



Jus Corpus Law Journal

Open Access Law Journal – Copyright © 2023 – ISSN 2582-7820
Editor-in-Chief – Prof. (Dr.) Rhishikesh Dave; Publisher – Ayush Pandey

This is an Open Access article distributed under the terms of the Creative Commons Attribution-Non-Commercial-Share Alike 4.0 International (CC-BY-NC-SA 4.0) License, which permits unrestricted non-commercial use, distribution, and reproduction in any medium provided the original work is properly cited.

Politics of the Nuremberg Trials

Manya Gupta^a

^aOP Jindal Global University, Sonipat, India

Received 27 July 2023; Accepted 14 August 2023; Published 18 August 2023

The Nuremberg trials are regarded as one of the earliest precedents for international law since they introduced the fundamental concepts of crimes against humanity, war crimes, and crimes against peace. The trial's initial goal was to ensure that forces of law and order would triumph and stop the unchecked dominance of global lawlessness. The trial's legal foundation was evident, but its political ramifications were unclear. The trial's politics had an impact on international law and helped to establish its guiding principles. This has to be done swiftly and frequently at the price of quality workmanship. While the public was clamouring for justice, our challenge as prosecutors was not simply to appease public opinion but also to lay the groundwork for a fresh way of looking at global issues. We saw the four legal representatives of the Allied nations develop an inspiring sense of community. Hence, this research paper focuses on how the victorious powers involved in the indictment of the German forces were and how they brought the verdict in favour of the allied powers.

Keywords: *nuremberg trials, allied forces, politics, individual responsibility, international law.*

INTRODUCTION

One could argue that understanding in relation to legal issues has been easier to come to than understanding in relation to political issues. But despite the fact that the Nuremberg trial is

unquestionably a judicial proceeding, there are actually political issues at play.¹ The harmonious cooperation of the delegates of the four major powers should be a sign of encouragement for those who tend to become disheartened over the prospect of misunderstanding within the United Nations. One of the most contentious aspects of the Nuremberg Trial has been the Allied Powers' repeated attempts to establish that the law created by the London Agreement and the Charter of the International Military Tribunal was declaratory of already-existing principles of general international law and that the Tribunal's decision, aside from its immediate goal of retribution, must be viewed as the first historical attempt to establish a legal precedent destined to be followed by other tribunals.²

Evaluating the actual political and legal landscape of Europe and the rest of the world, the complicated environment of conflicts and mistrust between the political circles of the West and the East, the very notion of establishing an international court and the manner in which it would be organized emerged as a final victory over the enemy. However, they were obviously at odds with the attitude of the war's primary conquerors – the soldiers and commoners. Past misdeeds and atrocities deserved justice. Every upright person yearned for justice, for those responsible for starting the war and for the suffering and deaths of millions of people to be held accountable.

The procedure and its damning evidence caused a revolution in public consciousness and an unprecedented revelation to the world. The verdict rendered by the tribunal marked the beginning of a new era of justice.³

¹ George A Finch, 'The Nuremberg Trial and International Law' (1947) 41(1) American Journal of International Law 20 <<https://www.cambridge.org/core/journals/american-journal-of-international-law/article/abs/nuremberg-trial-and-international-law/9D3F74F095859BFC920227CF4C835BB6>> accessed 20 July 2023

² Nicholas Doman, 'Political Consequences of the Nuremberg Trial' (1946) 246(1) The ANNALS of the American Academy of Political and Social Science 81-90 <<https://EconPapers.repec.org/RePEc:sae:anname:v:246:y:1946:i:1:p:81-90>> accessed 20 July 2023

³ F. B. Schick, 'The Nuremberg Trial and the International Law of the Future' (1947) 41(4) American Journal of International Law 770 <<https://www.cambridge.org/core/journals/american-journal-of-international-law/article/abs/nuremberg-trial-and-the-international-law-of-the-future/1DD363DAB3A1457A74667FFEA41295D9>> accessed 20 July 2023

JURISDICTION

The Nuremberg court's jurisdiction was not contingent on official recognition by the defendants or the state with which the defendants were associated. It was the first blatant case of an international court having exclusive jurisdiction over a situation involving something other than standard international law. The entire idea of war entered the realm of law thanks to the Kellogg-Briand Pact and other international agreements. It was inferred that every action brought about by this aggression lost its status as a legitimate act of war. A war that has been declared in defiance of international law is no longer given a legal status. As a result, since war is considered to be a criminal act, its associated crimes cannot be justified as being a part of a legitimate endeavour.⁴

One will concur with the prosecuting Powers that their Nuremberg legal policy can only have long-lasting effects if these Powers demonstrate their willingness to apply the 'international law of the future' in cases involving citizens of other UN Members and among them particularly citizens of the leading victorious Powers. The International Military Tribunal's Charter only applies to 'the major war criminals of the European Axis'.⁵ As far as nationals of the victorious Powers are concerned, no international treaty exists that gives effect to the principles declared at Nuremberg, and none of these Powers has passed laws incorporating these principles into their respective municipal codes.

