

## ***The Doctor's Trial***

### ***Research Sheet***

On December 9, 1946, an American military tribunal opened criminal proceedings against 23 leading German physicians and administrators for their willing participation in war crimes and crimes against humanity.

Brigadier General Telford Taylor was Chief of Counsel, during the Doctors Trial. In Taylor's own words, from the opening statement by the prosecution: "The defendants in this case are charged with murders, tortures, and other atrocities committed in the name of medical science. The victims of these crimes are numbered in the hundreds of thousands. A handful only are still alive; a few of the survivors will appear in this courtroom. But most of these miserable victims were slaughtered outright or died in the course of the tortures to which they were subjected. For the most part they are nameless dead. To their murderers, these wretched people were not individuals at all. They came in wholesale lots and were treated worse than animals."

Though often known as the "Doctors' Trial" and the "Medical Case," the trial was officially designated *United States of America v. Karl Brandt*. Held at the Palace of Justice in Nuremberg, Germany, the trial began on December 9, 1946. Four American judges presided - Walter Beals, Johnson Crawford, Harold Sebring, and Victor Swearingen. The trial described and documented some of the most gruesome and painful medical experiments, including those for typhus, sea water, high-altitude, bone transplantation, extreme cold, sterilization, poison bullets, and skeleton collection.

In Nazi Germany, German physicians planned and enacted the "Euthanasia" Program, the systematic killing of those they deemed "unworthy of life." The victims included the institutionalized mentally ill and physically impaired. Further, during World War II, German physicians conducted pseudoscientific medical experiments utilizing thousands of concentration camp prisoners without their consent. Most died or were permanently impaired as a result. Jews, Poles, Russians, and Roma (Gypsies) were the most common victims of experimentation.

After almost 140 days of proceedings, including the testimony of 85 witnesses and the submission of almost 1,500 documents, the American judges pronounced their verdict on August 20, 1947. Sixteen of the doctors were found guilty. Seven were sentenced to death. They were executed on June 2, 1948.

<b>Defendant</b>	<b>Sentence</b>	<b>End Result</b>
Hermann Becker-Freyseng	Prison - 20 Years	Prison - 10 Years
Wilhelm Beiglböck	Prison - 15 Years	Prison- 10 Years
Kurt Blome	Not Guilty	Acquitted
Viktor Brack	Death - Hanging	Executed June 2, 1948
Karl Brandt	Death - Hanging	Executed June 2, 1948
Rudolf Brandt	Death - Hanging	Executed June 2, 1948
Fritz Fischer	Prison - Life	Prison - 15 Years
Karl Gebhardt	Death - Hanging	Executed June 2, 1948
Karl Genzken	Prison - Life	Prison - 20 Years
Siegfried Handloser	Prison - Life	Prison - 20 Years
Waldemar Hoven	Death - Hanging	Executed June 2, 1948
Joachim Mrugowsky	Death - Hanging	Executed June 2, 1948
Herta Oberheuser	Prison - 20 Years	Released April 1952
Adolf Pokorny	Not Guilty	Acquitted
Helmut Poppendick	Prison - 10 Years	Released January 31, 1951
Hans Wolfgang Romberg	Not Guilty	Acquitted
Gerhard Rose	Prison - Life	Prison - 15 Years
Paul Rostock	Not Guilty	Acquitted
Siegfried Ruff	Not Guilty	
Konrad Schäfer	Not Guilty	Acquitted
Oskar Schröder	Prison - Life	Prison - 15 Years
Wolfram Sievers	Death - Hanging	Executed June 2, 1948
Georg August Weltz	Not Guilty	

# ***The Judges'/Justices' Trial***

## ***Research Sheet***

*United States v. Josef Altstoetter, et al.*

On February 13, 1947, the US Military Government for Germany created Military Tribunal III to try the Justice Case, the third of the Subsequent Nuremberg Proceedings.

Of the sixteen defendants indicted on January 4, nine were officials in the Reich Ministry of Justice, while the others were members of the People's and Special Courts. The defendants were arraigned on February 17, all pleading not guilty to the charges against them.

The indictment listed four counts, with all the defendants charged with the first three: conspiracy to commit war crimes and crimes against humanity; war crimes against civilians of territories occupied by Germany and against soldiers of countries at war with Germany; and crimes against humanity, against German civilians and nationals of occupied territories. The fourth count of the indictment charged seven of the defendants with membership in the SS, SD, or the leadership corps of the Nazi Party, all of which had been declared criminal organizations a year before by the International Military Tribunal.

The prosecutors charged the defendants with "judicial murder and other atrocities, which they committed by destroying law and justice in Germany, and then utilizing the emptied forms of legal process for the persecution, enslavement and extermination on a large scale". The trial opened on March 5 and the final statements of the defendants were heard on October 18.

Military Tribunal III returned its judgment on December 3 and 4, finding ten of the defendants guilty and acquitting four. Two defendants were not included in the judgment as one died before the trial began and the case of the other was declared a mistrial because he had been too sick to attend much of the trial. The court announced its sentences on December 4, sending four of the guilty defendants to prison for life and six to prison for terms ranging between five and ten years.

