**Transcript**

Topic: Private guided tour of the Memorium Nuremberg Trials

Interviewer: Mary Joens

Respondent: Ingo Eigen, certified tour guide for the Nuremberg Historical Society, Geschichte für Alle, e.V.

Date: August 5, 2011

Location: Memorium Nuremberg Trials, Bärenschanzstraße 72, Nuremberg, Germany

Duration: 130 minutes

Background: The Memorium Nuremberg Trials consists of the famous Court Rooom 600 and large exhibit providing comprehensive information on the history leading up to the international military tribunal, their course and the subsequent trials, and the repercussions leading up to the establishment of the International Criminal Court in The Hague.

*AUTHOR: Thank you very much for giving this tour. Before we start, can you tell me a bit about your background?*

MR. EIGEN: I work as an independent contractor for several historical organizations and for the Nuremberg museums. I graduated in sociology, philosophy and history, and took courses for a master’s degree. My thesis paper was on war crime trials in the 1960’s, especially on the media perception of the trials. I analyzed the Auschwitz trial in 1961 and the media reports. What terms did they use? Did they call those on the defendants’ bench Germans, Nazis, or SS men? It always implies something different. The SS is a subgroup of the Nazis, which is a subgroup of the population. Or, for example, how did they classify victim groups? They only talked about people getting killed, but they never talked about the existence of Auschwitz-Birkenau specifically to murder Jews.

*AUTHOR: Thank you.*

MR. EIGEN: So let’s just go through the main exhibition, take a short break, and then go through details of the doctors’ trial, what was tried there and what was learned for medical ethics.

The museum here hasn’t been open for that long. It was opened on November 20th, 2010, the 65th anniversary of the beginning of the trial. It is still an active courtroom, they share courtroom 600 with the judges. For the exhibition, we are actually facing, so to speak, a problem. If they would have started with a chronological prologue, to mention everything, every crime, every action committed and tried here at Nuremberg, they would have needed all the space, the whole Palace of Justice, and you would not have any attention left when it comes to the actual trial. So therefore, just take the following “trick” with which you know everything: 1918 the Nazi party was founded, 1933 the seizure of power, 1939 the invasion of Poland - the Germans started World War II in Europe, 1945 the war was over. Other important military events and dates, well I’m going to mention them during the tour.

In general, we’ll have a look at what’s the relationship between politics and warfare, what changed over the last 200 - 230 years, because it is a perceptional problem for us. We consider today war crimes or crimes against humanity to be the biggest atrocities committed, and that is what the trial was often about. In fact, Jackson and the others wanted to try especially the second part of the indictment. That’s what their main focus was on. They wanted to make it impossible for future war mongers to start a war of aggression, and that’s completely new. For the last few hundred years throughout Europe, if you couldn’t reach a goal via diplomacy, you could attack your neighbor. So that was, technically, not really a big issue. Even after the 30-year religious war it was OK.

So, the status had changed. And changes were two important social changes that affected army at war. One of them nationalization. In the French Revolution, for the first time it got big modern armies with a modern drafting system. So, instead of a few hundred or thousand knights riding through the landscapes, you now get 70- or 80,000 soldiers engaged in a battle, on each side of the battle. This meant more casualties, more losses, more wounded. War became more present. Also, more cities were plundered because you have to supply these big armies. So it also became more present for those people who were not actually involved in the war.

And the second change is industrialization, which meant modern armies, with modern guns, artillery machine guns, where you were able to kill a lot more people than with a sword or slingshot. You can see that, for example, in the US Civil War, which was mainly fought along the railroad lines, or you can see that in 1866 where you have the question of the *Großdeutsch*, the big German solution, or the small German state, which means: is there one German state for all German people, including Austria, who were German-speaking, or without Austria and just Prussia being the main faction state. The Prussians had a smaller army, but they were able to mobilize their troops faster with railroads, and so they won the war. So it’s going to change completely now.

The reactions were, you can see that on the first info board, the Red Cross, the Geneva Convention, and the convention from The Hague. The Geneva Convention covered the relations between soldiers and civilians, and the convention from The Hague regulated how soldiers should treat other soldiers during battle action. That includes, for example, points like soldiers should wear uniforms, where the idea is to try to shoot only those people who wear a uniform and maybe you reduce the number of civilian casualties. If someone in a uniform raises his hands, you have to take him as a prisoner of war, and you have to feed him. You’re not allowed to do medical experiments, for example, without his consent - that will be important for our talk later. You are not allowed to force them to work in any infrastructure or armaments industry against their home country, and if you occupy the whole country, you have to disarm them and send them back home. So these are all things the Nazis violated the most. We’ll get back to that, especially when we talk about war crimes and crimes against humanity.

On the next board, we see the first catastrophe of the 20th century, World War I. You can now see what happens when you have a big army and modern artillery, and you can shell a whole city, like big battles at Verdun or in Belgium and the Netherlands, or Belgium and Northern France. There were a few minor trials. The Allies had the idea that they wanted to try the responsible figures, which was especially the German emperor who backed up Austria. When the Austrian prince was shot, Austria wanted to put pressure on Serbia, and the German emperor said “do what you want, we will back you up, no matter what,” which caused the chain reaction of everyone declaring war on each other, mobilizing troops. The German emperor had fled to the Netherlands; they refused to expatriate him, and so he wasn’t available for a trial. The building you see here is today an administrational court in Leipzig. There were a few trials going on against German Navy captains, submarine captains, who had attacked and sunk civilian vessels. These trials were held in the Weimar Republic, a democracy, but you had the problem of the judges trying these army sergeants or these captains were the same judges from the emperor’s time. So, they were trying according to their own moral standards. That’s the problem that only because the political system changes that does not mean that every other system changes that fast. You can see that, for example, at this very moment in Egypt. So that’s the problem here at Leipzig after World War I. Most of them got acquitted, or one or two years, maximum. So, I would not draw a direct line from these trials to Nuremberg. If there was one lesson learned for the allies, they wouldn’t use German judges for their trial, so that they wouldn’t get the same results. Footnote: The allies could have actually even used German law to try these Nazis because every action they had committed was illegal, even under Nazi law., which was also tried in a later follow-up trial at Nuremberg, the judges’ trial, where they tried not only according to Nazi law but went beyond, for example, the maximum punishment. They handed down death penalties when, according to Nazi law, there was a ten year maximum.

