

- 114) Trial of 2nd/Lt. Sodami Mukohata and Capt. Hisakichi Kubo.
Date & Place of Trial: 25th - 31st July 1946 at Rabaul.
Charge: (1) Murder of an Indian prisoner of war.
(2) Murder of an Indian prisoner of war, or alternatively ill-treatment of the said person.
(3) Murder of several Indian prisoners of war, or alternatively ill-treatment in failing to provide them with proper medical care, food and quarters.
Verdict: Both accused guilty, with exceptions.
Sentence: Imprisonment for 25 years, 1,
" " 15 " , 1.
Confirmed.
- 115) Trial of Sgt. Torazo Tagai.
Date & Place of Trial: 13 - 22 January 1946 at Rabaul.
Charge: Torture of civilians at Ramali (3 charges) and at Bitagalip (1 charge).
Verdict: Guilty.
Sentence: Imprisonment for 20 years.
Findings confirmed. Sentence mitigated to imprisonment for 10 years.
- 116) Trial of Sgt. Maj. Chikara Maehata.
Date & Place of Trial: 18 January 1946 at Rabaul.
Charge: Torture of a civilian at Ralabang.
Verdict: Not Guilty.
- 117) Trial of Sgt. Maj. Yoshihiko Kitada.
Date & Place of Trial: 19 - 22 January 1946 at Rabaul.
Charge: Torture at Romali of 5 civilians (3 charges) and at Bitagalip of 2 civilians (1 charge).
Verdict: Guilty.
Sentence: Imprisonment for 30 years.
Findings confirmed and sentence mitigated to imprisonment for 10 years.
- 118) Trial of Sgt. Maj. Teizo Furukawa.
Date & Place of Trial: 22 - 23 January 1946 at Rabaul.
Charge: Torture of a civilian at New Britain.
Verdict: Guilty.
Sentence: Death by hanging.
- 119) Trial of Lt. Akahisa Abe.
Date & Place of Trial: 24 - 25 January 1946 at Rabaul.
Charge: Unlawfully assaulting a civilian in occupied territory.
Verdict: Not guilty.
- 120) Trial of Sgt. Maj. Kamio Murao and W/O Jiro Ueda.
Date & Place of Trial: 28 January and 2 February 1946 at Rabaul.
Charge: Torturing a civilian at Rabaul.
Verdict: Both found guilty.
Sentence: Imprisonment for 5 years, 1,
" " 3 " , 1.
Confirmed.
- 121) Trial of Hishashi Yamamoto and Fumihiko Katayama.
Date & Place of Trial: 6 - 12 February 1946 at Rabaul.
Charge: Murder of a native at Ramata.
Verdict: Not guilty.
- 122) Trial of Cpl. Harumoto Ayizawa.
Date & Place of Trial: 14 February 1946 at Rabaul.
Charge: Murder of Chinese soldiers, prisoners of war (2 charges).
Verdict: Guilty of both charges.
Sentence: Imprisonment for life.
Confirmed.

- 123) Trial of Capt. Yasuo Ichiyama and Capt. Morizo Kato.
Date & Place of Trial: 8 - 12 March 1946 at Rabaul.
Charge: Murder at Namale of a Chinese prisoner of war.
Verdict: Both accused not guilty.
- 124) Trial of W/O Tsujiji Matsumoto and 2 others.
Date & Place of Trial: 19th March 1946 at Rabaul.
Charge: Murder of a Chinese civilian.
Verdict: Not guilty, 1,
Guilty, 2.
Sentence: Death by hanging, 2.
Confirmed.
- 125) Trial of Capt. Naoji Kashimoto
Date & Place of Trial: 20th March 1946 at Rabaul.
Charge: Murder of two Indian Army prisoners of war.
Verdict: Not Guilty.
- 126) Trial of Lt. Munetoshi Saito and Sgt. Maj. Kikatsu Otaguro.
Date & Place of Trial: 27th March 1946 at Rabaul.
Charge: Murder of a member of the Indian Army.
Verdict: Not Guilty.
- 127) Trial of 1st Lt. Kenichi Kitamura.
Date & Place of Trial: 8 - 9 April 1946 at Rabaul.
Charge: Murder of a Chinese civilian at Nauru Island.
Verdict: Not Guilty.
- 128) Trial of Lt. Mitsuo Tasaka and 2 others.
Date & Place of Trial: 23rd April 1946 at Rabaul.
Charge: Murder of 4 Chinese prisoners of war.
Verdict: All Guilty.
Sentences: Death by hanging, 2,
Imprisonment for life, 1.
Confirmed.
- 129) Trial of Lt. Jiro Sakata and 5 others.
Date & Place of Trial: 29 - 30 April 1946 at Rabaul.
Charge: Murder at Ocean Island of persons unknown.
Verdict: Not guilty, 2,
Guilty, 4.
Sentences: Death by hanging, 1,
Imprisonment for 15 years, 1,
" " 7 " 2,
Confirmed.
- 130) Trial of Lt. Cmdr. Hirrumi Nakayama.
Date & Place of Trial: 30th April 1946 at Rabaul.
Charge: Murder at Nauri Island of 2 Chinese civilians.
Verdict: Not Guilty.
- 131) Trial of Lt. Nobjaki Yamaguchi and 6 others.
Date & Place of Trial: 1st May 1946 at Rabaul.
Charge: Murder at Ocean Island of persons unknown.
Verdict: All the accused found guilty.
Sentences: Death by hanging, 1,
Imprisonment for 20 years, 4,
" " 15 " 2.
Confirmed.
- 132) Trial of Cpl. Matsusuke Yano.
Date & Place of Trial: 3 - 4 May 1946 at Rabaul.
Charge: Murder of 5 members of the Indian Army, PoW.
Verdict: Not Guilty.
- 133) Trial of Paymaster Lt. Tadayasu Ooishi.
Date & Place of Trial: 4 - 6 May 1946 at Rabaul.
Charge: Murder of a member of the Indian Army.
Verdict: Not Guilty.

- 123) Trial of Capt. Yasuo Ichiyama and Capt. Morizo Kato.
 Date & Place of Trial: 8 - 12 March 1946 at Rabaul.
 Charge: Murder at Namale of a Chinese prisoner of war.
 Verdict: Both accused not guilty.

- 124) Trial of W/O Tsujiji Matsumoto and 2 others.
 Date & Place of Trial: 19th March 1946 at Rabaul.
 Charge: Murder of a Chinese civilian.
 Verdict: Not guilty, 1,
 Guilty, 2.
 Sentence: Death by hanging, 2.
 Confirmed.

- 125) Trial of Capt. Naoji Kashimoto
 Date & Place of Trial: 20th March 1946 at Rabaul.
 Charge: Murder of two Indian Army prisoners of war.
 Verdict: Not Guilty.

- 126) Trial of Lt. Munetoshi Saito and Sgt. Maj. Kikatsu Otaguro.
 Date & Place of Trial: 27th March 1946 at Rabaul.
 Charge: Murder of a member of the Indian Army.
 Verdict: Not Guilty.

- 127) Trial of 1st Lt. Kenichi Kitamura.
 Date & Place of Trial: 8 - 9 April 1946 at Rabaul.
 Charge: Murder of a Chinese civilian at Nauru Island.
 Verdict: Not Guilty.

- 128) Trial of Lt. Mitsuo Tasaka and 2 others.
 Date & Place of Trial: 23rd April 1946 at Rabaul.
 Charge: Murder of 4 Chinese prisoners of war.
 Verdict: All Guilty.
 Sentences: Death by hanging, 2,
 Imprisonment for life, 1.
 Confirmed.

- 129) Trial of Lt. Jiro Sakata and 5 others.
 Date & Place of Trial: 29 - 30 April 1946 at Rabaul.
 Charge: Murder at Ocean Island of persons unknown.
 Verdict: Not guilty, 2,
 Guilty, 4.
 Sentences: Death by hanging, 1,
 Imprisonment for 15 years, 1,
 " " 7 " 2,
 Confirmed.

- 130) Trial of Lt. Cmdr. Hirrumi Nakayama.
 Date & Place of Trial: 30th April 1946 at Rabaul.
 Charge: Murder at Nauri Island of 2 Chinese civilians.
 Verdict: Not Guilty.

- 131) Trial of Lt. Nobjaki Yamaguchi and 6 others.
 Date & Place of Trial: 1st May 1946 at Rabaul.
 Charge: Murder at Ocean Island of persons unknown.
 Verdict: All the accused found guilty.
 Sentences: Death by hanging, 1,
 Imprisonment for 20 years, 4,
 " " 15 " 2.
 Confirmed.

- 132) Trial of Cpl. Matsusuke Yano.
 Date & Place of Trial: 3 - 4 May 1946 at Rabaul.
 Charge: Murder of 5 members of the Indian Army, PoW.
 Verdict: Not Guilty.

- 133) Trial of Paymaster Lt. Tadayasu Ooishi.
 Date & Place of Trial: 4 - 6 May 1946 at Rabaul.
 Charge: Murder of a member of the Indian Army.
 Verdict: Not Guilty.

- 134) Trial of Surgeon Lt. Toro Kuga and 2 others.
Date & Place of Trial: 7 May 1946 at Rabaul.
Charge: Ill-treatment of prisoners of war, Indian soldiers.
Verdict: All accused not guilty.
- 135) Trial of W/O Hideo Ochi and Cpl. Katsumi Takahashi.
Date & Place of Trial: 8 May 1946 at Rabaul.
Charge: Murder of an Indian PoW.
Verdict: Not Guilty.
- 136) Trial of 2nd Lt. Tadashi Sugimoto and Cpl. Katsuo Kibo.
Date & Place of Trial: 9 May 1946 at Rabaul.
Charge: Murder of an Indian Prisoner of war.
Verdict: Both accused not guilty.
- 137) Trial of Cpl. Torao Morioka.
Date & Place of Trial: 10 May 1946 at Rabaul.
Charge: Murder of a member of the Indian Army.
Verdict: Not Guilty.
- 138) Trial of S/Maj. Motoi Motegi and 3 others.
Date & Place of Trial: 11 May 1946 at Rabaul.
Charge: Murder of an Indian prisoner of war.
Verdict: Not guilty, 1,
Guilty, 3.
Sentences: Death by hanging, 3.
Confirmed and executed.
- 139) Trial of Sgt.Maj. Yoshinori Machida.
Date & Place of Trial: 13 - 14 May 1946 at Rabaul.
Charge: Torture at Rabaul of 2 civilians (2 charges).
Verdict: Guilty of both charges.
Sentence: Imprisonment for 10 years.
Confirmed.
- 140) Trial of Capt. Riichi Otsuka.
Date & Place of Trial: 17 May 1946 at Rabaul.
Charge: Murder of a Chinese civilian prisoner of war.
Verdict: Not guilty.
- 141) Trial of Sgt. Kihatsu Chiba.
Date & Place of Trial: 20 May 1946 at Rabaul.
Charge: Ill-treatment of a prisoner of war, an Indian soldier.
Verdict: Not guilty.
- 142) Trial of Sgt.Maj. Tadashi Matsumura.
Date & Place of Trial: 21 May 1946 at Rabaul.
Charge: Murder of an Indian soldier.
Verdict: Guilty.
Sentence: Death by hanging.
Confirmed.
- 143) Trial of Lt.Gen. Takeo Ito and 8 others.
Date & Place of Trial: 24th May 1946 at Rabaul.
Charge: Murder of a number of Chinese civilians, half-caste
civilians and natives.
Verdict: Not guilty, 2,
Guilty, 7.
Sentences: Death by hanging, 5,
" " shooting, 2.
Non-confirmation of findings and sentences promulgated
to 4 accused. Findings and sentences of the
remaining 3 accused confirmed and executed.

- 144) Trial of Kotoro Kitamura and 2 others, civilians.
Date & Place of Trial: 25 - 28 May 1946 at Rabaul.
Charge: Murder of a member of the Australian Imperial Force.
Verdict: All accused guilty.
Sentences: Death by hanging, 3.
Confirmed.
- 145) Trial of L/Cpl. Hishao Mena.
Date & Place of Trial: 28 May 1946 at Rabaul.
Charge: (1) Mutilation of the body of a deceased soldier.
(2) Cannibalism.
Verdict: Both accused not guilty.
- 146) Trial of Yoshinori Hayashi, a civilian.
Date & Place of Trial: 29 - 30 May 1946 at Rabaul.
Charge: Murder of a member of the Australian Army, a POW.
Verdict: Guilty.
Sentence: Death by hanging.
Confirmed and executed.
- 147) Trial of Col. Morisaburo Takaya.
Date & Place of Trial: 31 May 1946 and 1 June 1946 at Rabaul.
Charge: Murder of an Indian soldier.
Verdict: Guilty.
Sentence: Imprisonment for 10 years.
Findings and sentence quashed.
- 148) Trial of Civilian Officer Daijiro Yamasaki.
Date & Place of Trial: 3 - 4 June 1946 at Rabaul.
Charge: Murder of an inhabitant of New Ireland, or alternatively, ill-treatment of the said person. (2 charges).
Verdict: Guilty of manslaughter on 1st charge. Not guilty on second charge.
Sentence: Imprisonment for 10 years.
Confirmed.
- 149) Trial of L/Cpl. Minoru Honda.
Date & Place of Trial: 6 June 1946 at Rabaul.
Charge: Ill-treatment of a member of the Indian Army, a POW.
Verdict: Not Guilty.
- 150) Trial of Capt. Takashi Seki.
Date & Place of Trial: 7 June 1946 at Rabaul.
Charge: Ill-treatment of an Indian prisoner of war.
Verdict: Guilty.
Sentence: Imprisonment for 10 years.
Confirmed.
- 151) Trial of Cpl. Tatsuo Owa.
Date & Place of Trial: 7 June 1946 at Rabaul.
Charge: Ill-treatment of prisoners of war, (3 charges)
Verdict: Guilty on all charges.
Sentence: Imprisonment for 5 years.
Confirmed.
- 152) Trial of L/Cpl. Toyagi Ito.
Date & Place of Trial: 7 June 1946 at Rabaul.
Charge: Ill-treatment of an Indian prisoner of war.
Verdict: Not Guilty.
- 153) Trial of Sgt. Maj. Tameo Ono.
Date & Place of Trial: 7 - 8 June 1946 at Rabaul.
Charge: Ill-treatment of an Indian soldier, a POW.
Verdict: Guilty.
Sentence: Imprisonment for 5 years.
Confirmed.

- 154) Trial of Cpl. Yuchi Ajima.
Date & Place of Trial: 7 - 8 June 1946 at Rabaul.
Charge: Ill-treatment of an Indian soldier, a prisoner of war.
Verdict: Not Guilty.
- 155) Trial of Sgt.Maj. Einosuke Iida and Sgt. Hidemori Nakazono.
Date & Place of Trial: 8 June 1946 at Rabaul.
Charge: Unlawfully assaulting a number of Chinese nationals.
Verdict: Both accused found guilty.
Sentence: Imprisonment for 12 months, 2.
Confirmed.
- 156) Trial of Cpl. Sakari Ogata.
Date & Place of Trial: 11 - 12 June 1946 at Rabaul.
Charge: Ill-treatment of a number of Indian prisoners of war.
Verdict: Guilty.
Sentence: Death by hanging.
Findings confirmed but sentence commuted to imprisonment for 20 years, and confirmed.
- 157) Trial of L/Cpl. Hideo Aritake.
Date & Place of Trial: 12 June 1946 at Rabaul.
Charge: Assaulting 5 Chinese nationals.
Verdict: Guilty.
Sentence: Imprisonment for 6 months.
Confirmed.
- 158) Trial of Cpl. Shigeo Itahashi.
Date & Place of Trial: 12 June 1946 at Rabaul
Charge: Murder of an Indian soldier.
Verdict: Guilty.
Sentence: Imprisonment for 20 years.
Findings and sentence not confirmed.
- 159) Trial of Sgt.Maj. Saburo Karube.
Date & Place of Trial: 13 June 1946 at Rabaul.
Charge: (1) Ill-treatment of a number of Indian prisoners of war.
(2) Ill-treatment of an Indian army officer.
Verdict: Guilty of both charges.
Sentence: Imprisonment for 3 years.
Confirmed.
- 160) Trial of Sgt. Jiro Nakade.
Date & Place of Trial: 13 June 1946 at Rabaul.
Charge: Ill-treatment of a Chinese soldier, a prisoner of war.
Verdict: Not guilty.
- 161) Trial of L/Cpl. Toshizaku Kanai.
Date & Place of Trial: 14 June 1946 at Rabaul.
Charge: Ill-treatment of a prisoners of war, a member of the Chinese Army.
Verdict: Guilty.
Sentence: Imprisonment for 1 year.
Confirmed.
- 162) Trial of Cpl. Shigeto Oye.
Date & Place of Trial: 15 June 1946 at Rabaul.
Charge: Ill-treatment of a Chinese prisoner of war.
Verdict: Guilty.
Sentence: Imprisonment for 2 years.
Confirmed.

- 163) Trial of Sgt. Tetsuo Yamaki.
Date & Place of Trial: 15 - 17 June 1946 at Rabaul.
Charge: Ill-treatment of a prisoner of war, a member of the Chinese National Army.
Verdict: Guilty.
Sentence: Imprisonment for 2 years.
Confirmed.
- 164) Trial of Cpl. Shin Ueno.
Date & Place of Trial: 17 June 1946 at Rabaul.
Charge: Ill-treatment of a Chinese prisoner of war.
Verdict: Guilty.
Sentence: Imprisonment for 2 years.
Confirmed.
- 165) Trial of Sgt.Maj. Kazuyoshi Shimada.
Date & Place of Trial: 18 June 1946 at Rabaul.
Charge: Murder of a member of the Indian Army.
Verdict: Guilty.
Sentence: Imprisonment for 10 years.
Confirmed.
- 166) Trial of Sgt.Maj. Tsunejiro Kaminaka.
Date & Place of Trial: 19 June 1946 at Rabaul.
Charge: Brutal ill-treatment and beating of 18 Indian prisoners of war, as a result of which the said persons died. (15 separate charges).
Verdict: Guilty.
Sentence: Death by hanging.
Confirmed.
- 167) Trial of Cpl. Saburo Yamada.
Date & Place of Trial: 20 June 1946 at Rabaul.
Charge: Ill-treatment of a prisoner of war by cruelly beating him, etc.
Verdict: Guilty.
Sentence: Imprisonment for 4 years.
Confirmed.
- 168) Trial of Capt. Shoichi Yamamoto and 10 others.
Date & Place of Trial: 20 - 27 May 1946 at Rabaul.
Charge: Murder of numerous Prisoners of war in their charge, or alternatively ill-treatment of the said prisoners of war as a result of which many of them died.
Verdict: Not guilty, 2.
Guilty of one or both charges, 9.
Sentences: Death by hanging, 2.
Imprisonment for 10 years, 7.
Confirmed.
- 169) Trial of Cpl. Masaichi Tade.
Date & Place of Trial: 25 June 1946 at Rabaul.
Charge: Murder of an Indian army prisoner of war, or alternatively ill-treatment by cruelly kicking him. (2 charges).
Verdict: Guilty of 1st charge, not guilty of second charge.
Sentence: Death by hanging.
Confirmed.
- 170) Trial of Masayoshi Tokunaga, a civilian.
Date & Place of Trial: 25 - 26 June 1946 at Rabaul.
Charge: Ill-treatment of a civilian, a Nauruan.
Verdict: Guilty.
Sentence: Imprisonment for 1 year.
Confirmed.

- 171) Trial of Sgt. Maj. Kazuyoshi Shimada.
Date & Place of Trial: 26 June 1946 at Rabaul.
Charge: Murder of two members of the Indian Army.
Verdict: Guilty.
Sentence: Imprisonment for 15 years.
Confirmed.
- 172) Trial of Capt. Hisakichi Kubo and 3 others.
Date & Place of Trial: 9 - 10 July 1946 at Rabaul.
Charge: (1) (Against Kubo only) Ill-treatment of an Indian prisoner of war.
(2) (Against all accused) Ill-treatment of a second Indian prisoner of war.
Verdict: Not guilty, 1,
Guilty of one or both charges, 3.
Sentences: Imprisonment for 6 years, 1,
" " 4 " 1,
" " 2 " 1.
Confirmed.
- 173) Trial of Cpl. Takeichi Morisaki.
Date & Place of Trial: 10 July 1946 at Rabaul.
Charge: Ill-treatment of 2 Indian prisoners of war.
(2 separate charges).
Verdict: Guilty of 1st charge, not guilty of 2nd charge.
Sentence: Imprisonment for 5 years.
Confirmed.
- 174) Trial of Cpl. Jisaburo Nakamura.
Date & Place of Trial: 10th July 1946 at Rabaul.
Charge: Ill-treatment of an Indian soldier, a POW.
Verdict: Guilty.
Sentence: Imprisonment for 2 years.
Confirmed.
- 175) Trial of Cpl. Kazumi Takeda.
Date & Place of Trial: 13 - 15 July 1946 at Rabaul.
Charge: Ill-treatment of Indian prisoners of war.
Verdict: Guilty.
Sentence: Imprisonment for 12 months.
Confirmed.
- 176) Trial of Cpl. Zensaburo Tanaka.
Date & Place of Trial: 15 July 1946 at Rabaul.
Charge: Ill-treatment of Indian prisoner of war.
Verdict: Guilty.
Sentence: Imprisonment for 2 years.
Confirmed.
- 177) Trial of 1st Lt. Tadanori Kishi and 6 others.
Date & Place of Trial: 18 July 1946 at Rabaul.
Charge: Ill-treatment of 2 Indian prisoners of war.
(2 charges).
Verdict: Not guilty, 1,
Guilty, 6.
Sentences: Imprisonment for 5 years, 2,
" " 4 " 1,
" " 3 " 2,
" " 2 " 1.
Confirmed.

178) Trial of Cpl. Kuniyoshi Hiraishi.

Date & Place of Trial: 22nd July 1946 at Rabaul.

Charge: Cruelly beating and ill-treating two Indian soldiers, prisoners of war. (2 separate charges).

Verdict: Guilty on both charges.

Sentence: Death by hanging.

Confirmed and executed.

179) Trial of Cpl. Mihachi Mayama and 3 others.

Date & Place of Trial: 22nd and 23rd July 1946 at Rabaul.

Charge: Ill-treatment of 2 Indian soldiers, prisoners of war. (2 charges).

Verdict: All the accused guilty on one or both charges.

Sentences: Imprisonment for 7 years, 2,

" " 5 " , 2.

Confirmed.

VIII. French cases.

- 65) Trial of Gustav Mielke.
Date & Place of Trial: 6th November 1946 before a Permanent Military Tribunal at Toulouse.
Charge: Pillage, illegal confinement under threat of death, etc.
Verdict: Guilty, but with extenuating circumstances.
Sentence: Penal servitude for life.
- 66) Trial of Heinrich Heusch.
Date & Place of Trial: 7th November 1946 before a Permanent Military Tribunal at Metz.
Charge: Wilfully striking a Russian prisoner of war in France.
Verdict: Guilty.
Sentence: Imprisonment for 3 months.
- 67) Trial of Adolphe Schusler and Charles Loffler.
Date & Place of Trial: 13th November 1946 at Metz, before a Permanent Military Tribunal.
Charge: Wilfully striking, wounding of French and Russian nationals in France.
Verdict: Guilty.
Sentence: Schusler, Imprisonment for 9 months.
Loffler, " " 1 year.
- 68) Trial of Wilhelm Mettel.
Date & Place of Trial: 13th November 1946 at Toulouse before a Permanent Military Tribunal.
Charge: Homicide of a French national.
Verdict: Guilty.
Sentence: Penal Servitude for life.
- 69) Trial of Johachim Scherhag.
Date & Place of Trial: 13th November 1946 before a Permanent Military Tribunal at Toulouse.
Charge: Murder; complicity in wilful striking and wounding and in homicide, all committed against French nationals.
Verdict: Guilty.
Sentence: Death.
- 70) Trial of Albert Fiedler and August Bachmann.
Date & Place of Trial: 26th November 1946 before a Permanent Military Tribunal at Bordeaux.
Charge: Wilfully striking and wounding French nationals.
Verdict: Guilty, but with extenuating circumstances.
Sentence: Fiedler, imprisonment for 23 months,
Bachmann, " " 6 " .
- 71) Trial of Paul Korber.
Date & Place of Trial: 27th November 1946 before a General Military Government Tribunal at Rastatt.
Charge: Killing of Italian prisoners of war in Germany.
Verdict: Guilty, but with extenuating circumstances.
Sentence: Imprisonment for 10 years, but excused from serving the last six years.
- 72) Trial of Albert Wagner.
Date & Place of Trial: 29th November 1946 before a General Military Government Tribunal at Rastatt.
Charge: Killing of and violence against deported Russian workers in Germany.
Verdict: Guilty, but with extenuating circumstances.
Sentence: Imprisonment for 15 years.

- 73) Trial of Karl Dorner.
Date & Place of Trial: 3rd October, 1946 before a Permanent Military Tribunal at Dijon.
Charge: Deliberate wounding of a French civilian.
Verdict: Guilty.
Sentence: Imprisonment for one year.
- 74) Trial of Franz Otto Fiedrich Holstein.
Date & Place of Trial: 24th October 1946 at Dijon before a Permanent Military Tribunal.
Charge: Complicity in premeditated murder of a French civilian.
Verdict: Guilty, but with extenuating circumstances.
Sentence: Penal Servitude for life.
- 75) Trial of Jacob Waksman.
Date & Place of Trial: 4th December 1946 before a Permanent Military Tribunal at Paris.
Charge: Intelligence with the enemy and deliberately striking and wounding persons at Auschwitz, including Frenchmen.
Verdict: Guilty of deliberately striking and wounding, but not guilty of intelligence with the enemy.
Sentence: Imprisonment for 2 years.
- 76) Trial of Engelbert Matuschik.
Date & Place of Trial: 10th December 1946 before a General Military Government Tribunal at Restatt.
Charge: Murder of a German political internee and acts of great cruelty committed against political internees of different nationalities.
Verdict: Not guilty, on the facts of the murder; guilty of the alleged cruelty, but with extenuating circumstances.
Sentence: Imprisonment for 5 years.
- 77) Trial of Jacques Katz.
Date & Place of Trial: 17th December 1946 before a General Military Government Tribunal at Restatt.
Charge: Aggravated assault committed when he was leader of a column, of an ascertained number of foreign political deportees, causing in particular the death of one of them.
Verdict: Not guilty of murder, but guilty of aggravated assault.
Sentence: Imprisonment for 5 years.
- 78) Trial of Johann Cornely.
Date & Place of Trial: 18th December 1946 before a Permanent Military Tribunal at Paris.
Charge: Wilfully killing a French prisoner of war.
Verdict: Guilty, but with extenuating circumstances.
Sentence: Penal Servitude for 5 years.
- 79) Trial of Léo Hoehn.
Date & Place of Trial: 9th January 1947 before a Permanent Military Tribunal at Metz.
Charge: Deliberately striking and wounding, resulting in the unintentional killing of a civilian in France.
Verdict: Guilty, but with extenuating circumstances.
Sentence: Imprisonment for 2 years.
- 80) Trial of Pierre Humbert.
Date & Place of Trial: 9th January 1947 before a Permanent Military Tribunal at Metz.
Charge: Deliberate striking of a Russian and of an Italian, both prisoners of war.
Verdict: Guilty but with extenuating circumstances.
Sentence: Imprisonment for 6 months.

- 81) Trial of Wilhelm Weidig.
Date & Place of Trial: 10th January, 1947, before a Permanent Military Tribunal at Marseille.
Charge: Complicity in premeditated murder of French prisoners of war.
Verdict: Guilty.
Sentence: Death.
The accused lodged an appeal.
- 82) Trial of Karl Ernst Herbert Ehrlich
Date & Place of Trial: 14th January 1947 before a Permanent Military Tribunal at Toulouse.
Charge: Conspiracy and premeditated murder of two French nationals.
Verdict: Guilty of conspiracy but not guilty of murder.
Sentence: Penal Servitude for 20 years.
- 83) Trial of Auguste Boncina, an Italian national.
Date & Place of Trial: 16th January 1947 before a Permanent Military Tribunal at Lille.
Charge: Robbery committed against a French national and intentional wounding of a French national, causing incapacity to work for more than 20 days.
Verdict: Guilty.
Sentence: Imprisonment for 5 years.
- 84) Trial of Albert Maria Léon Raskin.
Date & Place of Trial: 16th January 1947 before a Permanent Military Tribunal at Lyon.
Charge: Conspiracy to commit offences against persons and property in France.
Verdict: Guilty, but with extenuating circumstances.
Sentence: Imprisonment for 2 years.
- 85) Trial of Ernst Dunker.
Date & Place of Trial: 22nd January 1947 at Marseille before a Permanent Military Tribunal.
Charge: Conspiracy; premeditated murder; complicity in premeditated murder, illegal confinements and acts of barbarism and theft, all committed in France.
Verdict: Guilty.
Sentence: Death.
- 86) Trial of Paul Hermann Hartmann.
Date & Place of Trial: 28th January 1947 before a Permanent Military Tribunal at Rennes.
Charge: Premeditated murder of a French national.
Verdict: Guilty.
Sentence: Death.
- 87) Trial of Ruppert Schmit, Erich Andreas Gottlieb Zapf and Conrad Heins.
Date & Place of Trial: 28th January 1947 before a Permanent Military Tribunal at Rennes.
Charge: Schmit: Murder and theft with aggravating circumstances.
Zapf: Theft with aggravating circumstances and complicity in murder.
Heins: Complicity in theft.
All offences committed against a French national.
Verdict: Schmit: Guilty of theft and of wounding.
Zapf: Guilty of theft but with extenuating circumstances
Heins: in favour of Zapf.
Sentences: Schmit: Penal servitude for 20 years.
Zapf: Imprisonment for 3 years.
Heins: (In his absence) Penal servitude for 5 years.

- 88) Trial of Willy Biewald, Hans Hermann Heiklaus, Wiegner and Golucke.
(Christian names of the last two named accused, unknown.
Accused were tried in their absence).
Date & Place of Trial: 29th January 1947 before a Permanent Military Tribunal at Rennes.
Charge: Biewald: Premeditated murder of a French national.
The other three accused: Complicity in the premeditated murder.
Verdict: All the accused found guilty, but with extenuating circumstances in favour of Biewald, Heiklaus and Wiegner.
Sentences: Biewald and Heiklaus, Penal servitude for life.
Wiegner (in his absence), Penal servitude for 20 years.
Golucke, (in his absence), Death.
- 89) Trial of Hans Hofmann.
Date & Place of Trial: 30th January 1947 before a Permanent Military Tribunal at Lyon.
Charge: Deliberate killing of one French patriot and the complicity in the killing of others.
Verdict: Guilty, but with extenuating circumstances.
Sentence: Penal Servitude for life.
- 90) Trial of Walter Alfred Willy Keilpflug, and 5 others.
Date & Place of Trial: 30th January 1947 before a Permanent Military Tribunal at Lyon.
Charge: As to Keilpflug and another, illegal arrest and theft with aggravating circumstances.
As to the remainder, theft with aggravating circumstances, all the offences against a French national.
Verdict: Not guilty, 3.
Guilty, but with extenuating circumstances, 1.
The trial of two accused who were in flight was severed.
Sentence: Detention for 5 years.
- 91) Trial of Georg Schlehuber and 2 others.
Date & Place of Trial: 30th January 1947 before a Permanent Military Tribunal at Lyon.
Charge: Deliberate killing and illegal arrest of French nationals.
Verdict: Not guilty, 2.
Schlehuber guilty only of illegal arrest and with extenuating circumstances.
Sentence: Penal Servitude for 5 years.
- 92) Trial of Gilbert Charles Emilien Schmitt and Helmreich
Date & Place of Trial: 30th January 1947 before a Permanent Military Tribunal at Lyon.
Charge: War-time pillage committed against French nationals.
Verdict: Schmitt, not guilty.
Helmreich found guilty in his absence.
Sentence: Death.
- 93) Trial of Wilhelm Fritz Franz Adolf Bosse.
Date & Place of Trial: 30th January 1946 before a Permanent Military Tribunal at Rennes.
Charge: Premeditated murder of French nationals.
Verdict: Guilty.
Sentence: Death.
- 94) Trial of Peter Schinker and 4 others.
Date & Place of Trial: 30th January 1947 before a Permanent Military Tribunal at Rennes.
Charge: Four accused of deliberate arson, one accused of complicity in deliberate arson.
Verdict: All found guilty, but with extenuating circumstances in favour of Schinker and 2 others.
Sentences: Two accused, in their absence sentenced to death.
Two accused, in their absence, sentenced to penal servitude for 15 years.
Schinker sentenced to Penal Servitude for 15 years.