## ***The Flick Case***

## ***Research Sheet***

### *United States v. Friedrich Flick*

In April 1947, the US Military Government for Germany created Military Tribunal IV to try the Flick Case, the fifth Subsequent Nuremberg Proceeding. It was the first of three trials of leading industrialists of Nazi Germany; the two others were the IG Farben Trial and the Krupp Trial.

These trials were all held before American military tribunals. The Flick trial was one of the 12 Subsequent Nuremberg Trials of the military, political, and economical leadership of Nazi Germany, held after the Trial of the Major War Criminals before the International Military Tribunal, the most well-known trials which tried 22 of the most important captured Nazis. Like the other trials, the Flick trial took place at the Palace of Justice.

The six defendants (Friedrich Flick, Otto Steinbrinck, Odilo Burkart, Konrad Kaletsch, Bernhard Weiss, and Hermann Terberger) were all leading officials in the Flick Concern, a large group of industrial enterprises including coal and iron mines and steel producing and fabricating plants, or its subsidiaries.

The men had been indicted on March 18, with the indictment listing five counts. All the defendants were charged with committing war crimes and crimes against humanity through the use of slave labor, the deportation for labor of civilians of German-occupied territories, and the use of POWs for war operations. Moreover, all the defendants except Terberger were charged with committing war crimes and crimes against humanity through participating in the plunder of public and private property, spoliation, and offenses against property which came under German occupation. Flick, Steinbrinck, and Kaletsch were charged with committing crimes against humanity through their participation in the persecution of people because of their race, religion, or politics, specifically their participation of the "Aryanization" of Jewish properties. Furthermore, Flick and Steinbrinck were charged with war crimes and crimes against humanity through their participation in the murder, torture, and atrocities committed by the Nazi Party, and specifically the SS; and Steinbrinck was charged with being a member of the SS, which was declared a criminal organization by the International Military Tribunal.

The defendants were arraigned and the trial began on April 19. After nine months, on December 22, the Tribunal returned its judgment, acquitting Burkart, Kaletsch, and Terberger. It found only Flick and Weiss guilty on the first count, only Flick guilty on count two, both Flick and Steinbrinck guilty on the fourth count, and Steinbrinck guilty on count five. The Tribunal dismissed the third count because it declared the evidence submitted on the count beyond its jurisdiction. On the same day the Tribunal delivered its sentences on the three guilty parties, sentencing Flick to seven years in prison, Steinbrinck to five years, and Weiss to two and a half years.

Name	Charges					Sentence
	1	2	3	4	5	
Friedrich Flick	G	G	I	G		7 years, incl. time already served
Otto Steinbrinck	I	I	I	G	G	5 years, incl. time already served
Bernhard Weiss	G	I				2½ years, incl. time already served
Odilo Burkart	I	I				acquitted
Konrad Kaletsch	I	I	I			acquitted
Hermann Terberger	I					acquitted

**I** — Indicted    **G** — Indicted and found guilty

## ***I.G. Farben Trial***

### ***Research Sheet***

*United States v. Carl Krauch, et al.*

The I.G. Farben Trial, the sixth Subsequent Nuremberg Proceeding, was tried by Military Tribunal VI, which had been created by the US Military Government for Germany on August 8, 1947.

The twelve trials were all held before U.S. military courts, not before the International Military Tribunal, but took place in the same rooms at the Palace of Justice. The twelve U.S. trials are collectively known as the "Subsequent Nuremberg Trials" or, more formally, as the "Trials of War Criminals before the Nuremberg Military Tribunals" (NMT). The IG Farben Trial was the second of three trials of leading industrialists of Nazi Germany for their conduct during the Nazi regime. (The two other industrialist trials were the Flick Trial and the Krupp Trial.)

An indictment filed on May 3 named 24 defendants, all in the I.G. Farben industrial concern, and listed five counts: the planning, preparation, initiation, and waging of wars of aggression and invasions of other countries; committing war crimes and crimes against humanity through the plunder and spoliation of public and private property in countries and territories that came under German occupation; committing war crimes and crimes against humanity through participating in the enslavement and deportation for slave labor of civilians from German-occupied territories and of German nationals; participation by defendants Christian Schneider, Heinrich Buetefisch, and Erich von der Heyde in the SS, an organization recently declared criminal; and participation in a common plan or conspiracy to commit crimes against peace.

The trial began with the 24 defendants but ended with only 23, after the case against Max Brueggemann was discontinued on September 9, 1947, because of illness. The trial ran from August 27, 1947, to June 11, 1948, making it the third longest Nuremberg proceeding after the main IMT trial and the Ministries Case (the 11th subsequent trial).

Despite the extensive evidence presented by the prosecution that showed that the company had been deeply involved in Germany's rearmament after World War I from the onset, the tribunal rejected the charges for preparing an aggressive war and for conspiracy to that end. On count three ("slave labor"), the judgement "allowed the defendants the benefit of the defense of 'necessity'" (Telford Taylor, "The Nuremberg War Crimes Trials"; *International Conciliation*, No. 450, April 1949). Only in the case of Auschwitz, where IG Farben had constructed a plant next to the concentration camp with the clear intent to use inmates as slave workers, did the tribunal consider the evidence sufficient to prove that IG Farben acted on its own initiative. The tribunal concluded that the defendants could be held responsible only for this one case.