Moving on to World War II. When it comes to World War II, it’s important —

During World War II, the main impulse to start any kind of trials against the Nazis came not from the big allied nations, England, the United States, or the Soviet Union, but the Norwegian government, the Danish government, the Polish government, and the Czech exile government. Seated in London, via informants and networks, they knew about the crimes committed by the Germans in the occupied territories, and they demanded and account and juridical reaction after the war was over. The big problem for the allies was, first of all, they had to win the war. Especially in retrospect, that sounds quite simple, but it wasn’t that sure. There were two important military events. I would mention one of them, without direct consequence, August / September 1940, the battle in Britain, which meant the Nazis couldn’t invade Britain. They lost the air battle, and this meant that it remained a two-front war for them. Which meant, that later, when they took on the Soviet Union, they were 400- or 500,000 soldiers short that were still needed to occupy France, Belgium and the Netherlands to secure the Atlantic coastline. The other military event would be Stalingrad, Kiev, all these large battles in the Soviet Union around winter/spring 43, where it became clear that Nazi Germany had lost the military initiative. They could be able to prolong the war, but they were not able to win it anymore.

So, from that time on, the allies also started to decide what to do afterwards. In the beginning, Josef Stalin said, we have good trials, and especially Churchill voted for summary executions. Roosevelt was a bit undecided, but also in the beginning rather on the summary execution side. The closer the end of the war came, the more the allies had figured out that the anti-Hitler coalition had not much in common besides fighting Hitler and stopping the Germans. So, what they wanted to do completely changed. Stalin, already figuring out that if there is a trial, it’s not a good, old-fashioned Russian show trial, but probably a real trial with a defense and all that stuff, voted for mass executions. It was either Yalta or Tehran, one of the last conferences, he said, before we start any trials, we should, just to be on the safe side, take the 100 or 1000 leading officials of the Nazi regime, shoot them right away, and then try the rest. So, that was Stalin’s approach, while the Western allies saw the upcoming cold war confrontation between the capitalist and the communist countries, and they wanted to rebuild Germany as a front state. They had to make a decision; they couldn’t just try everyone. Pick the top leading Nazis, and they wanted to give them a fair trial in order to send a message to the German population. It’s important for us now, walking through the exhibition, from here on, we are staying actually in London, at the statute, and we’re dealing with Nuremberg, but the allies had already gathered information, documents, for three years. If they found any, they tried to categorize them and figure out which Nazi organization was responsible for what, which were the chains of command. For whom should the look? Who’s the leading Nazi in charge of the administration, for example, or the SS, or whatever.

This exhibition is a typical German exhibit. A lot of text, a lot of information, but not many exhibits. In this case, we just have two. One of them is this wooden box, a former ammunition box, and you can see the new painting that it will be delivered here to Nuremberg. These boxes were later on used to send documents to Nuremberg of final research. The most important figure of the trial was Robert Jackson. Prior to his role as the leading prosecutor at Nuremberg he was a judge in the US Supreme Court and Jackson was actually concerned that the allies wouldn’t find enough documents to try these Nazis. There is one good thing that when Germans commit crimes, Germans love bureaucracy. The Nazis wrote down everything., and made five copies of everything. So, Jackson was concerned they wouldn’t find enough evidence, but in the end they ended up with more than 300,000 pages of documents covering war crimes, reporting about mass executions, death tolls in the concentration camps, and things like that. These were sent to Nuremberg by way of these boxes. In general, Jackson had about 2000 workers here at Nuremberg doing final research. They used a whole structure for that. The Russian and the French teams were here with maybe 50 to 100, so it’s definitely a Western trial, trying to push the Russians aside.

Jackson was also in charge of the points of the indictment and the juridical system used at Nuremberg. At London in summer of 1945 the statute agreed on the following system: first of all, to use a US military court. French law is a bit different, it works rather like German law. For example, a few things unknown in German law or French law would be there is no “fruit of the poisonous tree” doctrine; judges or state attorneys can use every information, no matter how it’s gathered; there are no cross-examinations. The Russians had their own idea what should happen afterwards. So, the idea was where everyone takes Anglo-American law, and due to the very different expectations, well first of all they take judges instead of a jury. The problem with a jury would have been, who’s appointed for jury? Do you just take citizens of the allied nations - French citizens, Russians, English and Americans - or do you also give seats to members of the occupied countries? How about a seat for German communists, who had suffered in the concentration camps? That would have been such a wide field that they said no, we’re not doing that. We’re taking professional judges. Each one of them has one vote, and it’s not necessary to have a unanimous decision. The problem with four judges is that you can easily get a split. That didn’t really happen because the Russian judge voted for the death penalty in all cases. Interestingly, the French judge was the most liberal one. One would think that after four years of humiliating occupation they would react also rather harshly, but in fact he wanted to send a lot of Nazis only to Berlin Spandau. So when it came to the verdict later on, it was up to the British and the American judge to tip the scales: death penalty, Spandau, or even some acquittals.

From the point of the indictment, there were four counts: to commit conspiracy, crimes against peace, to create war crimes, and last but not least, crimes against humanity. I’m just picking the first one here, we’ll go into more detail on the other counts later on. To commit conspiracy is not really known in German law, like in Anglo-American law. What is really great, soon after the exhibition had opened up, I had a group of US military lawyers. They did some research that goes back to some conspiracy against the British crown. They gave two great examples where it was often used in history. To commit conspiracy was frequently used by the British navy when they fought pirate ships in the 17th century because they could try the whole ship. It didn’t matter whether someone was just a cook on the pirate ship, even if he didn’t participate in rape, murder and torture himself - he kept other people well fed, that they could commit the crimes. The other case where it was often used is in the US prohibition trials, to try the whole gang and not just those who were smuggling alcohol across the Canadian border or bring it from the ship to the beaches. I think you see what it was used for in Nuremberg, especially the first trial. It was not against those people who had their finger on the trigger in a mass execution, but the Nazis I’m going to cover in a second, they were representing whole subsystems in society, whole institutions that were involved with the following crimes, especially when dealing with the level above. They didn’t really know the importance of the mid-level bureaucracy, but that will be a topic for the follow-up trials.

*AUTHOR: I was wondering how they chose which Nazi leaders to try and why they left certain major ones out.*

MR. EIGEN*:* Let me first explain why they chose Nuremberg, and then covers these Nazis.