- 95) Trial of Franz Otto Friedrich Holstein and 23 others, all members of the S.D. and the Gestapo of Dijon.
Date & Place of Trial: 3rd February 1947 before a Permanent Military Tribunal at Dijon.
Charges: (Against various accused)
Complicity in reprisal killing, complicity in arson, complicity in murder, complicity in pillage, attempts against the French State security. All offences committed in occupied France.
Verdict: Not guilty, 2.
Guilty, 22, including Holstein.
Sentences: Death, 20.
Penal Servitude for 20 years, 1,
" " " 15 " , 1.
- 96) Trial of Walter Knapp,
Date & Place of Trial: 11th February 1947 before a Permanent Military Tribunal at Metz.
Charge: Theft committed against a French national.
Verdict: Not Guilty.
- 97) Trial of Fritz Muller.
Date & Place of Trial: 11th February 1947 before a Permanent Military Tribunal at Metz.
Charge: Theft committed against 2 French civilians.
Verdict: Guilty of one act of theft but with extenuating circumstances.
Sentence: Imprisonment for 6 months.
- 98) Trial of Christian Hallier,
Date & Place of Trial: 14th February 1947 before a Permanent Military Tribunal at Metz.
Charge: Attempt against the French State security.
Verdict: Not guilty.
- 99) Trial of Alois Bommer, Anna Bommer, Elfriede, Maria and Hilde Bommer.
Date & Place of Trial: 19th February 1947 before a Permanent Military Tribunal at Metz.
Charge: Against Alois and Anna Bommer, theft and receiving of stolen goods. Against the others, receiving of stolen goods.
Verdict: Elfrieda Bommer, not guilty.
The remainder guilty of receiving stolen goods, but with extenuating circumstances in favour of two.
Sentences: Imprisonment for 18 months, 2,
" " 4 " , 2.
- 100) Trial of Bruno Birkenborfer and Fritz Ermisch.
Date & Place of Trial: 27th February 1947 before a Permanent Military Tribunal at Marseille.
Charge: Complicity in the premeditated murder of a French police inspector.
Verdict: Guilty, but with extenuating circumstances in favour of Birkenborfer.
Sentences: Birkenborfer, Penal Servitude for 10 years,
Ermisch, Death.

X. Chinese Cases.

1) Trial of Takashi Sakai

Date & Place of Trial: 27th August 1946 before a Chinese War Crimes Military Tribunal of the Ministry of National Defence, Nanking.

Charge: Participation in the war of aggression and of inciting or permitting his subordinates to murder prisoners of war, wounded soldiers and non-combatants; to rape, plunder, deport civilians; to indulge in cruel punishment and torture and to cause destruction of property.

Verdict: Guilty.

Sentence: Death.

XI). Dutch Cases.

1) Trial of Yamura Saburoh.

Date & Place of Trial: 13th September 1946 before a Netherlands Temporary Courts Martial at Balikpapan, (N.E.I.)

Charge: That he systematically carried out a reign of terror against civilians and prisoners of war at Sanga-Sanga, N.E.I., that he repeatedly and unnecessarily ill-treated them even when ill, in a manner far exceeding the limits of the normal exercise of discipline.

Verdict: Guilty.

Sentence: Death.

Confirmed.

XII). Norwegian Cases.

1). Trial of Karl-Hans Hermann Klinge.

Date & Place of Trial: 27th February 1946 before the Supreme Court of Norway.

Charge: Torture of 18 Norwegian citizens, of whom one died as a result of the ill-treatment.

Verdict: Guilty.

Sentence: Death

2) Trial of Richard Wilhelm Hermann Bruns and 2 others.

Date & Place of Trial: 20th March 1946 before the Eidsivating Lagmannsrett, (Court of Criminal Appeal).

Charge: (1) Murder,

(2) Brutal torture of Norwegian citizens.

Verdict: All defendants found guilty of the torture charges.

Sentence: Death by shooting, 3.

X. Chinese Cases.

1) Trial of Takashi Sakai

Date & Place of Trial: 27th August 1946 before a Chinese War Crimes Military Tribunal of the Ministry of National Defence, Nanking.

Charge: Participation in the war of aggression and of inciting or permitting his subordinates to murder prisoners of war, wounded soldiers and non-combatants; to rape, plunder, deport civilians; to indulge in cruel punishment and torture and to cause destruction of property.

Verdict: Guilty.

Sentence: Death.

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Verdict: Guilty.

Sentence: Death.
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(2) Brutal torture of Norwegian citizens.

Verdict: All defendants found guilty of the torture charges.

Sentence: Death by shooting, 3.

C.256.
16th May, 1947.

UNITED NATIONS WAR CRIMES COMMISSION,

Surrender of War Criminals by the American Authorities.

The following letter and its enclosure received from Dr. R. Zivković, the Yugoslav Representative, is circulated to members of the Commission for consideration at its next meeting.

7th May, 1947.

Dear General de Baer,

I have just received a letter from the Yugoslav War Crimes Investigating Team with USFET, Augsburg, Germany, advising me of the following:-

For several months, namely since October last, the American authorities in Germany have declined to hand over war criminals who have been listed by the United Nations War Crimes Commission without the presentation of the same facts and evidence as those on the basis of which these criminals were listed by our Commission. At the same time they retain full discretionary power to judge each case and do not feel bound by the decisions of our Commission, thus invalidating in its entirety the procedure of our Commission.

There were recently two such cases; one regarding a certain Otto LURCHER (or LURKER) whose name appears on our List No. 13, Serial No. 901, and the other concerning a Horst PLANK, whose name is in List No. 14, Serial No. 671. In both cases the American authorities ignored their being on our lists and asked for submission of full evidence and particulars. In this connection I attach copy of a letter of the American authorities for your information.

In addition to this, the American authorities have introduced a separate measure to deal with war criminals wanted by Yugoslavia, and I am advised that this exceptional measure is in fact applied only with regard to Yugoslavia and to no other country. Whereas in the case of any other Allied country the Zonal Commander had transferred his powers (conferred on him by Law No. 10) to the United States Judge Advocate's Office, War Crimes Branch, in the case of the Yugoslav requests decisions are being taken by the Legal Division, OMGUS in Berlin.

The Yugoslav authorities feel that such a discriminating attitude towards the Yugoslav Government is somewhat offending since there is absolutely no grounds to justify it and they have taken appropriate steps.

I am directed to report this situation to the United Nations War Crimes Commission, particularly in regard to the refusal to hand over war criminals whose names appear on our Commission's lists

.....

and the imposition of a procedure which nullifies the whole work of our Commission.

I would therefore be grateful if you could bring this matter before Committee I, and if necessary to the Commission itself, and find a way in which to remedy this very unsatisfactory position.

Yours sincerely,

(Signed) Dr. R. ZIVKOVIC.

PM/cm.

7708 COMMAND. APO 178.

31 March 1947.

000.5 EXT (101-39)

SUBJECT: Extradition of Otto LURCHER (LURKER) to Yugoslavia.

TO: Commanding Officer, Yugoslav War Crimes Liaison Detachment,
7708 War Crimes Group, APO 178, U.S. Army.

1. Reference extradition request, your Detachment, for Otto LURCHER (LURKER), dated 22 April 1946.

2. This Group has been advised by the Director, Legal Division, OMCUS, as follows:

"A decision in the case under review cannot be made unless the request for surrender of the individual concerned is accompanied by a clear statement of the law violated, the acts charged as violation and evidence affording a reasonable support to the charge.

"It would, therefore, be appreciated if you would obtain the required information and forward it to this office".

FOR THE COMMANDING OFFICER:

MARK AMEN
Lt. Col, AGD
Chief, Apprehension Section.

Telephone: 7368.

UNITED NATIONS WAR CRIMES COMMISSION

Handing over of War Criminals by Neutral Countries.

(Resolution adopted by the Commission on 21st May, 1947)

The attention of the United Nations War Crimes Commission has been drawn to the disinclination shown by the Governments of certain neutral countries to hand over for trial, before a court of one of the United Nations, persons accused of having committed war crimes. Governments have hesitated to surrender war criminals even in cases where the names of the wanted persons appear on the lists issued by the Commission.

It may perhaps assist the Government of a Neutral State which is considering a request for the surrender of a war criminal if it were to be informed that names are only placed on the Commission's lists after careful weighing of the evidence produced in each case by the prosecuting government. The presence of a name on the list indicates that, in the opinion of an important international body, a prima facie case has been established against the accused which justifies his being brought to trial before the appropriate court. By failing to hand over the accused for trial, the Neutral Government concerned would be impeding, however unwittingly, the performance of the task for which the United Nations War Crimes Commission was created.

In cases where the presence of a war criminal in a particular neutral country is suspected, but not known for certain, it would be greatly appreciated by the Commission if the enquiring United Nations Government could be informed whether or no the accused person is in fact residing in that country. Failure to give this information may impede the prosecution of enquiries elsewhere, with the result that the perpetrator of some heinous crime may escape detention and trial.

Persons appearing on the Commission's lists are, in the majority of cases, accused of crimes of a revolting and inhuman character and it would be most unfortunate if such criminals were to be shielded from well-merited punishment as a result of an over-generous interpretation of the law of asylum. Such men have no valid claim to the protection normally accorded to a political refugee. This point is well brought out in the following passage from the Inter-Allied Declaration signed at St. James's Palace on January 13, 1942: "... acts of violence committed at the expense of civilian populations have nothing in common with the notion of an act of war or with that of a political crime as understood by civilised nations".

When considering requests for the surrender of war criminals, neutral Governments will no doubt also bear in mind the Resolution passed at the first session of the United Nations General Assembly on February 13, 1946, the relevant section of which runs as follows: "The Assembly calls upon the Governments of States which are not Members of the United Nations also to take all necessary measures for the apprehension of such criminals in their respective territories with a view to their immediate removal to the countries in which the crimes were committed for the purpose of trial and punishment according to the laws of those countries."

The United Nations War Crimes Commission recommends that the above considerations be brought to the attention of the Governments of those neutral countries in which war criminals are believed to be sheltering, in the hope that the early surrender of such persons, in response to a request from a Government of the United Nations, may thereby be facilitated.

UNITED NATIONS WAR CRIMES COMMISSION

BUDGET - 1947/48

In accordance with Article 2 of the Financial and Administration Regulations, the Secretary-General has prepared for the Finance Committee to approve and recommend to the Commission, the Budget for 1947/48 totalling £21,850 as per Statement "A" attached. This supersedes the provisional Budget which was approved on 22nd January 1947 and amended on 4th June 1947.

SURPLUS - 1946/47

The amount budgeted for the year 1946/47 was £ 22,350

The amount expended was £ 15,137 - 6

Deduct the amount owing
for Stationery at 1st
April 1946 £ 308 2 6

Less Accounts outstanding
for Stationery at
31st March 1947
estimated at 277 2 -
31 - 6
15,106

Leaving a surplus of £ 7,244

CONTRIBUTIONS FOR 1947/48

It is proposed:-

- (a) That Member Governments should be required to pay their basic contributions of £400 each for 1947/48 producing £ 6,800
- (b) That the surplus for 1946/47 as above be appropriated to 1947/48 7,244
- (c) That the balance of funds required for 1947/48 viz be contributed by the Member Governments in their agreed proportions. 7,806

Making together the amount budgeted for 1947/48 £ 21,850

- (d) That the refunds due to the Governments of China, United Kingdom and United States of America out of the surplus of the year 1945/46 (after setting off the amount due by them for 1946/47) be deducted from the amounts due from them for 1947/48.
- (e) That each Member Government be asked to remit the net amount due as shown in column 6 Statement "B" annexed.

STATEMENT "A"

UNITED NATIONS WAR CRIMES COMMISSION

BUDGET FOR THE FOURTH FISCAL PERIOD

1st APRIL 1947 - 31st MARCH 1948.

ESTIMATED REQUIREMENTS

PART I - WORKING CAPITAL FUND.

No increase proposed on existing balance of £6,800.

PART II - EXPENSES OF THE COMMISSION

	Details for reference 1946-1947		Estimate for 1947-1948
	Estimate £	Actual. £	£
1(a) Office Equipment (Duplicators, Typewriters))	300	135	200
(b) Cleaning of Premises		402	500
Premises (including Furniture, Heating, Lighting, Telephones, etc) supplied free of charge by H.M. Government in the United Kingdom			
2. Stationery, Printing and Multigraphing	850	1,245	1,300
3. Postages, Telegrams, Cables	200	143	200
4. Salaries (including National Health and Unemployment Insurance)	12,000	11,786	13,750
5. Provisions for additional Staff (included in Item 4)	-	-	-
6. Travelling	850	292	500
7. Accountants and Auditors Charges	150	134	150
8. Publications, including such expenditure as may be necessitated by the Recording and Reporting of War Crimes Trials and the publication of a History of the Commission	1,000	57	1,000
9. Expenses of the Far Eastern and Pacific Sub-Commission	2,000	454	100
Premises (including Heating, Lighting, Cleaning, Telephones, etc.) provided free of charge by the Chinese Government.			
10.(a) Miscellaneous expenditure	1,000	279	1,000
(b) Unforeseen expenditure	4,000	210	3,150
	<hr/>	<hr/>	<hr/>
<u>TOTAL OF PART II</u>	£ 22,350	£ 15,137	£ 21,850
	<hr/>	<hr/>	<hr/>

STATEMENT "B"

UNITED NATIONS WAR CRIMES COMMISSION

CONTRIBUTIONS PAYABLE FOR 1947/48

Basic Contributions for 1947/48	...	...	...	...	£ 6,800
Estimated expenditure in excess of Basic Contributions for 1947/48	...	...	£ 15,050		
<u>Deduct</u> Surplus for 1946/47	...	...	7,244		7,806
					<hr/>
Gross amount collectible for 1947/48	...	...	...	£14,606	
<u>Less</u> Refunds due to Member Governments brought forward from 1946/47	...	...	...	3,874 13 5	
				<hr/>	
Net amount to be collected as under (Column 6)	...			£10,731 6 7	
				<hr/>	

1. Country	2. No. of Units	3. Basic Contri- bution 1947/48	4. Estimated excess expenditure £15,050 1947/48 less Surplus 1946/47 (£7,244).	5. Refunds due to Member Govern- ments brought forward from 1946/47	6. Balance due to U.N.W.C.C.
Australia	30	400	147 18 8		547 18 8
Belgium	20	400	98 12 5		498 12 5
Canada	60	400	295 17 4		695 17 4
China	100	400	493 2 3	22 17 9	870 4 5
Czechoslovakia	20	400	98 12 5		498 12 5
Denmark	6	400	29 11 9		429 11 9
France	89	400	394 9 10		794 9 10
Greece	10	400	49 6 4		449 6 4
India	80	400	394 9 10		794 9 10
Luxembourg	1	400	4 18 8		404 18 8
Netherlands	30	400	147 18 8		547 18 8
New Zealand	6	400	29 11 9		429 11 9
Norway	6	400	29 11 9		429 11 9
Poland	20	400	98 12 5		498 12 5
United Kingdom	550	400	2,712 2 7	1,925 17 10	1,186 4 9
U. S. A.	550	400	2,712 2 7	1,925 17 10	1,186 4 9
Yugoslavia	14	400	69 - 9		469 - 9
	<hr/>	<hr/>	<hr/>	<hr/>	<hr/>
	1,583	6,800	£ 7,806 - -	£ 3,874 13 5	£ 10,731 6 7

UNITED NATIONS WAR CRIMES COMMISSION.

Collection and Publication of Information
concerning Human Rights.

Report by Committee III. (*)

- I. The Economic and Social Council of the United Nations adopted on 21st July 1946 a Resolution on the Commission on Human Rights.

Paragraph 4 of this Resolution, under the heading "Documentation", reads as follows:

" The Secretary-General is requested to make arrangements for:

- (a) the compilation and publication of a year-book on law and usage relating to human rights, the first edition of which should include all declarations and bills on human rights now in force in the various countries;
- (b) the collection and publication of information on the activities concerning human rights of all organs of the United Nations;
- (c) the collection and publication of information concerning human rights arising from trials of war criminals, quislings and traitors, and in particular from the Nuremberg and Tokyo trials;
- (d) the preparation and publication of a survey of the development of human rights;
- (e) the collection and publication of plans and declarations on human rights by specialized agencies and non-governmental national and international organisations."

(Journal of the Economic and Social Council, 1st Year, No.29, 13th July 1946, p.520).

- II. Pursuant to discussions between the Director of the Division of Human Rights of the United Nations and representatives of the United Nations War Crimes Commission held in April 1947 (Doc.Misc.No.89), the Director of the Division of Human Rights informed the Chairman of the U.N.W.C.C. on 15th May 1946 (Doc.A.45), that Monsieur Henri Laugier, the Assistant Secretary-General in charge of Social Affairs, agreed with him that the U.N.W.C.C. was in a better position to do the work outlined under (c) of the above quoted paragraph 4 of the Resolution of the Economic and Social Council, than was the United Nations Secretariat, and added that if the Secretariat of the U.N.W.C.C. was prepared to accept responsibility for this work, the United Nations Secretariat

(*) The discussions and preparatory work preceding this report are to be found in Docs. M.127, Misc.No.89, A.45, III/89, III/90, III/91, III/92 and in Committee III Minutes Nos. 7/47 and 8/47. The report has been prepared before the publication of the United Kingdom Draft of an International Bill of Human Rights on 7th June 1947. (Foreign Office, H.M.Stationery Office.)

would be very pleased if the U.N.W.C.C. would undertake it. The Director of the Division of Human Rights further wrote that, if this were possible, the Division would like to be able to submit the manuscript to the next meeting of the Commission of Human Rights, which is to meet on 25th August 1947 at Geneva. He did not want to press the U.N.W.C.C. in the matter, however, and would arrange to have the manuscript submitted at the following meeting of the Commission should it be impossible for the U.N.W.C.C. to complete the work for August. In any event, he would very much appreciate hearing from the Chairman of the U.N.W.C.C. and having his views at his earliest convenience.

- III. In its meeting held on 21st May 1947, the U.N.W.C.C. decided to accept responsibility for the work as requested as far as information concerning human rights arising from trials of war criminals was concerned, and postponed its decision on the question whether it will also be feasible for the Commission to collect information concerning human rights arising from trials of quislings and traitors.

Simultaneously the whole question was referred to Committee III. Committee III discussed the problems involved in its meetings held on 22nd May and 4th June 1947 (Committee III Minutes Nos. 7 /47 and 8/47) on the basis of preparatory documents submitted by the Secretariat. (Docs. III/89, III/90, III/91 and III/92).

The Secretary-General of the U.N.W.C.C. informed the Director of the Human Rights Division by letter dated 22nd May of the decision taken by the Commission on 21st May. In his reply, dated 29th May 1947, the Director of the Human Rights Division took note of the fact that the U.N.W.C.C. will undertake the preparation of a memorandum on Information concerning Human Rights arising out of trials of war criminals etc. He enquired, inter alia, whether it might be possible for the U.N.W.C.C. to send to the United Nations Secretariat a progress report which might be submitted to the meeting of the Human Rights Commission in August 1947. He also thanked the U.N.W.C.C. for its co-operation in the work of the Commission on Human Rights.

The Secretary-General of the U.N.W.C.C. has made the necessary Secretariat arrangements for the performance of the work. They are recorded in Doc. III/93.

- IV. On the preliminary question whether the U.N.W.C.C. has jurisdiction to collect information concerning human rights arising from the trials of quislings and traitors, Committee III is of the opinion that the question of jurisdiction does not arise.

As will be seen from the proposals set forth below, Committee III submits that the Commission should include in its survey in the first instance the examination of records and reports of trials of quislings and traitors to the extent to which they disclose war crimes in the wider sense, which includes crimes against humanity. These are well within the Commission's jurisdiction. It is, moreover, not suggested that the Commission should take any steps connected with the investigation of crimes committed by quislings and traitors leading up to their prosecution, trial and punishment. What the Commission is being asked to do is to examine the results of trials which have taken place without the Commission having any part in their preparation, and to collect information concerning human rights arising out of such trials. If the Commission undertakes this task it does not assume jurisdiction in connection with the prosecution and trial of quislings and traitors. It only uses its experience in collecting and sifting material which, though it has not directly arisen out of the Commission's work, is in many respects akin to the Commission's jurisdiction which comprises war crimes, including crimes against peace and crimes against humanity.

The terms of reference of the Commission, as stated in its inaugural meeting held on 20th October 1943 (Doc.C.229) cannot, in the opinion of Committee III be interpreted to the effect that they form an obstacle to the Commission's complying with the request made by the United Nations

Secretariat for the following reasons:

- (a) The U.N.W.C.C. is an international organisation with the legal capacities of a body corporate. (cf. S.R.&O. 1945, No.1211)
- (b) The question of the possible expansion of the scope of the Commission's investigations and functions was reserved for future consideration on 20th October 1943 (Doc.C.229).
- (c) The Commission has subsequently been charged with the task which, according to the original proposals, would have been vested in the technical committee on legal questions. (Doc.C.229).
- (d) The request from the United Nations Secretariat is a matter sui generis. It is made to the Commission by an organ of the United Nations which, in requesting the Commission's collaboration, acts on behalf of its 55 member States, among whom there are also all the members of the U.N.W.C.C.
- (e) As will be shown in the parts of this report dealing with the substance of the question, the information concerning human rights arising from trials of war criminals, and similar information arising from trials of quislings and traitors, is to such an extent inter-related, that a report based only on trials of war criminals proper, or a report based only on trials of quislings and traitors would not exhaust the matter and would not give an adequate picture.

In many international documents, including draft conventions prepared by the U.N.W.C.C. before the end of the war, so-called quislings and traitors have, to some extent, been dealt with together with war criminals. In its resolution on the question of refugees, the General Assembly of the United Nations decided on 12th February 1946, that "no action taken as a result of this resolution shall be of such a character as to interfere in any way with the surrender and punishment of war criminals, quislings and traitors". The constitution of the International Refugee Organisation, annexed to the Resolution of the General Assembly of 15th December 1946, in the part devoted to "definitions and general principles" provides that "war criminals, quislings and traitors will not be the concern of the organisation"; the same applies to persons who have assisted the enemy forces, which term is circumscribed in some detail.

The Treaties of Peace with Italy, Roumania, Bulgaria, Hungary and Finland, impose on the defeated former enemy States the duty to ensure the apprehension and surrender for trial not only of persons who are accused of having committed war crimes and crimes against peace or humanity, but also nationals of any Allied or Associated Power accused of having violated their national law by treason or collaboration with the enemy during the war.

In addition, it may be pointed out that the Commission has repeatedly listed Allied nationals accused of violations of the laws and customs of war or crimes against humanity committed against Allied nationals, but it has only been exceptional for crimes against humanity of enemy nationals committed against enemy nationals or stateless persons on enemy territory to be brought before the Commission. It forms, however, part of the original functions of the Commission to collect evidence and to report from time to time to the Governments on certain classes of atrocities showing where possible the connection between the individual crimes of each type and the common policy which they expressed. It has been the view of the Commission from the beginning that this part of its functions includes the consideration of crimes against humanity of this type. (Cf. letter from the Lord Chancellor to Sir Cecil Hurst, dated 23rd August 1944, Doc.C.78 and Progress Report Doc. C.48(1).)

V. The juxtaposition of quislings, traitors and collaborators with war criminals, in many international documents and in some recommendations of the U.N.W.C.C. does not, however, alter the fact that the Commission has not collected the material concerning quislings and traitors who have not been accused of war crimes. If the Commission undertook the collection of information arising from the trials of quislings and traitors, it would be necessary to ask the member governments to make the respective information available to the Commission and to assist in the collection of material from such countries, for example the former enemy countries, as are not members of the Commission.

The Human Rights and Fundamental Freedoms usually referred to in every-day discussions and in recent international documents, such as the Peace Treaties of February 1947, and indeed in the deliberations of the organs of the United Nations itself, are such rights as those of freedom of expression, of the press and publication, of religious worship, of political opinion, of public meeting and of association.

Not less important though not so often discussed, are the rights and freedoms such as freedom from arbitrary detention and the right to equal protection of life and liberty, (equality before the law).

It cannot be affirmed that, in the present state of international law and of the municipal laws of the different countries, all these human rights and fundamental freedoms enjoy protection through criminal law. For example, restrictions on freedom of expression, freedom of the press and freedom of information relating to military operations are, in time of war, neither prohibited nor punishable. On the other hand, some basic human rights such as that of equal protection against arbitrary discrimination, may be found to have been vindicated in time of war as well as in time of peace and the law established accordingly.

The trials which will be most illustrative of the extent of the protection or vindication of such rights are those of the major war criminals and of the trials of quislings and traitors. Of the Nuremberg and Tokyo trials, this fact will readily be granted, but it is suggested that no study of the extent of the protection of the basic human rights of the individual can afford to ignore the trials of quislings and traitors. These latter trials may furnish examples of how criminal repression has been extended to the violations of human rights beyond those which may be considered as being protected by the general principles of law. For instance, Marshal Antonescu and certain others were tried by a Roumanian court, inter alia, for enslavement of the press and information services with the object of spreading Nazism in Roumania and corrupting public opinion, and for crimes against the Jewish race, including deportation to the death camps of Eastern Europe, and the compulsory "Roumanisation" of Jewish property.

An examination of the transcripts and records of the trials of quislings and traitors will show that a large number of violations of civic rights are, at the same time, war crimes or crimes against humanity. For example, Bela Imredy, former President and Finance Minister was found guilty in Hungary, inter alia, of the promulgation of anti-semitic legislation. A study of offences having this dual aspect will clearly come within the purview of the U.N.W.C.C.

On the other hand, there will be many trials of "traitors" which have no bearing on human rights because they are restricted to the violation of duties which a person owes to a certain State. The trial of William Joyce, for instance, has only an indirect bearing on human rights. By his treasonable activities, William Joyce, in a general way, did aid and abet the major war criminals in their crimes violating human rights, but he himself was indicted and convicted only for the violation of duties flowing from his allegiance to the British Crown.

From this it follows that such trials of quislings and traitors as involve war crimes and crimes against humanity will probably cover most of the ground with which paragraph (c) of the Resolution of the Economic and Social Council (supra I) is concerned.

Committee III therefore recommends to the Commission that in the task to be done at the request of the United Nations Secretariat there should be included in the first instance the examination of records and reports of trials of quislings and traitors, to the extent to which these trials were concerned with such persons accused as quislings and traitors as had, in connection with or in addition to the violations of their duties of allegiance to their own State, been accused of having committed war crimes in the wider sense, which includes crimes against humanity.

If in the course of the actual work it should appear that this restriction of attention to trials involving war crimes and crimes against humanity would not be sufficient for an adequate illustration of the present state of law and practice, the question of enlarging the scope of the enquiry in relation to the trials of quislings and traitors can be considered at a later stage.

- VI. Many relevant legal texts are already in the hands of the Secretariat and have been circulated as Miscellaneous documents; these set out the laws and decrees applicable. There may, however, be difficulties in securing material regarding the trials, especially from non-members of the Commission, (e.g. the Soviet Union, the Soviet Zones of Occupation) and from the former enemy States, Italy, Bulgaria, Roumania, Hungary, and Finland. Full transcripts would seem necessary for a full examination of the way in which the rights of the accused are provided for during his trial. For an estimate of the protection of the rights of his victims, however, the essentials are a statement of the offence, the attitude of the Court to such pleas as superior orders or act of subordinate without the knowledge of the accused, and the decision of the Court.

If the work to be undertaken is to include information arising from trials of quislings and traitors accused of war crimes and crimes against humanity, it will be necessary to enlist the assistance of the member governments and perhaps of the United Nations Secretariat in securing such information from countries which are not members of the U.N.W.C.C.

As far as the trials of war criminals proper are concerned the material collected for the purpose of law reporting will also form the main basis for this new work.

- VII. For technical reasons the division of the material appears necessary, into the analysis of:

- (a) the trial of the major German war criminals, (Nuremberg),
- (b) the trial of the major Japanese war criminals, (Tokyo),
- (c) the trials of persons of enemy nationality or allegiance accused of war crimes, crimes against peace and crimes against humanity not falling within the categories (a) and (b),
- (d) the trials of quislings and traitors accused of war crimes or crimes against humanity, not falling within the categories (a), (b) and (c).

Work on the tasks mentioned under (a) and (c) could start forthwith, whereas the completion of (b) will have to wait until the Tokyo trial has ended and the transcripts of its latter part and the decision of the Tribunal are available.

The task enumerated under (d) cannot be undertaken before the material has been collected with the assistance of the member Governments.

VIII. The collection and publication of information concerning human rights arising from the trials is not an end in itself but obviously serves a specific practical purpose. This purpose is to aid in the main task of the Commission on Human Rights, particularly the preparation of an international bill of rights, international declarations or conventions on civil liberties. It is, therefore, submitted that the work of collecting the respective material should be undertaken with this end in view.

The information to be collected will be of a two-fold character, the one aspect being how human rights have been violated, the other how they have been protected.

Every crime or nearly every crime violates a right and therewith a "human right" in a wider, non-technical sense. Every individual murder violates a human right. The same applies to almost all violations of the laws and customs of war and to all acts coming under the term "crime against humanity" as defined in the basic documents, e.g. in the Charter of the International Military Tribunal of 8th August 1945. The Economic and Social Council obviously does not expect a collection of material indiscriminately dealing with records of common law crimes, war crimes, and crimes against humanity which were the subject of criminal proceedings in international tribunals, mixed courts and in national, military and occupation courts.

Records of trials of persons responsible for such outrages as deportation of allied nationals into concentration camps, their ill-treatment and murder, the killing of prisoners of war, extermination of whole populations and so on, are of very great interest to the historian, the sociologist and the lawyer, but they are of no particular relevance to the task before the Human Rights Commission, because no catalogue of human rights is needed to place it beyond doubt that murder of innocent men, women and children is criminal.

To an even greater extent the same is true of an indiscriminate collection of information arising from trials of quislings and traitors.

It is therefore probable that the requirements of the case will best be met if the collection of material were to be restricted to the recording of such incidents and reactions to them as throw a light on the sufficiency or otherwise of the laws and usages of war and other provisions of international law and of municipal legal orders which purport to afford protection against violations of human rights.

IX. With this in view, Committee III consider that the collection of material should, in the main, be restricted to records illustrative of the following questions:

(a) Cases, if there are any, where the existing provisions of international law did not furnish a sufficient basis for imposing a just penalty for activities violating human rights.

(b) Cases where the competent tribunal has found that a sufficient basis exists in international or municipal law for the punishment of certain activities violating human rights, but where the legal position remains doubtful because the respective decision of the court is not binding on other courts. In international law and in the municipal law of many countries, decisions delivered by courts have the effect of res iudicata only as far as the actual parties to the proceedings are concerned. It is therefore advisable in such cases to place the law beyond doubt as to future occurrences.

(c) Cases showing that more elaborate provisions of international law could have prevented violations of human rights from occurring. The question of the protection of civilian populations of occupied territory as distinct from prisoners of war, is a case in point. The cases will certainly show that many crimes would have been prevented, if machinery similar to that established for the protection of prisoners of war had been in operation also for the protection of civilian members of the population of occupied territory, and of persons who were deported from occupied territory. Article 6(c) of the Charter of the International Military Tribunal extends its protection to "any civilian population"; a close study of the cases will show, however, that greater elaboration of this principle and the establishment of proper machinery is necessary.

(d) Stress should be laid, in sifting, collecting and arranging the material, on the protection of human rights of persons who are not of the nationality of the victorious Powers. In the province of what is now called "crimes against humanity", the aspect of these provisions as a means of protecting human rights stands out most clearly. Here the report to be produced will have to show how certain flagrant violations of human rights have gone unpunished mainly for lack of jurisdiction of the respective tribunals.