The Tribunal returned its judgment on July 29 and 30, acquitting all of the defendants on counts one and five, and the three defendants charged in count four. Nine of the

defendants were found guilty of the charges in count two and five were found guilty of the charges in count three. Altogether, ten of the defendants were acquitted completely. The thirteen defendants found guilty were sentenced on 30 July, receiving prison terms ranging from one and one half years to eight years in prison, including time already served.

Judge Hebert filed a dissenting opinion, in which he argued that the defense of "necessity" did not apply and that *all* defendants should have been found guilty on count 3 of the indictment. He stated that:

"...the record shows that Farben willingly cooperated and gladly utilized each new source of manpower as it developed. Disregard of basic human rights did not deter these defendants." —<sup>[1]</sup>

"Willing cooperation with the slave labor utilization of the Third Reich was a matter of corporate policy that permeated the whole Farben organization... For this reason, criminal responsibility goes beyond the actual immediate participants at Auschwitz. It includes other Farben Vorstand plant-managers and embraces all who knowingly participated in the shaping of the corporate policy." —<sup>[2]</sup><sup>[3]</sup>

Judge Hebert filed his statement on December 28, 1948, nearly 5 months after the judgment.

# ***Einsatzgruppen Trial***

## ***Research Sheet***

*United States v. Otto Ohlendorf, et al.*

On September 10, 1947, the US Military Government for Germany created Military Tribunal II-A (later renamed Tribunal II) to try the Einsatzgruppen Case. The 24 defendants were all leaders of the mobile security and killing units of the SS, the Einsatzgruppen.

On July 29, 1947, the defendants were indicted on three counts of criminality: crimes against humanity, war crimes, and membership in organizations declared criminal by the International Military Tribunal. Each of the 24 defendants was charged with all three counts, covering the period of their activity from May 1941 to July 1943. Each defendant pleaded "not guilty." Their defense hinged upon the argument that they had acted legally, as soldiers, and had merely been following orders. The defendants were arraigned between September 15 and 22, 1947, and the trial ran from September 29 to February 12, 1948.

The prosecution's case took up only two court sessions. The remainder of the time was devoted to the direct testimony of the defendants. While 24 defendants had been indicted, only 22 were tried. Emil Hausmann had committed suicide in July 1947, and Otto Rasch was deemed too ill to stand trial. The Tribunal rendered its judgment on April 8–9, 1948, finding 20 defendants guilty on all three counts and two guilty on count three alone.

The tribunal noted in its judgment that "the charge of purposeful homicide in this case reaches such fantastic proportions and surpasses such credible limits that believability must be bolstered with assurance a hundred times repeated". The sentences were announced on April 10. In all, 14 defendants were sentenced to death, two were sentenced to life terms, and five received sentences that ranged from 10 to 20 years. Only Matthias Graf was released with time served. Ultimately, only four of the 14 death sentences were carried out on June 7, 1951. The head of Einsatzkommando II, Eduard Strauch, who received a death sentence, was extradited to Belgium where he received a further death sentence. The remainder of the defendants had their sentences commuted or were paroled. All of the convicted defendants in this case were released from prison in 1958.



# **Auschwitz Trial (1947)**

## **Research Sheet**

The **Auschwitz Trial** began on November 24, 1947, in Kraków, when Polish authorities (the Supreme National Tribunal) tried 40 former staff of the Auschwitz concentration camps. The trials ended on December 22, 1947.<sup>[1]</sup>

The best-known defendants were Arthur Liebehenschel, former commandant; Maria Mandel, head of the Auschwitz women's camps; and SS-doctor Johann Kremer. 38 other SS officers — 34 men and four women — who had served as guards or doctors in the camps were also tried.

Rudolf Höss, sentenced in another trial, was executed on April 16, 1947 in front of the crematorium at Auschwitz I. The trial of camp commandant Höss which took place at the Supreme Court of Poland in Warsaw throughout March 1947 was the actual first ever Auschwitz trial, followed by the trials in Kraków several months later.<sup>[2]</sup>

The Supreme National Tribunal presiding in Kraków issued 23 death sentences, and 17 imprisonments ranging from life sentences to 3 years. All executions were carried out on January 28, 1948 at the Kraków Montelupich Prison, "one of the most terrible Nazi prisons in occupied Poland" used by Gestapo throughout World War II.<sup>[2][3]</sup> Maria Mandel and Therese Brandl were the first to be executed. One person was acquitted; Sergeant Major Hans Münch, who refused to participate in *the selection process* and made futile, though confirmed requests for more food to the inmates.<sup>[4]</sup>

Liebehenschel, Mandel and Kremer were condemned to death, as were Hans Aumeier, August Bogusch, Therese Brandl, Arthur Breitwiser, Fritz Buntrock, Wilhelm Gehring, Paul Götze, Maximilian Grabner, Heinrich Josten, Hermann Kirschner, Josef Kollmer, Franz Kraus, Herbert Ludwig, Karl Möckel, Kurt Mueller, Eric Muhsfeldt, Ludwig Plagge, Hans Schumacher and Paul Szczurek (Arthur Breitwieser and Johann Kremer had their sentences commuted to life imprisonment). Luise Danz, Hans Koch, Anton Lechner, Adolf Medefind, Detlef Nebbe, and Karl Seufert received life sentences. Alexander Bülow, Hans Hoffmann, Hildegard Lächert, Eduard Lorenz, Alice Orlowski, Franz Romeikat, and Johannes Weber were sentenced to 15 years. Richard Schroeder received 10 years, Erich Dinges five years, and Karl Jeschke three years. Hans Münch was acquitted.