*AUTHOR: OK.*

MR. EIGEN*:* When it comes to the question why did the allies chose Nuremberg, there is often the misunderstanding that they chose Nuremberg mainly because of its Nazi history, because Nuremberg was the city of the Nazi party rallies, propaganda events, and the city where the Nazis had pronounced the race laws, the infamous set of laws that started to separate and segregate Jews from the Gentile society in 35, the first steps to extermination. That’s, so to speak, the icing on the cake. The main reason for Nuremberg can be seen on the top left picture, the big palace of justice, a few hundred yards long, thousands of offices, and, very importantly, a detention prison. The semi-round wall and the star structure, 19th century detention prison. You can see that they constructed an above-ground tunnel, a covered wooden passage, from the prison to the East wing where we are, so they could keep the Nazis in the area all day long. They didn’t have to expose them twice a day by transporting them from the jail to the courtroom and afterwards back to the prison. The rest of the city looked like the colored picture in the center, 80 to 90 percent destroyed. They allies were really concerned with any Nazis trying to ambush either to free them, or to assassinate them before they could confess and more trials would be started. Keep in mind, for example, how the Nazis were able to free Mussolini from Italian captivity in ’44, so they were concerned that there were still some SS units around who would try a similar thing in Nuremberg. So, the most important reason for Nuremberg was security. You can also see on this picture the buildings on the other side of the street, which is a big construction site at the moment. They were former infantry barracks with no roofs. All this was bombed, but the Palace of Justice and the prison remained. They were not spared on purposed, it’s just coincidence. The trial started six months after the war was over. There was no time for major repairs or new constructions, so the allies had to take what was still existing. The second reason for Nuremberg was its location. It was in one of the western occupation zones; it was not under Russian control. That was the main reason. Everything else, Nuremberg’s 1930 role, was nice to have, but not really the consideration for the town. You see that, for example, in the city that ranked second during the decision, Kitzingen, close to Wuerzburg. There’s a big casino on the top of the hill, with a park and a big wall around it, an area that’s easy to seal off and to secure. Then, once they were in Nuremberg, see the hole in the prison cells, the military police in front of the doors, watching through the peepholes on 24-hour surveillance to prevent suicides. There were two suicides at Nuremberg, but there was no camera system, so they had to stand on guard for four hours, got a few hours off, another guard took over for another four hour shift, and that for nearly one year. When you watch the cell through the hole, you can actually see even the toilet. There was the one suicide where Robert Ley of the Reichs Work Service by strangling himself with his trousers at the pipes for the heating. That was really interesting - how could you commit suicide, because he was technically just sitting on the ground while doing that. So that was one suicide. The other one was Göring when he heard of the verdict. So that’s why they chose Nuremberg.

And now let me pick up on the question who did they want to have at Nuremberg. Well, everyone who was leading an organization involved with starting or planning the war, committing war crimes, violating the Geneva Convention, the convention from The Hague, or committing genocide or crimes against humanity. Well, they couldn’t get everyone because, first of all, Hitler was dead. He had committed suicide before he was captured in Berlin. The next day, also Joseph Goebbels committed suicide, and Nazi number three was missing, Heinrich Himmler. He was the chief of the SS; he had committed suicide in British captivity. He thought no one would recognize him without his round glasses, and when the British figured out who he was, he took a poison pill. I would also include Nazi number four, Reinhard Heydrich. Heydrich was the second man of the SS, and chief of the secret service of the SS, the *Sicherheitsdienst*, the SD. Heydrich was assassinated by a Czech special operations command in the city of Prague in 1942. The price was that the Germans destroyed the city of Lidice and all its citizens. So, that brings us to Nazi number two in the front left corner, Hermann Göring. Göring was field marshal of the Reich, Hitler’s designated successor, founded the secret state police, was in charge of that police until 1939 when it was taken over by the SS. He was the chief of the German *Luftwaffe*, the air force. He had even founded his own companies, the Hermann Göring company, where he started to produce weapons with forced labor and concentration camp inmates. So, we get him. Besides Göring, there are a lot of other politicians on trial. Joachim von Ribbentrop, the Nazi secretary of state, who put pressure on the Czech Republic and Munich agreement, and organized the Anschluß of Austria. We also got the ministry of home affairs on trial, Wilhelm Frick, in charge of smashing German resistance in 1933, and organizing the home front. Furthermore, we have Franz von Papen, a conservative politician, vice chancellor of Hitler’s government, who helped Hitler to come to power, and governors of the occupied parts of Europe. Hans Frank, governor of Poland. (27:00) of the Austria, Konstantin von Neurath of the Czech Republic, and Alfred Rosenberg, who was in charge of the occupied areas of the Soviet Union.

The second category on trial were the armed forces. General Keitel and Jodl, supreme command of the army and secretary of defense. Admirals Reiter and Dönitz, Göring for the air force, and for the SS Ernst Kaltenbrunner. Kaltenbrunner was the successor of Reinhard Heydrich in the Reichs security office of the SS. You would expect him, for example, to be in a follow-up trial, but every SS man above him was already dead, so he moved up to the first trial. So we got the politicians and members of the armed forces. Third, leaders of Nazi organizations. Now it’s getting a bit tricky, because we got, for example, in the front row, Rudolf Hess. Hess was Hitler’s deputy in the Nazi party. You also have Julius Streicher here, leader of the Nazi party in Franconia, in Northern Bavaria, and publisher of an antisemitic magazine, the *Stürmer*. They were her because of their roles in the Nazi party. Baldur von Schirach, for example, leader of the Nazi Hitler Youth. He was not really there for brainwashing German kids for 15 years, but in 1939 or 1940 he became the governor of Vienna. He was what the Nazis would call one of the old comrades, one of the veterans of the party. For conspiring and participating in Hitler’s dictatorship, he was rewarded with a political role, and as governor of Vienna he was in charge of deporting the Viennese Jews to Theresienstadt and Auschwitz. So he was her not for his party position, but for participating in crimes against humanity. Last, but not least, the economy. Albert Speer, in the 1930, was Hitler’s favorite architect, and especially here in Nuremberg it turned out that Speer was well able to organize work flows, he was a skilled manager. In the 1940, he became Hitler’s minister for armament and ammunition. Then you have Hjalmar Schacht on trial, the president of Nazi Germany’s federal reserve, and, mentioned in the indictment but not tried because of his health, because he couldn’t stand the trial, Gustav Krupp, representing Krupp industries and the steel tycoons, who sold weapons and therefore violated the peace treaty of Versailles, and who produced these weapons with forced labor. I think you see the pattern evolving here.

The first trial was just against these top Nazis representing institutions involved in crimes. The follow-up trials then went further down the ranks, picking one particular topic of the whole Nazi society. For example, the allies wanted to start the first [follow-up] trial. Because of Gustav Krupp not being able stand trial, the follow-up trial was against Alfred Krupp, his son, the industrialist. That took place, but it didn’t become the first trial because it turned out that there were a lot more documents against the doctors, so the doctors’ trial became the first follow-up trial at Nuremberg. These were the trials here at Nuremberg against the political level of society, top second and third ranked. Follow-up trials like those at Dachau were held in a lot of other cities in the occupied zones. They were mostly from ’46 to ’49, or when you deal the Soviet Union and GDR, from ’46 to ’51.

Not all defendants were indicted on all counts. Sometimes, you get the full set, one - two- three - four, some of them just got one or two points, and sometimes it was enough to be convicted on one count to be sentenced to death by hanging. It depends on how deeply they were involved in the particular crime.

This becomes really clear when you go to the forced labor program. Wilhelm Keitel, was the Nazi secretary of defense, so he was in charge of organizing the logistics in the German army, Gustav Krupp produced the weapons, and Hans Frank Rosenberg kidnapped in these areas and forced them to work in the factories. This supply-and-demand thing was coordinated by Albert Speer. That’s how it all interacts.