Crimes committed before the 1st September 1939 in Germany against Germans are here in point, in view of the Berlin Protocol of 6th October 1945, by which the scope of Art.6(c) of the Charter of the International Military Tribunal was restrictively defined. This necessarily led to the restrictive interpretation of the Charter by the Nuremberg Tribunal, the attitude of which may - roughly - be summarized by stating that only such inhumane acts as were connected with the war, which were committed "in execution of or in connection with" a war crime or a crime against peace, come under the jurisdiction of the Tribunal and therefore within the notion of "crime against humanity". A similar lacuna (from the point of view of the future protection of human rights) are the provisions of the basic documents under which many allied military tribunals were prevented from taking cognizance of acts such as the murders of tens of thousands of German "useless eaters" in institutions such as Hadamar, or the murder and ill-treatment of, say, Hungarian inmates of Belsen Concentration Camp. With this, provisions will have to be contrasted, e.g. the Control Council Law No. 10, which gives to the competent courts jurisdiction without the important qualifications of the Nuremberg Charter and the Berlin Protocol. The activities of the Tribunals applying Law No.10 in the different Zones of Germany will be of particular interest for the report.

(e) It will be one of the main tasks of the report to examine the question of reprisals, legitimate and otherwise, in the light of the proceedings against persons who were charged with war crimes and have pleaded, with or without success, that they had acted in execution of legitimate reprisals. The exercise of a real or assumed right of reprisal is a very important source of violations of human rights of innocent persons in time of crisis.

(f) Attention should also be paid in the report to the responsibility of military commanders and administrators for violations of human rights committed by their subordinates, which has been assumed in many of the important war crimes cases, such as in the American/Japanese case of Yamashita, in the Canadian/German case of Meyer and in the British/German case of Kesselring. The establishment of such responsibility is one of the links in an efficient machinery for the protection of human rights in time of war and occupation.

(g) It may be added that the whole problem of the defences of superior orders and duress can be regarded as one of balancing the conflicting claims of an accused and his victims. The Secretariat is now in possession of considerable information regarding the law and practice of the various allied countries on this matter.

(h) Much of this study will in practice amount in the first place to showing how the Hague and Geneva Conventions protect certain rights of certain types of people, e.g., prisoners of war, the sick and wounded and the civilians of occupied territories, and secondly to quoting as examples of such protection, trials in which the provisions of these Conventions have been applied. Such an account may seem elementary to the United Nations War Crimes Commission, but would not appear so to persons less acquainted with these questions.

- X. In general, it will be appropriate to illustrate on the basis of the immense material available, the development from the position where only allied interests and allied rights were considered to be protected, to a stage where the trend clearly was to extend the protection of minimum standards of humanity to human beings everywhere.

In connection with violations of human rights, committed e.g. in execution of a policy of persecution of political, racial and religious groups, the aspect of jurisdiction will be of greater importance than the gaps in substantive law.

- XI. It has already been stated supra (IX (a) and (b)) that it will be one of the most important tasks of the work to illustrate gaps in international law which have the effect that some activities violating human rights go at present unpunished.

It is, however, only a small fraction of information concerning such lacunae in international law, which can be discovered in the transcripts of trials and in judgments actually delivered. Although, as indicated under (d) supra, some of the trials will certainly be informative on this point, the question, for instance, to what extent reprisals are allowed can hardly be answered satisfactorily with the help of transcripts of trials only. In the great majority of cases in which the prosecuting authorities held the opinion that even flagrant violations of human rights were justified in positive international law as reprisals, no charge has been brought before a court. The transcripts of trials of war criminals, etc. will show, apart from rare exceptions, merely cases where the provisions of international law on reprisals did not stand in the way of the punishment of violations of human rights.

In addition to the files of the Commission, the files of the prosecuting authorities may be the richest source for the study of such gaps in international law.

It will, of course, not be possible to make use of the internal files of the prosecuting authorities to the same extent as of the transcripts of trials which were conducted in open court. On the other hand, enquiries with the competent authorities - for instance a request for a report on cases in which no charge was brought in view of the provisions of international law concerning reprisals - will no doubt furnish useful information.

- XII. As the crimes of enemy nationals committed against enemy nationals (and stateless persons) on enemy territory, fall mainly within the jurisdiction of the local courts of the respective territories, a full documentation of these aspects will have to take account also of trials conducted before courts of former enemy States, including German and Austrian courts, which at present act under the supervision and with the permission of the allied occupation authorities.

The Legal Division of the British Element of the Control Commission for Germany expressed its willingness some time ago to send to the Commission returns of all the cases of crimes against humanity which were due for trial or have been tried by German courts. (Doc.M.114, 5). In important cases at least, it may be possible to procure the transcripts or copies of the official records of these trials, and copies of the judicial decisions.

XIII. It will be desirable that the collection should include material from which not only the present state of international law can be gathered, but also the changes which have occurred in the laws and customs of war and in international law in general in the last three or four decades. Such modifications of the state of the law may have occurred both in the direction of a greater protection of human rights as e.g. through the introduction of the notion of crimes against humanity. On the other hand, the examination of the cases may show that owing to technical developments in the art of war, the protection previously accorded, e.g., to non-combatants in land, sea and air warfare, may be considered to have been considerably qualified.

It will be relevant to include in the survey not only trials conducted during and at the conclusion of the second world war, but to compare them with the material available referring to the first world war. In this connection the Minutes of the Responsibilities Commission of 1919 and its report might be a useful source if compared with the files of the U.N.W.C.C. and transcripts and records of trials held in connection with World War No.2.

In making this comparison of the more recent information with the material concerning the 1914-1919 war, the Commission will not impinge on sub-paragraph (d) of paragraph 4 of the Resolution of the Economic and Social Council quoted in section I of this Report (*supra*), which deals with the preparation and publication of a survey of the development of human rights. Only the information leading up to the conclusions concerning recent events will be referred to.

XIV. Committee III submits, therefore, the following conclusions:

(1) The work should be undertaken within the scope outlined in the present paper, namely including information arising from trials of quislings and traitors accused of war crimes and crimes against humanity, but excluding such trials as do not contain charges of this kind and are restricted to charges of high treason, treason and similar offences.

If in the course of the actual work this definition should appear to be too restrictive for carrying out the task entrusted to the Commission, the question of enlarging its scope can be considered at a later stage.

(2) The work should be produced under the responsibility of Committee III. The Secretary-General should be asked to arrange that the whole legal staff devote part of their time to this work. The Secretary-General should, after consultation with Committee III, appoint individual members of the legal staff rapporteurs for parts of the work. The work will probably have to be divided on the lines indicated in para.VII of this report, under (a), (b), (c) and (d), it being understood that further sub-divisions are not to be excluded.

(3) The report will have regard to the double aspect of the problem as indicated under VIII.

In collecting and sifting the material, regard will be had to the points of relevance described *supra* under IX to XIII.

(4) Representatives of member governments on the Commission, and through them the Governments themselves, should be asked for their assistance in procuring for the Commission that part of the material which is not yet available, i.e. information concerning trials of quislings and traitors accused of war crimes and crimes against humanity. Member Governments should be asked to assist also in procuring material from countries which are not members of the Commission, such as ^{the Soviet Union and the} former enemy States. It may also be necessary to enlist the assistance of the United Nations Secretariat, with a view to getting information which otherwise would not be accessible.

Only if the necessary material will be made available to the Commission, will it be possible to complete the work at the scope as envisaged.

(5) When preparing the document, the rapporteurs will have to be careful not to recommend statements which would appear to interfere with the sovereign rights of States and in general to restrict themselves to recording the present state of affairs, rather than suggesting alterations of the law.

UNITED NATIONS WAR CRIMES COMMISSION.

Collection and Publication of Information
concerning Human Rights.

Report by Committee III. (*)

(Revised text)

- I. The Economic and Social Council of the United Nations adopted on 21st July 1946 a Resolution of the Commission on Human Rights.

Paragraph 4 of this Resolution, under the heading "Documentation", reads as follows:

" The Secretary-General is requested to make arrangements for:

- (a) the compilation and publication of a year-book on law and usage relating to human rights, the first edition of which should include all declarations and bills on human rights now in force in the various countries;
- (b) the collection and publication of information on the activities concerning human rights of all organs of the United Nations;
- (c) the collection and publication of information concerning human rights arising from trials of war criminals, quislings and traitors, and in particular from the Nuremberg and Tokyo trials;
- (d) the preparation and publication of a survey of the development of human rights;
- (e) the collection and publication of plans and declarations on human rights by specialized agencies and non-governmental national and international organisations. "

(Journal of the Economic and Social Council, 1st Year, No.29, 13th July 1946, p.520.)

- II. Pursuant to discussions between the Director of the Division of Human Rights of the United Nations and representatives of the United Nations War Crimes Commission held in April 1947 (Doc.Misc.No.89), the Director of the Division of Human Rights informed the Chairman of the U.N.W.C.C. on 15th May 1946 (Doc.A.45), that Monsieur Henri Laugier, the Assistant Secretary-General in charge of Social Affairs, agreed

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- (*) The discussions and preparatory work preceding this report are to be found in Docs. M.127, Misc.No.89, A.45, III/89, III/90, III/91, III/92 and in Committee III Minutes Nos. 7/47 and 8/47. The report has been prepared before the publication of the United Kingdom Draft of an International Bill of Human Rights on 7th June 1947. (Foreign Office, H.M. Stationery Office).

with him that the U.N.W.C.C. was in a better position to do the work outlined under (c) of the above quoted paragraph 4 of the Resolution of the Economic and Social Council, than was the United Nations Secretariat, and added that if the Secretariat of the U.N.W.C.C. was prepared to accept responsibility for this work, the United Nations Secretariat would be very pleased if the U.N.W.C.C. would undertake it. The Director of the Division of Human Rights further wrote that, if this were possible, the Division would like to be able to submit the manuscript to the next meeting of the Commission of Human Rights, which is to meet on 25th August 1947 at Geneva. He did not want to press the U.N.W.C.C. in the matter, however, and would arrange to have the manuscript submitted at the following meeting of the Commission should it be impossible for the U.N.W.C.C. to complete the work for August. In any event, he would very much appreciate hearing from the Chairman of the U.N.W.C.C. and having his views at his earliest convenience.

- III. In its meeting held on 21st May 1947, the U.N.W.C.C. decided to accept responsibility for the work as requested as far as information concerning human rights arising from trials of war criminals was concerned, and postponed its decision on the question whether it will also be feasible for the Commission to collect information concerning human rights arising from trials of quislings and traitors.

Simultaneously the whole question was referred to Committee III. Committee III discussed the problems involved in its meetings held on 22nd May and 4th June 1947 (Committee III Minutes Nos. 7/47 and 8/47) on the basis of preparatory documents submitted by the Secretariat. (Docs. III /89, III/90, III/91 and III/92.)

The Secretary-General of the U.N.W.C.C. informed the Director of the Human Rights Division by letter dated 22nd May of the decision taken by the Commission on 21st May. In his reply, dated 29th May 1947, the Director of the Human Rights Division took note of the fact that the U.N.W.C.C. will undertake the preparation of a memorandum on Information concerning Human Rights arising out of the trials of war criminals, etc. He enquired, inter alia, whether it might be possible for the U.N.W.C.C. to send to the United Nations Secretariat a progress report which might be submitted to the meeting of the Human Rights Commission in August 1947. He also thanked the U.N.W.C.C. for its co-operation in the work of the Commission on Human Rights.

The Secretary-General of the U.N.W.C.C. has made the necessary Secretariat arrangements for the performance of the work. They are recorded in Doc. III/93.

- IV. On the preliminary question whether the United Nations War Crimes Commission has jurisdiction to collect information concerning human rights arising from the trials of quislings and traitors, Committee III is of the opinion that the question of jurisdiction does not immediately arise because, according to the proposals of Committee III (see section V(a)), the Commission should confine its initial enquiries to the trials of quislings and traitors accused of war crimes or crimes against humanity in addition to their other treasonable activities.

Such trials fall unquestionably within the Commission's jurisdiction. The Commission has frequently listed allied nationals accused of violations of the laws and customs of war or of crimes against humanity committed against allied nationals. Crimes against humanity committed by enemy nationals against enemy nationals or against stateless persons on enemy territory have less frequently been submitted to the Commission for listing; but it has formed part of the functions of the Commission from the outset to collect evidence and to report from time to time to the Governments on certain classes of atrocities showing where possible the connection between individual crimes of each type and the common

policy which they expressed. It has been the view of the Commission from the beginning that this part of its functions includes the consideration of crimes against humanity of this type. (cf. letter from the Lord Chancellor to Sir Cecil Hurst, dated 23rd August 1944, Doc.C.78 and the Progress Report Doc.C.48(1)).

- V. In case, however, the question of jurisdiction should come up again for consideration at a later stage, it may be convenient to record here the results of the Committee's deliberations on the question whether the Commission's terms of reference would permit it to deal with the trials of quislings and traitors other than those accused of war crimes and crimes against humanity (cf. section V(a), last paragraph).

The terms of reference of the Commission, as stated in its inaugural meeting held on 20th October 1943 (Doc.C.229) cannot, in the opinion of Committee III, be interpreted in the sense that they form an obstacle to the Commission's complying with the request made by the United Nations Secretariat for the following reasons:

- (a) the United Nations War Crimes Commission is an international organisation with the legal capacities of a body corporate (cf S.R.&O. 1945, No.1211);
- (b) the question of the possible expansion of the scope of the Commission's investigations and functions was reserved for future consideration on 20th October 1943 (Doc.C.229);
- (c) the Commission was subsequently charged with a task which, according to the original proposals, would have been tested in the technical committee on legal questions. (Doc.C.229);
- (d) the request from the United Nations Secretariat is a matter sui generis. It is made to the Commission by an organ of the United Nations which, in requesting the Commission's collaboration, acts on behalf of its 55 member States, among whom there are also all the members of the United Nations War Crimes Commission;
- (e) in considering the question of jurisdiction it is also necessary to remember that it is not suggested that the Commission should take any steps connected with the investigation of crimes committed by quislings and traitors in preparation for their prosecution, trial and punishment. What the Commission is being asked to do is to examine the results of trials which have taken place without the Commission having any part in their preparation, and to collect information concerning human rights arising out of such trials. If the Commission undertakes this task it does not assume jurisdiction in connection with the prosecution and trial of quislings and traitors. It only uses its experience in collecting and sifting material which, though it has not directly arisen out of the Commission's work, is in many respects akin to the Commission's jurisdiction which comprises war crimes, including crimes against humanity.

While the Commission's terms of reference would undoubtedly permit the performance of the task, the fact remains that the Commission has not collected the material concerning quislings and traitors who have not been accused of war crimes. If the Commission undertook the collection of information arising from the trials of quislings and traitors, it would be necessary to ask the member governments to make the relevant information available to the Commission and to assist in the collection of material from such countries as are not members of the Commission.

- VI. Other arguments used in Committee III in favour of extending the enquiries of the Commission so as to include the trials of quislings and traitors may be summarised as follows:

Ref.
X
Information concerning human rights arising from the trials of war criminals and similar information arising from the trials of quislings and traitors, is so closely inter-related that a report based only on trials of war criminals proper, or a report based only on trials of quislings and traitors would not give an adequate picture.

In many international documents, including draft conventions prepared by the United Nations War Crimes Commission before the end of the war, so-called quislings and traitors have, to some extent, been placed in the same category as war criminals. In its resolution on the question of refugees, the General Assembly of the United Nations decided on 12th February 1946, that "no action taken as a result of this resolution shall be of such a character as to interfere in any way with the surrender and punishment of war criminals, quislings and traitors". The constitution of the International Refugee Organisation, annexed to the Resolution of the General Assembly of 15th December 1946, in the part devoted to "definitions and general principles" provides that "war criminals, quislings and traitors will not be the concern of the organisation"; the same applies to persons who have assisted the enemy force, which term is circumscribed in some detail.

The Treaties of Peace with Italy, Roumania, Bulgaria, Hungary and Finland, impose on the defeated States the duty to ensure the apprehension and surrender for trial not only of persons who are accused of having committed war crimes and crimes against peace and humanity, but also nationals of any allied or associated power accused of having violated their national law by treason or collaboration with the enemy during the war. "

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Cred.
VII. The Human Rights and Fundamental Freedoms usually referred to in every-day discussions and in recent international documents, such as the Peace Treaties of February 1947, and indeed in the deliberations of the organs of the United Nations itself, are such rights as those of freedom of expression, of the press and publication, of religious worship, of political opinion, of public meeting and of association.

Not less important though not so often discussed, are the rights and freedoms such as freedom from arbitrary detention and the right to equal protection of life and liberty, (equality before the law).

It cannot be affirmed that, in the present state of international law and of the municipal laws of the different countries, all these human rights and fundamental freedoms enjoy protection through criminal law. For example, restrictions on freedom of expression, freedom of the press and freedom of information relating to military operations are, in time of war, neither prohibited nor punishable. On the other hand, some basic human rights such as that of equal protection against arbitrary discrimination, may be found to have been vindicated in time of war as well as in time of peace and the law established accordingly.

Ref.
X
The trials which will be most illustrative of the extent of the protection or vindication of such rights are those of the major war criminals and of the trials of quislings and traitors. Of the Nuremberg and Tokyo trials, this fact will readily be granted, but it is suggested that no study of the extent of the protection of the basic human rights of the individual can afford to ignore the trials of quislings and traitors. These latter trials may furnish examples of how criminal repression has been extended to the violations of human rights beyond those which may be considered as being protected by the general principles of law. For instance, Marshal Antonescu and certain others were tried by a Roumanian court, inter alia, for enslavement of the press and information services with the object of spreading Nazism in Roumania and corrupting public opinion, and for crimes against the Jewish race, including deportation to the death camps of Eastern Europe, and the compulsory "Roumanisation" of Jewish property.

An examination of the transcripts and records of the trials of quislings and traitors will show that a large number of violations of civic rights are, at the same time, war crimes or crimes against humanity. For example, Bela Imredy, former President and Finance Minister was found guilty in Hungary, inter alia, of the promulgation of anti-semitic legislation. A study of offences having this dual aspect will clearly come within the purview of the United Nations War Crimes Commission.

On the other hand, there will be many trials of "traitors" which have no bearing on human rights because they are restricted to the violation of duties which a person owes to a certain State. The trial of William Joyce, for instance, has only an indirect bearing on human rights. By his treasonable activities, William Joyce, in a general way, did aid and abet the major war criminals in their crimes violating human rights, but he himself was indicted and convicted only for the violation of duties flowing from his allegiance to the British Crown.

From this it follows that such trials of quislings and traitors as involve war crimes and crimes against humanity will probably cover most of the ground with which paragraph (c) of the Resolution of the Economic and Social Council (supra I) is concerned.

Committee III therefore recommends to the Commission that in the task to be undertaken at the request of the United Nations Secretariat, there should be included in the first instance the examination of records and reports of trials of quislings and traitors who were accused of war crimes or crimes against humanity in addition to their other treasonable activities.

VIII. Many relevant legal texts are already in the hands of the Secretariat and have been circulated as Miscellaneous documents; these set out the laws and decrees applicable. There may, however, be difficulties in securing material regarding the trials, especially from non-members of the Commission, (e.g. the Soviet Union, the Soviet Zones of Occupation) and from the former enemy States, Italy, Bulgaria, Roumania, Hungary and Finland. Full transcripts would seem necessary for a full examination of the way in which the rights of the accused are provided for during his trial. For an estimate of the protection of the rights of his victims, however, the essentials are a statement of the offence, the attitude of the Court to such pleas as superior orders or act of subordinate without the knowledge of the accused, and the decision of the Court.

If the work to be undertaken is to include information arising from trials of quislings and traitors accused of war crimes and crimes against humanity, it will be necessary to enlist the assistance of the member governments and perhaps of the United Nations Secretariat in securing such information from countries which are not members of the United Nations War Crimes Commission.

As far as the trials of war criminals proper are concerned the material collected for the purpose of law reporting will also form the main basis for this new work.

IX. For technical reasons the division of the material appears necessary, into the analysis of:

- (a) the trial of the major German war criminals, (Nuremberg),
- (b) the trial of the major Japanese war criminals, (Tokyo),
- (c) the trials of persons of enemy nationality or allegiance accused of war crimes, crimes against peace and crimes against humanity not falling within the categories (a) and (b),
- (d) the trials of quislings and traitors accused of war crimes or crimes against humanity, not falling within the categories (a), (b) and (c).

Work on the tasks mentioned under (a) and (c) could start forthwith, whereas the completion of (b) will have to wait until the Tokyo trial has ended and the transcripts of its latter part and the decision of the Tribunal are available.

Pref. X. The collection and publication of information concerning human rights arising from the trials is not an end in itself, but obviously serves a specific practical purpose. This purpose is to aid in the main task of the Commission on Human Rights, particularly the preparation of an international bill of rights, international declarations or conventions on civil liberties. It is, therefore, submitted that the work of collecting the respective material should be undertaken with this end in view.

The information to be collected will be of a two-fold character, the one aspect being how human rights have been violated, the other how they have been protected.

Every crime or nearly every crime violates a right and therewith a "human right" in a wider, non-technical sense. Every individual murder violates a human right. The same applies to almost all violations of the laws and customs of war and to all acts coming under the term "crime against humanity" as defined in the basic documents, e.g. in the Charter of the International Military Tribunal of 8th August 1945. The Economic and Social Council obviously does not expect a collection of material indiscriminately dealing with records of common law crimes, war crimes, and crimes against humanity which were the subject of criminal proceedings in international tribunals, mixed courts and in national, military and occupation courts. Records of trials of persons responsible for such outrages as deportation of allied nationals into concentration camps, their ill-treatment and murder, the killing of prisoners of war, extermination of whole populations and so on, are of very great interest to the historian, the sociologist and the lawyer, but they are of no particular relevance to the task before the Human Rights Commission, because no catalogue of human rights is needed to place it beyond doubt that murder of innocent men, women and children is criminal.

To an even greater extent the same is true of an indiscriminate collection of information arising from trials of quislings and traitors.

Pref. It is therefore probable that the requirements of the case will best be met if the collection of material were to be restricted to the recording of such incidents and reactions to them as throw a light on the sufficiency or otherwise of the laws and usages of war and other provisions of international law and of municipal legal orders which purport to afford protection against violations of human rights.

Comd. XI. With this in view, Committee III consider that the collection of material should, in the main, be restricted to records illustrative of the following questions:

(a) Cases, if there are any, where the existing provisions of international law did not furnish a sufficient basis for imposing a just penalty for activities violating human rights.

(b) Cases where the competent tribunal has found that a sufficient basis exists in international or municipal law for the punishment of certain activities violating human rights, but where the legal position remains doubtful because the respective decision of the court is not binding on other courts. In international law and in the municipal law of many countries, decisions delivered by courts have the effect of res iudicata only as far as the actual parties to the proceedings are concerned. It is therefore advisable in such cases to place the law beyond doubt as to future occurrences.

(c) Cases showing that more elaborate provisions of international law could have prevented violations of human rights from occurring. The question of the protection of civilian populations of occupied territory as distinct from prisoners of war, is a case in point. The cases will certainly show that many crimes would have been prevented, if machinery similar to that established for the protection of prisoners of war had been in operation also for the protection of civilian members of the population of occupied territory, and of persons who were deported from occupied territory. Article 6(c) of the Charter of the International Military Tribunal extends its protection to "any civilian population"; a close study of the cases will show, however, that greater elaboration of this principle and the establishment of proper machinery is necessary. *Concl.*

(d) Stress should be laid, in sifting, collecting and arranging the material, on the protection of human rights of persons who are not of the nationality of the victorious Powers. In the province of what is now called "crimes against humanity", the aspect of these provisions as a means of protecting human rights stands out most clearly. Here the report to be produced will have to show how certain flagrant violations of human rights have gone unpunished mainly for lack of jurisdiction of the respective tribunals. *Concl.*

Crimes committed before the 1st September 1939 in Germany against Germans are here in point, in view of the Berlin Protocol of 6th October 1945, by which the scope of Art. 6(c) of the Charter of the International Military Tribunal was restrictively defined. This necessarily led to the restrictive interpretation of the Charter by the Nuremberg Tribunal, the attitude of which may - roughly - be summarized by stating that only such inhumane acts as were connected with the war, which were committed "in execution of or in connection with" a war crime or a crime against peace, come under the jurisdiction of the Tribunal and therefore within the notion of "crime against humanity". A similar lacuna (from the point of view of the future protection of human rights) are the provisions of the basic documents under which many allied military tribunals were prevented from taking cognizance of acts such as the murders of tens of thousands of German "useless eaters" in institutions such as Hadamar, or the murder and ill-treatment of, say, Hungarian inmates of Belsen Concentration Camp. With this, provisions will have to be contrasted, e.g. the Control Council Law No. 10, which gives to the competent courts jurisdiction without the important qualifications of the Nuremberg Charter and the Berlin Protocol. The activities of the Tribunals applying Law No. 10 in the different Zones of Germany will be of particular interest for the report.

(e) It will be one of the main tasks of the report to examine the question of reprisals, legitimate and otherwise, in the light of the proceedings against persons who were charged with war crimes and have pleaded, with or without success, that they had acted in execution of legitimate reprisals. The exercise of a real or assumed right of reprisal is a very important source of violations of human rights of innocent persons in time of crisis. *Concl.*

(f) Attention should also be paid in the report to the responsibility of military commanders and administrators for violations of human rights committed by their subordinates, which has been assumed in many of the important war crimes cases, such as in the American/Japanese case of Yamashita, in the Canadian/German case of Meyer and in the British/German case of Kesselring. The establishment of such responsibility is one of the links in an efficient machinery for the protection of human rights in time of war and occupation. *Concl.*

(g) It may be added that the whole problem of the defences of superior orders and duress can be regarded as one of balancing the conflicting claims of an accused and his victims. The Secretariat is now in possession of considerable information regarding the law and practice of the various allied countries on this matter. *Concl.*

Concl.
(h) Much of this study will in practice amount in the first place to showing how the Hague and Geneva Conventions protect certain rights of certain types of people, e.g., prisoners of war, the sick and wounded and the civilians of occupied territories, and secondly to quoting as examples of such protection, trials in which the provisions of these Conventions have been applied. Such an account may seem elementary to the United Nations War Crimes Commission, but would not appear so to persons less acquainted with these questions.

Concl.
XII. In general, it will be appropriate to illustrate on the basis of the immense material available, the development from the position where only allied interests and allied rights were considered to be protected, to a stage where the trend clearly was to extend the protection of minimum standards of humanity to human beings everywhere.

In connection with violations of human rights, committed e.g. in execution of a policy of persecution of political, racial and religious groups, the aspect of jurisdiction will be of greater importance than the gaps in substantive law.

Concl.
XIII. It has already been stated supra (IX (a) and (b)) that it will be one of the most important tasks of the work to illustrate gaps in international law which have the effect that some activities violating human rights go at present unpunished.

Prof.
It is, however, only a small fraction of information concerning such lacunae in international law, which can be discovered in the transcripts of trials and in judgments actually delivered. Although, as indicated under (d) supra, some of the trials will certainly be informative on this point, the question, for instance, to what extent reprisals are allowed can hardly be answered satisfactorily with the help of transcripts of trials only. In the great majority of cases in which the prosecuting authorities held the opinion that even flagrant violations of human rights were justified in positive international law as reprisals, no charge has been brought before a court. The transcripts of trials of war criminals, etc. will show, apart from rare exceptions, merely cases where the provisions of international law on reprisals did not stand in the way of the punishment of violations of human rights.

In addition to the files of the Commission, the files of the prosecuting authorities may be the richest source for the study of such gaps in international law.

It will, of course, not be possible to make use of the internal files of the prosecuting authorities to the same extent as of the transcripts of trials which were conducted in open court. On the other hand, enquiries with the competent authorities - for instance a request for a report on cases in which no charge was brought in view of the provisions of international law concerning reprisals - will no doubt furnish useful information.

Prof.
XIV. As the crimes of enemy nationals committed against enemy nationals (and stateless persons) on enemy territory, fall mainly within the jurisdiction of the local courts of the respective territories, a full documentation of these aspects will have to take account also of trials conducted before courts of former enemy States, including German and Austrian courts, which at present act under the supervision and with the permission of the allied occupation authorities.

The Legal Division of the British Element of the Control Commission for Germany expressed its willingness some time ago to send to the Commission returns of all the cases of crimes against humanity which were due for trial or have been tried by German courts. (Doc.M.114, 5). In important cases at least, it may be possible to procure the transcripts or copies of the official records of these trials, and copies of the judicial decisions.

XV. It will be desirable that the collection should include material from which not only the present state of international law can be gathered, but also the changes which have occurred in the laws and customs of war and in international law in general in the last three or four decades. Such modifications of the state of the law may have occurred both in the direction of a greater protection of human rights as e.g. through the introduction of the notion of crimes against humanity. On the other hand, the examination of the cases may show that owing to technical developments in the art of war, the protection previously accorded, e.g., to non-combatants in land, sea and air warfare, may be considered to have been considerably qualified. *Concl.*

It will be relevant to include in the survey not only trials conducted during and at the conclusion of the second world war, but to compare them with the material available referring to the first world war. In this connection the Minutes of the Responsibilities Commission of 1919 and its report might be a useful source if compared with the files of the United Nations War Crimes Commission and transcripts and records of trials held in connection with World War No.2. *Prof.*

In making this comparison of the more recent information with the material concerning the 1914-1919 war, the Commission will not impinge on sub-paragraph (d) of paragraph 4 of the Resolution of the Economic and Social Council quoted in section I of this Report (*supra*), which deals with the preparation and publication of a survey of the development of human rights. Only the information leading up to the conclusions concerning recent events will be referred to.

XVI. Committee III submits, therefore, the following conclusions:

(1) The work should be undertaken within the scope outlined in the present paper, namely including information arising from trials of quislings and traitors accused of war crimes and crimes against humanity, but excluding such trials as do not contain charges of this kind and are restricted to charges of high treason, treason and similar offences. *Prof.*

If in the course of the actual work this definition should appear to be too restrictive for carrying out the task entrusted to the Commission, the question of enlarging its scope can be considered at a later stage.

(2) The work should be produced under the responsibility of Committee III. The Secretary-General should be asked to arrange that the whole legal staff devote part of their time to this work. The Secretary-General should, after consultation with Committee III, appoint individual members of the legal staff rapporateurs for parts of the work. The work will probably have to be divided on the lines indicated in para. VII of this report, under (a), (b), (c) and (d), it being understood that further sub-divisions are not to be excluded.

(3) The report will have regard to the double aspect of the problem as indicated under VIII. In collecting and sifting the material, regard will be had to the points of relevance described *supra* under XI to XV.

(4) Representatives of member governments on the Commission, and through them the Governments themselves, should be asked for their assistance in procuring for the Commission that part of the material which is not yet available, i.e. such relevant war crimes trials, reports and transcripts as have not yet been furnished to the Commission. Such requests will require to be clearly and succinctly defined and will relate only to such trials as are considered likely to be of special interest for the purpose of the proposed survey.

UNITED NATIONS WAR CRIMES COMMISSION.

Exploitation of the Black Market as a War Crime.

French Case No. 4695. (*)

Report by Committee III.

- I. In its meeting of 27th February 1947, Committee I referred the French case No. 4695 to Committee III for its opinion as to whether the activities of the accused should be considered as war crimes.

Committee III discussed the case in its meetings held on 6th, 20th, 27th March, 16th and 30th April, 22nd May and 4th June 1947, (Minutes Nos. 2, 3, 4, 5, 6, 7 and 8 of 1947) and adopted the following report:

- II. The French National Office charges Colonel Veltjens and 36 other persons with the war crime of "Economic Pillage". It refers to No. 13 of the working list of war crimes adopted by the Commission (Doc.C.1) and refers as to relevant provisions of national law to Art. 440 of the French Penal Code and the French Decree of 1st September 1939.
- III. In the French charge it is stated that the first accused, Colonel Veltjens, was a German official for the carrying out of the Four-Year Plan and had the task of organising the black market in the occupied territories of the West, in order to enable the importing into Germany of the greatest possible quantities of goods, in addition to the taxes in kind and the official purchases. The other accused persons were the directors of services and managers of enterprises entrusted with carrying out the Veltjens plan. According to the charge, Veltjens proposed on 21st May 1942 the scientific organisation of the black market in the occupied territories of the West. At a conference held with this end in view, the plan proposed by him was adopted and in an official letter from Goering, Veltjens received full powers for its execution. The charge quotes from a memorandum prepared by Veltjens dated 21st May 1942 that "a central administration is created for seeking out and using goods from the black market in occupied territories". It was a question of "using the black market to the greatest extent and in the best financial conditions for the Reich". It was the purpose of the Veltjens organisation to snatch away and import into Germany all goods, raw materials or manufactured products which had been able to escape the official commercial transactions and the taxes and requisitions of the German occupation. Agents of the different German organisations, paid on a commission basis, having important means of access to credits and very large sums of ready money, sought out stocks of goods for which they paid any price whatever. The French charge further states that the injurious effects of the Veltjens organisation is shown by its own words in its report of the 15th January 1943, to Reichsmarshal Goering.