The Council for the Nuremberg Defendants made the case that every state has the right to fight a war in self-defence and that international law gives each state the freedom to choose whether it is doing so. While acknowledging the legitimacy of the principle of self-defence, the Allied Prosecution emphasized that it did not apply to the circumstances of the case before the International Military Tribunal.⁶ Regarding the general application of the contested principle, the prosecution emphasized that the right to self-defence, especially in light of the reservations made about it by nearly all of the prosecuting Powers in the Pact of Paris, 'does not impair the

⁴ *Ibid*

⁵ D.C. Sharma, 'The Nuremberg Trials: Past and the Present' (1992) 53 Proceedings of the Indian History Congress 586 <<https://www.jstor.org/stable/44142874> > accessed 20 July 2023

⁶ Schick (n 3)

capacity of a Treaty to create legal obligations against war'. On the contrary, the Statute's Article 34, Section 1, specifically specifies that 'only States may be Parties in Cases before the Court'. The principles formally stated at Nuremberg by the victorious Powers and incorporated into the Charter of the International Military Tribunal are obviously not applicable under this clause.⁷

INDIVIDUAL RESPONSIBILITY

Although individual accountability before a court of justice is a legal notion, when applied to international politics, it has incalculable political repercussions. It goes without saying that in a well-organized contemporary state, accountability extends beyond those who work directly for the government. This regulation was established at Nuremberg and applied to all people, not only those who held high government posts. It appears that citizens who do not have official positions in the state's executive or judicial branches are also bound by international law. The focus is on influence over state acts rather than directives given on the state's behalf.⁸

The traditional viewpoint that only states can be subjects of international law was disregarded at the Nuremberg trial. The person is now brought into direct touch with the rules of international law, either as an organ of the state or as a factor in the state. The four powers' strategy for the Nuremberg trial as a whole is explosively set. It is possible that those who sponsored the trial did not anticipate or did not intend the broad, general applications of international law. However, it would be incorrect to assume that a defeated nation is the only one to whom the Nuremberg lesson applies. The prosecution claimed that in order to have a deterrent effect in the future, the principle of individual criminal responsibility established by the Charter of the International Military Tribunal would have to be applicable also against citizens of the victorious nations, going far beyond the bounds of the United Nations Charter.⁹

⁷ Doman (n 2)

⁸ Quincy Wright, 'The Law of the Nuremberg Trial' (1947) 41(1) *American Journal of International Law* 38 <<https://doi.org/10.2307/2193853>> accessed 20 July 2023

⁹ Hans Leonhardt, 'The Nuremberg Trial: A Legal Analysis' (1949) 11(4) *The Review of Politics* 449 <<https://www.cambridge.org/core/journals/review-of-politics/article/abs/nuremberg-trial-a-legal-analysis/2BC36EA2F16C31BEA962E6DF9D081A02>> accessed 20 July 2023

It is true that eminent international jurists have advanced the theory that severe punishment meted out to powerful individuals found guilty of grave breaches of international law, particularly the use of illegal force, can act as a deterrent to others who might consider breaking the law but aren't quite ready to lead their countries into conflict.¹⁰ The threat of this harshest punishment has undoubtedly had little to no deterrence effect on those who committed these crimes. Therefore, it would be more reasonable to assume that establishing individual criminal responsibility can, at least in part, prevent the commission of acts that violate international law, especially the use of illegal war whenever it is deemed to be in the country's best interest. In these situations, the likelihood that the endeavour will be successful weighs more heavily than the remote prospect of punishment.

STATE REPRESENTATION

The prosecution's allegations were not supported by a finding that was made after hostilities ended in 1945. The circumstances that culminated in an aggressive war in 1939 were seen by the entire world. And yet, until 1939, at least, narrowly construed international law provided no avenue for civilisation to intervene and put an end to the holocaust. Although this interpretation isn't explicitly contested at Nuremberg, the argument's ridiculousness speaks for itself. The pyramidal structure of the German government, the dictatorial National Socialist Party, and the German military forces were given the criminal epithet by the prosecutors of the United States, France, the United Kingdom, and the Soviet Union in unison.¹¹