We have a first count to commit conspiracy, the second count to plan a war of aggression and start a war of aggression. Actually, Robert Jackson wanted to go as far as 1918 or 1919. In 1918, Hitler joined the party, in 1919 he had taken over leadership in the party. He wanted to prove that these Nazis, all together, from that point on had the plan to commit all the other following crimes. But the judges did not follow that. They said, that is so complicated to prove. Why should we do the effort, why not just start in 1933? That meant of course, that a few of the crimes committed by the Nazis were not tried, like murdering communists in the 1920. So these were technically never tried anywhere, not here in Nuremberg, and afterwards the allies had other projects.

So, the idea was that for the main trial the allies went back as far as 1933, from the day Hitler became chancellor, the Nazis got the political options and the economic possibilities to commit the crimes that followed. Then they had the plan for that. So they covered, first of all, the political steps - Nazi Germany broke the peace treaty of Versailles, started to re-arm itself, left the League of Nations. The Nazis were tried for the Munich agreement and for the Anschluß of Austria, which significantly shortened the Eastern flank. That was not just some political thing, but it was always a military approach to get these areas under control, and of course, to start the war. From ’39 to ’45, Nazi Germany invaded twenty countries in Europe, seven countries in Africa, declared war to a lot of other in the world, started a war that lasted six years and cost about 55 million people’s lives. By comparison, World War I was around 18 to 20 million people, and every other war before that were probably a few ten thousand. So, the numbers are getting completely off scale.

The third count was to commit war crimes, which meant not to act according to the Geneva Convention or the convention from The Hague. For example, General Yodel signed the *Kommissarbefehl*, the commissioner’s order, which said for the German armies invading the Soviet Union, Russian propaganda officers are not taken as prisoners of war. Interrogate them, torture them if they don’t want to talk voluntarily, and afterwards you shoot them. Do not take them as prisoners of war. Keitel said in another order that if a Russian soldier tries to escape from prisoner of war camp, do not warn him, do not fire warning shots, gun them down immediately. That’s definitely a violation of the Geneva convention, because that says, if you try to escape they have to warn with a shot fired in the air, and then they’re allowed to shoot the man. And if they capture you, they can’t sentence you for that. They can’t punish you for that. They can just sentence you if, for example, you steal a bicycle to get to the border. That would be a crime, but not just trying to escape. The Nazis didn’t care about that. To give you a number, during the besiegement of Leningrad, today’s St. Petersburg, the Russians lost one million citizens, starved to death when the city was cut off from supplies. These one million casualties were in one battle, were more losses than every other allied nation at all theaters of war had together. In total, the Soviet Union lost more than 20,000 citizens; that’s about the population of Australia. If you know these numbers, you get an idea why Stalin just wanted to shoot every Nazi he could find. Don’t get me wrong, I don’t want to justify any of the crimes he had committed against his own people in the ‘20s, ‘30s, ‘40s or ‘50s. I just want to emphasize that the Soviet Union was very different from the war in Western Europe. In Western Europe, the allies acted according to the Geneva convention, at least in the beginning. They started to ignore them as well over the course of the war, but in the beginning they acted according to these standards, while in the East they dropped them on the first day of the invasion.

The last count of the indictments is crimes against humanity. This covered all genocides, mass executions of civilians. First of all, the Shoa, the extermination of European Jews in the Holocaust, then genocides against Sinti and Roma, political enemies of the state, hostages, civilians, Jehovah’s witnesses, homosexuals. Euthanasia killings were also included here, the mass executions of people with psychological problems, mental issues, or disabilities. We will cover these same points of the indictments late on when we talk about the doctors’ trial, where they were also accused of committing conspiracy, committing war crimes and crimes against humanity. For the main trial, the distinction is, let’s just say, during the course of the war and army unit starts to shoot a thousand or two thousand Jews in a village somewhere in Eastern Europe, and a week later the SS or another Nazi organization shoots the same group of people again. One of these actions can be a war crime, the other a crime against humanity, what’s important is who’s in charge. If the area is still under army command, if it is declared as a front area, say the first 50 kilometers from the main battle line to the *hinterland* and the back wood areas where they assemble the troops, that is a war crime. In this case, the Geneva Convention and the convention from The Hague apply. If the army gives up control and hands it over to Hans Frank, Rosenberg and the others, and they shoot the same people, it’s a crime against humanity, because not you get civilian law rather than martial law. So, the Nazis couldn’t just start to point fingers at everyone else and try to blame them. There’s the first count of the indictment, to commit conspiracy, because it puts a big frame around it. The allies could say in a lot of cases, it’s just a coincidence who was able to give the order, and some of these reasons were not under your control, like how fast did the Russians retreat. Therefore, the first point of the indictment serves to include all that in one big thing.

What you see on the video screen is how they enter the courtroom through the elevator door - I’m going to show you that in the courtroom - and they hear what they are accused of. And they all said the same, they all said “I didn’t do it.” Except for Rudolf Hess, he said “Who am I?” Hess also tried to fake a nervous breakdown. Everyone else tried to blame Hitler, Himmler and Goebbels. They said, “I didn’t do anything, and if I did, I was just following orders, otherwise they would have shot me.” So, that didn’t work, but that’s the reason it became such a long trial.

(Mr. Eigen describes the layout of the courtroom, referring to a model of the layout at the time of the trial.)

Especially the American and the Soviets were not big fans of France being a victory power of World War II, because they thought France had surrendered probably a bit too early, just because Paris was under Nazi control. It was especially the British who said that France should be a victory power as well. In this case, Churchill was concerned; he thought that if France is a victory power, then he and DeGaulle could find some to keep, for example, their colonial empires from collapsing. Also, the British got concerned they would get crushed between the Americans and the Russians, being just the minor partner, so they wanted to have a second minor partner. That was also supported then by the Americans because they figured then we don’t just have a two-to-one majority, but a three-to-one majority against the Russians. So that’s how France ended up as a victory power.

You see, thanks to the Russian uniforms, two judges, only one per nation was allowed to cast a vote. That’s Nikitchenko for the Soviet Union, Francis Biddle for the United States, de Vabres for France, and head of the judges, Sir Geoffrey Lawrence from Great Britain. Francis Biddle had expected to be the leading judge himself and had already brought his own gavel to Nuremberg, but what you have here is checks and balances. They already have Robert Jackson as the chief prosecutor, so it looks more neutral and impartial to take a British judge. Everything is better than a French or Russian judge. So that’s how we ended up with Geoffrey Lawrence being the head of the judges. The second judge of each nation participated in cross-examinations, asked questions, wrote down notes - they are very interesting to read. Especially the second British judge, Birkett, wrote some very interesting notes on the trial. But they were never really needed for the main function because the main judge never got sick. The idea was that there wouldn’t be any delay, the trial could keep on going. Nikitchenko ordered the death penalty in all cases, the French wanted to send a lot of Nazis to Spandau, so it was up to Great Britain and the US to say Spandau or the gallows.

