

## Reflections on the Legal Problems Existing in the Nuremberg Trial

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**Abstract:** *The Nuremberg Trial is a true reflection of the history of the trial. As the first international trial of war criminals in human history, the Nuremberg Trial has an irreplaceable political significance in denying the war of aggression and maintaining world peace. From the point of view of law, it can also be called the model of trial at all times and in all over the world. There is an unprecedented conflict between the subject and object of trial, the dispute between the legality and illegality of the act of trial, the detailed and sufficient evidence, and different legal values. All these endowed the trial with epoch-making significance and opened up a new era of international legislation. This article will focus on the trial of several important legal issues reflected in the author's own views and thinking.*

**Keywords:** *Nuremberg Trial; Legal Value; Legal Positivism*

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### I. THE NECESSITY OF TRIAL — SHOULD THE EXECUTION OF A WAR CRIMINAL WITH HEAVY BLOOD DEBTS ALSO BE SUBJECT TO LEGAL PROCEDURE

There has been a heated debate within the Allies over the necessity of establishing an international military tribunal. Many countries advocate the execution of war criminals without trial. The Soviets argued that all Germans who wore Nazi uniforms should be shot, at least sent to Siberia for hard labour; the SS should be buried alive; Soviet leader Joseph Stalin and British Prime Minister Winston Churchill thought the trial was a waste of time and money. Stalin had planned to line up to kill 50,000 German officials, and Winston Churchill had planned to bring key SS figures to justice. Eventually, both were persuaded by the United States to give up violence and opt for open court debate to convict prisoners of their crimes. The United Kingdom also suggested that the main war criminals of the Third Reich should be executed without trial, since they had already issued a verdict of guilt and served a death warrant for their actions in planning and starting World War II. But the prosecution's U.S. representative, Judge Jackson, insisted that an open, fair and impartial trial be held, pointedly stating: "If you think a man can be executed arbitrarily without being tried, then there is no need for a court or trial. There will be a loss of faith and respect for the law, because the courts were created to convict people." Not only should the war criminals not be executed without trial, he argued, but their procedural rights should be fully guaranteed. Just as Beccaria, in "On Crime and Punishment," argued that a person cannot be called an offender until a judge has decided on it, and Beccaria believed that only the law can impose punishment for a crime. That is to say, war criminals should be allowed to hire defenders to defend themselves. So that the truth of the facts in the equal confrontation between the prosecution and the defense, so that the crimes of the war criminals in the defense of the prosecution gradually to be revealed and confirmed.

Justice Jackson's claim is a powerful defense of procedural justice. The concept of procedural justice is expressed in England as "natural justice" and in the United States as "due process of law", which dates from 1215 to the English Magna Carta, which states: "No free person shall be subjected to imprisonment, deprivation of property, exile, murder, etc., except by a lawful judgment of a judge of nobility or in accordance with the local laws." Even though the entire world (except Germany) is aware of the Nazis' immense blood debt, and even though the prosecution's evidence is so strong that anyone with a normal sense of justice will find the war criminals guilty, it is still necessary to go to the courts to establish their guilt and their punishment. They must be given the procedural rights of ordinary criminal defendants, who can say nothing after appearing in court, not even answer questions from the judge, and the exercise of their right to remain silent must also follow the usual procedures and standards of fact-finding and conviction and sentencing. The Allies could find myriad reasons for the execution of those war criminals, but only by adhering to procedural justice, by lawful trials to expose their crimes and hold them criminally accountable can the judgements of the International Military Tribunal be affirmed and respected and the criminal nature of the Nazis' actions be recognized.

This trial also ushered in a new era of international legislation, before which there had never been a trial on such a large scale. All legal bases and trial processes must be constructed from scratch. The London Charter, which was negotiated by the four victors on the battlefield in Europe, had a great influence on the

definition of international crimes in the future, such as the concept of crimes against humanity. On this basis, Attorney General Jackson wrote in a letter to US President Harry Truman: "The time is right to deal with war crimes in accordance with the principles of law." In his view, war could be defined as a universal crime, and the legal basis of the Nuremberg trial should be applied to all countries in the future. Unfortunately, Jackson's dream did not come true.

## **II. THE NATURE AND LEGITIMACY OF THE TRIAL OF THE VICTOR OF THE DEFEATED, OR OF THE JUSTICE OF THE EVIL**

Before the trial began, the arrested Goering had told the U. S. officers who served him the indictment: "We are all civilized people, and we all know the truth. The victor is always the judge, the loser is always the defendant. " Justice Jackson, the prosecution's US representative, urged the world to see the trial as a trial of good and evil. The two opposing views reflected the divergence of perceptions about the nature of the trial. There have been countless times in history when the victor sent the defeated to the scaffold or to the gallows, just as in January 1649 England set up a special court to try the king. The court sentenced King Charles I to death for "tyrants, traitors, murderers and enemies of the people" and executed it on 30 January in Whitehall Square, England. At 1: 00 p.m. on January 30, 1649, Charles I was guillotined, proclaiming the victory of English capitalism and the end of feudal rule. Trials have always been thought of as a result of victory and defeat in war, and have nothing to do with justice or evil, legality or illegality. This idea is so ingrained that the Nazi war criminals did not realize their crimes, but tried to "inspire" the German people with their own death, so that they "revive the German spirit.