(*) The discussion and preparatory work preceding this report is to be found in Documents III/80, III/81, III/83, III/84, III/86, III/87 and in Committee III Minutes Nos. 2, 3, 4, 5, 6, 7 and 8 of 1947. Relevant questions of law pertinent to the subject have also been discussed in Documents I/22 and III/15.

It emphasises first that to the extent of nine-tenths the financing of the operations on the black market by the purchasing offices was assured by the payment of the French occupation expenses. It also sets out the economic value of the commercial transactions carried out on the black market by drawing a favourable comparison between the operations carried out by this service in the period from 1st July 1942 to 30th November 1942, amounting to 384,000,000 Rm, with the operations of the official services for normal transactions operated by the Militärbefehlshaber, (267,000,000 Rm). The French charge concludes that the Veltjens organisation enabled the German war economy completely to drain the internal markets of the occupied countries without prejudicing the German finances. Its methodical exploitation of the black market was, the charge submits, calculated not only to empty France of all substances from the economic point of view, but also to cause a rise in prices and inflation and a certain moral decline in the quarters affected directly or indirectly by the purchasing offices.

- IV. Committee III first considered whether the activities of the accused persons complained of come, as stated by the French National Office, under the notion of pillage.

In conventional international law, the question of pillage is dealt with in Article 47 of the Hague Regulations of 1907, according to which, "pillage is formally forbidden".

Pillage is also one of the items of the 1919 list which has been adopted by this Commission as its working list of war crimes (Doc.C.1). The provision of Article 47 means, in the first instance, that private property of inhabitants of occupied territory is no longer a lawful object of private booty. Occupant soldiers must not plunder for private purposes. In his monograph on the International Economic Law of Belligerent Occupation, E.H. Feilchenfeld states that, in his view, the rule against pillage does not merely protect private property, but is also directed against all acts of individual lawlessness, committed in regard to property interests of all kinds, including public property. "It is necessary to think", the writer goes on to say, "not merely of individuals, but also of big business interests that may want to rob inhabitants. They may employ more complicated methods than outright physical stealing. The gravest cases of blackmail purchases have recently been those in which a person is forced to sell his business to another who is more acceptable to the authorities of the occupant. However, we are here dealing only with private pressure; where government pressure is used or added we no longer have a clear case of private plundering, but are confronted with public confiscation, legal or illegal, according to whether the rules on requisitions are observed." (c.c. pp.31-32).

- V. The Charter of the International Military Tribunal annexed to the Four-Power Agreement of 8th August 1945, does not use the term "pillage", but speaks, in Article 6(b) of "plunder of public or private property" (cf. Doc.III/67, analysing the treatment of plunder of public and private property in the Nuremberg Judgment). The Nuremberg Judgment has summarised the law as to economic war crimes by stating that, under the rules of war, the economy of an occupied country can only be required to bear the expenses of the occupation, and these should not be greater than the economy of the country can be reasonably expected to bear (page 53 of Cmd. 6964). "Evidence in the Nuremberg case has established," the Tribunal further states, "that the territories occupied by Germany were exploited for the German war effort in the most ruthless way, without consideration of the local economy, and in consequence of a deliberate design and policy. There was in truth a systematic "plunder of private or public property" which was criminal under Article 6(b) of the Charter (p.54 of Cmd. 6964).

In describing the conduct of the occupying authorities in some of the occupied countries, the Nuremberg Judgment (l.c.) refers to an order by Goering, issued as early as the 19th October 1939, and states the following:

" As a consequence of this order, agricultural products, raw materials needed by German factories, machine tools, transportation equipment, other finished products and even foreign securities and holdings of foreign exchange were all requisitioned and sent to Germany. These resources were requisitioned in a manner out of all proportion to the economic resources of those countries, and resulted in famine, inflation and an active black market. At first the German occupation authorities attempted to suppress the black market, because it was a channel of distribution keeping local products out of German hands. When attempts at suppression failed, a German purchasing agency was organised to make purchases for Germany on the black market, thus carrying out the assurance made by the defendant Goering that it was "necessary that all should know that if there is to be famine anywhere, it shall in no case be in Germany." In many of the occupied countries of the East and the West, the authorities maintained the pretence of paying for all the property which they seized. This elaborate pretence of payment merely disguised the fact that the goods sent to Germany from these occupied countries were paid for by the occupied countries themselves, either by the device of excessive occupation costs or by forced loans in return for a credit balance on a "clearing account" which was an account merely in name. In most of the occupied countries of the East even this pretence of legality was not maintained; economic exploitation became deliberate plunder."

- VI. It will be seen from the preceding paragraph that the London Charter and the Nuremberg Judgment have developed the rules of international law on our question to the extent that not only pillage, which is the unauthorised outrage of individual soldiers, is punishable, but also activities which come under the wider term of plunder of public or private property and in this connection the very fact which is charged by the French National Office in the present case has been mentioned in the Judgment, namely the organisation of a purchasing agency to make purchases for Germany on the black market.

It is stated in the French charge and it is quoted in paragraph II (supra) that to the extent of nine-tenths, the financing of the operations on the black market by the purchasing offices was assured by the payment of French occupation expenses.

It is also stated in the charge that the agents of the Veltjens organisation sought out stocks of goods for which they paid any price whatever.

- VII. In the opinion of Committee III, it would, however, be incorrect to assume that the purchasing of goods on the black market, particularly in circumstances in which the highest prices are paid, constitutes pillage either in the traditional sense of this word or as extended by the leading writer on the subject.

These black market operations do not even come under the wider notion of plunder as applied at Nuremberg.

Pillage or plunder pre-suppose that the goods were taken from the victim of pillage or plunder against the victim's will and without consideration. If the goods were not taken against the will of the legitimate owner and if adequate compensation were given for purchased goods, it would be incorrect to say that the activities come under the term of pillage, however reprehensible they may be from other points of view.

The correctness of this interpretation of the term "pillage" in international law is confirmed by the provisions of French municipal law to which the French charge itself refers, namely Art. 440 et seq. of the French Criminal Code, and the Decree of 1st September 1939. The relevant French municipal provisions read as follows:

French Criminal Code:

Art. 440:

Every act of pillage or destruction of commodities, effects or any movable property, committed by a group or band and by open violence, shall be punished by penal servitude for a term of years; each of the persons responsible shall also be fined between 2,400 and 60,000 francs.

Art. 441:

Nevertheless, those who are shown to have been caused by provocation, or solicitation to take part in these acts of violence may only be punished by imprisonment.

Art. 442:

If the commodities pillaged or destroyed are grains, grain refuse or flour, mealy substances, bread, wine or other liquor, the penalty inflicted on the leaders, instigators or inciters shall be the maximum period of penal servitude and the maximum fine laid down in Article 440.

Decree of 1st September 1939 respecting the prevention of pillage in time of war:

Art. 1:

In time of war, the criminal acts of pillage set out in Articles 440, 441 and 442 of the Penal Code shall be punished by death.

The same penalty shall be awarded for all acts of theft committed in a dwelling house or in a building evacuated by its occupants as a result of operations of war.

From the quoted texts of the French Criminal Code, it appears that the application of violence is necessary to constitute the crime of pillage. From the decree of 1st September 1939, imposing the death penalty for pillage in time of war, it appears that the legislator, when dealing with pillage, conceived it as a violent crime deserving of the supreme penalty.

VIII. Having arrived at the conclusion that the activities complained of do not come under the term of pillage or plunder, Committee III points out that this does not amount to saying that the persons who were responsible for them are not liable. It means that in the Committee's opinion, the "plunder" aspect of the black market purchases consists primarily in the way in which the money for the operations complained of was raised. If Germans had brought to France hard and valuable currency and spent it at the black market, nobody would suggest that the transaction be treated as pillage or plunder.

The illegal and criminal character of the scheme primarily consists, therefore, in the fact that nine-tenths of the money for these operations were taken from occupation expenses paid by France. This is evidence of the fact that the contributions which were extorted from the French economy by the German occupying authorities were far in excess of the needs of the army of occupation or of the administration of occupied French territory. If it had been otherwise, no money would have been available for financing the enemy's black market purchases destined for Germany. The exaction of the exorbitant contributions constitutes

therefore, a violation of Article 49 of the Hague Regulations, which provides that if the occupant levies money contributions in the occupied territory, "this shall only be for the needs of the army or the administration of the territory in question". This has already been established in the Nuremberg Judgment.

Item 15 of the 1919 list (Doc.C.1) reads: "Exaction of illegitimate or of exorbitant contributions and requisitions".

Committee III is therefore of the opinion that those persons who were responsible for the policy of exacting exorbitant contributions by the German authorities from the French authorities, or knowingly used the money thus extorted for the purchases in connection with the black market operations outlined in the French charge, are guilty of having committed a war crime and can be listed for this war crime where a prima facie case of their implication is established.

- IX. In addition to the criminal liability of those persons who were responsible for the illegal extortion of the money with which the operations were financed, it goes without saying that to the extent to which purchases on the black market were prohibited and criminal under French municipal law, the activities described in the charge constitute a violation of those French provisions. To that extent the activities charged were offences under French municipal law and are punishable as such.
- X. Committee III recommends that the National Office should be asked to submit additional information with a view to establishing the fact that the activities known as the "black market" were at the material time prohibited and punishable under French law.
- XI. On the question whether they simultaneously constitute a violation of a rule of international law, the following may be said: Article 43 of the Hague Regulations provides that the occupant has a duty to restore and ensure public order and safety and to respect, unless absolutely prevented, the laws in force in the country. This provision is addressed to the occupying Power as such. The rule that the occupying Power shall respect the laws in force in the country primarily means that it shall not, unless absolutely prevented, make alterations in the laws in force in the occupied country. The respect to the laws in force is therefore, in the first instance, illustrated by the duty of abstention from changing them.

In the opinion of Committee III, the prohibition covers not only the formal changing of the laws in force, but also the organising of a systematic violation of those laws. If the Hague Convention prohibits, apart from the case of absolute necessity, the changing of the law, the prohibition comprises also what is in fact the same and actually more objectionable, namely the planning and organising of violations of this law. The persons responsible for the organising and planning of systematic violations of the laws in force in France are therefore guilty of a violation of Article 43 of the Hague Regulations.

- XII. Having thus established that the activities of the organisers at the top and the main instruments of the policy of violating the municipal French provisions prohibiting the black market, is a violation of a rule of international law, namely of Article 43 of the Hague Regulations, Committee III had to deal with a further question which goes to the root not only of the jurisdiction of the United Nations War Crimes Commission but of the fundamental problems of delinquency in international law in general. The notion of an international crime or of a crime in international law has been controversial for a very long time. It is particularly the German literature on the subject which holds that every

contravention of international law amounts to an international crime; not only acts which are shocking from the moral point of view are under this doctrine international crimes, but also every breach of contract or agreement. This doctrine is particularly upheld by Strupp in his book "Das völkerrechtliche Delikt", 1920. His opinion has not been accepted by other writers.

Fauchille distinguishes between "délits internationaux" and the breach of contractual obligations. Rivier, *Principes du droit des gens*, says: "Tout acte qui viole un droit essentiel est une infraction au droit des gens, un crime au délit international". Rivier speaks of the violation of an essential right as constituting an international crime.

That acts constituting what corresponds to civil wrongs (torts) and breach of contract were by writers of international law put on the same footing as acts corresponding to crimes in municipal law, was, in the opinion of Committee III, mainly due to the fact that, until very recent times, only States were considered to be subjects of international law. According to this theory the law of nations excluded the possibility of "punishing" a State for an international delinquency and of considering the latter in the light of a crime and led to the conclusion that the only legal consequences of international delinquency were such as create reparation of the moral and material wrong done. The equation of acts morally shocking with acts constituting merely contraventions of contractual obligations, had its origin in the theory of this school of thought, which was by no means unchallenged, namely that even atrocious crimes were supposed to lead not to the punishment of the guilty individual, but only to a claim against the State for reparation and damages.

At the present stage in the development of international law, a doctrine which does not distinguish between crimes entailing criminal responsibility and mere civil or administrative wrongs must be considered obsolete in international law. Such a doctrine is to-day obsolete in international law as it has been obsolete in the municipal law of civilised States for hundreds of years. Under the principles laid down in the Four-Power Agreement of 8th August 1945, international law assumes responsibility for punishing international crimes. These principles have been endorsed by the 19 States who have adhered to the Agreement, they have been applied in the Nuremberg Judgment, affirmed by a Resolution passed by the 54 States forming the General Assembly of the United Nations on 11th December 1946, and also accepted by the five Axis Countries with whom Treaties were signed on the 10th February 1947. It is therefore necessary to establish a delimitation between acts entailing criminal responsibility and other illegal acts which, without constituting an international crime, are mere contraventions of customary or conventional rules.

The demarkation line between acts which are merely illegal because they violate conventional or customary provisions of international law, and such acts which also constitute international crimes and entail personal criminal liability, can only be drawn by reference to the general principles of criminal law as recognised by civilised nations, and as, *inter alia*, applied in the Nuremberg proceedings. If the violation of a rule of the Hague Regulations simultaneously constitutes an offence against the general principles of criminal law, then it also constitutes a war crime.

XIII. In the present case, the accused persons are charged with acts which, though not technically constituting pillage, amount to a conspiracy to violate municipal law which the perpetrators were bound to respect, and thereby to exploit the economy of the occupied country. The activities resulted, according to the charge, in the emptying of French of all substances, in the causing of a rise in prices, in inflation and in a certain moral decline. All these results are

contrary to the duties which are enjoined upon an occupant by international law and we find therefore combined both the illegal means and the effect deprecated by international law. On the facts submitted by the French National Office, the accused persons have violated not only a technical provision of international law, but an essential right of the occupied country. (see Rivier's statement, XII, para.2 above).

- XIV. Provided that the facts alleged are taken to be established, Committee III is of the opinion that those persons who are responsible for the preparation or planning of this policy or for carrying it into effect, whether at the centre or locally, are criminally responsible for these violations of international law.

This does not implicate persons who, without operating this scheme or forming part of the machinery of carrying it out, have availed themselves of the possibility to make sales or purchases prohibited under French law.

The latter, though probably criminally liable under municipal law are, in the Committee's opinion, not guilty of a war crime".

To be attached to

Doc. C.260(1)

UNITED NATIONS WAR CRIMES COMMISSION.

In its meeting held on 18th June, 1947, (M.129), the Commission adopted Doc.C.260 subject to some drafting amendments which Committee III were requested to undertake. Committee III discussed the matter in its meeting held on 24th July 1947, decided on some changes of wording, in particular of paragraphs VII and VIII of Doc.C.260 (which had been proposed in Doc. III/97) and agreed to issue Doc.C.260 in its amended form as Doc. C.260(1).

C. 260 (1)
29th July, 1947.

UNITED NATIONS WAR CRIMES COMMISSION.

Exploitation of the Black Market as a War Crime.

French Case No. 4695. (*)

Report by Committee III.

- I. In its meeting of 27th February 1947, Committee I referred the French case No. 4695 to Committee III for its opinion as to whether the activities of the accused should be considered as war crimes.

Committee III discussed the case in its meetings held on 6th, 20th, 27th March, 16th and 30th April, 22nd May and 4th June 1947, (Minutes Nos. 2, 3, 4, 5, 6, 7 and 8 of 1947) and adopted the following report:

- II. The French National Office charges Colonel Veltjens and 36 other persons with the war crime of "Economic Pillage". It refers to No. 13 of the working list of war crimes adopted by the Commission, (Doc.C.1.) and refers to the relevant provisions of national law of Art. 440 of the French Penal Code and the French Decree of 1st September 1939.
- III. In the French charge it is stated that the first accused, Colonel Veltjens, was a German official for the carrying out of the Four-Year Plan and had the task of organising the black market in the occupied territories of the West, in order to enable the importing into Germany of the greatest possible quantities of goods, in addition to the taxes in kind and the official purchases. The other accused persons were the directors of services and managers of enterprises entrusted with carrying out the Veltjens plan. According to the charge, Veltjens proposed on 21st May 1942 the scientific organisation of the black market in the occupied territories of the West. At a conference held with this end in view, the plan proposed by him was adopted and in an official letter from Goering, Veltjens received full powers for its execution. The charge quotes from a memorandum prepared by Veltjens dated 21st May 1942, that "a central administration is created for seeking out and using goods from the black market in occupied territories". It was a question of "using the black market to the greatest extent and in the best financial conditions for the Reich". It was the purpose of the Veltjens organisation to snatch away and import into Germany all goods, raw materials or manufactured products which had been able to escape the official commercial transactions and the taxes and requisitions of the German occupation. Agents of the different German organisations, paid on a commission basis, having important means of access to credits and very large sums of ready money, sought out stocks of goods for which they paid any price whatever. The French charge further states that the injurious effects of the Veltjens organisation is shown by its own words in its report of the 15th January 1943, to Reichsmarshal Goering.

(*) The discussion and preparatory work preceding this report is to be found in Documents III/80, III/81, III/83, III/84, III/86, III/87 and in Committee III Minutes Nos. 2, 3, 4, 5, 6, 7 and 8 of 1947. Relevant questions of law pertinent to the subject have also been discussed in Documents I/22 and III/15.

It emphasises first that to the extent of nine-tenths the financing of the operations on the black market by the purchasing offices was assured by the payment of the French occupation expenses. It also sets out the economic value of the commercial transactions carried out on the black market by drawing a favourable comparison between the operations carried out by this service in the period from 1st July 1942 to 30th November 1942, amounting to 384,000,000 Rm, with the operations of the official services for normal transactions operated by the Militärbefehlshaber, (267,000,000 Rm). The French charge concludes that the Veltjens organisation enabled the German war economy completely to drain the internal markets of the occupied countries without prejudicing the German finances. Its methodical exploitation of the black market was, the charge submits, calculated not only to empty France of all substances from the economic point of view, but also to cause a rise in prices and inflation and a certain moral decline in the quarters affected directly or indirectly by the purchasing offices.

- IV. Committee III first considered whether the activities of the accused persons complained of come, as stated by the French National Office, under the notion of pillage.

In conventional international law, the question of pillage is dealt with in Article 47 of the Hague Regulations of 1907, according to which, "pillage is formally forbidden".

Pillage is also one of the items of the 1919 list which has been adopted by this Commission as its working list of war crimes (Doc.C.1). The provision of Article 47 means, in the first instance, that private property of inhabitants of occupied territory is no longer a lawful object of private booty. Occupant soldiers must not plunder for private purposes. In his monograph on the International Economic Law of Belligerent Occupation, E.H.Feilchenfeld states that, in his view, the rule against pillage does not merely protect private property, but is also directed against all acts of individual lawlessness, committed in regard to property interests of all kinds, including public property. "It is necessary to think", the writer goes on to say, "not merely of individuals, but also of big business interests that may want to rob inhabitants. They may employ more complicated methods than outright physical stealing. The gravest cases of blackmail purchases have recently been those in which a person is forced to sell his business to another who is more acceptable to the authorities of the occupant. However, we are here dealing only with private pressure; where government pressure is used or added we no longer have a clear case of private plundering, but are confronted with public confiscation, legal or illegal, according to whether the rules on requisitions are observed." (c.c. pp.31-32).

- V. The Charter of the International Military Tribunal annexed to the Four-Power Agreement of 8th August 1945, does not use the term "pillage", but speaks, in Article 6(b) of "plunder of public or private property" (cf. Doc.III/67, analysing the treatment of plunder of public and private property in the Nuremberg Judgment). The Nuremberg Judgment has summarised the law as to economic war crimes by stating that, under the rules of war, the economy of an occupied country can only be required to bear the expenses of the occupation, and these should not be greater than the economy of the country can be reasonably expected to bear (page 53 of Cmd. 6964). "Evidence in the Nuremberg case has established," the Tribunal further states, "that the territories occupied by Germany were exploited for the German war effort in the most ruthless way, without consideration of the local economy, and in consequence of a deliberate design and policy. There was in truth a systematic "plunder of private or public property" which was criminal under Article 6(b) of the Charter (p.54 of Cmd. 6964).

In describing the conduct of the occupying authorities in some of the occupied countries, the Nuremberg Judgment (l.c.) refers to an order by Goering, issued as early as the 19th October 1939, and states the following:

" As a consequence of this order, agricultural products, raw materials needed by German factories, machine tools, transportation equipment, other finished products and even foreign securities and holdings of foreign exchange were all requisitioned and sent to Germany. These resources were requisitioned in a manner out of all proportion to the economic resources of those countries, and resulted in famine, inflation and an active black market. At first the German occupation authorities attempted to suppress the black market, because it was a channel of distribution keeping local products out of German hands. When attempts at suppression failed, a German purchasing agency was organised to make purchases for Germany on the black market, thus carrying out the assurance made by the defendant Goering that it was "necessary that all should know that if there is to be famine anywhere, it shall in no case be in Germany." In many of the occupied countries of the East and the West, the authorities maintained the pretence of paying for all the property which they seized. This elaborate pretence of payment merely disguised the fact that the goods sent to Germany from these occupied countries were paid for by the occupied countries themselves, either by the device of excessive occupation costs or by forced loans in return for a credit balance on a "clearing account" which was an account merely in name. In most of the occupied countries of the East even this pretence of legality was not maintained; economic exploitation became deliberate plunder. "

- VI. It will be seen from the preceding paragraph that the London Charter and the Nuremberg Judgment have developed the rules of international law on our question to the extent that not only pillage, which is the unauthorized outrage of individual soldiers, is punishable, but also activities which come under the wider term of plunder of public or private property and in this connection the very fact which is charged by the French National Office in the present case has been mentioned in the Judgment, namely the organisation of a purchasing agency to make purchases for Germany on the black market.

It is stated in the French charge and it is quoted in paragraph II (supra) that to the extent of nine-tenths, the financing of the operations on the black market by the purchasing offices was assured by the payment of French occupation expenses.

It is also stated in the charge that the agents of the Veltjens organisation sought out stocks of goods for which they paid any price whatever.

- VII. From what was stated in paragraphs IV, V and VI of this report, it appears that in recent years the notions of "pillage" and "plunder of public and private property" have been extended beyond the scope the term "pillage" was probably considered to cover at the time of the making of the Hague Regulations. In modern international law, particularly as applied in the judgment of the International Military Tribunal, "pillage" or "plunder" probably comprise facts which do not come under the notion of pillage in French municipal law, to which the French charge itself refers. The relevant French municipal provisions read as follows:

Article 440 of the French Criminal Code: "Every act of pillage or destruction of commodities, effects or any movable property, committed by a group or band and by open violence, shall be punished by penal servitude for a term of years; each of the persons responsible shall also be fined between 2,400 and 60,000 francs". Article 441: "Nevertheless, those who are shown to have been caused by provocation or solicitation to take part in these acts of violence may only be punished by imprisonment". Article 442: "If the commodities pillaged or destroyed are grains, grain refuse or flour, mealy substances, bread, wine or other liquor, the penalty inflicted on the leaders, instigators or inciters shall be the maximum period of penal servitude and the maximum fine laid down in Article 440. "

The Decree of 1st September 1939, which is also referred to by the French National Office, respecting the prevention of pillage in time of war provides in Article 1: "In time of war, the criminal acts of pillage set out in Articles 440, 441 and 442 of the Penal Code shall be punished by death. The same penalty shall be awarded for all acts of theft committed in a dwelling house or in a building evacuated by its occupants as a result of operations of war. "

From the quoted texts of the French Criminal Code, it appears that in French municipal law the application of violence is necessary to constitute the crime of pillage. From the decree of 1st September, 1939, imposing the death penalty for pillage in time of war, it appears that the legislator, when dealing with pillage, conceived it as a violent crime deserving of the supreme penalty.

In the case before us, the goods were not taken against the will of the legitimate owners and adequate compensation (even high prices) was given for purchased goods. Since, however, the question of the illegal character of these transactions can best be dealt with on the basis proposed in section VIII below, Committee III does not consider it necessary to express an opinion whether the purchasing of goods on the black market constitutes pillage either in the traditional sense of this word or as extended by the leading writers on the subject (cf. Feilchenfeld, "Economic Law of Belligerent Occupation") or whether these black market operations come under the wider notion of plunder as applied at Nuremberg.

VIII. Committee III bases its conclusions concerning the criminality of the activities with which the accused individuals are charged on other provisions of international law than those dealing with pillage and plunder. In the Committee's opinion the "plunder" aspect of the black market purchases consists primarily in the way in which the money for the operations comprised of was raised.

The illegal and criminal character of the scheme consists, in the Committee's opinion, primarily in the fact that nine-tenths of the money for these operations were taken from occupation expenses paid by France. This is evidence of the fact that the contributions which were extorted from the French economy by the German occupying authorities were far in excess of the needs of the army of occupation or of the administration of occupied French territory. If it had been otherwise, no money would have been available for financing the enemy's black market purchases destined for Germany. The exaction of the exorbitant contributions constitutes, therefore, a violation of Article 49 of the Hague Regulations, which provides that if the occupant levies money contributions in the occupied territory, "this shall only be for the needs of the army or the administration of the territory in question". This has already been established in the Nuremberg Judgment.

Item 15 of the 1919 list (Doc. C.1) reads: "Exaction of illegitimate or of exorbitant contributions and requisitions".

Committee III is therefore of the opinion that those persons who were responsible for the policy of exacting exorbitant contributions by the German authorities from the French authorities, or knowingly used the money thus extorted for the purchases in connection with the black market operations outlined in the French charge, are guilty of having committed a war crime and can be listed for this war crime where a prima facie case of their implication is established.

IX. In addition to the criminal liability of those persons who were responsible for the illegal extortion of the money with which the operations were financed, it goes without saying that to the extent to which purchases on the black market were prohibited and criminal under French municipal law, the activities described in the charge constitute a violation of those French provisions. To that extent the activities charged were offences under French municipal law and are punishable as such.

X. Committee III recommends that the National Office should be asked to submit additional information with a view to establishing the fact that the activities known as the "black market" were at the material time prohibited and punishable under French law.

XI. On the question whether they simultaneously constitute a violation of a rule of international law, the following may be said: Article 43 of the Hague Regulations provides that the occupant has a duty to restore and ensure public order and safety and to respect, unless absolutely prevented, the laws in force in the country. This provision is addressed to the occupying Power as such. The rule that the occupying Power shall respect the laws in force in the country primarily means that it shall not, unless absolutely prevented, make alterations in the laws in force in the occupied country. The respect to the laws in force is, therefore, in the first instance, illustrated by the duty of abstention from changing them.

In the opinion of Committee III, the prohibition covers not only the formal changing of the laws in force, but also the organising of a systematic violation of those laws. If the Hague Convention prohibits, apart from the case of absolute necessity, the changing of the law, the prohibition comprises also what is in fact the same and actually more objectionable, namely the planning and organising of violations of this law. The persons responsible for the organising and planning of systematic violations of the laws in force in France are therefore guilty of a violation of Article 43 of the Hague Regulations.

XII. Having thus established that the activities of the organisers at the top and the main instruments of the policy of violating the municipal French provisions prohibiting the black market, is a violation of a rule of international law, namely of Article 43 of the Hague Regulations, Committee III had to deal with a further question which goes to the root not only of the jurisdiction of the United Nations War Crimes Commission but of the fundamental problems of delinquency in international law in general. The notion of an international crime or of a crime in international law has been controversial for a very long time. It is particularly the German literature on the subject which holds that every contravention of international law amounts to an international crime; not only acts which are shocking from the moral point of view are under this doctrine international crimes, but also every breach of contract or agreement. This doctrine is particularly upheld by Strupp in his book "Das völkerrechtliche Delikt", 1920. His opinion has not been accepted by other writers.

Fauchille distinguishes between "délits internationaux" and the breach of contractual obligations. Rivier, *Principes du droit des gens*, says: "Tout acte qui viole un droit essentiel est une infraction au droit des gens, un crime au délit international". Rivier speaks of the violation of an essential right as constituting an international crime.

That acts constituting what corresponds to civil wrongs (torts) and breach of contract were by writers of international law put on the same footing as acts corresponding to crimes in municipal law, was, in the opinion of Committee III, mainly due to the fact that, until very recent times, only States were considered to be subjects of international law. According to this theory the law of nations excluded the possibility of "punishing" a State for an international delinquency and of considering the latter in the light of a crime and led to the conclusion that the only legal consequences of international delinquency were such as create reparation of the moral and material wrong done. The equation of acts morally shocking with acts constituting merely contraventions of contractual obligations, had its origin in the theory of this school of thought which was by no means unchallenged, namely that even atrocious crimes were supposed to lead not to the punishment of the guilty individual, but only to a claim against the State for reparation and damages.

At the present stage in the development of international law, a doctrine which does not distinguish between crimes entailing criminal responsibility and more civil or administrative wrongs must be considered

obsolete in international law. Such a doctrine is to-day obsolete in international law as it has been obsolete in the municipal law of civilised States for hundreds of years. Under the principles laid down in the Four-Power Agreement of 8th August 1945, international law assumes responsibility for punishing international crimes. These principles have been endorsed by the 19 States who have adhered to the Agreement, they have been applied in the Nuremberg Judgment, affirmed by a Resolution passed by the 54 States forming the General Assembly of the United Nations on 11th December 1946, and also accepted by the five Axis Countries with whom Treaties were signed on the 10th February 1947. It is therefore necessary to establish a delimitation between acts entailing criminal responsibility and other illegal acts which, without constituting an international crime, are mere contraventions of customary or conventional rules.

The demarkation line between acts which are merely illegal because they violate conventional or customary provisions of international law, and such acts which also constitute international crimes and entail personal criminal liability, can only be drawn by reference to the general principles of criminal law as recognised by civilised nations, and as, *inter alia*, applied in the Nuremberg proceedings. If the violation of a rule of the Hague Regulations simultaneously constitutes an offence against the general principles of criminal law, then it also constitutes a war crime.

In the present case, the accused persons are charged with acts which, even though not technically constituting pillage, amount to a conspiracy to violate municipal law which the perpetrators were bound to respect, and thereby to exploit the economy of the occupied country. The activities resulted, according to the charge, in the emptying of France of all substances, in the causing of a rise in prices, in inflation and in a certain moral decline. All these results are contrary to the duties which are enjoined upon an occupant by international law and we find therefore combined both the illegal means and the effect deprecated by international law. On the facts submitted by the French National Office, the accused persons have violated not only a technical provision of international law, but an essential right of the occupied country. (see Rivier's statement, XII, para.2 above).

- XIV. Provided that the facts alleged are taken to be established, Committee III is of the opinion that those persons who are responsible for the preparation or planning of this policy or for carrying it into effect, whether at the centre or locally, are criminally responsible for these violations of international law.

This does not implicate persons who, without operating this scheme or forming part of the machinery of carrying it out, have availed themselves of the possibility to make sales or purchases prohibited under French law.

The latter, though probably criminally liable under municipal law, are, in the Committee's opinion, not guilty of a war crime.

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12 August, 1947

UNITED NATIONS WAR CRIMES COMMISSION.COMMITTEE I.THIRD STATISTICAL PROGRESS REPORT(1st February 1944 to end of June 1947)Annotated by the Secretary to Committee I.C O N T E N T SPage

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Shortly after the United Nations War Crimes Commission was created, it recommended to the Governments that National War Crimes Offices be established to investigate in the first instance reports concerning war crimes and to submit to the Commission in the form requested, charges concerning the offences investigated by them.

In response to the Commission's recommendation, Agencies of this kind have been set up by all Governments, members of the Commission.

In the investigation of war crimes and examination of charges submitted by the National Offices, the Commission, as an international organisation, decides whether there is a case justifying the arrest and handing over for trial of the accused by the apprehending authorities who are thus not called upon to act upon ex parte statements by a single Government.

The preparation, form of submission and presentation by the National Offices of cases and charges of war crimes have been set forth in Document C.87 (1) (consolidated) of 19th April 1945.