In front of them, you see secretaries and clerks of the court, taking their notes. What you can also see on these pictures are a lot of these yellow and red light bulbs. The trial was the first event in history that was simultaneously translated in four languages: French, English, Russian - the languages of the allied nations - and German, the language of the Germans and Austrians. The technology was provided by IBM. It didn’t work all that well in the main trial. If you read the transcriptions, you have pages and pages before they realized that someone forgot a word or something got lost in translation. But, it was an attempt that everyone was able to use his native language. No doubt, things got lost in translation, but they could use the proper words that they wanted to.

Also, every nation had its own prosecution team. The British and the American prosecution teams mainly covered the first two counts of the indictment, to prove conspiracy and to provide information on re-arming Nazi Germany and on starting the war, or these invasion campaigns. The third and fourth count of the indictment was mainly tried by the Soviets - this is just due to military action, the Soviet Union stopped the genocide in all the death camps. They have liberated Auschwitz, Treblinka, Sobibor and the other camps, and they found more mass graves in Eastern Europe, so they had more evidence for these counts of the indictment. And they were supported by the French. In this case, the French resistance had done an excellent job in copying documents. So they could prove, for example, the deportation of French Jews to Auschwitz and other camps. So, they could try the whole deportation complex as well.

*AUTHOR: How did the Nazis try to defend themselves?*

MR. EIGEN: They did it a bit smarter than just blaming Hitler. Have a look at the defense strategies. For example, one would say, “It was Hitler.” That is the simplest defense strategy, blaming others. It gets a bit more interesting when you have points like “Why should a court in Nuremberg, with French, British, Russian and American judges, be responsible for trying crimes that had been committed in Yugoslavia or Greece, or Northern Africa? So why don’t we send these people over there?” What the Nazi lawyers wanted to do on that point was to break up the concept of having a common conspiracy, to say that there probably were a few war crimes, or some genocides that were not so nice for some people, but it’s not a big picture. That was one crime here, one crime there, one over there. Another point was, well, how could it be that only Germans are sitting here? Others have committed war crimes as well. So, for example, we signed a contract with the Soviet Union in which we said that we would divide up Poland between us. So were are sitting here facing the count of starting a war of aggression, and the Soviet Union are not next to us but on the opposite side of the room, being the prosecutors on this point. That’s not really fair. The problem is that technically that would be true, but it’s beyond the control of the judges here. That’s probably the cold war situation coming up here, that we have some comments from the judges who say, that may be the case, and we’ll deal with everyone who has committed war crimes and crimes against humanity later on. Right now, you are here, and you have to face justice for your actions. Also, this argument that others have committed crimes as well can be deconstructed philosophically very easily. Let’s assume I got a ticket for speeding. If someone else did not get caught, it does not make my ticket invalid.

What’s a big problem is the “*ex post facto*” argument, because when we deal with the Geneva Convention and the convention from The Hague, these are goodwill agreements. Every imperial nation had agreed to take prisoners of war, to feed them, to supply them and to send them back home. What’s missing are the paragraphs defining what to do if someone violates the agreements. That’s a big problem because you can’t just declare an action to be a crime after the action has been committed. That’s the *ex post facto* argument. The judges countered that by pointing out that *ex post facto* is a legal construct that should protect citizens against the tyranny of a state. It was never designed to protect tyrant states. Most of these crimes, especially back then in the 1940’s, were completely unknown in these dimensions. If you look in a law book, murder is defined as you get, in Germany, 15 years to life in prison if you kill one person. There were no paragraphs what to do with someone who killed six million Jews. These crimes were so totally out of scale that o one thought of them before, they were absolutely unimaginable.

Interestingly, this defense strategy is still used today. In 2010 or 2011, I was in Munich attending a few court sessions against John Demjanjuka former Ukrainian guard of a Nazi concentration camp, Sobibor in Poland. He was facing a charge for murdering or aiding in murder in 30,000 cases where Jews from the Netherlands were deported to Sobibor. After the war, he lived for the rest of his life in the US, in the Ohio area, and was then expatriated and sent to Munich. His lawyer defended him the very same way as the Nuremberg defense. First of all, he tried to point out, well, my defendant wasn’t there. A document appeared proving that he was there. The document was claimed to be fake, so that was the next intervention. Another document appeared, and they declared it fake as well. After 50 documents, all proving that he was there, they could no longer claim that all of them were all fake, so they started to admit that maybe he was there. But the camp was in Poland, my client is from the Ukraine and has a US passport, why do we try him here in Munich? Why not in any other place? You see, the idea is to just move it from one place to the other until the trial just doesn’t take place anymore. And last, but not least, he claimed that he had to follow orders, otherwise he would have been shot himself. So what the defense is trying to do with that, especially in the follow-up trials, is to make a distinction between murder and manslaughter, first and second degree murder. In Germany, when you follow orders, it’s manslaughter, and manslaughter has a lapse of time [statute of limitations] of fifteen years, whereas murder has none. So they were trying to play a time card to make the trial impossible. It didn’t work at the Demjanjuk trial, it didn’t work at Nuremberg, it never worked at any war crime trial, but they always try these points of the defense.