### **Excerpts from Explanation of Jury Decisions**

*Torturing of prisoners [of Auschwitz] already tormented to the extreme [by extrajudicial means], is the evidence of inhuman savagery perpetrated by those defendants who as a result of the trial were sentenced to death. The listed violent crimes committed by named defendants, who all took smaller or larger part in the mass murder of prisoners, also reveal that the accused were involved in the acts of killing for pleasure, and not pursuant to orders of their superiors. If it were not for their expressed desire to kill, they would have otherwise displayed elements of sympathy for the victims, or at least show indifference to their plight, but not torture them to death.*

# ***Krupp Trial***

## ***Research Sheet***

*United States v. Alfried Krupp, et al*

On November 12, 1947, the US Military Government for Germany created Military Tribunal III-A in order to try the Krupp Case. The 12 defendants in this case, all officials of the Krupp industrial concern, had been indicted on August 16. The lead defendant, Alfried Krupp, and eight other defendants, had been members or deputy members of Krupp's Managing Board, while the three others had held similar high-ranking positions.

The indictment charged the defendants with committing the following crimes: crimes against peace by participating in the planning and waging of wars of aggression and wars in violation of international treaties; war crimes and crimes against humanity by participating in the plunder and spoliation of public and private property, devastation, and exploitation against countries under German occupation, causing the suffering of millions; war crimes and crimes against humanity by participating in the murder, extermination, enslavement, deportation, imprisonment, torture, and use for slave labor of civilians who came under German control, German nationals, and prisoners of war; and participating in a common plan or conspiracy to commit crimes against peace.

All of the defendants were charged under counts one, three, and four, and all but two were charged under count two, but counts one and four were dismissed by the tribunal soon after the completion of the prosecution's case because of lack of evidence. After the defendants were arraigned on November 17, the trial began on December 8, finishing on June 30, 1948.

The tribunal returned its judgment on July 31, finding six of the ten defendants charged under count two guilty, and all but one of the defendants guilty under count three. That one defendant, Karl Heinrich Pfirsch, was acquitted of all charges. The sentences were handed down the same day, with the 11 guilty defendants receiving prison terms ranging from 2 to 12 years. In almost all instances, these sentences were commuted to time served.

Alfried Krupp maintained that he was not guilty and in 1947 forcefully argued:

*The economy needed a steady or growing development. Because of the rivalries between the many political parties in Germany and the general disorder there was no opportunity for prosperity. . . . We thought that Hitler would give us such a healthy environment. Indeed he did do that.*

*.....We Krupps never cared much for [political] ideas. We only wanted a system that*

*worked well and allowed us to work unhindered. Politics is not our business.*

The verdict of the Krupp Case on July 21, 1948, came down sharply on the Krupp company leadership. The judges were not persuaded by Krupp's patriotic pleas that he was doing the best for Germany. The Bench stated the following:

*This huge octopus, the Krupp Firm, with its body at Essen, swiftly unfolded one of its tentacles behind each new aggressive push of the Wehrmacht . . . . That this growth and expansion of the part of the Krupp Firm was held due in large measure to the favored position it held with Hitler there can be little doubt. The close relationship between Krupp on the one hand and the Reich Government, particularly the Army and Navy Command, on the other hand, amounted to a veritable alliance. The wartime activities of the Krupp concern were based in part upon spoliation of other countries and on exploitation and maltreatment of large masses of forced foreign labor. Judge Daly asked Alfried Krupp to stand and stated the following:*

*"On the counts of the indictment on which you have been convicted, the tribunal sentences you to imprisonment for 12 years and orders forfeiture of all your property, both real and personal." (Time already spent awaiting trial could be counted toward the 12 year sentence.)*

## ***Eichmann Trial***

### ***Research Sheet***

After World War II, Nazi war criminal Adolf Eichmann fled from Austria and made his way to Argentina where he lived under the name Ricardo Klement. In May 1960, Israeli Security Service agents seized Eichmann in Argentina and took him to Jerusalem for trial in an Israeli court. Eichmann testified from a bulletproof glass booth.

The Eichmann trial aroused international interest, bringing Nazi atrocities to the forefront of world news. Testimonies of Holocaust survivors, especially those of ghetto fighters such as Zivia Lubetkin, generated interest in Jewish resistance. The trial prompted a new openness in Israel; many Holocaust survivors felt able to share their experiences as the country confronted this traumatic chapter.

Israeli attorney general Gideon Hausner signed a bill of indictment against Eichmann on 15 counts, including crimes against the Jewish people and crimes against humanity.

The charges against Eichmann were numerous. After the Wannsee Conference (January 1942), Eichmann coordinated deportations of Jews from Germany and elsewhere in western, southern, and northern Europe to killing centers (through his representatives Alois Brunner, Theodor Dannecker, Rolf Guenther, and Dieter Wisliceny and others in the Gestapo). Eichmann made deportation plans down to the last detail. Working with other German agencies, he determined how the property of deported Jews would be seized and made certain that his office would benefit from the confiscated assets. He also arranged for the deportation of tens of thousands of Roma (Gypsies).