Cases filed with the Commission are, according to the Commission's rules of procedure, examined by Committee I (Committee on Facts and Evidence), in the presence of representatives of the Governments (National Offices), submitting the charges. The Commission then reports to the member Governments cases of war crimes in which there appears to be either *prima facie* evidence sufficient to justify the apprehension and trial of individuals accused of war crimes, or else sufficient grounds to consider the wanted persons as suspects or material witnesses. This is the second stage of Committee I's work and in this respect the Commission functions in a manner resembling that of a committing magistrate reporting to the Governments names of the individuals accused. This is being done in the form of the Commission's Lists of War Criminals with which also all apprehending authorities concerned are being supplied and thus called upon to take the necessary action.

As to procedure and processing of charge files by Committee I and its Secretariat and the preparation of the Commission's Lists of War Criminals, reference is being made to Document I/47, (consolidated) of January 1st, 1946.

The present document covers the statistical aspect only of the very strenuous three and a half year's work of Committee I composed of the following Members and their Deputies:

Chairman:	Monsieur de Baer (Belgium)
Deputy Chairman:	Sir Robert Craigie (United Kingdom)
Members:	(Lord Wright, Chairman of the Commission, (Australia). (Colonel R.M.Springer.(Lt.Kintner). (U.S.A.). (Dr.L.Neumann (Czechoslovakia).
Secretary:	Dr.J. Litawski, Legal Officer. (Poland).

and, at the earlier stage of its activities, also of:

Sir Cecil Hurst	(U.K.)
Lord Finlay	(U.K.)
Colonel J.V.Hodgson.(Captain Wolff).	(U.S.A.)
Mr. J. Oldham (deputy)	(Australia).
Dr. B. Eder.(Dr.Mayr-Harting)	(Czechoslovakia).
Dr. de Moor	(Netherlands)

The rules of procedure and legal rulings adopted and established by this Committee, while considering charges and deciding upon the responsibility for war crimes, as well as a survey of war crimes committed during the last war with a commentary on the most important cases submitted by the Governments, will be dealt with in the History of the Commission, now in the course of preparation.

TABLE I.

TOTAL NUMBER OF CASES (DOSSIERS) RECEIVED BY THE COMMISSION.

The following figures show the total number of cases (dossiers) decided upon by the Commission, irrespective of the nationality of war criminals charged therein and the Governments (members of the Commission) by which they have been submitted.

<u>Year</u>	<u>Cases (Dossiers)</u>
1944	464
1945	1,726
1946	2,512
1947 (to 31st June)	1,301
	<hr/>
	6,003

Note

1. First cases registered by the Commission were received on 1st February, 1944.
2. All cases fall under two categories: (a) individual cases and (b) collective cases, according to whether they include charges against one or more persons or units, and no distinction between these two categories has been made while arriving at the above figures.
3. The total number of persons and units actually charged and listed by the Commission (Tables II, III and the following) is considerably higher than that of cases (dossiers) submitted. The following figures show the total number of persons and units listed, irrespective of their nationality.

<u>Year</u>	<u>Persons and Units</u>
1944	762
1945	8,442
1946	12,236
1947 (to 31st June)	7,281
	<hr/>
	28,721

EXPLANATORY NOTE ON TABLES II - VIII.

The following Tables II and III, and consequently also Tables IV-VIII, have been set up on the basis of periodical Lists of War Criminals issued by the Commission and not upon the General Alphabetical Index of names. As all cases received by the Commission are being registered and examined by Committee I according to countries submitting them, the periodical Lists of War Criminals are being prepared accordingly, each of them including all persons or units charged by one country, irrespective of whether any of them might have been also charged by any other country. Some of them, in fact, have been charged several times. Therefore, the figures shown in Tables II and III do not represent the total number of persons and units actually listed in the General Alphabetical Index of War Criminals kept by the Commission. As the publication of such alphabetical and consolidated list (index) must necessarily be deferred until the later stage of the Commission's work, the total number of persons and units actually listed by the Commission to date is not available. Nevertheless, it may be safely assumed that the number of persons and units listed several times in the periodical Lists does not exceed 5% of the total figures in Tables II and III.

While arriving at the figures shown in Tables II-VIII, account has been taken of all changes and alterations in each List as indicated in subsequent Lists.

Repartition of Tables II and III according to individual countries submitting charges and nationality of persons or units charged and listed, is shown in Tables IV-VIII.

Cases which have not been accepted by Committee I, and adjourned cases, are shown in Table X.

TABLE II.

TOTAL NUMBER OF PERSONS CHARGED BY THE GOVERNMENTS
AND LISTED BY THE COMMISSION.

	<u>War Criminals</u>	<u>Suspects</u>	<u>Material Witnesses</u>	:	<u>TOTAL</u>
Germans	18,733	6,137	1,624	:	26,494
Japanese +	363	60	17	:	440
Italians	1,076	50	13	:	1,139
Albanians	2	-	-	:	2
Bulgarians	296	8	-	:	304
Hungarians	50	3	4	:	57
Rumanians	4	-	-	:	4
	<u>20,524</u>	<u>6,258</u>	<u>1,658</u>		<u>28,440</u>

+ These figures do not include Japanese listed by the Sub-Commission.
(TABLE XIII).

Note:

1. Additional charges brought against persons once charged by the same Government and listed, are not included. These are shown in TABLE IX.
2. Persons listed as unknown by name are included in the above figures.
3. In cases where the description of a person charged reads:
"X.Y. head of ... or his successor or successors at the material time", each case has been counted as involving one person.

In cases where the description of a group of persons charged involves an unspecified number of persons unknown by name and holding similar official positions in a number of unspecified but different places of the same administrative district or region - each group has been counted as a unit (See TABLE III).

TABLE III.
TOTAL NUMBER OF UNITS CHARGED BY THE GOVERNMENTS
AND LISTED BY THE COMMISSION.

	<u>WAR CRIMINALS</u>	<u>SUSPECTS</u>	<u>MATERIAL</u> <u>WITNESSES</u>	:	<u>TOTAL</u>
German	70	184	2	:	256
Japanese	13	12	-	:	25
	—	—	—	:	—
	83	196	2		281

Note.

1. In cases where the description of a group of persons charged involves an unspecified number of persons unknown by name and holding similar official positions in a number of unspecified but different places of the same administrative district or region - each group has been counted as a unit.
2. Additional charges brought against units once charged by the same Government and listed, are not included. These are shown in TABLE IX.
3. The description "Unit" means not only military or para-military units, but also members of civil enemy bodies charged collectively in view of their official position.

TABLE IV.

NUMBER OF PERSONS CHARGED BY THE GOVERNMENTS
AND LISTED BY THE COMMISSION.

<u>GERMANS</u>				
	<u>Total :</u>	<u>War Criminals</u>	<u>Suspects :</u>	<u>Material Witnesses</u>
AUSTRALIA +	:	(See United Kingdom)		
BELGIUM	3,842:	2,348	1,177	317
CANADA +	30:	22	1	7
CHINA	1:	1	-	-
CZECHOSLOVAKIA	1,340:	923	405	12
DENMARK	123:	108	15	-
FRANCE	10,302:	6,991	2,641	670
GREECE	180:	170	3	7
INDIA *	:	(See United Kingdom)		
LUXEMBURG	34:	33	1	-
NETHERLANDS	1,557:	914	194	449
NEW ZEALAND +	:	(See United Kingdom)		
NORWAY++++	459:	231	223	5
POLAND	4,810:	3,558	1,224	28
UNITED KINGDOM	1,550:	1,438 ++	61 ***	51
UNITED STATES	705:	664	12	29
YUGOSLAVIA	1,491:	1,268	176	47
COMMISSION++++	70:	64	4	2
	<u>26,494</u>	<u>18,733</u>	<u>6,137</u>	<u>1,624</u>

+ Australian, Indian and New Zealand cases against German war criminals are being submitted through the United Kingdom National Office and have been included in the latter's figures. A number of Canadian cases other than those indicated above have also been submitted through the United Kingdom National Office, and are included in the latter's figures.

++ 160 of these, charged for having committed crimes against non-British nationals in Concentration Camps and the like, have been listed upon United Kingdom cases as they were or are to be tried by British Military Courts in Germany.

+++ 7 of these have been charged for having committed crimes against non-British nationals.

++++ These persons have been listed by the Commission on its own initiative.

+++++ These figures are lower than those shown in the previous Report in view of the fact that a number of persons previously listed have been removed from the Commission's Lists on the request of the Norwegian Government.

TABLE V.

NUMBER OF PERSONS CHARGED BY THE GOVERNMENTS AND
LISTED BY THE COMMISSION.

J A P A N E S E

	<u>Total</u>	:	<u>War Criminals</u>	<u>Suspects</u>	<u>Material Witnesses</u>
AUSTRALIA	94	:	82	3	9
BELGIUM	-	:	-	-	-
CANADA	-	:	-	-	-
CHINA ⁺	See Nanking (Chungking) Lists: TABLE XII)				
CZECHOSLOVAKIA	-	:	-	-	-
DENMARK	-	:	-	-	-
FRANCE	3	:	3	-	-
GREECE	-	:	-	-	-
INDIA	(Included in United Kingdom figures).				
LUXEMBURG	-	:	-	-	-
NETHERLANDS	-	:	-	-	-
NEW ZEALAND	(Included in United Kingdom figures)				
NORWAY	-	:	-	-	-
POLAND	-	:	-	-	-
UNITED KINGDOM ⁺⁺	120	:	84	28	8
UNITED STATES ⁺⁺⁺	223	:	194	29	-
YUGOSLAVIA	-	:	-	-	-
COMMISSION	-	:	-	-	-
	<hr/> 440		<hr/> 363	<hr/> 60	<hr/> 17

⁺ Chinese cases are being listed by the Sub-Commission in Nanking (Chungking)

⁺⁺ A number of these cases have been submitted by the United Kingdom on behalf of the Indian and New Zealand National Offices.

⁺⁺⁺ In addition to these a number of Japanese war criminals charged by the United States have been listed by the Sub-Commission in Nanking (Chungking).

TABLE VI.
NUMBER OF PERSONS CHARGED BY THE GOVERNMENTS
AND LISTED BY THE COMMISSION.

I T A L I A N S

	<u>Total</u>	:	<u>War Criminals</u>	<u>Suspects</u>	<u>Material Witnesses</u>
AUSTRALIA	-	:	(Included in the United Kingdom figures)		
BELGIUM	-	:	-	-	-
CANADA	-	:	(Included in the United Kingdom figures)		
CHINA	-	:	-	-	-
CZECHOSLOVAKIA	-	:	-	-	-
DENMARK	-	:	-	-	-
FRANCE	83	:	78	5	-
GREECE	70	:	69	-	1
INDIA	-	:	(Included in the United Kingdom figures)		
LUXEMBURG	-	:	-	-	-
NETHERLANDS	-	:	-	-	-
NEW ZEALAND	-	:	(Included in the United Kingdom figures)		
NORWAY	-	:	-	-	-
POLAND	-	:	-	-	-
UNITED KINGDOM +	187	:	169	9	9
UNITED STATES	2	:	2	-	-
YUGOSLAVIA	797	:	758	36	3
COMMISSION	-	:	-	-	-
	<hr/>		<hr/>	<hr/>	<hr/>
	1,139		1,076	50	13

+ A number of these cases have been submitted by the United Kingdom on behalf of the Australian, Canadian, Indian and New Zealand National Offices.

TABLE VII

NUMBER OF PERSONS CHARGED BY THE GOVERNMENTS
AND LISTED BY THE COMMISSION

	ALBANIANS				BULGARIANS				HUNGARIANS				RUMANIANS			
	TOTAL	War Criminals	Suspects	Material Witnesses	TOTAL	War Criminals	Suspects	Material Witnesses	TOTAL	War Criminals	Suspects	Material Witnesses	TOTAL	War Criminals	Suspects	Material Witnesses
AUSTRALIA																
BELGIUM																
CANADA																
CHINA																
CZECHOSLOVAKIA									2	2	-	-				
DENMARK																
FRANCE																
GREECE					125	121	1									
INDIA																
LUXEMBURG																
NETHERLANDS																
NEW ZEALAND																
NORWAY																
POLAND																
UNITED KINGDOM													4	4	-	-
UNITED STATES																
YUGOSLAVIA	2	2	-	-	179	175	4	-	55	48	3	4				
COMMISSION																
	2	2	-	-	304	296	8	-	57	50	3	4	4	4	-	-

TABLE VIII.
NUMBER OF UNITS CHARGED BY THE GOVERNMENTS
AND LISTED BY THE COMMISSION.

	<u>GERMAN</u>				<u>JAPANESE</u>			
	<u>Total</u>	<u>War</u> <u>Criminals</u>	<u>Sus-</u> <u>pects</u>	<u>Material</u> <u>Witnesses</u>	<u>Total</u>	<u>War</u> <u>Criminals</u>	<u>Suspects</u>	<u>Material</u> <u>Witnesses</u>
AUSTRALIA	(Included in United Kingdom figures)				22	11	11	-
BELGIUM	3	1	2	-	-	-	-	-
CANADA	-	-	-	-	-	-	-	-
CHINA	-	-	-	-	See Nanking (Chungking) Lists			
CZECHOSLOVAKIA	224	58	166	-	-	-	-	-
DENMARK	-	-	-	-	-	-	-	-
FRANCE	23	5	16	2	-	-	-	-
GREECE	-	-	-	-	-	-	-	-
INDIA	(Included in United Kingdom figures)				-	-	-	-
LUXEMBURG	-	-	-	-	-	-	-	-
NETHERLANDS	-	-	-	-	-	-	-	-
NEW ZEALAND	(Included in United Kingdom figures)				-	-	-	-
NORWAY	-	-	-	-	-	-	-	-
POLAND	-	-	-	-	-	-	-	-
UNITED KINGDOM	6	6	-	-	1	1	-	-
UNITED STATES	-	-	-	-	2	1	1	-
YUGOSLAVIA	-	-	-	-	-	-	-	-
COMMISSION	-	-	-	-	-	-	-	-
	256	70	184	2	25	13	12	-

Note: For explanations see footnotes to TABLE III.

TABLE II

ADDITIONAL CHARGES
SUBMITTED BY THE GOVERNMENTS
AND LISTED BY THE COMMISSION

AUSTRALIA	. . . . .	-
BELGIUM	. . . . .	149
CANADA	. . . . .	-
CHINA	. . . . .	-
CZECHOSLOVAKIA	. . . . .	101
DENMARK	. . . . .	1
FRANCE	. . . . .	743
GREECE	. . . . .	12
INDIA	. . . . .	-
LUXEMBURG	. . . . .	-
NETHERLANDS	. . . . .	194
NEW ZEALAND	. . . . .	-
NORWAY	. . . . .	5
POLAND	. . . . .	133
UNITED KINGDOM	. . . . .	63
UNITED STATES	. . . . .	46
YUGOSLAVIA	. . . . .	114
COMMISSION	. . . . .	-
		<hr/> 1,561

Note. This TABLE shows the total numbers of additional charges brought against persons and units previously charged by the same Government.

TABLE X.
CASES NOT ACCEPTED, OR ADJOURNED.

	NOT ACCEPTED	:	ADJOURNED
AUSTRALIA	8	:	-
BELGIUM	7	:	10
CANADA	-	:	-
CHINA	-	:	-
CZECHOSLOVAKIA	2	:	8
DENMARK	-	:	16
FRANCE	35	:	69
GREECE	1	:	11
INDIA	-	:	-
LUXEMBURG	1	:	5
NETHERLANDS	8	:	17
NEW ZEALAND	-	:	-
NORWAY	-	:	-
POLAND	-	:	7
UNITED KINGDOM	75	:	14
UNITED STATES	5	:	-
YUGOSLAVIA	6	:	49
COMMISSION.	-	:	-
	---		---
	148 ⁺		206

+ 29 'B' cases included.

Note.

1. The above figures do not include cases which have been rejected or adjourned only in part, i.e. cases where only charges against some persons or units charged collectively in a case have been for some reason considered as not sufficiently substantiated.
2. Cases indicated as "Not accepted" have been rejected because Committee I was not satisfied that there is or will be sufficient evidence to justify a prosecution of persons or units charged therein. To this category belong also cases which, in the opinion of Committee I, do not constitute a prima facie case of a war crime, or even a war crime at all.

Consideration of such cases may be re-opened at any time provided the National Office concerned submits information and evidence sufficient to justify listing of persons charged therein as war criminals.

TABLE XI.

LISTS OF WAR CRIMINALS ISSUED BY THE COMMISSION.

<u>Serial</u> <u>No.</u>	<u>Date of Issue</u>	<u>Categories of</u> <u>Criminals</u>	<u>TYPE OF LIST</u>
1		<u>1944</u>	
1	December	A	Germans
2	December	A	Italians
		<u>1945</u>	
3	March	A	Germans
4	March	A - S - W	Japanese
5	March	A - S - W	Germans, Italians, Albanians, Bulgarians, Hungarians, Rumanians
6	April	A	Germans
7	April	K	Germans Holding Key Positions (See TABLE XII)
8	May	A - S - W	Germans
9	May	K	Germans Holding Key Positions (See TABLE XII)
10	June	A - S - W	Germans
11	July	A - S - W	Germans
12	July	A - S - W	Italians, Hungarians
13	August	A - S - W	Germans
14	October	A - S - W	Germans
15	October	A - S - W	Italians, Bulgarians
16	December	A - S - W	Germans

Note.

"A" stands for WAR CRIMINALS
 "K" " " WAR CRIMINALS HOLDING KEY POSITIONS
 "S" " " SUSPECTS
 "W" " " MATERIAL WITNESSES (ENEMY).

/continued

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Serial No.	Date of Issue.	Categories of originals	TYPE OF LIST
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1946.

17-23 (one volume)	January	A - K - W	Japanese listed by the Sub-Commission (See TABLE XIII).
24	January	A - S - W	Japanese
25	February	A - S - W	Germans
26	February	A - S - W	Italians, Bulgarians, Hungarians, Rumanians.
27	March	A - S - W	Germans
28	March	A - S - W	Germans
29	April (Supplement - November)	A - S	Japanese
30	April	A - S - W	Germans
31	May	A - S - W	Germans
32	May	A - S - W	Germans
33-37 (one volume)	June	A - W	Japanese listed by the Sub-Commission (See TABLE XIII)
38	June	A - S - W	Germans
39	July	A - S - W	Italians
40	July	A - S - W	Germans
41	August	A - S - W	Germans
42	September	A - S - W	Germans, Italians, Bulgarians, Hungarians
43	October	A - S - W	Germans, Italians, Bulgarians
44	October	A - S - W	Germans, Italians, Bulgarians
45	November	A - S - W	Germans
46-49 (one volume)	December	A - W	Japanese listed by the Sub-Commission (See TABLE XIII)
50	December	A - S - W	Germans, Italians.
51	December	A - S - W	Germans, Italians, Bulgarians.

<u>Serial No.</u>	<u>Date of issue</u>	<u>Categories of criminals</u>	<u>Type of List</u>
<u>1947</u>			
52	February	A - S - W	Germans, Hungarians
53	March	A - S - W	Germans, Italians
54	March	A - S - W	Germans, Italians
55	April	A - S - W	Germans, Italians
56	April	A - S - W	Germans
57	May	A - S - W	Germans wanted by Poland
58	June	A - S - W	Germans, Bulgarians, Italians
59	July	A - S - W	Germans
60	July	A - S - W	Germans, Italians

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C. 262.
27th August, 1947.

UNITED NATIONS WAR CRIMES COMMISSION.

Collection and Publication of Information
concerning Human Rights.

PROGRESS REPORT.

In a letter from the Director of the Division of Human Rights dated 15th May 1947, (Doc. A.45), the Chairman of the United Nations War Crimes Commission was informed that in the opinion of the Secretariat of the United Nations, the United Nations War Crimes Commission was in a better position than the United Nations Secretariat to undertake the work connected with the collection and publication of information concerning human rights arising from trials of war criminals, quislings and traitors. The Secretariat of the United Nations would, therefore, be very glad if the United Nations War Crimes Commission could perform the work for which the Secretary-General of the United Nations had been requested to make arrangements by the Resolution of the Economic and Social Council of the 21st July 1946.

In their meeting held on the 21st May 1947, the United Nations War Crimes Commission decided to accept responsibility for the work to the extent outlined in Doc. C.259(1) (in particular in section III, paragraph 1 of that document) and in the letter of the Secretary General of the United Nations War Crimes Commission to the Director of the Human Rights Division dated 22nd May 1947. The Commission referred the whole question to its Legal Committee.

In view of the letter of the Director of the Human Rights Division dated 29th May 1947 requesting the United Nations War Crimes Commission to send to the United Nations Secretariat a Progress Report which might be submitted to the next meeting of the Human Rights Commission, the following Progress Report, giving, *inter alia*, an outline of the final report which is being prepared by the United Nations War Crimes Commission, has been drawn up.

I. PREPARATORY WORK.

The collection and publication of information concerning human rights arising from trials of war criminals, etc. is intended to assist the Commission on Human Rights in the preparation of their proposals, recommendations and reports, regarding an International Bill of Rights, international declarations and conventions on civil liberties, the protection of minorities, the prevention of discrimination on grounds of race, sex, language or religion and similar matters.

A definition of the human rights which are placed, or ought to be placed under the protection of International Law can only be the outcome of the work to which the United Nations War Crimes Commission has been asked to contribute. On the other hand, a selection of the material to be found in the war crimes trials and its treatment along the lines indicated in Doc. C.259(1) is hardly possible without some preliminary survey on the human rights which are to be taken into account in connection with the work in hand.

The following documents submitted to the Drafting Committee of the Commission on Human Rights formed the basis of an initial exploitation and delimitation of the field of work: The Drafting Declaration concerning Fundamental Human Rights submitted by the delegation of Panama to the San Francisco Conference; the United Kingdom Draft of an International Bill of Human Rights (both documents were discussed in Doc. III/98), and the Draft Outline of an International Bill of Rights prepared by the Secretariat of the United Nations (which has been commented upon in Doc. III/100).

It may be said in this connection, however, that it is neither possible nor necessary for the Report of the United Nations War Crimes Commission to deal with all the rights enumerated in these documents, nor is it intended to follow strictly the definitions of rights contained therein if a different delimitation is more convenient for purposes of dealing with the material available.

During the preparatory work, it was suggested that the collection of material undertaken by the United Nations War Crimes Commission be divided into two parts:

- (1) information on human rights arising out of the relationship between the State and persons under its jurisdiction,
- (2) information on human rights protected by the laws and customs of war, i.e. the rights arising out of the relationship between the subjects of a belligerent (members of the armed forces, prisoners of war and civilians including the inhabitants of occupied territory) and the enemy Power.

II. OUTLINE OF PART I.

INFORMATION ON HUMAN RIGHTS ARISING OUT OF THE RELATIONSHIP BETWEEN THE STATE AND PERSONS UNDER ITS JURISDICTION.

A. SOURCES.

Information throwing light on the violation of human rights mentioned under I, (section I above), and the protection of these rights will be found:

- (1) in trials concerning crimes against peace.

For example, Count One of the Nuremberg Indictment, which deals with the Common Plan or Conspiracy (Charter, Article 6, especially 6(a)) covers the steps taken by the Nazis to seize totalitarian control, over Germany and their measures, after they had acquired power, which were intended to secure that no effective resistance against them could arise within Germany itself.

In this connection, it is said that a few weeks after Hitler's appointment as Reich Chancellor, the clauses of the Weimar Constitution guaranteeing personal liberty, freedom of speech, of the press, of association and assembly, were suspended, that the Nazis shortly afterwards secured the passage by the Reichstag of a "Law for the Protection of the People and the Reich" giving Hitler and the members of his Cabinet plenary powers of legislation, and that again a short time later, all political parties except the Nazi Party were prohibited.

The Indictment goes on to describe how the Nazis set about "the consolidation of their position of power within Germany, the extermination of potential internal resistance and the placing of the German nation on a military footing". To that belongs, inter alia, the

reduction of the Reichstag to a body of Nazi nominees, the curtailment of the freedom of popular elections, the purge of civil servants, the restriction of the independence of the judiciary, the system of terror against opponents and supposed or suspected opponents of the régime and the relentless persecution of the Jews. It was, in the opinion of the Indictment, "in order to make the German people amenable to their will, and to prepare them psychologically for war" that the Nazis reshaped the educational system and particularly the education and training of the German youth, that they imposed a supervision of all cultural activities and controlled the dissemination of information and the expression of opinion within Germany as well as the movement of intelligence of all kinds from and into Germany.

The Indictment then described how the Nazis, after they had gained political power, "organised Germany's economy to give effect to their political aims;" and it proceeds to show how the Nazis used the political and economic control of Germany, which they had gained by innumerable violations of individual and civic rights guaranteed by the Weimar Constitution, for the realisation of their aggressive plans.

In other words, the Nuremberg Indictment considers 'the violation of human rights and fundamental freedoms through which the Nazi Party acquired political and economic control of Germany as "steps deliberately taken to carry out a common plan" (Judgment, p.43) and considers therefore any significant participation of these violations ("...any significant participation in the affairs of the Nazi party or government") as "evidence of a participation in a conspiracy that is in itself criminal" (Judgment, p.43).

The Tokyo indictment too, concerns itself with the internal measures of the "criminal militaristic clique" which dominated and directed the internal and foreign policies of Japan in the relevant years. They fall, however, it seems, exclusively within the period after the outbreak of the wars, dealt with in the indictment.

(2) in trials concerning crimes against humanity.

Information throwing light on the violation of human rights arising out of the relationship between the State and persons under its jurisdiction and the protection of these human rights will be found mainly in the trials of persons accused of crimes against humanity against their co-nationals. The trials in point are, besides those of quislings and traitors who were accused of war crimes or crimes against humanity in addition to their treasonable activities, the trials of persons accused of crimes against humanity committed against persons who are not of the nationality of the victorious powers.

Of the greatest importance in this connection are the trials of Germans accused of offences against Germans and stateless persons. These trials will furnish the bulk of the material for the part of the report outlined in Section II. It may, however, prove fruitful to compare this material with that to be found in some trials of quislings and of former enemy nationals (other than Germans) accused of offences against their co-nationals.

The collection of information concerning human rights arising from trials of Germans accused of offences committed against Germans and stateless persons will take into account the following trials:

- (1) the above-mentioned parts of the Nuremberg trial based on Count One of the Indictment;
- (11) the parts of the Nuremberg trial based on Count Four of the Indictment (crimes against humanity);

- (iii) the parts of the Nuremberg Subsequent Proceedings trials dealing with offences against Germans and stateless persons;
- (iv) trials before German courts in the various zones of occupation, the nature of which must be defined more closely at the later stage in the research.

It is these trials which form, for the time being, the basis of the part of the report outlined in the following sections (B - D).

B. JURISDICTION OVER VIOLATIONS OF HUMAN RIGHTS OF GERMAN CITIZENS AND STATELESS PERSONS COMMITTED WITHIN THE TERRITORY OF THE GERMAN REICH:

(i) Jurisdiction before the Occupation of Germany.

The part of the Report outlined in Section II of this paper will show how even flagrant violations of human rights have gone unpunished since no jurisdiction or no effective one covering those violations, existed at the time. (cf. Doc.C.259(1), XI(d) and XII.)

- (1) A survey of the violation of civic and individual rights of German subjects, in particular of those caused by the legislative power will be found in the transcripts of the Nuremberg trial, as far as they concern Counts One and Four.

Thus, the Prosecution, presenting the case as regards Count One, deals, to mention a few examples only, with the genesis and the promulgation of the "Law for the Protection of the People and the State" which for all practical purposes deprived the parliament of its legislative power, transferring it to the Reich Government; with the decree of the Reich Cabinet of 14th July 1933 by which the Nazi Party was constituted as the sole political party in Germany, making it illegal to maintain or to form any other political party; with the purge of civil servants on racial and political grounds and their replacement by Party members and supporters which was accomplished by a series of Nazi laws and decrees, the first being the "Law for the Restoration of the Professional Civil Service" of 7th April 1933. (Transcript, Part I, p.107 et seq.)

A survey of the legislative measures violating civil and individual rights of German subjects, should further take into account the discriminatory legislation aimed against the Jews of which the so-called Nuremberg laws constitute only one aspect. In this connection, various enactments must be mentioned which violated the fundamental rights of the defence, during trial. Some of these were brought to the notice of the Nuremberg Court. In a more detailed way, they have probably been treated in the trial of Josef Altstötter and others (Subsequent Proceedings, Case No.3) and in other trials.

The investigation of the question how far judicial protection could be extended in Nazi Germany to persons whose rights and freedoms were violated by legislative measures, will deal with the provisions authorizing the Courts to control the constitutionality of laws. Such an investigation will probably confirm a view expressed during the hearing of the case of Tillessen (Hearing of the Appeal against the Judgment of the Tribunal at Offenburg given on 29th November 1946, by the Tribunal Général de Gouvernement Militaire de la Zone Française d'Occupation on the 23rd December 1946.) According to this opinion (given at the request of the Prosecution by two German legal experts) the highest German courts had, at the time of the Weimar Republic, reserved for themselves the right of control and recognised it generally as the right of German courts. This right of control has been exercised not only as regards the legality of the promulgation of laws and ordinances (formal control) but also as regards the legality and in particular the constitutionality of their contents (substantial control).

(2) The description of the breakdown of the machinery existing in the Weimar Republic for the protection of civic and individual rights guaranteed by the constitution, will deal, inter alia, with the control to which the judiciary was subjected in Nazi Germany. The removal of judges from the bench for political or racial reasons and the subjection of judges to the strongest pressure to join the Nazi Party are here no less in point than the so-called "judges letters" which in 1942 were sent to all judges by the Government, instructing them as to the "general lines" that they must follow (cf. Nuremberg Judgment, p.7.)

Interference with the independence of the judiciary is only one of the measures which led to the dissolution of the machinery for the protection of the civic and individual rights of persons under the jurisdiction of the German Reich. Also of importance is the fact that during the Nazi Régime the control of the courts over the activities of the police ceased gradually and that in particular the activities of the Gestapo were subject neither to the control by administrative nor other courts. One has to bear in mind in this connection that, mainly the Gestapo, and to a lesser degree the other branches of Himmler's police, "were guided in their activities by principles based not so much on the law, as on the doctrines of the Nazi Party and the Führer". (cf. R. Lemkin, *Axis Rule in Occupied Europe*, p.17.)

(3) The survey of the measures which deprived the courts virtually of their jurisdiction over violations of fundamental rights of German citizens must finally take into consideration amnesties and abolitions which prevented the punishment of even flagrant violations of human rights if committed on the order or in the interest of the Nazi Régime.

The Amnesty Ordinance of 21st March 1933, dealt with in the trial of Tillessen, mentioned above, which applied not merely to members of the NSDAP but to everybody who "in the struggle for the national revival of the German people, for the preparation of such revival or in the struggle for the integrity of German territory" committed an offence and which, therefore, benefited the assassin of Erzberger Tillessen who at the time of this crime was not a member of the NSDAP, is one instance of a series of amnesties which barred the prosecution of crimes against German citizens.

Of hardly less importance is the fact that in innumerable cases criminal proceedings were stopped individually. A typical example was mentioned in the trial of Wilhelm Behring and Ernst Behring before the Land gericht Bremen. By a decision of the Supreme Party Tribunal (Special Bench), (a copy of which was submitted during the trial), all criminal proceedings were stopped which had been instituted as regards offences committed during anti-Jewish riots on the 9th and 10th November 1938. Only "crimes against public morals and against the German race" and cases of theft were handed over to the criminal courts.

(ii) Jurisdiction during the Occupation of Germany.

(1) The investigation of the jurisdiction over violations of human rights of German citizens and stateless persons which has been established by the Allies after the occupation of Germany, will deal with the parts of the Nuremberg trial mentioned above.

(a) It will be shown in detail which violations of human rights and fundamental freedoms are covered by Count One of the Indictment.

It will then be necessary to examine to what extent the views of the prosecution were accepted by the Tribunal. In the submission of the indictment, the measures of the Nazis intended to promote their aims, first to seize totalitarian control over Germany and later to consolidate

their possession of power within Germany, are to be considered as steps "deliberately taken to carry out a common plan". Accordingly, all violations of civic and individual rights which served the Nazis to gain power in Germany and to retain it, are covered by Art. 6(a) of the Charter.