There were however, a few minor successes. For example, one success for the Nazis was the Russians tried to blame them for the massacre at \*\*\*. Maybe you remember that two or three years ago, half of the Polish government died in the plane crash when they attended the memorial event at \*\*\*. So in August '39, the Nazis signed the Hitler Stalin pact with agreed that if one of the two nations has the idea of invading Poland the other country could join the party. Nazi Germany invaded Poland 10 days later on September 1 the Soviet Union took a little longer to mobilize but then invaded eastern Poland the Germans committed genocide in the West and the Russian Secret Service started mass executions of about 20,000 intellectuals, journalists, professors, teachers, politicians, and soldiers. In 1941, Nazi Germany broke the peace treaty with the Soviet Union, then invaded the area and found the mass graves. And then they did something quite smart for the Nazis, they called the Red Cross and sent them there, let them document the bodies, how long they were buried, and the caliper with which they were shot. It turned out that no German guns of that caliber were made until 1940. So this couldn’t be a German crime. The Russians never accepted that. The Russians just acknowledged the guilt for \* in 1992. So not even Gorbachev did, but Yeltsin did after the Cold War was over. The Russians never admitted guilt for that because they were concerned that if this becomes public knowledge that this was not a fascist crime but the Russians, the whole Warsaw Pact could fall apart. So in 1956 you get the uprising in Berlin, the uprising in Budapest, in Prague in the 1960s, and the Russians were concerned that all the Warsaw Pact states could decide to become block free states like Yugoslavia under Tito. That’s why they own the admitted responsibility after the Cold War was over. Another success of the Nazis was that the German admirals like Dönitz were not sentenced to death by hanging according to the point of the indictment that it should be a war crime, punished with the death penalty. Both were in charge of the submarine attacks. German submarines were torpedoing civilian vessels without warning and without taking the sailors on board so they would not drown. Their lawyer was quite smart to get an affidavit from Chester Nimitz the supreme commander in the Pacific asking how the US Marine operated. Guess what? You can’t do much more with the submarine. You can’t see what’s on the ship behind your hull; if the ship has no signal lights on and the flag has the color of the nation you are at war with, you sink it. You have n room on board of the submarine, so you dive immediately because if you would take any soldiers you would have to go back to your home port to put them in a camp, or you have to risk of losing your ship while doing the rescue campaign and get bombed. So in other words Nimitz said we did the same in the Pacific against Japan is the Nazis did against us in the Atlantic. So what we see here is that there are no double standards. There is one moral standard for everyone. Also when we have a look at the course of the trial, the trial started on November 20, 1945. For the first four months, the prosecution team was in charge. They had to prove with documents who was involved in crimes, and so on. From March to July, the same length of time, the same four months for the defense. They had the same amount of time to present their version of history. And then there were the consultations on the verdict. In Russian show trials, you usually get eight months of insults, and then death by hanging in the public square. I’ve seen some of the Russian show trials in 1944, where they got some 19-year-old Nazis sitting there, 50 Russians in army uniforms around them everyone is yelling, no translators and then the execution. So that looked a little bit different from what the allies did here in Nuremberg. Before I get into details on the verdict, do you have any questions?

AUTHOR: I was wondering about the prosecution teams. You said that each of them handled a different count of the indictment. Was that because the prosecution teams worked individually and did not share documents with each other?

MR. EIGEN: They share documents, but each prosecution team had a different focus.

AUTHOR: So it wasn’t just a matter of different countries owning different documents?

MR. EIGEN: No, they coordinated the effort; they also cross-examined together, but the main focus of the prosecution teams was so that not everyone was trying to cover everything but they could be specialized in one or two points, and then see with the other teams how they could coordinate that. Despite the cold for here at Nuremberg, at least to prosecution teams coordinated their work, and of course even the Russians did, because the Russians wanted to convince the others that the defendants should all be sentenced to death by hanging. So even they share knowledge and documents despite different ideas and backgrounds, but they specialized in points of the indictment.

Then after all these court sessions, on October 1, the verdicts came out. October 1, 1946 you have all these names. Sentences were 12 death penalties, seven prison terms, and three acquittals. And now it’s getting really confusing with the numbers. In the first version of the indictments you have 24 names. 23 were left after\*committed suicide in the prison cell. That’s why they put the guards in front of the doors. Only 22 were there when the trial started, because Gustav Krupp could not stand the trial. But technically on the 21 appeared at Nuremberg, because Martin Bormann, Hitler’s secretary, was tried in absentia. Bormann was one of the most influential persons in the third Reich, he was Hitler’s secretary. Anyone who wanted to talk to Hitler had to make an appointment with Bormann. So without Bormann, no Hitler. And due to this position he had left such a broad paper trail that he could be tried in absence, and that’s when you deal with these pictures, where you only see 21 people sitting there, but they were more your lawyers. 22 lawyers, one for Bormann and also lawyers from Nazi organization that word charge this criminal organizations. All come to the concept of criminal organizations would become to the doctors trial. What was the idea, why did the use this construct? It goes back to the London statute, but in this main trial it was merely important for the verdict. So you have 22 sentences, 12 death penalties, only 10 carried out. Martin Bormann’s death penalty could not be carried out because he was already dead, but no one knew it. His remains were found and identified in the 1970s. There were shattered pieces of glass between his teeth, so he had committed suicide, so that there was no chance that he could he brought to the other side behind the Russian lines. DNA analysis confirmed his identity in 2001 or 2002. The other Nazi who was not executed was Herman Göring. Göring took a poison pill the night before his execution was scheduled. Göring had mainly disagreed on the method of the execution. He demanded to get shot instead of getting hanged. That is why he took the poison pill. That may look a little strange. I mean in the end of the day it doesn’t really make a difference. But to get shot was seen as an honorable soldier’s death. You die due to a weapon, while hanging at the rope was the death of a regular criminal.

So what you can see is that Göring did not show any insight into his crimes. He still saw himself as being the honorable fighter pilot from World War I, where he flew in the same squadron as Manfred von Richthofen, the Red Baron. He ignored his career as a morphine-addicted Nazi war criminal. We don’t know how he managed to get his hands on that capsule of cyanide, and we don’t know how one of his guards ended up with a golden watch. So it looks like it was handed over to him. We know that during the trial, when he was at Nuremberg, and the allies did not supply him with morphine anymore, he sobered up. He became quite charismatic and befriended the soldiers, and he asked them how is your food, are your officers treating you well, are you getting enough sleep, how are the Frauleins, and so forth. So he befriended one of them. It is quite likely it was handed over to him. The other option is that he had the poison pill with him all the time. That is based on the fact that I made earlier, that Heinrich Himmler was also able to smuggle cyanide into British captivity past the British guards and controls. Göring was not captured like Saddam Hussein or Gaddafi, hiding somewhere in a hole. He was driving a convoy of 15 trucks straight into the American lines, leaving the first truck and demanding to talk to Truman. He was quite surprised when he got handcuffed. Maybe he wasn’t searched properly, and then he had the poison pill with them all the time. In the end, it doesn’t matter.