Therefore, if the Germans considered this trial to be the trial of their defeated homeland by the victors, it would easily arouse their vengeance and sow the seeds of a new war. Based on this consideration, the prosecution, led by Judge Jackson, tried to convince the war criminals to plead guilty through a fair and legal process and a lot of convincing evidence, so that the world — and especially the German public — realized that the trial was fair. It was recognized that in this trial the judges of the Soviet Union, the United States, Britain and France tried the Nazis not only in the name of justice, but also in the principle of justice, but also in the name of war criminals rather than the military and political chiefs of the defeated nations. As it turned out, they did: the European Charter of the International Military Tribunal provided a procedural basis for the trial, and Justice Jackson made three counts based on previous international treaties to prevent war and the long-standing principles of international law of "punishing war" —Crimes against peace, war crimes and crimes against humanity provided a substantive legal basis for the trial, while the texts and audio-visual recordings of massacres and persecution recorded by the Nazi organizations themselves provided ample evidence for the trial. Therefore, this trial is lawful and just, a solemn trial of evil by justice, and not necessarily related to victory or defeat. Even the people of a defeated country have to admit it.

## **III. The Conflict Between Natural Law and Legal Positivism: Is Nazi Law Law Law Law Law? Is it a crime to obey Nazi Law and Order?**

During the trial, Allied Captain Gilbert had two rather similar conversations with the commanders of Goering and Auschwitz, in which the two Germans pleaded not guilty for the same reason, that they believed they were obeying and carrying out orders from their superiors. This plea was also raised by the accused during the trial. To the Germans of the Nazi era, the law was the will of the state, the orders of the Fuehrer; and these orders must be obeyed and carried out without doubt. This embodies an extreme view of positivist jurisprudence. John Austen, the pioneer of positivism, defined law as: law is the command of the sovereign. In his view, law is the embodiment of the will of the state, it is and only is true, and has nothing to do with morality and "ought to be"; The study of law only aims at logical analysis of the structure and concept of positive law, and does not make any moral judgment to law. This view of jurisprudence helps the logical and normative perfection of the law itself. But it is at a loss to confront situations where a State or a government pursues its evil will, as a form of law (including orders in a broad sense) and causes calamity to that country or the world. When the Nazi Party came to power through a legitimate parliamentary election, the ostensibly legal minority of senior Nazis, led by Hitler, elevated its evil will into the will of the state and made law and orders. The Germans, who had been brought up to obey the laws and orders unconditionally, carried out unquestioning obedience and implementation of them in the same positivism as mentioned above, resulting not only in the destruction of the lives of other nations and peoples, but also in the defeat and dismemberment of their own country.

To prevent such tragedies from happening again, this blind obedience must be redressed, and it was necessary in this trial to declare the defendants' blind obedience to the Nazi laws as a crime. This was an impossible task for positivist jurisprudence. Because it is impossible to evaluate the good and bad of law on the level of positive law, there is no source for evil law and blind obedience to it. The need for judgment leads to the return of natural law. According to the concept of natural law, law is closely related to morality, and positive law must meet the requirements of natural law of fairness and justice. Hobbes once said that the law of nature comes

from man's reason, which is understandable and agreeable to everyone based on reason. Reason is a natural ability of human beings, a justifiable reason for behavior or belief, and a fundamental criterion for judging right and wrong. Therefore, laws that violate the idea of justice and fairness have no legal force and are the manifestation of evil; conscience should be regarded as the basic principle of human life, and it is illegal to obey evil laws against one's conscience; The person who enforces the law may not raise as a defense that the person who enforces the law is not pursued legal responsibility and that the person who enforces the law shall not be responsible for carrying out the order of his superior. The German people did not have to obey the Nazi "law" and "order", though having the form of national will and the appearance of law, seriously violated the basic demands of human beings for fairness and justice. The Nazi war criminals charged with obeying these "laws" and carrying out orders from their superiors blindly obeyed or carried out because of their capacity for moral judgment, resulting in a large number of innocent civilians being killed, and the justification for obeying and carrying out orders from their superiors is untenable. The theory of natural law provides the legal basis for investigating the responsibility of the Nazi war criminals, and provides the reference object for evaluating the value of positive law, which is superior to positive law. No matter how to emphasize the reality of law, we can not deny the "minimum natural law", that is, the most basic concept of justice.

### III. CONCLUSION

The Nuremberg trial pioneered the legal way to condemn wars and maintain world peace. The jurisprudence, international law and criminal law issues involved in this trial are worth thinking and exploring, limited by the space here is not exhaustive. This article only discusses and explains the necessity of a trial, the nature and legality of a trial, and the conflict between natural law and positivism of law. I hope that with the advancement of the rule of law at home and abroad, the role of law in safeguarding peace and opposing tyranny can be brought into full play in the world. I hope that human beings can cast swords as soon as possible and bathe in the morning light of peace, friendship and common progress.

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