It is safe to say that the Tribunal did not fully share this opinion. In the section of the Judgment which deals with "The Law as to the Common Plan or Conspiracy", it is said: "The prosecution says, in effect, that any significant participation in the affairs of the Nazi Party or Government is evidence of a participation in a conspiracy that is in itself, criminal. Conspiracy is not defined in the Charter. But in the opinion of the Tribunal the conspiracy must be clearly outlined in its criminal purpose. It must not be too far removed from the time of decision and of action ... The Tribunal must examine whether the concrete plan to wage war existed, and determine the participation in that concrete plan."

The Judgment, however, continues: "It is not necessary to decide whether a simple master conspiracy between the defendants has been established by the evidence. The seizure of power by the Nazi Party and the subsequent domination by the Nazi State of all spheres of economic and social life must, of course, be remembered when the later plans for waging war are examined. "

An analysis of the relevant parts of the Judgment will show whether the accused who appeared responsible for the violations of civic and individual rights guaranteed by the Weimar Constitution were found guilty on Count One in view of these violations.

(b) A survey of the violations of human rights and fundamental freedoms of German citizens and stateless persons covered by Count Four of the indictment (Crimes against Humanity) will show to what extent these violations overlap those covered by Count One.

An analysis of the judgment as far as it deals with Count Four of the indictment will answer the question to what extent the Tribunal took into consideration the violations of civic and individual rights of German citizens which in the indictment fall under the heading of crimes against humanity.

Dealing with the law relating to war crimes and crimes against humanity, the judgment states: "...The policy of persecution, repression and murder of civilians in Germany before the war of 1939, who were likely to be hostile to the Government, was most ruthlessly carried out. The persecution of Jews during the same period is established beyond all doubt. To constitute crimes against humanity, the acts relied on before the outbreak of war must have been in execution of, or in connection with, any crime within the jurisdiction of the Tribunal. The Tribunal is of the opinion that revolting and horrible as many of these crimes were, it has not been satisfactorily proved that they were done in execution of, or in connection with, any such crime. The Tribunal, therefore, cannot make a general declaration that the acts before 1939 were crimes against humanity within the meaning of the Charter, but from the beginning of the war in 1939 war crimes were committed on a vast scale, which were also crimes against humanity, and insofar as the inhuman acts charged in the indictment and committed after the beginning of the war did not constitute war crimes, they were all committed in execution of or in connection with, the aggressive war and therefore constituted crimes against humanity."

To gain an impression of the extent to which the Nuremberg Tribunal felt itself free to exercise jurisdiction over crimes against humanity committed against German citizens and stateless persons within the territory of the German Reich, it will, therefore, be necessary to examine whether at least some of the acts prior to the outbreak of war referred to in the indictment "have" (in the opinion of the Tribunal) "been in execution of or in connection with any crime within" (its)

"jurisdiction". Here too, the most important material will be found in those parts of the judgment which deal individually with each accused.

In view of the opinion held in general by the Nuremberg Tribunal on the question of its jurisdiction over the acts with which the indictment deals under the heading "Crimes against Humanity", it has to be presumed that acts committed against German citizens and stateless persons after the outbreak of war were, as a rule, considered as crimes against humanity. A discussion of the jurisdiction of the Nuremberg Tribunal as regards crimes against humanity committed against Germans and stateless persons, will, therefore, mainly take into account those of the acts referred to in the indictment which were committed after the outbreak of war.

(2) The investigation into the jurisdiction over violations of human rights of German citizens and stateless persons exercised after the occupation of Germany will deal with trials before various allied military courts established in Germany and with trials before German courts.

An examination of the substantive law applied by these courts will show that their jurisdiction as regards crimes against humanity is not subject to limitations similar to those imposed by Art. 6(c) of the Charter as amended by the Berlin Protocol of 6th October 1945 on the International Military Tribunal.

Thus, one of the most important laws which is to be examined in this connection, Control Council Law No. 10, describes as crimes against humanity, murder, extermination, enslavement, deportation and other inhuman acts or persecutions on political, racial or religious grounds, even if they were not committed in connection with crimes against peace or violations of the laws and customs of war.

In the judgment of the Landgericht Offenburg given in the case of Tillessen, it was held that acts of political persecution and in particular political murder, are to be considered as crimes against humanity as defined by both Art. 6(c) of the Charter and Control Council Law No. 10, if they were connected with crimes against peace or war crimes. The Tribunal Général de Gouvernement Militaire de la Zone Française d'Occupation which quashed the judgment of the Landgericht Offenburg and which declared its judgment binding on all German judicial and administrative authorities as regards the grounds laid down by it in law and in fact, refuted this opinion. The Tribunal Général declared that Control Council Law No. 10 has a wider object than that intended in the London Agreement and in the Charter of the International Military Tribunal, that Control Council Law No. 10 does not contain the provision that crimes against humanity, to be liable to prosecution, have to be connected with crimes against peace or war crimes and that, therefore, persons accused of acts of political persecution may be prosecuted also in cases where there is no such connection. This decision will be compared with decisions given in similar cases by courts in other zones of occupation.

As at present violations of civic and individual rights of persons under the jurisdiction of the German Reich caused by Nazi legislation and administration - apart from exceptions which may be found in trials concerning crimes against peace (cf. section II.A(1) above) - are mainly prosecuted under the heading "crimes against humanity", it will be of importance to define the acts directed against German citizens and stateless persons which the Nuremberg Tribunal, allied military courts and German courts considered as crimes against humanity.

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C. HUMAN RIGHTS IN THE TRIALS OF PERSONS ACCUSED
OF OFFENCES COMMITTED AGAINST GERMAN CITIZENS
AND STATELESS PERSONS.

To avoid a superfluous repetition of the investigations being made in connection with war crimes trials proper (cf. Outline of Part II, especially section III, C. below), the report will here be limited to the points which cannot be sufficiently illustrated with the help of the material found in war crimes trials.

(1) In the section "Rights of Victims of Crimes against Humanity" (cf. Outline of Part II, Section III, C.(2)(a)), it will be necessary to examine to what extent a State appears to be entitled, in time of war or other national emergency, to restrict the fundamental rights of its citizens. Material valuable in this connection may be found in the transcripts of the Nuremberg Trial and in particular in the judgment insofar as it shows which of the measures, to which German citizens were subjected during the war, were considered as crimes against humanity. Some guidance may also be found in trials like that against Erhard Milch (Subsequent Proceedings Case No.2) who, inter alia, was accused of participation in plans and enterprises involving slave labour and deportation to slave labour of German nationals.

(2) In the section "Spheres in which the rights of the accused and the rights of the victims may be said to have conflicted at the time of the offence" (cf. Outline of Part II, Section III, C(2) (b)) it will be necessary to examine, inter alia, to what extent violations of human rights of German citizens were legal according to German law in force at the time.

In the trial of Josef Kramer and others held before a British Military Court at Lüneburg, Germany, Colonel Smith, one of the defending officers pointed out that in Nazi Germany any differentiation between a legal Executive Order and an illegal one was not possible. In the first stages of Hitler's régime, the Reichstag had abandoned and handed over to Hitler all its powers and he became the Executive and Legislator in one. Part of these powers were delegated by Hitler to members of his cabinet and the heads of party organisations, and thus each of them had the force of law within his limits; their orders were law which every German had to obey insofar as they concerned him.

This opinion, which roughly speaking considers all violations of human rights which can be traced ultimately to the highest executive organs of Nazi Germany as legal according to German law, has to be contrasted with an opinion like that expressed in the judgment of the Tribunal Général in the case of Tillessen.

The latter judgment considers the Amnesty Ordinance of 21st March 1933 which was later supplemented by an Act described as "Reich Law" as void.

The reasons given are, inter alia, that the Reichstag elections of the 5th March 1933 had taken place in circumstances of flagrant illegality and violations for which the government had to be held responsible and that the so-called "Full Powers Act" of 23rd March 1933 was unconstitutional since it was passed by a Parliament, 82 duly elected members of which were barred from attendance and moreover, by concentrating all powers into Hitler's hands, violated principles of government generally recognised.

It is further pointed out that Hitler's government was neither before nor after the 21st March 1933, supported by a vote of confidence of a properly constituted parliament, as required by Art. 54 of the Constitution of 11th August 1919, then in force and that for all these reasons the Amnesty Ordinance of 21st March 1933 must be considered as unconstitutional.

It is obvious that the same arguments can be invoked to prove that the whole of the legislation of the Hitler Government (together with all ordinances emanating from this government or its members) was void according to German law.

According to Art.6(c) of the Charter and Art. II(e) of Control Council Law No.10, an act of atrocity or persecution constitutes a crime against humanity whether or not committed in violation of domestic law of the country where perpetrated. It may, nevertheless, be necessary to go into the question whether a crime against humanity violated this domestic law. Only after this question has been answered will it be possible to say to what extent retroactive laws had to be employed in the prosecution of crimes against humanity.

(3) In the section "The Rights of the Accused at the time of the Trial" it will be necessary to examine in a similar way as in the same section of the outline of Part II what rights the accused were granted in the various trials concerning crimes against humanity.

The rights granted to the accused in war crimes trials and trials concerning crimes against humanity represent, no doubt, more than a bare minimum indispensable for a fair trial. A comparison with trials like that of Altstötter and others (Subsequent Proceedings Trial No.3) where the accused were charged with participation in trials which violated the fundamental principles of justice and where, in particular, the rights of the defence were not sufficiently safeguarded, can show to what extent a violation of these rights by German courts appeared to be of such fundamental importance that criminal proceedings were instituted after the occupation of Germany.

III. OUTLINE OF PART II.

INFORMATION ON HUMAN RIGHTS PROTECTED BY THE LAWS AND CUSTOMS OF WAR.

It is intended that the material under this heading will be arranged under the following headings:

- A. Introduction (unless a general Introduction to the Report as a whole is found preferable),
- B. The Rights of the Victims of War Crimes,
- C. Spheres in which the Rights of the Accused and the Rights of the Victims may be said to have conflicted at the time of the Offence,
- D. The Rights of the Accused at the Time of Trial.

If possible, this will be the primary division to be applied, and each of the four sections will contain all of the relevant material, from whatever source it may come. (It will be noted that a further sub-division is set out on p.17 et seq. to be applied to the material relating to war crime trials other than those conducted by the International Military Tribunals. This further sub-division will be used to some extent in the other two sections of Part II of the Report, but it is too early to indicate at this stage, to what extent.)

In the process of compiling the material, however, it may be found that a different grouping is preferable. It may be found advisable to group the total bulk of the information into three main chapters, the first dealing with the Nuremberg Trial, the second with the Tokyo Trial and the last with all other trials. Each of these three chapters could then be sub-divided as suggested in B., C. and D. above.

For the purpose of arranging Section III of the Progress Report the second division has been applied only because it seems the most convenient for the purpose at present in view.

A. HUMAN RIGHTS IN THE NUREMBERG TRIAL.
(EXCEPTING CRIMES AGAINST GERMANS).

The sources for this part of the studies are as follows:

- (a) The Agreement of 8th August 1945, for the Prosecution and Punishment of the Major War Criminals of the European Axis, together with the Charter of the International Military Tribunal;
- (b) The Indictment presented to the International Military Tribunal on 18th October 1945;
- (c) The transcript of the proceedings, containing about 17,000 pages;
- (d) The Judgment of the Tribunal delivered on 30th September and 1st October, 1946.

Apart from the necessary introduction, and subject to any modification which a detailed examination of the above material may require, it is proposed to present the information requested by the United Nations, insofar as it relates to the major war criminals tried at Nuremberg and excepting that part of the material dealing with charges of crimes against Germans, in the manner outlined in the following paragraphs.

(1) Part II of the Charter which sets forth the jurisdiction and general principles to be followed in the conduct of the trial of the major war criminals of the European Axis countries, and in particular, its Article 6, is, technically speaking, the law which the Charter required the Tribunal to administer, and by which the Tribunal was bound. The specific rules of Article 6, on the basis of which the Tribunal had to determine the guilt or innocence of the defendants, have laid down some novel principles of law, under which individuals are responsible to the community of nations for violations of rules of international criminal law, and according to which attacks on the fundamental rights of nations, as well as attacks on the fundamental liberties and constitutional rights of peoples and of individual persons, constitute, in certain circumstances inhuman acts, and consequently, international crimes. It will, therefore, be the purpose of the report to give an analysis of the law as it is stated in Art. 6 of the Charter, in relation to the involved question of human rights.

(2) In Doc. C.259(1) it has been pointed out that "every crime or nearly every crime violates a right and therewith a "human right" in a wider, non-technical sense". This applies to almost all violations of the laws and customs of war and to all acts coming under the term "crime against humanity" as defined in the Charter. It may be added that the planning, preparation, initiation and waging of a war of aggression, declared by the Nuremberg Tribunal as a supreme international crime, constitutes also, in a general non-technical sense, a crime against humanity, which involves violations of human rights.

(3) For a number of reasons, and especially because the Tribunal in laying down which inhuman acts had been committed after the beginning of the war, or in connection with the war, referred in its decision directly to the Indictment, it will be necessary to examine this document more closely; furthermore it throws considerable light on the way in which Article 6 of the Charter was interpreted by the Prosecution.

(4) In order to give a comprehensive picture of what human rights have been violated, in connection with specific crimes committed, and how they have been violated, it is proposed to bring under review and examination the following groups of crimes:

- (a) Murder and ill-treatment of civilian populations of, or in occupied territories, and on the high seas;
- (b) Deportation for slave labour and for other purposes of civilian populations of, or in, occupied territories;
- (c) Murder and ill-treatment of prisoners of war and of other members of the armed forces of the countries with whom Germany was at war and of persons on the high seas;
- (d) Killing of hostages;
- (e) Plunder of public and private property;
- (f) The exaction of collective penalties, pecuniary or otherwise;
- (g) Wanton destruction of cities, towns and villages and devastation not justified by military necessity;
- (h) Conscription of civilian labour;
- (i) Forcing civilians of occupied territories to swear allegiance to a hostile power;
- (j) Germanisation of occupied territories;
- (k) Murder, extermination, enslavement, deportation and other inhuman acts committed against civilian populations before and during the war;
- (l) Persecution on political, racial and religious grounds.

In its Judgment, the Tribunal stated that the evidence relating to war crimes and crimes against humanity had been overwhelming in its volume and its detail, to such an extent that it was impossible for the Judgment adequately to review it or to record the mass of documentary and oral evidence that had been presented. The Tribunal decided, therefore, to deal in its Judgment only quite generally with these crimes.

For this reason, it would appear of some considerable importance for the proper fulfilment of the task undertaken, not to rely only on the facts as they have been summarised in the Judgment, but to make the fullest possible use of the material produced before the Tribunal during its 403 open sessions.

As it is quite obvious that the collection of material to be presented to the United Nations could not indiscriminately deal with all common crimes and outrages such as murder, ill-treatment and the like, committed against innocent people, without any justification or necessity, it is proposed to limit the investigation mainly to such crimes or groups of crimes in the above list as are of primary importance to the question of insufficiency of, or lacunae in, the existing laws and usages of war and other provisions of international law which purport to afford protection against violations of human rights.

While dealing with the different groups of crimes indicated above and various categories of persons whose rights will be found to be touched upon, it is of course understood that the material will at the same time be arranged and examined in such a way as to bring into the foreground the various aspects of human rights or groups of rights such as life, health, personal integrity, freedom of movement, family rights, religious rights, property, etc., in accordance with the working list of the possible human rights which might in the meantime be established for the purpose by the Secretariat.

(5) In the parts of the report dealing with the Judgment, it will furthermore be necessary to examine and analyse the reactions of the Tribunal to the various violations of human rights, as well as the attitude of the Tribunal to the many legal problems which had arisen during the Trial, and its decisions in regard to them. Here, general legal questions will necessarily come under consideration, such as:

- (a) the attitude of the Tribunal to the law of the Charter;
- (b) the crime against peace as the supreme crime against humanity;
- (c) the refusal of the Tribunal to consider conspiracy to commit war crimes and crimes against humanity as a separate crime;
- (d) the pre-Charter international law as it has been applied by the Tribunal to the various crimes violating human rights;
- (e) the restrictive interpretation of the Charter in regard to the violations of human rights of persons who are not of the nationality of the victorious Powers;
- (f) the defence of superior orders and other subjects relative to the various spheres in which the rights of the accused and the rights of the victims may be said to have conflicted at the time of the offence (see Doc. III/96, p. 2., section C.)

(6) One of the tasks of the report will also be to show how far the human rights of the accused perpetrators of war crimes themselves have been respected in the course of the Nuremberg Trial.

From this point of view, for instance, it will be necessary to examine in the first place the way in which the rules of procedure and evidence as laid down by the Charter and which the Tribunal was bound to apply followed those recognised in the courts of all civilised countries, and consequently whether the defendants had in fact been given the right to have the assistance of counsel, to be furnished with a copy of all documents, to present evidence in their own defence, and to cross-examine any witnesses called by the Prosecution.

Further, it will be interesting to set out the arguments contained in the Judgment on the question of the legality of the Tribunal and of the problems relating to ex post facto legislation and the principles of nullum crimen, nulla poena sine lege.

In the last instance, it will be the aim of this part of the Report to consider the instances in which fairness to the accused found its expression in the attitude of the Tribunal to the various problems of substantive law which arose during the Trial. Here, as the most illustrative example of such an attitude, the restrictive interpretation of the sweeping provisions of the Charter concerning the criminality of

the accused organisations by which the Tribunal excluded from its statement, inter alia, persons who had no knowledge of the criminal purposes of the organisations, will have to be elaborated. The analysis of the individual sentences and acquittals in regard to the individual defendants will also have some bearing on this particular question.

In conclusion, a word will be said concerning the view that the defendants at Nuremberg might well have been proceeded against by summary executive action and not by a court of law. Stress will be laid on the fact that preference had been given to adjudge their guilt according to law, rather than on any moral or ethical basis alone.

(7) Finally, it would also be of some interest, it is thought, if one of the sections of the report could be devoted to the presentation and examination of the Nazi principles which became the source and the basis of the policy of criminality which led finally to the unprecedented violations of human rights. Some elaboration of the inhuman ideas underlying the conception of a total war will be the subject of this particular section.

B. HUMAN RIGHTS IN THE TOKYO TRIAL.

The sources relevant to this section of the Report are the following:

- (a) The Charter of the International Military Tribunal for the Far East as amended by General Orders No. 20 of 26th April, 1946.
- (b) The Indictment submitted to the Tribunal on 29th April 1946.
- (c) The Transcripts of the Proceedings conducted by the Tribunal, made available to the United Nations War Crimes Commission by instalments.
- (d) As far as necessary the documentary evidence in support of the Indictment and of the Defence, presented to the Tribunal in the form of "Exhibits", also made available to the United Nations War Crimes Commission from time to time.

On 20th July 1947, the United Nations War Crimes Commission was in possession of 23,615 pages of the Transcripts, and of about 2,500 Exhibits submitted either by the prosecution or the defence.

The following paragraphs set out some of the topics and questions to be dealt with in this section of the Report.

- (1) The Charter contains three groups of information relevant for the Report:
 - (a) One is the information regarding the definition of the crimes falling within the jurisdiction of the Tribunal and having a direct bearing upon the scope within which the criminal nature of violations of human rights of the victims is to be ascertained by the Tribunal for its Judgment.

This information is contained in Art. 5(b) and (c) of the Charter, which give definitions of "conventional war crimes" and "crimes against humanity" and cover all criminal violations of human rights of the victims. These provisions will furnish information as regards the state of the law under which facts concerning violations of the rights of victims perpetrated by the Japanese had been or are to be considered by the Tribunal.

In this respect one of the points to be considered concerns the differences appearing in the definitions of war crimes and crimes against humanity as formulated in Art. 5 of the Far Eastern Charter and in Art. 6. of the Nuremberg Charter. So for instance, in the former the notion of war crimes is not developed as it is in the latter by an enumeration of the various types of war crimes. On the other hand, in the Far Eastern Charter there is no express statement that crimes against humanity are crimes committed against "any civilian population". It will have to be shown in the Report whether these technical differences had any bearing upon the substance of the law declared in the Far Eastern Charter as compared with the Nuremberg Charter, and upon the Judgment of the Far Eastern Tribunal when it is pronounced.

However, the above provisions will not give a direct and precise answer to the question what are or were all the specific human rights covered by them. The definitions contained in these provisions deal with "war crimes" and "crimes against humanity" as general categories including a series of violations of human rights, which are not defined as such.

Therefore, this part of the Report will be restricted to a brief analysis showing only the state of law declared in the Charter and its bearing upon the violations of human rights as prosecuted before the Far Eastern Tribunal and judged by it. As far as specific human rights themselves are concerned, and the question of the extent to which they were or were not covered by Article 5 as a result of the proceedings of the Far Eastern Tribunal, this will have to be referred partly to the analysis of the Judgment when it is pronounced, and partly to the analysis of other aspects of the question to be dealt with in connection with the Tokyo trial.

Finally, Article 5 of the Far Eastern Charter contains also a definition of "crimes against peace" which is similar to the one appearing in Article 6(a) of the Nuremberg Charter. It is intended to analyse the question of the bearing which crimes against peace have or may have upon the violations of human rights in the light of the Indictment and of the fact and evidence considered by the Tribunal during its proceedings, and time permitting in the light of the Judgment when it is pronounced. It is proposed to consider this question both from the factual and juridical aspect, with a view to clarifying the position which the three criminal categories comprised in the definitions of Article 5 of Far Eastern Charter possess in law in regard to the violations of human rights.

- (b) Another group of information in the Charter is supplied by the provisions concerning the rights secured to the accused persons tried by the Tribunal.

This part will provide a direct and full answer as to the state of the law declared in the Charter, and as to the specific human rights protected within the category of "fair trial rights".

The information is contained in Arts. 9 and 10 and partly in Art. 15 of the Charter.

These articles cover the following rights of the accused:

- The right to know the substance of the indictment (Art. 9, a).
- The right to have the proceedings made intelligible by interpretation and translation, (Art. 9, a. and b.).
- The right to be present at the trial, and apply for production of evidence. (Art. 9, c. and e.)
- The right to be represented by Counsel and to conduct defence either in person or through Counsel. (Art. 9, c. and d.)
- The right to make motions, applications and requests prior to the commencement of the trial. (Art. 10.)

Article 15 covers a number of secondary rights deriving from the fundamental rights enumerated in Art. 9, such as the right to make a concise opening statement (Art. 15, c), the right to examine the witnesses including the accused giving testimony (Art. 15, e.) and the right to address the Tribunal (Art. 15, d.)

Apart from the above Articles, provisions having a bearing upon the exercise of the rights of the accused are contained in Articles regulating the powers of the Tribunal, particularly those dealing with the rule of expeditious trial (Art. 12), the admissibility and relevance of the evidence (Art. 13) and the rules regarding appeal and confirmation of the Judgment. (Art. 17.)

- (c) Finally, the Charter gives information as to the various spheres in which it is recognised under the terms of the provisions that the rights of the victims and of the accused may have conflicted at the time of the criminal offence.

It is rightly proposed to devote a separate chapter or section to this particular aspect of the information.

The relevant information as far as the Charter is concerned is contained in its Art. 6. It deals with the plea of superior orders and the official position held by the accused at the time of the criminal offence, and with their respective effect upon the penal responsibility of each of the individuals accused.

Here again, the Charter gives an answer only insofar as the State of Law is concerned, under which this question is to be decided upon by the Tribunal. The information concerning the actual application of this rule of law by the Tribunal to each of the individual defendants is to be obtained from the proceedings when they are completed and from the judgment when it is pronounced.

- (2) The information provided by the Indictment shows certain particular features and discloses certain shortcomings which deserve special attention.

The most striking feature is that one of the two criminal categories, covering the field of violations of human rights, namely, "Crimes against humanity", has been confined to a very narrow margin and practically set aside as unnecessary for the purposes of the prosecution.

As stressed in the "Summary" which accompanied the Indictment when forwarded to the United Nations War Crimes Commission, the prosecutors took the view that paragraph (b) of Article 5 providing for the "conventional war crimes", i.e. war crimes in the narrower sense, was "adequate to cover" also charges coming under paragraph (c), dealing with

"crimes against humanity". Consequently they have laid all their charges coming under this grouping, as representing "breaches of the laws and customs of war contained in or proved by the practice of civilised nations and the various Conventions governing the conduct of hostilities, the treatment of prisoners of war, and of persons and property in occupied territories. "

This course has been followed all through the relevant Counts of the Indictment, namely in Counts 53 and 55. These Counts come under Group Three of the charges, which is headed: "Conventional War Crimes and Crimes against Humanity". Yet in the text itself there is no further reference to "crimes against humanity". In Count 53 the accused are charged with a plan or conspiracy, the object of which was "to commit ... breaches of the laws and customs of war ... against the armed forces, ... many thousands of prisoners of war and civilians ...". In Count 55, they are charged with having "disregarded their legal duty to take steps to secure the observances, and prevent breaches" of the existing "Conventions and assurances and the laws and customs of war", whereby they have "violated the laws of war. "

The question which arises in this connection is whether by proceeding as described above the prosecutors had in fact neglected and discarded the notion of "crimes against humanity" altogether, or whether they had absorbed it one way or another under the notion of war crimes in the wider sense.

On the other hand, in contrast with the Nuremberg Indictment, the Far Eastern Indictment does not furnish to any degree particulars concerning actual war crimes or crimes against humanity committed by the Japanese. The charges in the Indictment are described in general terms only, so that insofar as full particulars are needed for the collection of information regarding the actual violations of human rights by the Japanese and the way in which they were considered and disposed of by the Far Eastern Tribunal, full information will be obtainable only when the Trial is ended. However, insofar as information is provided by the proceedings hitherto held before the Tribunal, it will be included in the Report if it is sent to the United Nations before the end of the Trial.

This information will be compiled from the Transcripts and Exhibits in the archives of the United Nations War Crimes Commission.

C. HUMAN RIGHTS IN TRIALS OTHER THAN THOSE
CONDUCTED BY THE INTERNATIONAL MILITARY TRIBUNALS.

(1) SOURCES.

The sources being used in the compilation of this section of the report are the following:

(a) The Municipal Legislation of various countries relating to war crime trials insofar as notable application has been made of individual provisions thereof in such trials. An examination of the records of these trials shows that numerous discussions in Court of issues relevant to the present Report have turned on, or have included reference to, articles appearing among such municipal enactments. The rules of procedure embodied therein provide much material relevant to the rights of the accused to a fair trial, but the usefulness of municipal war crimes legislation is not confined to this aspect, for provisions have frequently been made relating for instance to the plea of superior orders, and to the responsibility of a commander for offences committed by his troops with and without his having ordered the commission thereof.

(b) The Records of War Crime Trials. The Secretariat of the United Nations War Crimes Commission had in its possession on 6th August, 1947, records of 1,084 such trials, ranging from full verbatim transcripts of up to 4,055 pages in one instance (exclusive of separately printed exhibits) down to the barest of summaries.

The countries whose Courts have held these trials are the following: Australia, Canada, China, Czechoslovakia, France, Greece, the Netherlands, Norway, Poland, the United Kingdom and the United States.

Numerous further records which are currently arriving include the full transcripts of the Subsequent Proceedings Trials, which are being conducted by United States Military Tribunals in Nuremberg.

(2) CONTENTS.

(a) The section dealing with the Rights of Victims of War Crimes, and showing the extent to which such rights have been vindicated by war crime trials, has the following as its primary sub-division:

1. Inhabitants of occupied territories.
2. Other civilian populations.
3. Members of armed forces.
4. Prisoners of war.
5. The sick and wounded.
6. Medical personnel.
7. Captured spies.

These divisions are sub-divided as far as is necessary under various of the following headings, each of which represents a human right or group of rights:

- (i) Life,
- (ii) Health,
- (iii) Personal integrity,
- (iv) Freedom of movement,
- (v) Fair Trial,
- (vi) Family rights,
- (vii) Religious rights,
- (viii) Property,
- (ix) Civic rights.

Under each of the divisions numbered 1 - 7 the sub-divisions used are only those selected from among (i) - (ix), which are appropriate in view of the state of the law applied by the courts and the character of the material available. For instance, it is proving possible to arrange the material dealing with the rights of inhabitants of occupied territories under most if not all of these nine sub-headings, because of the wide variety of rights for whose violation war criminals have been punished. On the other hand, in dealing with the protection of the rights of captured spies as such, only the right to fair trial is being referred to.

This section, dealing with the rights of the victims of war crimes, includes, in addition to a quantity of material whose classification in accordance with the above scheme is proving quite straight forward, an examination of the following topics among others: the extension of judicial protection to cover persons taken from occupied territories and deported into enemy states; the extent of the protection afforded to civilians who take up arms against the occupant; the fact that it is not legally necessary in all circumstances to show that the criminal was actually an enemy national; the lack of protection of enemy nationals, under the laws and customs of war, against offences committed by their

fellow nationals; the remarkable scarcity of trials involving combatant troops as victims of illegal means of warfare, and also of trials involving allegations of violations of religious rights despite the existence of provisions of international law protecting the religious freedom of prisoners of war and of inhabitants of occupied territories; the interpretation of the provisions of the Geneva Prisoners of War Convention, and of those provisions of the Hague Convention which protect prisoners of war, so as to cover offences committed on the line of march as well as in camp; the withdrawal of certain rights under the Geneva Convention, connected with trial, from prisoners accused of having committed war crimes; and the types of punishment meted out to persons found guilty of war crimes. (It is worthy of note, for instance, that the death sentence, which theoretically can be awarded to any war criminal, has not only been inflicted for offences involving killing, but has, for instance, been meted out also to persons found guilty of torture.)

(b) The section headed: Spheres in which the Rights of the Accused and the Rights of the Victims may be said to have conflicted at the time of the offence is divided into a number of parts, in each of which an attempt is being made to show how municipal enactments and judicial practice have struck the balance between conflicting claims to the Court's consideration. These parts deal with the following:

1. The extent of Responsibility of a Commander for crimes committed by his troops.
2. The defences of Superior Orders, Duress and Coercion.
3. The related defence of Legality under Municipal Law.
4. The defence of Necessity.
5. The defence of Legitimate Reprisals.
6. The defence of Reasonable Mistake of Fact.
7. The plea of Self Defence.

There are many municipal enactments or judicial decisions to show that a commander who orders the commission of an offence is guilty along with the person who carries it out; the interesting question, however, is the extent to which a commander of troops can be held liable for offences which he did not order, on the ground that he knew, or ought to have or must have known, of their perpetration and/or ought to have used his authority to prevent them from being committed. On this problem there are a number of trials and a few specific municipal enactments; it has been necessary, however, to find, *inter alia*, how far the latter have merely shifted a burden of proof rather than created substantive law by making the commander vicariously liable for offences committed by his troops. It will freely be admitted that the extent to which a commander can fairly be made liable for offences which he did not order is not easy to lay down and some criteria which have been suggested during the various trial proceedings are set out in the Report.

If time permits, it is proposed to insert also, at an appropriate place in the Report, some pages on the extent of liability of persons such as those who have kept watch or guard while a war crime was committed, those who took part in a lynching, yet without striking the final fatal blow, and those whose part in a crime consisted in passing on orders received from above for its commission. It may be possible also to investigate the question of liability for the attempted perpetration of war crimes.

The problem raised by the question of the extent to which the defences of superior orders, duress and coercion can be admitted are of a different nature, but are no easier to answer. Defence Counsel have often argued that an accused would have been immediately executed for insubordination had he not carried out an order to perform a killing which was contrary to international law; on the other hand, the rights of the unfortunate victim cannot be forgotten. Municipal enactments contain many provisions on this problem and an attempt has been made in the Report to show their common

features, and interesting passages are quoted from the discussion in various trials of the defence of superior orders, which has been that most frequently pleaded by accused war criminals. Certain criteria for judging the admissibility of the defence have been suggested during these trials and these are also set out in the Report.

The sense of duty to obey the law of one's country is likely to be more abiding than the sense of duty towards the orders of a superior officer, but is probably in many circumstances less intense. Here again, however, the path of absolute justice has not always been easy to find. The treatment of this aspect is similar to that of the question of superior orders, duress and coercion.

On each of the remaining topics (5- 7) there exist sufficient trials to enable some pages to be devoted to them, but the work in this connection has not yet advanced to such an extent as to enable anything very detailed to be said as to the content of the passages. It may be remarked, however, that the attitude taken to the last two defences has not unnaturally been much the same as that taken in the municipal courts of the various countries concerned.

