastern Territories <i>Hanged</i>	<b>Joachim von Ribbentrop</b> Minister of Foreign Affairs <i>Hanged</i>
	<b>Fritz Sauckel</b> Labor leader <i>Hanged</i>	<b>Baldur von Schirach</b> Reich Youth leader <i>20 Years in Prison</i>