Eichmann was also charged with membership in criminal organizations--the Storm Troopers (SA), Security Service (SD), and Gestapo (all of which had been declared criminal organizations at the 1946 Nuremberg Trial). As head of the Gestapo's section for Jewish affairs, Eichmann coordinated with Gestapo chief Heinrich Mueller on a plan to expel Jews from Greater Germany to Poland, which set the pattern for future deportations.

For those and other charges, Eichmann was found guilty and sentenced to death. On June 1, 1962, Eichmann was executed by hanging. His body was cremated and the ashes were spread at sea, beyond Israel's territorial waters. The execution of Adolf Eichmann remains the only time that Israel has enacted a death sentence.

# ***Frankfurt-Auschwitz Trial***

## ***Research Sheet***

The Frankfurt Auschwitz Trials, known in German as *der Auschwitz-Prozess* or *der zweite Auschwitz-Prozess*, (the "second Auschwitz trial") was a series of trials running from December 20, 1963 to August 19, 1965, charging 22 defendants under German penal law for their roles in the Holocaust as mid- to lower-level officials in the Auschwitz-Birkenau death and concentration camp complex. Most of the senior leaders of the camp, including Rudolf Höss, the longest-standing commandant of the camp, were turned over to Polish authorities in 1947, following their participation as witnesses in the Nuremberg Trial, at which time they were tried in Kraków and many sentenced to death. That earlier trial in Poland is usually known as the first Auschwitz Trial; Richard Baer, the last camp commandant died in detention while still under investigation as part of the trials.

Defendants ranged from members of the SS to *kapos*, privileged prisoners responsible for low-level control of camp internees, and included some of those responsible for the process of "selection," or determination of who should be sent to the gas chambers directly from the "ramp" upon disembarking the trains that brought them from across Europe ("selection" generally entailed inclusion of all children held to be ineligible for work, generally under the age of 14, and any mothers unwilling to part with their "selected" children). In the course of the trial, approximately 360 witnesses were called, including around 210 survivors. Proceedings began in the "Bürgerhaus Gallus", in Frankfurt am Main, which was converted into a courthouse for that purpose, and remained there until their conclusion.

Hessian Generalstaatsanwalt (State Attorney General) Fritz Bauer, himself briefly interned in the concentration camp at Heuberg in 1933, led the prosecution. Bauer was perhaps at least as concerned with establishing the character of the camps at Auschwitz-Birkenau as he was with pursuing individual defendants, which may explain in part why only 22 of an estimated 6,000 to 8,000 SS members thought to have been involved in the administration and operation of the camp were charged. The men on trial in Frankfurt were tried only for murders and other crimes that they committed on their own initiative at Auschwitz and were not tried for anything that they done at Auschwitz when following orders, which was considered by the courts to be the lesser crime of accomplice to murder.<sup>[1]</sup> At a 1963 trial of a KGB assassin named Bohdan Stashynsky who had committed several murders in the Federal Republic in the 1950s was found by a German court to not legally guilty of murder.<sup>[2]</sup> Instead, Stashynsky was found to be only an accomplice to murder as the courts ruled that the responsibility for his murders rested only with his superiors in the KGB who had given him his orders.<sup>[3]</sup> The legal implication of the Stashynsky case were that the courts had ruled that in a totalitarian system only executive decision-makers could be convicted of murder and that anyone who followed orders and killed someone could be convicted only of being accomplices to murder.<sup>[4]</sup> The term executive decision-maker was so defined by the courts to apply only to the highest levels of the *Reich* leadership during the National Socialist period, and that all who just followed orders when killing were

just accomplices to murder.<sup>[5]</sup> Someone could be only convicted of murder if was shown that they had killed someone on their own initiative, and thus all of the accused of murder at the Auschwitz trial were tried only for murders that they done on their own initiative.<sup>[6]</sup> Because of this, Bauer could only indict for murder those who killed when not following orders, and those who had killed while following orders could be indicted as accomplices to murder. Moreover because of the legal distinction between murderers and accomplices to murder meant that a SS man who killed thousands while operating the gas chambers at Auschwitz could only be found guilty of being accomplice to murder because he had been following orders while a SS man who beaten one inmate to death on his initiative could be convicted of murder because he had not been following orders.

Bauer is said to have been opposed in the former purpose by the young Helmut Kohl, then a junior member of the Christian Democratic Union. In furtherance of that purpose Bauer sought and received support from the Institute for Contemporary History in Munich. The following historians from the Institute served as expert witnesses for the prosecution; Helmut Krausnick, Hans-Adolf Jacobsen, Hans Buchheim, and Martin Broszat. Subsequently, the information the four historians gathered for the prosecution served as the basis for their 1968 book, *Anatomy of the SS State*, the first thorough survey of the SS based on SS records.

Information about the actions of those accused and their whereabouts had been in the possession of West German authorities since 1958, but action on their cases was delayed by jurisdictional disputes, among other considerations. The court's proceedings were largely public and served to bring many details of the Holocaust to the attention of the public in the Federal Republic of Germany, as well as abroad. Six defendants were given life sentences and several others received the maximum prison sentences possible for the charges brought against them.