(c) The final section deals with: The Rights of the Accused at the Time of Trial. Material relating to the rights of an accused to a fair trial has been derived from an analysis of the laws and rules of the different countries relating to the trial of war criminals and from a study of their application in practice.

The rules relating to evidence and procedure which are applied in trials by the courts of the various countries, and by the International Military Tribunals in Nuremberg and Tokyo, when viewed as a whole, are seen to represent an attempt to secure to the accused his rights to a fair trial while ensuring that the guilty shall not escape punishment because of legal technicalities. Certain typical examples have been treated under the following headings, to which others will probably be added subsequently:

1. The Right of Accused to know the substance of the Charge.
2. The Right of the Accused to be Present at Trial and to give Evidence.
3. The Right of the Accused to have the aid of Counsel.
4. The Right of the Accused to have the Proceedings made Intelligible to him by Interpretation.
5. Rules regarding Appeal and Confirmation.
6. The Stress placed on Expeditious Procedure.
7. Rules of Evidence in General.
8. The Admissibility of Affidavits.
9. The Admissibility of Pre-Trial Statements by one Accused against another.
10. The Admissibility of Hearsay Evidence.
11. Accused not Entitled to the Rights of a Prisoner of War as regards Trial.

It will be noted that the stress in the earlier headings is on the rights of the accused while that in the latter headings is on provisions which ensure that the courts are not to be so bound by technical rules that the guilty shall benefit from the exceptional circumstances under which trials are held, and slip through the net of justice. It is clear that these latter provisions indirectly vindicate the rights of the victims of war crimes.

IV. THE STAGE REACHED IN DRAFTING THE REPORT.

(1) INFORMATION ON HUMAN RIGHTS ARISING OUT OF
THE RELATIONSHIP BETWEEN A STATE AND PERSONS
UNDER ITS JURISDICTION.

An outline of Part I of the Report has been drafted enlarging on the points indicated in Section II of this paper. The outline has been based, for the time being, on the relevant parts of the Nuremberg indictment and judgment and on the transcripts of some of the trials of Germans accused of crimes against humanity against German nationals and stateless persons held before German courts.

A survey of the material necessary for this part of the Report has been given in Section II.A. of this paper. It is assumed that some modifications of the scheme given in Section II of this paper will suggest themselves after a careful study of the transcripts of the Nuremberg trial, which has not been possible so far, and after the whole of the material of which use will be made, has been assembled. Attention is at present being devoted particularly to the draft of these parts of the final report dealing with the Nuremberg trial as far as it concerns Counts One and Four of the indictment. (cf. Section II, sub-section B.2 (1).)

(2) INFORMATION ON HUMAN RIGHTS PROTECTED
BY THE LAWS AND CUSTOMS OF WAR.

(a) An outline of the part dealing with the Nuremberg trial of the major war criminals has been drafted and circulated in Doc. III/102 of which the most relevant points have been included in the present Progress Report.

At the present stage drafts concerning the historical aspect of the problem and the information indicated in Sections I, II and III of Doc. III/102 are in preparation.

(b) An outline of the part of the Report which deals with the Tokyo trial has been prepared containing more elaborate considerations on certain points of legal interest. In view of the fact that the Tokyo trial is still in progress, the outline has been prepared with particular regard to the provisions of the Far Eastern Charter and of the charges contained in the Indictment submitted to the Far Eastern Tribunal. The relevant sources of information as a whole have been enumerated in Section III, B. above.

At the present time drafts for the final Report concerning the information supplied by the Charter and the Indictment are in preparation whereas the other two sources of information, which are as yet incomplete, are being scrutinised and analysed for drafts to be prepared in the near future.

(c) It remains to describe the stage reached in the drafting of the part of the Report which deals with trials of war criminals other than those conducted by the International Military Tribunal (Section III.C, above.)

A scheme of working has been drawn up arranging the whole of the relevant material under the headings and sub-headings set out above. (pp. 17-18)

In execution of this scheme, certain passages are now in draft form, including an Introduction and the bulk of the sections on the Responsibility of Commanders for Offences committed by their Troops, on the Defence of Superior Orders and on the Rights of the Accused.

The last **three** sections follow the lines already described. The Introduction sets out certain aspects of the protection of fundamental rights in municipal law systems and uses these as an analogy to be followed in the study of war crime trials from the same point of view. These introductory pages also point out and illustrate the difficulty of defining and drawing up, before studying the material available, any list of human rights the extent of whose protection in war crime trials is to be demonstrated, and emphasises that anyone making an investigation of war crime trials from the point of view of the protection or vindication of human rights must be left to some extent free to segregate and define for himself the relevant rights in the manner which he finds most convenient for the purpose of arranging and analysing the material with which he is confronted. Finally, the Introduction demonstrates in passing, that, while the vast majority of war crimes with which the courts have been called upon to deal have constituted violations of human rights, this has not invariably been so. The present intention is to amalgamate the Introduction, at a later stage, into a general Introduction to the whole Report.

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C. 263
17 September, 1947

UNITED NATIONS WAR CRIMES COMMISSION

COMMITTEE I

The Future of CROWCASS

Under cover of a letter dated June 17th, 1947, a Memorandum on the future of CROWCASS has been received from its Director. The text of that Memorandum was circulated in Document I/94, dated 6th August, 1947, and was submitted to Committee I for consideration.

With regard to the request from Major Lewis, Director of CROWCASS, put forward in his subsequent letter dated 22nd July, 1947, for an expression of the Secretary-General's views on the matter, Committee I, in its meeting of 13th August, 1947, (No. 110), suggested that the only question on which it was possible to express an opinion at the time was that concerning the proposal to transfer all the files and records of CROWCASS to the United Nations War Crimes Commission. As the Commission quite obviously has no facilities for taking delivery of such material, the Committee advised that CROWCASS should be thus informed. The Committee suggested also that CROWCASS should further be informed that the Commission was not prepared at the present time to offer any practical proposals in regard to the matter as a whole; if, however, it was felt at some future date that the Commission's advice would be helpful in regard to a specific question, then the Commission would be willing to consider such a question if submitted to it.

In accordance with the above recommendations a preliminary reply was sent to the Director of CROWCASS in a letter dated 15th August, 1947.

Under cover of a letter dated 21st August, 1947, a copy of the final Memorandum presented by the Director of CROWCASS to The Permanent Commission on CROWCASS, has been received. The most important amendment contained therein is the suggestion that as from January 1948, CROWCASS records should be handed to the French Authorities for a period of one year, and eventually handed to U.N.O.

The reason for this suggestion, according to the views expressed by the Director of CROWCASS, is that according to present indications, as at 31st December, 1947, approximately 50% of the persons still listed as wanted for war crimes will be wanted by France.

The final Memorandum has been submitted to Committee I for consideration, which, in its meeting of 4th September, 1947, took note of the above and decided to submit the matter to the Commission for further consideration.

The following is the text of the final Memorandum on the future of CROWCASS as submitted by that organisation to The Permanent Commission in Berlin.

To p. 2, Annex

A N N E X
to Doc. C.263

THE CENTRAL REGISTRY OF WAR CRIMINALS AND SECURITY SUSPECTS
Allied Control Authority
APO 742 U.S. Army

C O N F I D E N T I A L

SUBJECT: REPORT ON CROWCASS

18 August 1947

OBJECT: TO DETERMINE THE FUTURE OF CROWCASS

TO: The Permanent Commission on CROWCASS,
Legal Directorate,
Allied Control Authority,
Berlin.

(1) BACKGROUND

CROWCASS was set up under SHAEF to be a main registry and information agency to assist War Crimes Investigations and Security Services. It eventually had, in Paris, a staff of 10 Officers: 1 Colonel, 1 Lt. Col, 1 Major and 1 Capt - American; 1 Lt. Col, 1 Major and 2 Captains - British; 2 French Police Officers and 350 French employees.

Shortly after recommencing operations under the Legal Directorate, Allied Control Authority, in Berlin, it built up a staff of 6 Officers: 1 Lt. Col, 1 Major - American; 1 Lt. Col, 1 Major and 2 Captains - British; 12 other ranks (American and British) and 185 German employees. Once the back-log of some 70,000 documents had been cleared the policy was to reduce staff by means of streamlining operations, and improved methods of processing incoming reports and information.

Despite an average inflow of some 12,000 documents a month it has been possible to reduce the staff to 2 Officers: 1 Major, 1 Captain - British; and 7 other ranks (4 British and 3 American) and 78 German employees. There are in addition American and French Liaison Officers with small staffs attached. These Liaison Officers have proved to be very valuable and have greatly helped CROWCASS and the War Crimes Groups they represent.

(2) WAR CRIMES POLICY

The target date set by the American and British Military Authorities, for the conclusion of War Crimes trials, is Dec. 31st 47 with a possible extension of 3 months to Mar 31st 1948.

The Office Chief of Counsel for War Crimes Nurnberg will have served all their indictments by Dec 31st and have all the persons they require for trial or as witnesses by that date. The trials will probably proceed until June 1948.

The French War Crimes programme is not so far advanced and their investigations and enquiries will probably go on well into 1948.

The United Nations War Crimes Commission is also contemplating the closing down of its major activities in late 47, or early 1948. This is at present under discussion by the United Nations War Crimes Commission and it is hoped to get a definite answer in the near future. The United Nations War Crimes Commission are also holding discussions with the United Nations Organisation on the eventual use and disposition of the United Nations War Crimes Commission and its dossiers.

As the War Crimes Groups of the American and British Authorities and the United Nations War Crimes Commission are the three main using agencies of CROWCASS (accounting for 75% of the Organisation's work) it is thought that the eventual disposition of CROWCASS records should be seriously discussed now. This should be done in order that, before the withdrawal of British and American Military personnel, who now operate CROWCASS, the records may be set up in such a form that they are readily available for easy reference for the Allied Control Authorities and the War Crimes Groups of the Allied Nations and that copies of its records are placed in the hands of such organisations as may be deemed necessary.

(3) PRESENT STATE OF CROWCASS RECORDS

First let us review the present state of CROWCASS records and its accomplishment to date. These are made up of:-

(a) RECORDS (b) PUBLICATIONS and (c) CORRESPONDENCE

(a) RECORDS WANTED NAME INDEX 73,000 names

(which includes names of all persons of all nationalities wanted, or who have been wanted, for War Crimes purposes as perpetrators, suspects, witnesses or for interrogation)

WANTED REPORT FILING

50,000 reports

(the reports on which the name index is based)

DETAINED NAME INDEX

147,500 names

(which includes names of all persons who are known to have been detained for war crimes purposes, or as members of criminal organisations, and the names of persons who have subsequently been tried, sentenced, acquitted, released or who have died. Also information Slips re the location of persons of War Crimes interest)

DETENTION REPORT FILING

115,000 reports

(The reports on which the name index is based)

SECURITY SUSPECT NAME INDEX

145,000 names

(names of all persons who at one time or another were considered a security threat)

LIBRARY

(Containing all published lists and a variety of reference books)

(b) PUBLICATIONS

WANTED LISTS

15
(Containing approx.
65,000 names)

These have now been published in CONSOLIDATED form in a list which contains the names of all persons known to be still wanted for War Crimes purposes, and consists of:-

Part I	Germans only in two volumes A - L and M - Z containing	36,000 names
Part II	Other Nationalities listed alphabetically and by Nations containing	2,500 names

Supplementary List No. 1 containing additional names, amendments and corrections has been published and a further supplement is in preparation.

DETENTION LISTS

18
(Containing approx.
125,000 names)

These contain the names of all persons known to have been in detention at one time or another as War Criminals, alleged War Criminals, Witnesses, or as members of Criminal Organisations.

(Supplementary lists are in course of preparation)

(c) CORRESPONDENCE

(I)	Files of letters in Chronological/ Numerical order	15,000 letters
(II)	Card Index in alphabetical order to provide cross-reference to the letters	

CROWCASS has informed Wanting Authorities of the location of 5,000 persons definitely, and 6,500 persons possibly identical with the subject of their Wanted Reports.

Since recommending operations in Berlin, CROWCASS has processed 220,000 documents.

CROWCASS records are complete and up-to-date and the organisation is dealing with all incoming requests, reports, information letters, clearance for extradition etc., which as previously stated average 12,000 a month, without building up any back-log.

(4) FUTURE OPERATIONS AND OUTLOOK

The tempo, at the moment, is high and will probably increase over the next few months, as the British and American Authorities increase the pressure of their operations to clear up War Crimes trials and investigations. The French Authorities are also now carrying out an extensive programme in connection with War

Crimes which includes screening all their P.O.W. against the CROWCASS Consolidated Wanted List. This will add to the inflow of work, but, together with the efforts of the British and American Authorities, should reduce the number of persons wanted for War Crimes very considerably.

The Soviet Union have never used CROWCASS in any way and it appears unlikely that they will ever need it or use it in the future.

The smaller nations, in particular Poland, Belgium and Holland are still actively pursuing their War Crimes investigation and rapidly reducing the number of persons wanted.

The French are likely to become the main using agency of CROWCASS during the next 6 - 9 months as they have on file approximately 12,000 Wanted Reports in respect of persons wanted by France for War Crimes purposes. (12,000 will be approx. 50 % of the total number of persons still wanted).

CROWCASS will follow up its Consolidated Wanted List with SUPPLEMENTS at regular intervals giving additional names of persons wanted and amendments to the Consolidated Wanted List in the form of names of persons since detained, no longer wanted or otherwise disposed of. In October/November it is hoped to publish a further Consolidated Wanted List which would be the last but one.

The final Consolidated Wanted List should be published not later than Jan 1948.

Normal information will continue to be provided to all using agencies and War Crimes Groups of all Allied Nations, The United Nations War Crimes Commission, Office Chief of Counsel for War Crimes, Nuernberg; Intelligence Divisions/Branches, Public Safety (Special Branch), I.A. and C. Divisions, Combined Travel Board, and other interested Authorities.

It is anticipated that by the end of 1947 or early 1948 the major work of CROWCASS will have been accomplished and it will be possible to set it up in a smaller form with a very small staff to provide such information as will be required in the future. A possible form would be two master alphabetical lists containing all the names now contained in the CROWCASS Wanted and Detained Name Index for use in conjunction with the published lists.

The Security Suspects Name Index could be retained in its present form.

(5) QUESTIONS FOR CONSIDERATION

The main questions which arise are these:-

- (1) To which organisation or authority should the present CROWCASS records be handed?
- (2) Should the records be microfilmed and handed to the four occupying authorities and the United Nations War Crimes Commission?
- (3) Should the records be handed to the French occupation authorities, in Jan 1948, for their use until such time as their War Crimes programme is completed. (The French to make the final disposition in accordance with the agreed decision of the Allied Control Authority).
- (4) Should the present records be handed to the United Nations War Crimes Commission for eventual disposal to U.N.O. together with their files and dossiers?

(6) FACTORS

The following are the factors that must be taken into consideration.

(a) The United Nations War Crimes Commission hold all the evidence in connection with War Crimes. CROWCASS holds the names and reports containing details of the persons wanted and detained.

(b) The documents held by the United Nations War Crimes Commission and CROWCASS together constitute the only complete record and dossiers of persons who are or were wanted for War Crimes.

(c) It is considered that those War Criminals still at large in the world constitute a threat to the peace and safety of the world. Therefore it is felt that the eventual home for CROWCASS records should be the United Nations Organisation as they must be finally responsible for insuring that the world is rid of persons who because of their criminal activities in connection with War Crimes, Crimes against Peace and Crimes against Humanity are a menace to U.N.O and all its activities in pursuit of World Peace.

(7) CONCLUSION

In conclusion it is our opinion that:-

(a) CROWCASS records in their present form, possibly together with the United Nations War Crimes Commission dossiers, should eventually be handed over to U.N.O. (The records should be handed to France for a period not exceeding one year from Jan 1948).

(b) CROWCASS should set up two master alphabetical lists (together with the published lists) for use of the Allied Control Authorities in Germany.

(c) Zone Commanders in particular and all Allied National War Crimes Authorities should be pressed to inform CROWCASS as quickly as possible of the names of all persons wanted and detained by them so that CROWCASS may be of the greatest possible service to all in expediting the conclusion of War Crimes Investigations and Trials.

(Signed) C.V.J. LEWIS
Major
Director

O. 264.
13th October, 1947.

UNITED NATIONS WAR CRIMES COMMISSION.

Fifth Supplement
to the
Synopsis
of Trial Reports
(Doc.C.204).

Since the circulation of the Fourth supplement (Doc. C.255), the reports summarised in this paper have been received by the United Nations War Crimes Commission.

The following documents contain lists of trial reports received: C.204, C.208, C.222, C.233, C.255 and the present paper.

II. British Trials:

331) Trial of Lt. Yasuo Kishi and 14 others, all of the Kishi Coy.
J. Date & Place of trial: 28th March - 25th April, 1946, at
Hong Kong.

Charge: Being concerned in the beating, torture and mal-treatment of inhabitants of the Silver Mine Bay district of Lantau and in the killing of nine of the said inhabitants.

Verdict: Not guilty, 3.
Guilty, but with exceptions, 12.

Sentences: Death by hanging, 3,
Imprisonment for 10 years, 2,
" " 8 " 1,
" " 5 " 1,
" " 2 " 5.

One death sentence commuted to imprisonment for 10 years.

332) Trial of Capt. Kenzo Nagahara and 3 others of the Kempei Tai.
J. Date & Place of Trial: 3rd - 21st May 1946 at Rangoon.

Charge: (4 charges against them jointly and separately) being concerned in the ill-treatment of prisoners of war at the New Law Courts Gaol, Rangoon, causing physical suffering and/or death to British and American persons.

Verdict: Not guilty, 2.
Guilty, 2.

Sentences: Imprisonment for 4 years, 1,
" " 2 " 1.

Sentences confirmed.

333) Trial of Capt. Motozo Tazumi and 3 others of the Japanese Army.
J. Date & Place of Trial: 6 - 19 June 1946 at Rangoon.

Charge: That as members of the staff of Rangoon Central Gaol responsible for the well-being of the persons in custody, they were together concerned as parties to ill-treatment resulting in the deaths of at least 17 American POWs and physical suffering to others.

Verdict: All guilty, with exceptions.

Sentences: Death by hanging, 1,
Imprisonment for 15 years, 1,
" " 3 " 1,
" " 1 " 1.

Death sentence later commuted to imprisonment for life.

- 334) Trial of Corrado Sorcetti and Giuseppe Cornacchia, Italian Nationals.
Date & Place of Trial: 7th June 1946 at Ancona.
Charge: Being concerned in the killing of an unknown escaped British prisoner of war.
Verdict: Sorcetti, Not Guilty,
Cornacchia, Guilty.
Sentence: Death by shooting.
Sentence later commuted to imprisonment for life.
- 335) Trial of Sgt. Misao Ogasahara and Civ.Int.Nagasuke Toyoshima of the Japanese Army.
Date & Place of Trial: 27th-28th June, 1946 at Kuala Lumpur.
Charge: 4 charges of ill-treatment of civilian residents of Manila, resulting in the death of one person.
Verdict: Both accused found guilty.
Sentences: Death by hanging, 2.
Executed.
- 336) Trial of 2nd Lt. Shuji Murakami of the Imp.Japanese Army.
j. Date & Place of Trial: 1st and 2nd July 1946 at Kuala Lumpur.
Charge:(1) Ill-treatment of a civilian prisoner under interrogation by him.
(2) Causing the death of the said civilian prisoner.
Verdict: Not Guilty.
- 337) Trial of Emil Hoffmann, a German national.
Date & Place of Trial: 1 - 12 July 1946 at Hamburg.
Charge: That as a member of the Neuengamme Concentration Camp Staff, he was concerned in the ill-treatment of Allied nationals interned in the said camp.
Verdict: Guilty.
Sentence: Death by judicial hanging.
Confirmed.
- 338) Trial of Albert Letz, a German national.
Date & Place of Trial: 1 - 12 July 1946 at Hamburg.
Charge: That as a member of Neuengamme Concentration Camp staff, he was concerned in the ill-treatment of Allied nationals interned in the said camp.
Verdict: Guilty.
Sentence: Death by judicial hanging.
Findings confirmed, but sentence commuted to one of imprisonment for 12 years.
- 339) Trial of Longin Bladowski, a German national.
Date & Place of Trial: 1 - 12 July 1946 at Hamburg.
Charge: That as a member of the Neuengamme Concentration Camp staff he was concerned in the ill-treatment of the Allied nationals interned in the said camp.
Verdict: Guilty.
Sentence: Death by judicial hanging.
Findings confirmed, but sentence commuted to one of imprisonment for 12 years.
- 340) Trial of Friedrich Jacobsen, a German national.
Date & Place of Trial: 1 - 12 July 1946 at Hamburg.
Charge: That as a member of the Neuengamme Concentration Camp staff, he was concerned in the ill-treatment of Allied nationals interned in the said camp.
Verdict: Guilty.
Sentence: Imprisonment for 15 years.
Findings confirmed, but sentence commuted to imprisonment for 10 years.

- 341) Trial of Edgar Klemmt, a German national.
Date & Place of Trial: 1 - 12 July 1946 at Hamburg.
Charge: That as a member of the Neuengamme Concentration Camp staff, he was concerned in the ill-treatment of Allied nationals interned in the said camp.
Verdict: Guilty.
Sentence: Death by judicial hanging.
Findings confirmed, but sentence commuted to one of imprisonment for 15 years.
- 342) Trial of Ernst Wendefeuer, a German national.
Date & Place of Trial: 1 - 12 July 1946 at Hamburg.
Charge: That as a member of Neuengamme Concentration Camp staff, he was concerned in the ill-treatment of Allied nationals interned in the said camp.
Verdict: Guilty.
Sentence: Death by judicial hanging.
Findings confirmed, but sentence commuted to one of imprisonment for 10 years.
- 343) Trial of Johannes Thiele, Otto Hinze and Johannes Rehmke, German Nationals.
Date & Place of Trial: 22 - 25 July 1946 at Hamburg.
Charge: That they at Poppenbuttel, Germany, were concerned in the killing of a Polish national.
Verdict: Hinze, Not Guilty.
Thiele & Rehmke, Guilty.
Sentences: Thiele, death by judicial hanging.
Rehmke, Imprisonment for 10 years.
Findings confirmed, but sentence on Thiele commuted to imprisonment for 15 years.
- 344) Trial of Heinz Mark and 4 others, all German nationals.
Date & Place of Trial: 26-31 July, 1946, at Recklinghausen.
Charge: That at Jugesheim, Germany, they were concerned in the ill-treatment of a R.A.F. prisoner of war.
Verdict: Not guilty, 1.
Guilty, 4.
Sentences: Imprisonment for 8 years, 1,
" " 5 " 1,
" " 2 " 1,
" " 1 " 1.
Sentences confirmed.
- 345) Trial of Gerhard Poppenhagen and 3 others, German nationals.
Date & Place of Trial: 29 July - 13 August 1946 at Hamburg.
Charge: That they at Beendorf and elsewhere, between March 1944 and May 1945, when members of a concentration camp staff, were concerned in the ill-treatment and killing of Allied nationals interned in the camp.
Verdict: Guilty, 3.
Not guilty, 1.
Sentences: Death by hanging, 1,
Imprisonment for 15 years, 1,
" " 5 " 1.
Sentences confirmed.
- 346) Trial of Rikie Wo Yabuki of the Imp. Japanese Army, and 2 others.
J. Date & Place of Trial: 2 - 9 August 1946 at Hong Kong.
Charges: Ill-treatment of civilian residents of Hong Kong at the Kempeitai Headquarters, resulting in physical suffering. (2 charges).
Verdict: Guilty, but with exceptions and special findings.
Sentences: Imprisonment for 10 years, 1.
" " 6 " 1.
" " 3 " 1.
Findings confirmed, but sentences of 6 and 3 years commuted to 3 and 2 years respectively.

347) Trial of Major General Misao Otsuka and 42 others, all of the
J. Imp. Japanese Army, attached to R.E.M.E. Base
Workshops.

Date & Place of Trial: 8th August - 10th October 1946 at
Singapore.

Charge: That they at Singapore, between Feb. 1942 and August
1945, when responsible for the well being of the
persons in custody in the Military section of the
Outram Road Prison, were... together concerned as
parties to the ill-treatment and neglect of certain
of such persons causing the death of about 13 British
PoWs, about 4 Dutch PoWs and about 22 civilians, and
physical suffering to many other British, Dutch and
American PoWs and civilians there in custody.

Verdict: Not Guilty, 4.
Guilty, 39

Sentences: Death by hanging, 5,
Imprisonment for life, 5,
" " 15 years, 1,
" " 12 " 4,
" " 10 " 5,
" " 8 " 1,
" " 7 " 6,
" " 5 " 5,
" " 4 " 2,
" " 3 " 4,
" " 1 " 1,

Sentences confirmed.

348) Trial of Max Kochlin and 21 others, all German nationals.

Date & Place of Trial: 14 August - 3rd September, 1946 at Essen.

Charge: Being concerned in the ill-treatment and killing of
five members of the Royal Air Force, all prisoners of
war.

Verdict: Not guilty, 5.
Guilty (some with exceptions), 17.

Sentences: Death by hanging, 3,
Imprisonment for life, 1,
" " 15 years, 4,
" " 12 " 2,
" " 10 " 2,
" " 8 " 1,
" " 5 " 1,
" " 3 " 1,
" " 2 " 2,

Findings confirmed, but sentence of life imprison-
ment commuted to imprisonment for 15 years, two
sentences to 12 years commuted to imprisonment for
8 years and sentence of 10 years reduced to
imprisonment for 7 years.

349) Trial of Max Karl Georg Markwart, a German national.

Date & Place of Trial: 20-21 August, 1946 at Hamburg.

Charge: That when a member of a concentration camp staff, in
violation of the laws and usages of war, he was
concerned in the ill-treatment and killing of Allied
nationals, interned in such concentration camp.

Verdict: Guilty.

Sentence: Death by judicial hanging.
Sentence confirmed.

350) Trial of Tatsuichi Fumimoto of the Imperial Japanese Army.

J. Date & Place of Trial: 23rd August, 1946 at Singapore.

Charge: That when a member of the staff of several POW camps in Siam, he ill-treated British prisoners of war interned in the said camps, causing them physical suffering.

Verdict: Guilty.

Sentence: Death by hanging.

Findings confirmed, but sentence commuted to imprisonment for 10 years.

351) Trial of Albert Ernst, a German national.

Date & Place of Trial: 29th August 1946 at Hamburg.

Charge: (1) That when a member of the staff of the Neuengamme Concentration Camp, he ill-treated Polish and other allied nationals interned in the said camp.
(2) That when a member of the staff of the Neuengamme Concentration Camp, he ill-treated a Russian prisoner of war, whereby the said prisoner of war died.

Verdict: Guilty of both charges.

Sentence: Death by judicial hanging.
Confirmed.

352) Trial of Hugo Saggau and another German national, and Giovanni Bellini and 8 other Italian nationals.

Date & Place of Trial: 29th August - 25th September 1946 at Naples.

Charges: (1) (Against 4 accused) That in December 1944 they were concerned in the ill-treatment of a member of the R.A.F., a prisoner of war.
(2) (Against 7 accused) That in December 1944 they were concerned in the ill-treatment of the same member of the R.A.F., a prisoner of war.

Verdict: Not Guilty, 6.

Guilty, 5.

Sentences: Imprisonment for 20 years, 2,
" " 8 " , 1,
" " 5 " , 2.

Confirmed.

353) Trial of J.H.P. Zensen and 6 others, of the German army.

Date & Place of Trial: 6 - 17 September 1946 at Iserlohn.

Charge: Being concerned in the killing of a member of the Royal Canadian Air Force, a prisoner of war.

Verdict: Not guilty, 2.

Guilty, 5.

Sentences: Death by hanging, 5.

Findings confirmed but four sentences commuted to imprisonment for 15 years.

354) Trial of Wilhelm Vohs and 2 others, German nationals.

Date & Place of Trial: 12th September - 8th October 1946, at Wilhelmshaven.

Charge: That they at Wilhelmshaven between 1941 and 1945, in violation of the laws and customs of war, were concerned in the ill-treatment and killing of Allied nationals interned in Germany.

Verdict: All found guilty.

Sentences: Death by hanging, 1,
Imprisonment for 14 years, 1,
" " 1 year, 1.

Findings confirmed, but the GOC-in-C, BAOR refused to confirm the sentence of imprisonment for 1 year.

355) Trial of Hikosaku Kudo and 11 others of the Japanese Army.

J. Date & Place of Trial: 13th September - 18th October 1946 at Singapore.

Charge: That when in the service of the Occupying Power as members of the 19th Ambulance Corps (commonly known as the "Kudo Butai") being responsible for the medical care and attention of the civilian inhabitants of occupied territories employed in, and in connection with, the construction and maintenance of the Burma-Siam Railway, and the wives and families of the said civilian inhabitants, .. were concerned in the ill-treatment of the said civilian inhabitants and their wives and families resulting in their physical suffering and the deaths of many of them; that they were concerned in the wilful killing of several of the said inhabitants whose names are unknown, and that they were concerned in the ill-treatment of British and Dutch prisoners of war employed to assist in the medical care and attention aforesaid, causing physical suffering to many POWs. (3 charges against all or several of the accused.)

Verdict: Not guilty, 1.
Guilty, 11.

Sentences: Death by hanging, 2,
Imprisonment for life, 1,
" " 20 years, 1,
" " 15 years, 1,
" " 10 years, 1,
" " 5 " 1,
" " 3 " 1,
" " 2 " 1,
" " 9 months, 1,
" " 6 " 1.

Sentences confirmed.

356) Trial of Johann Fritz, a German national.

Date & Place of Trial: 16th September 1946 at Egg (Austria).

Charge: That he killed a member of the New Zealand Expeditionary Force, a prisoner of war.

Verdict: Guilty.

Sentence: Imprisonment for 12 years.
Confirmed.

357) Trial of Johann Felgitscher and 2 others, Austrian nationals.

Date & Place of Trial: 18 - 20 September 1946.

Charge: That at Kleinfelgitsch, Austria, in or about May 1943, they were concerned in the ill-treatment of a POW.

Verdict: Not guilty, 2.
Guilty, 1.

Sentence: Imprisonment for 6 months.
Confirmed.

358) Trial of Tscherny, Fuhrmann, Lueghans and 5 others, all German nationals, (Christian names unknown).

Date & Place of Trial: 20th September - 6th October 1946 at Verden.

Charge: That at Stalag XIB, they ill-treated British and Allied prisoners of war, and that they were concerned in the killing of a British prisoner of war. (2 charges).

Verdict: Not guilty, 5.
Guilty, 3.

Sentences: Imprisonment for 1 year, 1,
" 9 months, 1,
" 6 " 1.

Sentences confirmed.

359) Trial of Johannes Esser, a German national.

Date & Place of Trial: 24-25 September 1946 at Dusseldorf.
 Charge: That he ill-treated and killed an unknown British
 airman, a prisoner of war.
 Verdict: Guilty, except for the word "British".
 Sentence: Death by hanging.
 Confirmed.

360) Trial of Josef Pfisterer, formerly of the German Army.

Date & Place of Trial: 27 September - 3 October, 1946 at Graz.
 Charge: That he was concerned in the killing of a member of
 the New Zealand Expeditionary Force, a PoW.
 Verdict: Guilty.
 Sentence: Imprisonment for 17 years.
 Findings confirmed, but sentence commuted to
 imprisonment for 10 years.

361) Trial of Sgt. Hisashi Tobo, of the Imp. Japanese Army.

J. Date & Place of Trial: 30th September - 1st October 1946 at
 Rangoon.
 Charge: Being concerned in the ill-treatment of 3 civilian
 residents of Burma.
 Verdict: Guilty.
 Sentence: Imprisonment for 10 years.
 Confirmed.

362) Trial of Sgt. Maj. Hachiro Kumagai and 4 others of the Japanese Army.

J. Date & Place of Trial: 16th October - 20th November 1946 at
 Rangoon.
 Charge: Being concerned in the killing of 7 persons in their
 custody.
 Verdict: Guilty.
 Sentences: Death by hanging, 3,
 Imprisonment for life, 1,
 " " 10 years, 1.
 Findings confirmed, but one sentence of death commuted
 to imprisonment for 15 years, two sentences of death
 commuted to imprisonment for 12 years, sentence of 10
 years reduced to imprisonment for 5 years, and life
 sentence Not Confirmed.

