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POST-NUREMBERG TRIALS: AMERICAN CULTURE OF PUNISHMENT OF GERMAN WAR CRIMINALS (THE PROLOGUE)

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It seems nowadays like forming a hypothetical "picture perfect" of the idea of punishment in international criminal law is nothing more than "putting together a puzzle", where each historical stage of the establishment and development of norms on responsibility for international crimes serves as an integral part of the temporal continuum, which is subject to thorough consideration for the purpose of shaping its "holistic account" [1, p. 382]. The only real remaining issue so far is, probably, what these chronicled formations should be exactly and what precisely should be taken out from them. Of course, such a reminiscence is greatly simplified; reality is obviously somewhat more complex.

Indeed, the origins of the contours of the comprehension of punishment can be traced back to "Nuremberg" [2, p. 3], and, in our humble opinion, there is absolutely no doubt about the fact that the significance of the activities of the International Military Tribunal held then and there cannot be overvalued [3, c. 20], even though there is a growing perception that they are mostly to be judged exclusively in terms of their shortcomings [4, p. 511] to date. Nevertheless, this is where typically the initial idea of punishment for war crimes usually originates [5, p. 206]. In turn, the Tokyo War Crimes Trial [6, p. 20] and the operations of the International Military Tribunal for the Far East are traditionally seen as a logical continuation [7, p. 147] of Nuremberg's narratives [8, p. 1-2]. Taking this approach as a given, and one that is perhaps already quite well-settled, not to mention what preceded the Nuremberg trial [9, p. 337] as a separate juncture in the emergence of modern international criminal law in its initial phase, which unquestionably also outlines the vectors of imagination of "international punishment" [10, p. 20], another period is now widely believed to receive the insufficient attention, – the so-called "after Nuremberg" timeline [11, p. 16].

This refers to the years following the Judgement of the Nuremberg Tribunal, the punishment of the "major war criminals" [12, p. 7–8, 37],

when justice was also served on “additional war criminals” [13, p. 347], – the “not-so-major war criminals” [14, p. 161] or, in other words, the “major war criminals of the second rank” [15, p. 567]. To be more specific, the time frame between late 1946 and spring 1949 [13, p. 336], which is often labelled as the Trials of War Criminals before the Nuremberg Military Tribunals under Control Council Law No. 10 [16], also known as the “Post-Nuremberg” [17, p. 123] or the “Later Nuremberg Trials” [18, p. 6], or even more metaphorical as the “other Nuremberg’s connotation”, a “complement to the higher-profile International Military Tribunal’s trial”, and also its “epilogue” [15, p. 567, 591]. More formally, – twelve “subsequent trials before the Nuremberg Military Tribunals” [15, p. 567], the “follow-up trials” [19, p. 726], “subsequent trials before “national or occupation” tribunals” [20, 408], “zonal trials” [2, p. 9] conducted by the U.S. in the United States zone of military occupation [13, p. 336], the “U.S. (purely American [21, p. 1285]) Nuremberg Military Tribunals” [13, p. 347] or the “American successor trials” [9, p. 335]. To put it plainly, the “lesser-known trials” [20, 408] of the “lesser war criminals” [22, p. 191], that is, “subsequent proceedings” [13, p. 347] against Germans charged with war crimes, crimes against peace, and crimes against humanity [5, p. 206], namely groups of high-ranking soldiers and SS men, diplomats, civil servants, industrialists, jurists, doctors and scientists [15, p. 568]. “American justice” [11, p. 14] or the area where, according to very preliminary observations, punishment was not the protagonist; of that, without the faintest doubt, further research is necessitated [8, p. 8, 15].

Bibliography:

1. Stahn C. A Critical Introduction to International Criminal Law. Cambridge ; New York : Cambridge University Press, 2019. 448 pp.
2. Heller K. J. The Nuremberg Military Tribunals and the Origins of International Criminal Law. Oxford ; New York : Oxford University Press, 2011. 509 pp.
3. Taylor T. The Nuremberg War Crimes Trials: An Appraisal. *Proceedings of the Academy of Political Science*. 1949. Vol. 23, No. 3. Pp. 19–34.
4. Taylor T. The Nuremberg Trials. *Columbia Law Review*. 1955. Vol. 55, No. 4. Pp. 488–525.
5. Solis G. D. “Smoothing Out” the IMT Judgment: The Legal Legacy of the Twelve Subsequent Military Tribunals. *Military Law Review*. 2021. Vol. 229, Iss. 2. Pp. 205–219.
6. Minear R. H. *Victors’ Justice: The Tokyo War Crimes Trial*. Princeton : Princeton University Press, 1971. 229 p.

7. Totani Y. The Case Against the Accused. *Beyond Victor's Justice? The Tokyo War Crimes Trial Revisited* / ed. by Y. Tanaka, T. McCormack, G. Simpson. Leiden ; Boston : Martinus Nijhoff Publishers, 2010. Pp. 147–161.