The trial attracted much publicity in Germany, but was considered by Bauer to be failure.<sup>[8]</sup> Bauer complained that the media treated the accused in such a manner as to imply that they were all freakish monsters, which allowed the German public to distance themselves from feeling any moral guilt about had happened at Auschwitz, which was instead presented as the work of few sick people who were not at all like normal Germans.<sup>[9]</sup> Moreover, Bauer felt that because the law treated those who had followed orders when killing as accomplices to murder it implied that the policy of genocide and the Nazi rules for treating inmates at Auschwitz were in fact legitimate.<sup>[10]</sup> Bauer wrote that the way that the media had portrayed the trial had supported the "wishful fantasy that there were only a few people with responsibility ... and the rest were merely terrorized, violated hangers-on, compelled to do things completely contrary to their true nature."<sup>[11]</sup> Furthermore, Bauer charged that the judges in convicting the accused had made it sound like Germany in Nazi era had been an occupied country with most Germans having no choice, but to follow orders.<sup>[12]</sup> "But this," he said, "had nothing to do with historical reality. There were virulent nationalists, imperialists, anti-Semites and Jew-haters. Without them, Hitler was unthinkable."

# ***"Butcher of Lyon" Trial***

## ***Research Sheet***

Klaus Barbie, the former Nazi Gestapo chief of German-occupied Lyon, France, goes on trial in Lyon more than four decades after the end of World War II. He was charged with 177 crimes against humanity.

As chief of Nazi Germany's secret police in Lyon, Barbie sent 7,500 French Jews and French Resistance partisans to concentration camps, and executed some 4,000 others. Among other atrocities, Barbie personally tortured and executed many of his prisoners. In 1943, he captured Jean Moulin, the leader of the French Resistance, and had him slowly beaten to death. In 1944, Barbie rounded up 44 young Jewish children and their seven teachers hiding in a boarding house in Izieu and deported them to the Auschwitz extermination camp. Of the 51, only one teacher survived. In August 1944, as the Germans prepared to retreat from Lyon, he organized one last deportation train that took hundreds of people to the death camps.

Barbie returned to Germany, and at the end of the war burned off his SS identification tattoo and assumed a new identity. With former SS officers, he engaged in underground anti-communist activity and in June 1947 surrendered himself to the U.S. Counter-Intelligence Corps (CIC) after the Americans offered him money and protection in exchange for his intelligence services. Barbie worked as a U.S. agent in Germany for two years, and the Americans shielded him from French prosecutors trying to track him down. In 1949, Barbie and his family were smuggled by the Americans to South America.

Assuming the name of Klaus Altmann, Barbie settled in Bolivia and continued his work as a U.S. agent. He became a successful businessman and advised the military regimes of Bolivia. In 1971, the oppressive dictator Hugo Banzer Suarez came to power, and Barbie helped him set up brutal internment camps for his many political opponents. During his 32 years in Bolivia, Barbie also served as an officer in the Bolivian secret police, participated in drug-running schemes, and founded a rightist death squad. He regularly traveled to Europe, and even visited France, where he had been tried in absentia in 1952 and 1954 for his war crimes and sentenced to death.

In 1972, the Nazi hunters Serge Klarsfeld and Beatte Kunzel discovered Barbie's whereabouts in Bolivia, but Banzer Suarez refused to extradite him to France. In the early 1980s, a liberal Bolivian regime came to power and agreed to extradite Barbie in exchange for French aid. On January 19, 1983, Barbie was arrested, and on February 7 he arrived in France. The statute of limitations had expired on his in-absentia convictions from the 1950s; he would have to be tried again. The U.S. government formally apologized to France for its conduct in the Barbie case later that year. Legal wrangling, especially between the groups representing his victims, delayed his trial for four years. Finally, on May 11, 1987, the "Butcher of Lyon," as he was known in France, went on trial for his crimes against humanity. In a courtroom twist unimaginable four decades earlier, Barbie was defended by three minority lawyers--an Asian, an African, and an Arab--who made the dramatic case that the French and the Jews were as guilty of crimes against humanity as Barbie or any other Nazi. Barbie's lawyers seemed more intent on putting France and Israel on trial than in proving their

client's innocence, and on July 4, 1987, he was found guilty. For his crimes, the 73-year-old Barbie was sentenced to spend the rest of his life in prison, France's highest punishment. He died of cancer in a prison hospital in 1991.



# ***John Demjanjuk Trial***

## ***Research Sheet***

### **Overview**

Born in Ukraine, John (Iwan) Demjanjuk was the defendant in four different court proceedings relating to crimes that he committed while serving as a collaborator of the Nazi regime.

Investigations of Demjanjuk's Holocaust-era past began in 1975. Proceedings in the United States twice stripped him of his American citizenship, ordered him deported once, and extradited him from the United States twice to stand trial on criminal charges, once to Israel and once to Germany. His trial in Germany, which ended in May 2011, may be the last time that an accused Nazi-era war criminal stands trial. If so, it would mark the culmination of a 65-year period of prosecutions that began with the International Military Tribunal at Nuremberg in 1945.