You we can see here where the executions were carried out. You can see the 11 bodies, 10 and Göring. They were brought to Munich. Nuremberg’s crematorium had been destroyed in one of the last bombing raids on the town, because there was armaments industry close by. So they were cremated in Munich. GIs sprinkled the ashes in a tributary of the Danube in the early morning hours two weeks later. The buildings were destroyed immediately. Seven Nazis served prison terms. These prison terms ranged from 10 years to lifelong, and were all served in Berlin Spandau. During the Cold War, that was the only place where the allies still coordinated work and effort. Spandau legally was owned by the British government because it was on the grounds of the former barracks in Spandau. For one month, each allied power was responsible for the prison. The British, the French, the Russians, the Americans, and then the British again. Until 1987, from 1966 on when Albert Speer was released, Rudolf Hess became the last inmate of Spandau, until you committed suicide in a cell at the age of 93. The British who up the prison, ground the chunks, dump them in the Baltic Sea, then paved over the prison grounds. So when you look for the prison in Berlin you won’t find it. There is nothing left for the supermarket and a parking lot for a discount store. Everything’s gone. That’s very smart, because what the allies did was no graves, no buildings, no places for neo-Nazis to converge, no shrines. Helmut Kohl, our Chancellor back then made a bad decision to bury Rudolf Hess. He argued for such a long time ago that one could bury that man. Well, the little town of Wunsiedel, about an hour northeast of Nuremberg by car, for 20 years became one of the biggest neo-Nazi gatherings in Europe. So, Rudolf Hess didn’t start the blame game. He either really had a nervous breakdown, or he faked it, we don’t know. For example in his cross examination he started quoting cooking recipes. He said he couldn’t recognize some Nazis whom he had known for many years, things like that. But he never distanced himself from Hitler. Hess’s last words were, I don’t regret anything, should the Lord give me the chance, I would do it all over again. So the neo-Nazis were able to idolize Hess. He served a lifelong prison term. The Russians wanted to sentence everyone to death. Especially in the Hess case they protested it, because he had flown to Scotland in 1941. The situation of the Hess flight was that the Nazis still acted according to the Hitler-Stalin treaty, so there was an armistice at the Eastern front. The British had lost all their military equipment at Dunkirk at that time. The US were not in the war, and just a bit earlier Churchill had held the we will fight on the beaches speech, which motivated Roosevelt to decide that we could give them our old weapons World War I. The neo-Nazis claimed that while Hess was in Britain, he learned a lot about British state secrets, and that’s why 1987 the British Secret Service murdered process. I mean that’s a really interesting theory, that’s what the British do, they take prisoners of war until them state secrets. Well, that’s nonsense. Second, if they wanted to kill has, what took them 50 years? Third, I would also say you want to kill Hess, it was not the top point on their bucket list at the end of the Cold War. He had a few more important things to take care off at that time. Last but not least, in the 1970s, 10 years earlier, the Western allies had some debates going on when they should release Hess. Release the old man, it doesn’t matter that much, which is keeping a prison for one man, the most expensive prison in the world, but the Russians vetoed. The Russians said, we wanted the death penalty in 1945, so now we insist on a lifelong prison term, so Hess will never get out. So that’s why took the poison pill.

You can draw a wonderful analogy from Nuremberg to today’s world. It was a very smart move by the US administration to bury Osama bin Laden in Davy Jones’ locker, because with these Nazis of Nuremberg you see what would happen when they buried these mass murders in a mass grave. It is really not a good idea.

So let’s go down to the courtroom.

As you can see in this model, the courtroom was rearranged. Where we are standing, there was a big balcony for VIPs. On the top floor where politicians, and writers like Ernest Hemingway and Thomas Mann. Walter Cronkite was reporting from up here. Marlene Dietrich was here for a few court sessions, as was German philosopher Hannah Arendt, who wrote an important book on the Eichmann trial in Jerusalem in 1961, a report on the banality of evil, referring to Eichmann and the other Nazis, who never shot anyone themselves but committed 9-to-5 genocide by just sending trains and organizing train schedules for deportees to the death camps from their own countries. So that’s the balcony, and I’ll explain the rest of the room one floor below.

So this is courtroom 600, which may be a bit surprising, because it looks quite small compared to the pictures you have seen. The defendant’s box on the left was larger back then because it had two rows for the Nazis, plus some space for the military police behind them, watching over their backs. See the metal panel on the left side in the wooden paneling, that’s leading to the elevator to the ground floor to the overground tunnel to the prison. So the Nazis just appeared right through that door when they came into the room. In front of them, today as it was back then, is the defense counsel, the defense lawyers. In the front of the room, where the judges are now, there was just a single chair for witnesses, slightly to the right side. In the corner on the left there was of a glass box for the translators. Where the crucifix is, there was a big screen for videos. This was the first time movies were allowed as part of the trial. This means the judges were not sitting on the front of the room, but they were moved over the fear along the Windows. That’s where the state attorneys are today. So the judges were facing the Nazis all the time, the prosecution team was where we are now. So here worth the four long tables for the allied prosecution teams. The whole back wall was taken out and the room enlarged to make room for observers. On the ground floor, there were 200 journalists, so you can say that the eyes of the world were on this courtroom for nearly one year, from November 1945 to October 1946. That’s very important. If you go for example to these cross examinations, on one day, on October 16, 1946, Rudolf Höß – it’s getting tricky with the German names – Rudolf Hess was in Nuremberg all the time, one of Hitler’s deputy in the party. Rudolf Höß was one of the commanders of Auschwitz. He came to Nuremberg as a witness of the defense. The lawyer of Kaltenbrunner, the SS man, wanted to prove that his client was never in Auschwitz. Technically, that would be true; he was in charge of the head security office, his job was to send people to the camps. Malnutrition, no medicine, and the situation within the camps, was under control of another subbranch of the SS technically this is a petty detail in the genocide, but Kaltenbrunner’s lawyer wanted to insist on that. Höß, captured by the Polish, was sent to Nuremberg as a crown witness. So the cross examination goes, Kaltenbrunner’s lawyer asks Höß “have received my client did Auschwitz?” Höß answers, “no a have not seen him under my command.” There were other commands, so that makes Höß absolutely worthless as a witness for the defense. The Russians start the cross examination then by going through the pages of a document, and then saying: “it states here that you killed 500,000 Jews by gassing, and 500,000 by not providing food, medicine, and randomly shooting them for no reason. Can this really be true?” And Höß answers, “now when you say that, and I think about it, it must have been more.” So he even exaggerated that. He later said that they killed two million people. That’s over-exaggerated. The death rate in Auschwitz was about 1.2 to 1.6 million. On that scale, that does not really make a big difference here on this point. What’s important, and now I go back to the journalists, he did not just face the lawyers, the judges, and the prosecution team, but the world was also here. Other things were, for example Otto Ohlendorf, of the *Einsatztruppen*, was asked by the judges – he was in charge of shooting 90,000 Jews in the Ukraine and Belorussia – he was asked how could they shoot whole families? Ohlendorf, in the interrogation, misses the moral impulse of the question completely, and just answers “well, we shot the children first and then the parents because if you did it the other way around it would take longer the children would start to cry.”

It’s important because it brings the evidence. Think about the situation in winter ‘45 / spring ‘46. Who knew about the genocide? There were survivors. Most survivors at that time were trying to get out of Europe with completely run down fishing ships along the coast of Europe to British Palestine, soon to be Israel. Nazis tried to stay below the radar, didn’t want to talk about the crimes committed by them, and the other group that new were Army units. Those Army units had stopped the mass executions in the death camps. Nobody else knew for sure, they had only heard rumors. And here this became public knowledge. Enough things for example, the reverse of fighting French resistance fighters from Auschwitz, showing their scars from medical experiments. Those were also seen for the first time by the world. So these were important for the trial.