363) Trial of Col. Isao Tokunaga and 4 others, members of the Japanese Army.

J. Date & Place of Trial: 17th October, 1946 - 14th February 1947 at
 Hong Kong.
 Charge: That when members of the staffs of various prisoner of
 war camps, they were concerned in the inhumane treat-
 ment of British, Canadian and Dutch PoWs, resulting in
 the deaths of some and in physical sufferings to others,
 (5 charges against all or several); that they were
 concerned in the maltreatment of 4 Canadian PoW; that
 they were concerned in the killing of 4 Canadian PoW;
 that they were concerned in the killing of 5 British
 PoW; that Col. Tokunaga, misappropriated for his own use
 Red Cross supplies of food, medicines, clothes, etc,
 intended for PoW in Hong Kong and further permitted and
 condoned the misappropriation of such supplies by his
 staff; that he was concerned in the beating, torture and
 unlawful killing of numerous Chinese civilians in Hong
 Kong and that another accused was concerned in the mal-
 treatment of two unidentified Chinese drivers and two or
 more British prisoners of war. (11 charges in all).
 Verdict: All accused guilty on one or more charges.
 Sentences: Death by hanging, 2,
 Imprisonment for 3 years, 1,
 " " 2 " 1,
 " " 1 year, 1.
 Confirmed.

364) Trial of Lt.Gen.Eiguma Ishida and 4 others of the Japanese Army.

J. Date & Place of Trial: 21st October - 3rd December 1946 at

Singapore, before a court consisting of 1 member of the Royal Netherlands East Indies Army, one member of the Australian Army and 2 British officers.

- Charge:(1) That while engaged in the administration of British, Australian and Dutch POWs employed in the construction of the Burma-Siam Railway, they were concerned in the inhumane treatment of the said POWs, resulting in the deaths of many and physical suffering of many others.
- (2) That they used the labour of British, Australian and Dutch POWs in work having connection with the operation of war, namely the construction and maintenance of the Burma-Siam Railway.
- (3) That they were concerned in the employment of the labour of the said POWs in work which was excessive having regard to the rank and capacity of the said POWs.
- (4) That they were concerned in the internment of the said POWs in conditions which were unhealthy and unhygienic.
- (5) (Against one accused only) That he was concerned in the killing of a British POW.
- (6) (Against one accused only) That he was concerned in the killing of three British POWs.
- (7) (Against one accused only) That he was concerned in the employment of British, Australian and Dutch POWs in work having a connection with the operation of war, thereby exposing them to aerial bombardment, resulting in the deaths of 20 POWs and physical injury to several others.

Verdict: All found guilty on one or more charges.

Sentences: Death by hanging, 2,
Imprisonment for 20 years, 1,
" " 10 " , 2.
Confirmed, but one sentence of 10 years commuted to imprisonment for 5 years.

365) Trial of Sgt. Katsumi Umeda and 2 others of the Japanese Army.

J. Date & Place of Trial: 22 - 28 October 1946 at Singapore.

Charge: Being concerned in the killing of five Indian POWs, names unknown.

Verdict: All found guilty.

Sentences: Imprisonment for 15 years, 2.

" " 7 " , 1.

Not confirmed.

366) Trial of Keiichi Takemoto of the Japanese Army.

J. Date & Place of Trial: 31 October and 1 November 1946 at Singapore.

Charge: That he ill-treated British POWs interned in a POW camp, and in particular one person, causing bodily injury and suffering.

Verdict: Guilty.

Sentence: Imprisonment for 2 years.

Confirmed.

367) Trial of Moritada Itomitsu and Teruyoshi Fujiyama, civilians.

J. Date & Place of Trial: 7 - 22 November 1946 at Kuala Lumpur.

Charge: Being concerned in the ill-treatment of civilian residents of Kuala Lipis, resulting in the deaths of 5 persons.

Verdict: Both found guilty(with exceptions).

Sentences: Death by hanging, 2.

Confirmed.

368) Trial of Josef Strohle, of the German army.

Date & Place of Trial: 18-21 November 1946 at Brunswick.

Charges: (1) That at Brunswick, when commandant of a PoW camp, he was concerned in the killing of a prisoner of war, a member of the Indian Army.

(2) That at various places, when commandant of PoW camps, he was concerned in the ill-treatment of British and Allied prisoners of war.

Verdict: Guilty of second charge only.

Sentence: Imprisonment for 3 years.
Confirmed.

369) Trial of Major Tomoyuki Ikegami and 5 others of the Japanese Army.

J. Date & Place of Trial: 19 November - 2nd December 1946 at Singapore.

Charges: (1) (Against all accused) Being concerned in the killing of 11 prisoners of war, members of the Indian army.

(2) (Against first accused only) Being concerned in the killing of 5 Indian prisoners of war, names unknown.

Verdict: All found guilty.

Sentences: Death by hanging, 1,
Imprisonment for 10 years, 4,
" " 5 " , 1.

Not confirmed.

370) Trial of Capt. Eikichi Kamimura and 2nd Lt. Katsuyuki Yamaguchi, of the Japanese Army.

J. Date & Place of Trial: 26-30 November 1946 at Jesselton, B.N.B.

Charge: Being concerned in the killing of Indian prisoners of war by bayonetting and beheading them.

Verdict: Both guilty.

Sentences: Death by hanging, 2.
Not confirmed.

371) Trial of Capt. Kanemitsu Hojo and 7 others of the Japanese Army.

J. Date & Place of Trial: 28th November - 13th December 1946 at Singapore.

Charge: That as commandant and staff of the Pankalan Balai PoW camp, they were concerned in the ill-treatment of prisoners of war, resulting in physical and mental suffering to many of them.

Verdict: All found guilty.

Sentences: Imprisonment for 12 years, 1,
" " 10 " 2,
" " 7 " 1,
" " 5 " 1,
" " 3 " 2,
" " 2 " 1.

Sentences later commuted as follows:

From 12 years to imprisonment for 6 years

" 10 " " " 4 "
" 10 " " " 5 "
" 7 " " " 3 "
" 5 " " " 3 "

372) Trial of Sgt. Hisashi Miyamoto of the Japanese Army.

J. Date & Place of Trial: 2 - 4 December 1946 at Jesselton.

Charge: Ill-treatment of civilian residents of Telipok, which resulted in the death of certain persons. (3 charges);

Verdict: Guilty of 2 charges. 1 charge withdrawn by the prosecution.

Sentence: Death by hanging.
Confirmed.

373) Trial of Col. Iju Sugasawa of the Japanese Army.

J. Date & Place of Trial: 6 - 17 December 1946 at Singapore, before a court consisting of one Dutch, one Australian, one Indian and one British officer.

Charge: (1) That when in command of the Siam PoW administration, he employed British, Australian and Dutch PoWs in work having connection with the operation of war, thereby exposing them to aerial bombardment, resulting in the deaths of many.

(2) Ill-treatment of 7 Indian PoWs interned in Kanburi camp.

(3) Inhumane treatment of British, Australian and Dutch PoWs, causing physical suffering.

Verdict: Guilty, with an exception.

Sentence: Imprisonment for 12 years.
Confirmed.

374) Trial of S.M. Keikichi Takahashi of the Japanese Army.

J. Date & Place of Trial: 7 - 31 December 1946 at Rangoon, before a court consisting of one British and two Indian officers.

Charge: Being concerned in the killing of a civilian resident of Ludaw Village, Burma.

Verdict: Guilty.

Sentence: Imprisonment for 10 years.
Confirmed.

375) Trial of Heinrich Adolf Siebert, a German national.

Date & Place of Trial: 10 - 13 December 1946 at Recklinghausen.

Charge: Ill-treatment of an unknown British airman, a PoW.

Verdict: Guilty.

Sentence: Imprisonment for 6 months.
Confirmed.

376) Trial of Capt. Kosuke Goshi and W/O Noriie Yano of the Japanese Army.

J. Date & Place of Trial: 18 - 23 December 1946 at Kuala Lumpur.

Charge: Being concerned in the killing of a civilian inhabitant of Kuala Lipis, Malaya, occupied territory.

Verdict: Both guilty.

Sentences: Death by hanging, 1,
Imprisonment for 20 years, 1.
Confirmed.

377) Trial of Lt. Gen. Sakon Watari and 8 others of the Japanese Army.

J. Date & Place of Trial: 20th December 1946 - 20th January 1947 at Singapore.

Charge: Being concerned in the ill-treatment of a party of British, Australian and Dutch prisoners of war employed in road building, resulting in the death of many and bodily suffering of many others.

Verdict: Not guilty, 4,

Guilty, 5.

Sentences: Imprisonment for 10 years, 2,

" " 7 " 2,

" " 5 " 1.

One sentence of 10 years reduced to imprisonment for 5 years.

378) Trial of Col. Kennosuke Noma of the Japanese Army.

J. Date & Place of Trial: 24 Dec. 1946 - 24 Feb. 1947 at Hong Kong.

Charge: Ill-treatment of civilian residents of Hong Kong, resulting in the death or unlawful killing by members of the Japanese forces, of many, and physical suffering of many others.

Verdict: Guilty.

Sentence: Death by hanging.
Confirmed and executed.

379) Trial of Sgt. Yoshiharo Arikawa (and W/O Hayato Kokuryo, not tried).

J. Date & Place of Trial: 30th December 1946 - 3rd January 1947 at Kuala Lumpur.
Charge: That when in the service of the occupying Power, they were concerned in the killing of civilian residents of the occupied territory.
Verdict: Guilty.
Sentence: Imprisonment for 20 years.
Confirmed.

380) Trial of Lt. Yoshio Osato and Kor.Gd.Heiji Ozawa of the Japanese Army.

J. Date & Place of Trial: 1st - 6th January 1947 at Singapore.
Charge: That when members of the staff of a PoW camp they were concerned in the ill-treatment of British and Dutch PoWs interned therein causing bodily suffering.
Verdict: Guilty.
Sentences: Imprisonment for 4 years, 1,
" " 3 " , 1.
One year's imprisonment remitted from each sentence.

381) Trial of Solms Wittig and 12 others, all German nationals.

Date & Place of Trial: 2nd January - 3rd February 1947 at Brunswick.
Charge: That as managers and staff of a labour camp, they were concerned in the ill-treatment and killing of Allied nationals interned in the camp.
Verdict: 4 of the accused did not stand for trial.
2 not guilty,
2 guilty with exceptions,
5 guilty.
Sentences: Death by hanging, 5,
Imprisonment for 10 years, 1,
" " 2 " 1.
2 death sentences commuted to imprisonment for 20 and 7 years respectively.

382) Trial of Colonel Nunzio Nicita of the Italian Army.

Date & Place of Trial: 6th January 1947
Charge: That when commandant of a PoW camp, he ill-treated 5 members of the South African forces, prisoners of war.
Verdict: Guilty.
Sentence: Imprisonment for 4 months.
Confirmed.

383) Trial of Sgt.Maj. Seiji Matsui of the Japanese Army.

Date & Place of Trial: 7th and 8th January 1947 at Jesselton.
Charge: Being concerned in the killing of a civilian resident of Lahad Datu, British Borneo.
Verdict: Guilty.
Sentence: Imprisonment for 15 years.
Confirmed.

384) Trial of Civ.Interpreter Shigenobu Hirota.

J. Date & Place of Trial: 7 - 13th January 1947 at Kuala Lumpur.
Charge: Being concerned in the ill-treatment of 6 civilian residents of Malaya, causing physical suffering.
Verdict: Guilty with exceptions.
Sentence: Imprisonment for 7 years.
Confirmed.

385) Trial of Walter Klettke and 3 others, German nationals. (One absent).

Date & Place of Trial: 7 - 9 January 1947 at Hamburg.
Charge: Being concerned in the killing of an unknown British airman, a prisoner of war.
Verdict: Not guilty, 1.
Guilty, 2.
Sentences: Imprisonment for 15 years, 2.
Confirmed.

- 386) Trial of Capt. Masao Kaneta of the Japanese army.
J. Date & Place of Trial: 9th January 1947 at Jesselton.
Charge: Being concerned in the killing of civilian residents of Lahad Datu, British Borneo.
Verdict: Guilty.
Sentence: Death by hanging.
Confirmed and executed.
- 387) Trial of W/O Masao Tabata and 2 others of the Japanese Army.
J. Date & Place of Trial: 14 - 20 January 1947 at Kuala Lumpur.
Charge: Being concerned in the ill-treatment of 3 civilian residents of Malaya, resulting in the death of one.
Verdict: All guilty.
Sentences: Death by hanging, 1,
Imprisonment for 20 years, 2.
Sentence of death commuted to imprisonment for 15 years, and 5 years remitted from other two sentences.
- 388) Trial of Lt.Col. Seichii Murayama and 5 others of the Japanese Army.
J. Date & Place of Trial: 15th January - 21st March 1947 at Rangoon.
Charge: Being concerned in the ill-treatment of 4 British prisoners of war, members of the R.A.F.
Verdict: All found guilty.
Sentences: Death by hanging, 4,
Imprisonment for 2 years, 1,
" " 1 " 1.
One death sentence commuted to imprisonment for 10 years.
- 389) Trial of Heinz Stumpp and 3 others, German nationals.
Date & Place of Trial: 20th January 1947 at Hanover.
Charge: Being concerned in the killing of two unknown British POW.
Verdict: All found guilty.
Sentences: Death by hanging, 1,
Imprisonment for 10 years, 2,
" " 3 " 1.
Confirmed.
- 390) Trial of Masaji Wo Nakao of the Japanese Army.
J. Date & Place of Trial: 20-21 January 1947 at Jesselton.
Charge: Being concerned in the killing of a Dusun woman and one other civilian resident of Ruminding. (2 charges)
Verdict: Guilty of one charge.
Sentence: Imprisonment for 10 years.
Confirmed.
- 391) Trial of Lt. Koji Tamaki and 2 others of the Japanese Army.
J. Date & Place of Trial: 20th January - 7th February 1947 at Hong Kong.
Charge:(1) (Against all accused) Being concerned in the ill-treatment of POWs in their custody causing suffering to many and contributing to the death of some.
(2) (Against first accused) Being concerned in the ill-treatment of POWs in his custody, causing suffering.
Verdict: All found guilty.
Sentence: Imprisonment for 15 years, 1,
" " 12 " 2.
Confirmed.
- 392) Trial of Sgt. Akira Inushina of the Japanese Army.
J. Date & Place of Trial: 22nd January 1947 at Jesselton.
Charge: Being concerned in the killing of two and the ill-treatment of another civilian resident of Lahad Datu, British Borneo.
Verdict: Guilty.
Sentence: Death by hanging.
Confirmed and executed.

- 393) Trial of W/O Shinichi Matsuo and Sgt. Masaichi Maruo of the Japanese Army.
Date & Place of Trial: 22nd January 1947 at Singapore.
Charge: Being concerned in the ill-treatment of prisoners of war and of one in particular.
Verdict: Guilty.
Sentence: Imprisonment for one day.
Confirmed.
- 394) Trial of Nello Christianini and 2 others, Italian nationals.
Date & Place of Trial: 23rd January 1947 at Mestre.
Charge: Ill-treatment of an unidentified Allied airman, a POW.
Verdict: Not guilty.
- 395) Trial of Sebastian Scherer, a German national.
Date & Place of Trial: 23 - 25 January 1947
Charge: Being concerned in the ill-treatment of British POWs by causing them to work under dangerous conditions thereby causing the death of one.
Verdict: Not Guilty.
- 396) Trial of Capt. Shinichi Nakata and W/O Shigeo Kosaka of the Japanese Army.
Date & Place of Trial: 24-25 January 1947 at Jesselton. ^ZArmy.
Charge: Being concerned in the killing of civilian residents of Sandakan, British Borneo.
Verdict: Both found guilty.
Sentences: Death by hanging, 1,
Imprisonment for 20 years, 1.
Confirmed and executed.
- 397) Trial of Sgt. Shotaro Takashima and Cpl. Koichi Asako of the Japanese Army.
Date & Place of Trial: 25-30 January 1947 at Singapore. ^ZArmy.
Charge: Ill-treatment of Indian POWs by forcing sick men to work and the neglect of proper medical attention, resulting particularly in the deaths of two.
Verdict: Not guilty, 1.
Guilty, 1, (with exceptions).
Sentence: Imprisonment for life.
Not confirmed.
- 398) Trial of Kintaro Kitada, a Japanese civilian.
Date & Place of Trial: 28th January 1947 at Kuala Lumpur.
Charge: That as Chief Police Officer he was concerned in the ill-treatment of civilians in police custody and in particular causing physical suffering to two persons.
Verdict: Guilty.
Sentence: Imprisonment for 8 years.
Confirmed.
- 399) Trial of Romolo Rossi and Virgilio Faini, members of the Italian Fascist Federation.
Date & Place of Trial: 29 January 1947 at Mestre. ^ZFederation.
Charge: Being concerned in the killing of a member of the British forces.
Verdict: Not Guilty.
- 400) Trial of Johannes Engel, a German national.
Date & Place of Trial: 29th January 1947 at Essen.
Charge: Ill-treatment of an unknown British airman, a POW.
Verdict: Guilty.
Sentence: Imprisonment for 6 months.
Confirmed.

- 14-
- 401) Trial of Yukio Wakayama and Keiji Kawatoko, civilians.
J. Date & Place of Trial: 29th January - 4th February 1947 at Singapore.
Charge: Ill-treatment of civilian residents of Singapore,
resulting in the physical suffering of many (2 charges).
Verdict: Guilty.
Sentences: Imprisonment for 6 months, 1.
 " " 3 " 1.
Confirmed.
- 402) Trial of Staff Sgt. Daizo Tokumaru and Sgt. Tadayoshi Taki of the
J. Japanese Army and Josef Kutron, a civilian.
Date & Place of Trial: 31st Jan - 24th Feb. 1947 at Singapore.
Charge: Ill-treatment of civilian residents of Singapore,
resulting in physical suffering. (2 charges).
Verdict: Guilty.
Sentences: Imprisonment for 5 years, 1,
 " " 3 " 1,
 " " 2 " 1.
Confirmed.
- 403) Trial of Sgt. Kazuo Kuwata of the Japanese Army.
J. Date & Place of Trial: 3rd - 6th February 1947 at Kuala Lumpur.
Charge: Being concerned in the ill-treatment of 9 civilian
inhabitants of Malacca, resulting in physical suffering.
Verdict: Guilty, with an exception.
Sentence: Imprisonment for 9 years.
Confirmed.
- 404) Trial of Ryuzo Nishimiya and Chosei Yagi, civilians.
J. Date & Place of Trial: 8th - 10th February 1947 at Singapore.
Charge: Being concerned in the ill-treatment of 6 civilian
inhabitants of Singapore, resulting in physical
suffering.
Verdict: Guilty, 2.
Sentences: Imprisonment for 4 years, 2.
Confirmed.
- 405) Trial of Field Marshal Albert Kesselring, a German National.
Date & Place of Trial: 10th February - 6th May 1947 at Venice.
Charge: (1) That when in charge of 317 Transit Camp, Mestre,
he was concerned in the killing, as a reprisal, of some
335 Italian nationals in the Ardeatine Caves.
(2) That when Commander-in-Chief, Army Group South West, he
incited and commanded the German armed forces and German
police forces in Italy under his command to kill Italian
civilians as reprisals in consequence of which a number
were killed.
Verdict: Guilty of both charges.
Sentence: Death by shooting.
- 406) Trial of Sgt. Maj. Toshiyuki Hyodo and 2 others of the Japanese Army.
J. Date & Place of Trial: 10 - 17 February 1947 at Singapore.
Charge: Being concerned in the ill-treatment of civilian
residents of Singapore, which resulted in the death of
one person.
Verdict: Guilty, with exceptions, 2.
Not guilty, 1.
Sentences: Imprisonment for 10 years, 1.
 " " 6 " 1.
Confirmed.

- 407) Trial of Capt. Shigeo Shibata and Sgt. Maj. Takao Oba of the Japanese Army.
 Date & Place of Trial: 10th February - 7th March 1947 at Hong Kong.
 Charge: Ill-treatment of civilian residents of Hong Kong who were in the custody of the Eastern Kempeitai Headquarters and the accused, thus causing the death of some and physical sufferings to others.
 Verdict: Not guilty, 1.
 Guilty, with exceptions, 1.
 Sentence: Imprisonment for 3 years.
 Confirmed.
- 408) Trial of Hermann Haug and Hermann Roller, German Nationals.
 Date & Place of Trial: 11th - 13th February 1947 at Essen.
 Charge: Being concerned in the ill-treatment of a member of the Royal Air Force.
 Verdict: Not Guilty.
- 409) Trial of Karl Gustav Moeller and 2 others, German nationals.
 Date & Place of Trial: 18th February - 1st March 1947 at Hamburg.
 Charge: Being concerned in the ill-treatment of Allied nationals employed as slave labour, (2 charges) and (against one accused only), issuing directions that Allied airmen were not to be taken prisoners of war alive.
 Verdict: All found guilty.
 Sentences: Imprisonment for 3 years, 1,
 " " 18 months, 1,
 " " 9 " , 1.
 Confirmed and 3 months' imprisonment remitted from 9 months sentence.
- 410) Trial of Engelbert (Englebert) Felix Franz Lap and Karl Neulist, German nationals.
 Date & Place of Trial: 18th February - 3rd March 1947 at Essen.
 Charge: (1) Being concerned in the ill-treatment by shooting and wounding of a prisoner of war, of the Union Defence Forces,
 (2) (Against Lap only) That he gave orders to sentries to fire without challenge at prisoners of war who touched or crossed the trip wire which enclosed the camp exercise ground.
 Verdict: Neulist guilty,
 Lap not guilty of either charge.
 Sentence: Imprisonment for 3 years.
 Confirmed.
- 411) Trial of Capt. Toshikazu Hakuzaki and 3 others of the Japanese Army.
 J. Date & Place of Trial: 24th February - 7th March 1947 at Singapore.
 Charge: Ill-treatment of British, American, Dutch prisoners of war, causing bodily suffering to many.
 Verdict: Not guilty, 1.
 Guilty, 3.
 Sentence: Imprisonment for 6 years, 1,
 " " 5 " 1,
 " " 2 " 1.
 Confirmed.

- 412) Trial of Hadrian Ried, a German national.
Date & Place of Trial: 25th - 27th February 1947 at H.Q., 5 Division, E.A.O.R.
Charge: (1) That knowing an order existed at a PoW camp that where necessary when prisoners of war were outside Barracks during an air raid, sentries were to use their arms, he took no steps to cancel the said order, as a consequence of which 2 British PoWs were shot and killed without trial.
(2) That as commandant of Oflag VIIB he issued an order to sentries to shoot at all PoWs disobeying the order forbidding them to remain outside their quarters five minutes after an air raid warning had been given.
Verdict: Not Guilty.
- 413) Trial of Giuseppe Berti, an Italian national.
Date & Place of Trial: 27th February 1947 at Mestre.
Charge: Being concerned in the killing of a PoW, a member of the South African Artillery.
Verdict: Not Guilty.
- 414) Trial of Mitsuzo Mori, a Japanese civilian.
J. Date & Place of Trial: 5th - 7th March 1947 at Singapore.
Charge: Being concerned in the ill-treatment of Javanese, Malay, Indian and Chinese coolies and headmen, contributing to the deaths of approximately 50 of them and resulting in physical sufferings to many.
Verdict: Guilty, with exceptions.
Sentence: Imprisonment for 10 years.
Confirmed.
- 415) Trial of Mosaburo Tominaga and Takashige Nagata, civilians.
J. Date & Place of Trial: 5th - 17th March 1947 at Singapore.
Charge: Being concerned in the killing of a civilian resident of Singapore.
Verdict: Both found guilty.
Sentences: Imprisonment for 10 years, 1.
" " 6 " , 1.
Confirmed.
- 416) Trial of Heinz Stollpflug and 5 others, German nationals.
Date & Place of Trial: 7th March - 1st May 1947 at Osnabruck, before a court consisting of 1 Australian and 4 British officers.
Charge: Killing of Allied airmen, prisoners of war, killing of 5 American airmen, PoWs, 3 British, and 1 Australian airmen, PoWs. (10 charges against all or several of the accused.)
Verdict: Not guilty, 3, (One acquitted on 22nd day of trial).
Guilty, 3.
Sentences: Death by hanging, 2,
Imprisonment for 15 years, 1.
- 417) Trial of Maj. Gen. Toshishige Shoji of the Japanese Army.
J. Date & Place of Trial: 10th - 17th March 1947 at Hong Kong, before a court consisting of 1 Canadian and 2 British officers.
Charge: Being concerned in the ill-treatment and killing of British, Canadian, Chinese and Indian troops and Red Cross personnel after they had been taken prisoners of war.
Verdict: Not guilty.

- 418) Trial of Lt. Gen. Takuma Nishimura and 6 others of the Japanese Army.
J. Date & Place of Trial: 10th March - 2nd April 1947 at Singapore.
Charge: Being concerned in the massacre of Chinese residents of Singapore Island, for the lives and safety of whom they were responsible.
Verdict: Guilty.
Sentences: Death by hanging, 2,
Imprisonment for life, 5.
Confirmed and executed.
- 419) Trial of Reinhardt Emil Schulz a German national.
Date & Place of Trial: 11-12 March 1947
Charge: Being concerned in the ill-treatment of 2 British POWs.
Verdict: Not guilty.
- 420) Trial of Kurt Otto Kemmerich, a German national.
Date & Place of Trial: 11 - 31 March 1947 at Hamburg.
Charge: Being concerned in the killing of a Polish national.
Verdict: Not guilty.
- 421) Trial of Kurt Wolff, a German national.
Date & Place of Trial: 18th March 1947 at Brunswick.
Charge: That when officer in charge of prisoners of war, he exposed to air raid action British prisoners of war in Working Kommando BAB 20, then quartered in a target area by failing to provide air raid shelter for the said prisoners of war or to move them to safer quarters outside the said target area, thereby causing the deaths of 4 persons.
Verdict: Guilty.
Sentence: Imprisonment for 7 years.
- 422) Trial of Karl Hecht and 6 others, German nationals.
Date & Place of Trial: 18th March - 2nd April 1947 at Hamburg.
Charge:(1) (Against 1 accused): Being concerned in the killing and ill-treatment of Allied nationals interned in a labour camp.
(2) (Against 5 accused) : Being concerned in the ill-treatment of Allied nationals interned in the said labour camp.
(3) (Against 1 accused): That when a doctor and charged with the medical care of Allied nationals, by wilful neglect of his duties he caused unnecessary suffering and deaths of a number of Allied nationals.
Verdict: Guilty, 3.
Not Guilty, 4.
Sentences: Imprisonment for 7 years, 1,
" " 5 " , 1,
" " 6 months, 1.
Confirmed.
- 423) Trial of Sgt.Maj. Haruji Ogasawara and Sgt. Hisao Kawai,
J. Date & Place of Trial: 21 - 31 March 1947 at Hong Kong.
Charge: Being concerned in the killing of civilian residents of Taipo, and being concerned in the ill-treatment of civilian residents of Taipo, resulting in the death of one person. (2 charges).
Verdict: Not guilty, 1.
Guilty, 1.
Sentence: Imprisonment for 10 years.
Confirmed.

- 424) Trial of Sgt. Maj. Kitaichi Jotani of the Japanese army.
J. Date & Place of Trial: 25 - 31 March 1947 at Singapore.
Charge: That when in charge of a draft of British and Dutch PoWs, he was concerned in their ill-treatment resulting in the death of about 98 of them and in physical sufferings to many others.
Verdict: Guilty.
Sentence: Death by hanging.
Confirmed and executed.
- 425) Trial of Cpl. Shinzo Numata of the Japanese army.
J. Date & Place of Trial: 1 - 8 April 1947 at Singapore.
Charge: Being concerned in the ill-treatment of a person on Singapore Island, as a result of which the person died.
Verdict: Guilty.
Sentence: Imprisonment for life.
Confirmed.
- 426) Trial of Kasaku Kamai.
J. Date & Place of Trial: 8 - 9 May 1947 at Singapore.
Charge: Being concerned in the gross ill-treatment of British subjects, coolies employed in the construction of the Kra-Railway.
Verdict: Guilty, except for the word "gross".
Sentence: Imprisonment for 2 years.
Confirmed.
- 427) Trial of Major Yasumori Takoshita and Sgt. Maj. Koheiji Tsuchiya of the Japanese Army.
J. Date & Place of Trial: 8th - 28th April 1947 at Rangoon.
Charge: Being concerned in the ill-treatment of a civilian resident of Burma, as a result of which the said person died.
Verdict: Guilty.
Sentences: Imprisonment for 12 years, 1.
" " 5 " , 1.
Confirmed.
- 428) Trial of Jochim Struck and Paul Friedrich Wilhelm Wilhelmsen, German nationals.
Date & Place of Trial: 10th April 1947 at Hamburg.
Charge: Being concerned in the ill-treatment of an unknown Allied airman.
Verdict: Not guilty.
- 429) Trial of Willi Tensfeld, a German national.
Date & Place of Trial: 14 - 18 April 1947 at Padua.
Charge: That he was concerned in the killing without trial of a British Private soldier and 17 Italian nationals, partisans, and that he was concerned in the killing as a reprisal of 12 Italian nationals. (2 charges)
Verdict: Not Guilty.
- 430) Trial of Sgt. Oshio Tsuchida, alias Yasida, alias Bota, of the Japanese army.
J. Date & Place of Trial: 14th - 22nd April 1947 at Kuala Lumpur.
Charge: Being concerned in the ill-treatment of civilian residents of Malaya. (2 charges).
Verdict: Guilty with exceptions.
Sentence: Imprisonment for 4 years.
Confirmed.

- 431) Trial of Gustav Rennecke, a German national.
Date & Place of Trial: 22 - 24 April 1947 at Hamburg.
Charge: Being concerned in the killing of two British PoWs.
Verdict: Guilty.
Sentence: Imprisonment for 20 years.
Confirmed.
- 432) Trial of Sgt. Tsunezo Watanabe of the Japanese Army.
J. Date & Place of Trial: 28th April - 5th May 1947 at Kuala Lumpur.
Charge: Being concerned in the ill-treatment of Chinese civilian residents of Kuala Lumpur, and contributing to the death of one.
Verdict: Not guilty.
- 433) Trial of Gustav Wrobel, a German national.
Date & Place of Trial: 29th April 1947 at Hamburg.
Charge: Being concerned in the killing of a Canadian PoW.
Verdict: Not Guilty.
- 434) Trial of Hideo Tagawa, alias Chang Siew Foo.
J. Date & Place of Trial: 5th May 1947 at Kuala Lumpur.
Charge: That while acting as interpreter to the Japanese O.C.P.D. he was concerned in the ill-treatment of 5 civilian residents of Selangor, Malaya

Plea in Bar of Trial entered on the grounds that accused is of Chinese nationality. Plea upheld by the court which has no jurisdiction.
- 435) Trial of Masanori Matsuoaka, alias Hiu Nien Huin.
J. Date & Place of Trial: 8th - 9th May 1947 at Kuala Lumpur.
Charge: Being concerned in the ill-treatment of 5 civilian residents of Selangor.
Verdict: Guilty.
Sentence: Imprisonment for 7 years.
Confirmed, but one year remitted from sentence.
- 436) Trial of Pasquale Cervi, an Italian national.
Date & Place of Trial: 9 - 10 May 1947 at Padua.
Charge: That he wounded a British PoW.
Verdict: Not guilty.
- 437) Trial of Haruyoshi Nakanishi of the Japanese Army.
J. Date & Place of Trial: 14 - 20 May 1947 at Singapore.
Charge: That while in charge of a draft of British and Dutch prisoners of war, he was concerned in their ill-treatment causing physical suffering to many.
Verdict: Guilty.
Sentence: Imprisonment for 2 years.
Confirmed.
- 438) Trial of Konrad Mangold and 3 others, German nationals.
Date & Place of Trial: 22 - 29 May 1947 at Brunswick, before a
Charge: court consisting of 1 Australian and 4 British officers.
Charge:(1) (Against all accused) Being concerned in the killing of an Australian airman, a prisoner of war.
(2) (Against Mangold only) Being concerned in the killing of another Australian airman, a PoW.
Verdict: Not guilty, 1.
Guilty, 3.
Sentences: Death by shooting, 1,
Imprisonment for 10 years, 1,
" " 1 " , 1.