Some facts of Demjanjuk's past are not in dispute. He was born in March 1920 in Dobovi Makharyntsi, a village in Vinnitsa Oblast of what was then Soviet Ukraine. Conscripted into the Soviet army, he was captured by German troops at the battle of Kerch in May 1942. Demjanjuk immigrated to the United States in 1952 and became a naturalized US citizen in 1958. He settled in Seven Hills, Ohio, a suburb of Cleveland, and worked for many years in a Ford auto plant.

### **First Trial: Israel, 1987**

The US Department of Justice (DOJ) began investigating Demjanjuk in 1975 and filed denaturalization proceedings against him in 1977, alleging that he had falsified his immigration and citizenship papers in order to conceal World War II service at the Treblinka killing center.

The case had begun as an investigation into the Sobibor camp, due to Demjanjuk's alleged service at that killing center and to the testimony of a Soviet witness named Ignat' Danil'chenko in the late 1940s. Danil'chenko had stated that he knew Demjanjuk from their service together in Sobibor and at the Flossenbürg concentration camp until 1945. After Jewish survivors viewing a photo spread identified Demjanjuk as serving at Treblinka near the gas chambers, however, US government officials instead pursued the Treblinka charges. In 1979, the newly created Office of Special Investigations (OSI) in the DOJ took over prosecution of the case.

Following a lengthy investigation and a 1981 trial, the US District Federal Court in Cleveland stripped Demjanjuk of his US citizenship. As US authorities moved to deport Demjanjuk, the Israeli government requested his extradition. After a required hearing, US authorities extradited Demjanjuk to Israel to stand trial on charges of crimes against the Jewish people and crimes against humanity. Demjanjuk was only the second person to be tried for these charges in Israel. The first, Adolf Eichmann, was found guilty in 1961 and executed in 1962.

The trial opened in Jerusalem on February 16, 1987. The prosecution claimed that while Demjanjuk was a prisoner of war (POW) being held by the Germans, he volunteered to join a special SS (*Schutzstaffel*; Protection Squadrons) unit at the Trawniki training camp

(near Lublin, Poland), where he trained as a police auxiliary to deploy in Operation Reinhard, the plan to murder all Jews residing in German-occupied Poland. The prosecution charged that he was the Treblinka killing center guard known to prisoners as "Ivan the Terrible," and that he had operated and maintained the diesel engine used to pump carbon monoxide fumes into the Treblinka gas chambers. Several Jewish survivors of Treblinka identified Demjanjuk as "Ivan the Terrible," key evidence placing him at the killing center.

### **Trawniki Training Camp**

A critical piece of evidence was Demjanjuk's Trawniki camp identification card, located in a Soviet archive. The authorities at Trawniki issued such documents to men detailed to guard detachments outside the camp. Demjanjuk's defense claimed that the card was a Soviet-inspired forgery, despite several forensic tests that verified it as authentic. Demjanjuk, then 67 years old, testified on his own behalf, claiming that he had spent most of the war as a POW in German captivity in a camp near Chelm, Poland.

Though key to the American government's and the Israeli prosecution's case, the identity card did not place Demjanjuk in Treblinka, but rather as a guard at an SS estate in Okzów, near Chelm in September 1942, and as a guard at the Sobibor killing center from March 1943. Though the card contained some information that was inconsistent with the testimony of the Treblinka survivors, it was the only document available that placed Demjanjuk at Trawniki as a police auxiliary (that is, in the pool of auxiliaries from which Treblinka guards were selected). No wartime documentary evidence that definitively placed Demjanjuk at Treblinka has ever surfaced.

### **Demjanjuk's Tattoo**

Another piece of evidence in the prosecution's case involved scars under Demjanjuk's left arm, the remains of a tattoo identifying his blood type. SS authorities introduced the practice of blood-type tattooing into the Waffen-SS (Military SS) in 1942. Some members of SS Death's Head Units in the German concentration camp system also received such tattoos, as they were considered linked to the Waffen SS administratively after 1941. Nevertheless, blood-type tattooing was never consistently implemented. Hence this physical evidence only suggested, but by no means proved, that Demjanjuk might have served as a concentration camp guard.

The existence of scars from an "SS tattoo," particularly given confusion in popular culture between the blood-type tattoo (mandatory) and the SS-rune tattoo (voluntary), misled prosecutors both in the United States and Israel as to its significance. There is no evidence that POWs trained as police auxiliaries at Trawniki received such tattoos.

### **Israeli Verdict and Appeal**

Based primarily on the survivor identifications, the Israeli court convicted Demjanjuk and, on April 25, 1988, sentenced him to death, only the second time that an Israeli court had imposed capital punishment upon a convicted defendant (the first being Eichmann).

As Demjanjuk's appeal made its way to the Israeli Supreme Court, the Soviet Union disintegrated in 1991. Hundreds of thousands of pages of previously unknown documents became available to both the prosecution and the defense. In the records of the former Ukrainian KGB in Kiev, the Demjanjuk defense team found dozens of statements of former Treblinka guards whom Soviet authorities had tried in the early 1960s.

None of them identified Demjanjuk as having served at Treblinka. They did, however, consistently refer to an Ivan Marchenko, who had served as a gas motor operator at Treblinka from the summer of 1942 until the prisoner uprising in 1943, and who had stood out as a particularly cruel police auxiliary, perpetrating acts that were consistent with the memory of the Jewish Treblinka survivors. After returning to Trawniki in August 1943, Marchenko transferred to Trieste, Italy and disappeared towards the end of the war. His fate remains unknown.