8. Priemel K. C., Stiller A. Introduction: Nuremberg's Narratives. Revising the Legacy of the "Subsequent Trials". *Reassessing the Nuremberg Military Tribunals: Transitional Justice, Trial Narratives, and Historiography* / ed. by K. C. Priemel and A. Stiller. New York ; Oxford : Berghahn Books, 2014. Pp. 1-22.

9. Frei N., McEwan H. Before and after Nuremberg [Review of Prelude to Nuremberg. Allied War Crimes Policy and the Question of Punishment; Divided Memory. The Nazi past in the Two Germanys; German National Identity after the Holocaust, by A. J. Kochavi, J. Herf, & M. Fulbrook]. *Journal of Contemporary History*. 2003. Vol. 38, No. 2. Pp. 333–343.

10. Finch G. A. The Nuremberg Trial and International Law. *The American Journal of International Law*. 1947. Vol. 41, No. 1. Pp. 20–37.

11. Hutchinson R. After Nuremberg: American Clemency for Nazi War Criminals. New Haven ; London : Yale University Press, 2022. 340 pp.

12. The Charter and Judgment of the Nürnberg Tribunal – History and Analysis: Memorandum Submitted by the Secretary-General. Document: -A/CN.4/5. Formulation of the Nürnberg Principles / United Nations – General Assembly, International Law Commission. Lake Success, New York, 1949. URL: https://legal.un.org/ilc/documentation/english/a_cn4_5.pdf (date of access: 08.09.2025).

13. Barrett J. Q. The Nuremberg Trials: A Summary Introduction. *Loy. Loyola of Los Angeles International and Comparative Law Review*. 2017. Vol. 39. Pp. 336–350.

14. Borch III F. L. The Nuremberg Military Tribunals: A Short History. *Military Law Review*. 2021. Vol. 229, Iss. 2. Pp. 159–172.

15. Bloxham D. From the International Military Tribunal to the Subsequent Nuremberg Proceedings: The American Confrontation with Nazi Criminality Revisited. *History*. 2013. Vol. 98, No. 4. Pp. 567–591.

16. Trials of War Criminals before the Nuernberg Military Tribunals under Control Council Law No. 10 : October 1946 – April 1949. Library of Congress, Military Legal Resources. URL: <https://www.historiography-project.com/twc/index.php> (date of access: 08.09.2025).

17. Michalczyk J. J. Filming the End of the Holocaust: Allied Documentaries, Nuremberg and the Liberation of the Concentration Camps. London ; Oxford ; New York ; New Delhi ; Sydney : Bloomsbury, 2014. 224 pp.

18. The Nuremberg Trials: International Criminal Law Since 1945 = Die Nürnberger Prozesse Völkerstrafrecht seit 1945 : 60th Anniversary International Conference / ed. by H. R. Reginbogin, C. J. M. Safferling ; in collab. with W. R. Hippel. München : K. G. Saur, 2006. 320 p.

19. Karstedt S. Managing Criminal Reputations: West German Elites after the Nuremberg Trials, 1946-1960. *Journal of International Criminal Justice*. 2015. Vol. 13, Iss. 4. Pp. 723–743.

20. Alderman S. S. [Review of Trials of War Criminals before the Nuernberg Military Tribunals; Final Report to the Secretary of the Army on the Nuernberg War Crimes Trials under Control Council Law No. 10, by T. Taylor]. *Columbia Law Review*. 1951. Vol. 51, No. 3. Pp. 407–411.

21. Friedmann W. [Review of Trials of War Criminals before the Nuernberg Military Tribunals under Control Council Law No. 10. Nuernberg Military Tribunals. Vol. III, by D. A. Sprecher]. *Harvard Law Review*. 1954. Vol. 67, No. 7. Pp. 1284–1291.

22. Yavnai L. Military Justice: War Crimes Trials in the American Zone of Occupation in Germany, 1945-1947. *The Nuremberg Trials: International Criminal Law Since 1945 = Die Nürnberger Prozesse Völkerstrafrecht seit 1945 : 60th Anniversary International Conference* / ed. by H. R. Reginbogin, C. J. M. Safferling ; in collab. with W. R. Hippel. München : K. G. Saur, 2006. Pp. 191–196.

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ISSUES OF TRADE SECRETS EFFECTIVE JUDICIAL PROTECTION IN MODERN FRAME

ПРОБЛЕМАТИКА ДІЄВОГО СУДОВОГО ЗАХИСТУ КОМЕРЦІЙНОЇ ТАЄМНИЦІ В УМОВАХ СУЧАСНОСТІ

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м. Одеса, Україна

Рекомендацією СМ/Рес (2010) 12 Комітету Міністрів Ради Європи державам-членам щодо суддів: незалежність, ефективність та обов'язки [1] визначено, що дієвістю суддів є прийняття якісних рішень упродовж розумного строку після справедливого розгляду справ. Судді