The Nuremberg trial did not focus solely on a small number of individuals who held key roles throughout the planning and commission of Germany's crimes against peace, war crimes, and crimes against humanity. The trial was not tainted by the guilt of the German people or the German State. However, the United Nations, which was in charge of the trial, sought to move beyond charging specific individuals and ignore the issue of the main members of the National

¹⁰ Doman (n2)

¹¹ Nicholas R Doman, 'The Nuremberg Trials Revisited' (1961) 47(3) American Bar Association Journal 260
<<https://heinonline.org/HOL/LandingPage?handle=hein.journals/abaj47&div=69&id=&page=>> accessed 20 July 2023

Socialist government and party as well as the German armed forces being guilty of collective criminality.¹²

There is a legal precedence for this in the courts of many nations, where men are found guilty of crimes for which they were held accountable due to their participation in certain illegal alliances, groups, or conspiracies. If the court accepts the prosecution's argument, members of criminal organizations will face punishment that will be decided later by the appropriate tribunals, barring any personal defences like joining because of a threat to one's life or the lives of one's family or because of false inducement. It is unprecedented for the representative bodies of a so-called civilized state to bear the stigma of criminality and be subjected to legal action by means of the institutions of a globally organized society.

It is well known that the political and legal consensus, which was established after great sacrifice in the face of the terrifying Nazi threat, was clouded by a protracted period of hostilities between the former allies, during the 'cold war' between the West and the East, in which, in addition to politics playing a largely determining role, the Nuremberg Principles and the Will of Nuremberg were gradually being excluded. Today, we are especially appreciative of the secular and religious social movements that contributed to putting out the flames of conflict in Latin America, South Africa, and Indochina.¹³

NATIONAL SOVEREIGNTY

The Nuremberg case's main issue is aggressive war. Actions that may only be of internal significance are brought to light by aggressive conflict as a global crime. War was planned and prepared over a long period of time with considerable skill and cunning, according to Justice Jackson's persuasive argument. The prosecutors were unable to view aggressive war as a criminal apart from war planning.¹⁴ The preparation for criminal conduct is not outside the purview of the agencies tasked with enforcing the law, according to the accepted principles of

¹² Schick (n 3)

¹³ *Ibid*

¹⁴ Donald Bloxham, 'From the International Military Tribunal to the Subsequent Nuremberg Proceedings: The American Confrontation with Nazi Criminality Revisited' (2013) 98(332) *The Journal of the Historical Association - History* 567 <<https://doi.org/10.1111/1468-229X.12024>> accessed 20 July 2023

criminal jurisprudence. It made sense that the prosecution could not disregard military readiness and the national policy that permitted aggressive warfare.

It was and still is acknowledged that the national state has the authority to take urgent and complex steps to address the problems with its economic, social, and political life. However, if the entire state apparatus is a tool in the hands of individuals who are determined to violate the fundamental norms guiding global society, this cannot be the case.¹⁵ The Nuremberg court acknowledged that international law prevailed over national law in the theoretical clash between them. When four of the most powerful countries in the world openly mock the idea that each national state has undisputed supremacy, the moral and legal foundations for national sovereignty are no longer valid. The National Socialist German State's leaders had to defend their acts in front of an international body at Nuremberg. They were called to account by the four powers that represent the global community, not by the German people they claimed to speak for. When the idea of national sovereignty is given way to the laws controlling global society, a new political paradigm is given its legal basis.

CONCLUSION

It is incorrect to assume that the Nuremberg Trial set a legal precedent that will be followed by future courts. This assumption appears to have been taken from analogues in municipal law. However, it is very feasible that future triumphant nations may look to the Nuremberg prosecution as a welcome political precedent for the prosecution and punishment of their defeated enemies. Therefore, it is to be expected that the Nuremberg Trial may, over time, have some legal implications that run counter to the true goals that the prosecuting Powers have publicly declared. Leading jurists as well as counsel for the defence have contested the Tribunal's jurisdiction from the very beginning, despite the Allied Prosecution's repeated declarations that the provisions of the International Military Tribunal's Charter must be considered as 'conclusive' upon the judges, the prosecution, as well as the defendants.¹⁶

¹⁵ Doman (n 2)

¹⁶ *Ibid*

It is realistic to assume that the Nuremberg precedent will continue to be relevant in international politics long after the International Military Tribunal has ended operations. Such strategic issues as those being dealt with by the Nuremberg court have never been addressed by the Permanent Court of International Justice at The Hague. Fundamental policies and crucial interests of powerful nations had not been brought before the Hague court, whose jurisdiction depended on such nations' acceptance of the court's charter as parties. It is possible to state without fear of disagreement that it was nothing more than a gilded version of the conventional arbitration courts.