The existence of these statements alone, however, created sufficient reasonable doubt that Demjanjuk ever served at Treblinka, moving the Israeli Supreme Court to overturn Demjanjuk's conviction on July 29, 1993, without prejudice, signifying that the Israeli prosecution could choose to try Demjanjuk on charges related to other crimes.

### **New Evidence from Former Soviet Archives**

Such a proceeding became possible upon the discovery of internal Trawniki training camp personnel correspondence in the Archives of the Federal Security Service of the Russian Federation in Moscow. These documents placed Demjanjuk at the Sobibor killing center as of March 26, 1943, and at the Flossenbürg concentration camp as of October 1, 1943. The evidence placing him at Sobibor was consistent with the information on Demjanjuk's Trawniki identification card and with Danil'chenko's testimony.

Moreover, after Demjanjuk's extradition to Israel, investigators at the OSI, while reviewing original personnel and administrative records from Flossenbürg, found references to Demjanjuk's name linked to his Trawniki military identification number (1393), thus independently corroborating Danil'chenko's testimony that Demjanjuk served at Flossenbürg.

In the summer of 1991, an OSI investigator searching in the Lithuanian National Archives in Vilnius for documentation related to a Lithuanian police battalion found by chance a document that placed Demjanjuk as a member of a Trawniki-trained guard detachment stationed at the Majdanek concentration camp between November 1942 and early March 1943.

### **American Citizenship Restored, Then Revoked Again**

After his original extradition to Israel, Demjanjuk's family had filed a Freedom of Information Act request with the US Department of Justice to obtain access to all investigative files at the OSI that related to Demjanjuk, Trawniki, and Treblinka. Upon

receiving these files, and after years of litigation, Demjanjuk's American defense team filed a suit against the US government to set aside the judgment stripping him of his citizenship, and accused the OSI of prosecutorial misconduct.

Meanwhile, despite having the legal option, Israeli authorities declined to prosecute Demjanjuk for his activities at Sobibor, and prepared to release him. Based on a June 1993 finding of a US Special Master that OSI had inadvertently withheld documentation that might have been helpful to the Demjanjuk defense in 1981, the Sixth Circuit Court of Appeals in Cincinnati ordered the Attorney General of the United States, Janet Reno, not to bar Demjanjuk's return to the United States. After five more years of litigation, the District Court in Cleveland restored Demjanjuk's US citizenship on February 20, 1998, but without prejudice, leaving the option open for OSI to proceed with a new case based on new evidence.

With five years of careful review into thousands of Trawniki-related documents that had been unavailable before 1991, OSI investigators could track through wartime documents Demjanjuk's entire career as a Trawniki-trained guard and as a concentration camp guard from 1942 to 1945. With this new evidence, the OSI team had also developed a more thoroughly documented understanding of the importance of the Trawniki camp during the Holocaust as well as the process of how camp authorities made personnel assignments.

In 1999, OSI filed a new denaturalization proceeding against Demjanjuk, alleging that he served as a Trawniki-trained police auxiliary at Trawniki itself, Sobibor, and Majdanek, and, later, as a member of an SS Death's Head Battalion at Flossenbürg. As a result, in 2002 Demjanjuk again lost his American citizenship, this time for good. After a federal appeals court upheld this decision, OSI filed a deportation proceeding in December 2004. One year later, in December 2005, a US Immigration Court ordered Demjanjuk deported to his native Ukraine.

Demjanjuk appealed the deportation order on various grounds, including the argument that, given his age and poor health, deportation would constitute torture against which he was seeking protection under the United Nations Convention Against Torture. On May 19, 2008, the US Supreme Court declined to review his appeal. That same year, German authorities expressed interest in prosecuting Demjanjuk on charges of accessory to murder during his service at Sobibor.

## **Second Trial: Germany, 2009**

Demjanjuk was removed from the United States to Germany in May 2009. Upon his arrival, German authorities arrested him and held him in Munich's Stadelheim prison. In July 2009, German prosecutors indicted Demjanjuk on 28,060 counts of accessory to murder at Sobibor. The German jurisdictional authority rested on the murder of people brought to Sobibor on 15 transport trains from the Westerbork camp in the Netherlands between April and July 1943, among whom were individual German citizens who had fled to Holland in the 1930s.

Demjanjuk, at 89 years old, claimed that he was too frail to stand trial, but the court ruled that the trial could proceed with two 90-minute sessions per day. In November 2009, he again sat in the defendant's dock. During this trial, the evidence implicating Demjanjuk rested not on survivor testimony, but on wartime documentation of his service at Sobibor. Since the earlier witnesses were now deceased, the Munich court accepted that survivor testimony be read into the proceeding to facilitate findings of mass murder and determine the identity and citizenship of many of the victims.

After 16 months of trial, proceedings closed in mid-March 2011. On May 12, 2011, Demjanjuk was convicted and sentenced to five years in prison. He was freed pending appeal of the conviction. Demjanuk died in a German nursing home on March 17, 2012.

### **International Interest**

The trials of John Demjanjuk have attracted global media attention for three decades. These legal battles underscore the interdependence of the historical record and the long search for justice to redress crimes against humanity.