The courtroom was used by the allies for the main trial and for the follow-up trials. Up to seven follow-up trials were held simultaneously but every opening and closing session was held here in this room. After 1949, the U.S. Army still used the courtroom as offices, and handed it back over to the German authorities in the 1960s. The first thing the Germans did was to destroy the balcony and reinstall the back wall. They claimed the balcony is too heavy and could cause internal structural problems so the building could collapse. Though that reason probably was not quite true, they simply did not want to be reminded back then to what happened at Nuremberg. If you take any tour guide for Nuremberg for foreign tourists, if it’s written by English people it includes the trials and the Nazi party rallies. If it was written by Germans back then, until the 1990s, they talked about the castle, the market square, the Christmas market, and gingerbread. The didn’t mention the rally grounds, and they did not mention courtroom 600. The didn’t want to be reminded of that. That just changed in the mid-1990s. For the Germans, during the trial, it was seen as a fair trial. But the perception changed during the 1950s, that it was a show trial by the victors and not a fair trial. This changed to get in the 1990s. Today Nuremberg hands out the human rights prize every other year. We’ve seen one half of the defendants’ bench, the other half was given as a present to the ICC in The Hague. Now Nuremberg is seen as the birthplace of international justice and law. It shows us also the generation conflict that happened in Germany, and how it’s perceived today.

*AUTHOR: Where was to prosecutor’s stand?*

MR. EIGEN: The prosecutor’s stand was approximately here. The witness chair was about 3 feet to the left of the right door, and then more listen a straight line over here. The space for the judges occupied about 2½ windows wide. The clerks of the court were about here. The first spectators rose started about here, so about the last two of the benches today were spectators benches back then.

*AUTHOR: You said that the public perception of the trials changed a lot and to being seen as unfair. Concurrently with that there was the denazification process happening, and it seems that if the Nazi party was being vilified in Germany, the Germans would be in support of the trial. What was there an identifiable reason why people started to view the trials as unfair, or was that just a gradual shift?*

MR. EIGEN: If I were a cynic, I would say that they thought this was a fair trial, a good thing, because only so few got tried, and a lot of them got away without ever facing consequences for their actions. In 1950’s with the whole thing came to an end, the attitude even changed for these Nazis. So for example, a German court acquitted Alfred Yodel postmortem. The idea is that if you’re acquitted, then the property is not seized by the allied forces. The US High Commissioner even came to an agreement with the Germans, saying he stays guilty, but we’re not expropriating the widow. In the 1950s, the Germans completely ignore their past, did not want to talk about it, and if anyone was guilty it was Hitler, Himmler and Goebbels. Also, in the early 50s, most of those convicted in the follow-up trials were released without serving the full prison term, because the allies needed them. They need them to rebuild the country, and that at some point, you need doctors, you need Army sergeants, you need police officers, to build up Germany as a front state of the Cold War. Technically, I would say the generation back then was living in a democracy, but they were not really democrats. That only changed over the next generation of Germans. For example, from 1950 on in western Germany, the Germans were in charge of prosecuting Nazi crimes. They started 2000 investigations in 1950. The number drop-down to 200 in 1955. The first trial started in Ulm in 1958, the *Einsatzgruppen* trial, because a member of the city Council was fired when it came to public attention that he was a member of the *Einsatzgruppen*. He sued the state because you want to get his job back, he was concerned about his pension fund. So the didn’t want to stop the try but themselves, but they were forced by the Nazis to start the trial against them. And then you get the first real change that started with the Eichmann trial in Jerusalem in 1961, and since then the subject came back to public attention. The first real trial in Germany, where the state wanted to try some Nazis, the Auschwitz trial in Frankfurt in 1961 started by complete coincidence during the yachting competitions, where a German won a silver medal, who was one of the sons of a commander in Auschwitz whom the state attorney was looking for. So just by his son winning a medal you found the company. We get these big debates in the 1960s because by then there was a statute of limitations on murder. For every murder committed 20 years prior to 1965, so before 1945, could no longer be tried. They tried to shift it to 1968, but even so they just kept pushing it out until the statute of limitations expired.

[Pointing to a display case of books] Here you can see some of the paper trail of the trial. All these pages. There is also the red in addition and the blue edition with the transcription of the trial. The red in addition are the documents that were used as evidence in the trial. Every affidavit, every document, is published and available. There was a similar trial going on in Tokyo. There were similar trials starting in Tokyo against war crimes and crimes against humanity. Interestingly there was no trial against Japanese doctors. From what I understand, they considered the results of the experiments valuable enough not to try the doctors.

The years see the follow-up trials starting to take place. The first one started in December 1946 and ended in November 1947, the doctors trial. Originally, the chief prosecutor Telford Taylor wanted the trial against Gustav Krupp to be the first one, but they could not organize documents fast enough. The Americans wanted to just replace Gustav Krupp with his son Alfred Krupp, but the British replied this is no football match, so you cannot just change players you want to. This is a trial, so provide evidence and then we will try him. So that took longer. During the interviews with survivors of the concentration camps, evidence about the medical experiments turned up, because the euthanasia killings were tried. So the doctors trial became the first one. We get at least seven death penalties and seven acquittals, and the rest received prison terms, but not all of them served the full time. What were they accused off? Well, the first count was to commit conspiracy. The second and third, to commit war crimes and crimes against humanity. And fourth, to be members in a criminal organization. 10 of these doctors were members of the SS. The second and third points of the indictment come with the same crimes, but again with different groups. Prisoners of war to whom applies the Geneva Convention and the convention of the Hague. During medical experiments with them is a war crime. During the same experiments with civilians, for example Polish resistance fighters, that’s a crime against humanity because they were not under martial law, but otherwise it’s the same thing. I would classify the crimes into two large groups. One of them were the euthanasia killings, that is the mass executions and genocides of people with disabilities. The other group are medical experiments. Mainly the Nazis studied phenomena that occurred during the war, for example typhus and cholera, wound infections of the soldiers, hypothermia, and so on. They took inmates of concentration camps and put them into decompression chambers to simulate flights up to 40,000 feet without any air to see what happens. So those were effects that appeared in the battle of Britain for example. So after the battle of Britain the Air Force requested these experiments. Similar thing was when a plane got shot down and the soldiers were in the water, improvement was these subjected inmates to Coldwater five hours and hours and try to reanimate them afterwards to see how long that would still be possible. They also did this in.Dachau. Or they gave inmates just salt water to drink, to see what the effects were in how long they would survive. The motivation for the doctors was to study the effects of things that happened in the war. Others were wound infections, experiments with poison gas, and these things. There are very different groups but it shows us who was involved. There were doctors in the Armed Forces and doctors in the SS, who were in charge of the sanitation of ghettos in the occupied areas. So they were at seven death penalties, plus 5 lifelong, that’s 12, two 20 years, one 15 years, one 10 years, seven acquittals, 23 in all. Of the experiments had nothing to do with poor effects, for example one of Hitler’s doctors – the Nazis never had penicillin, so they used other drugs that never worked that well – so one of Hitler’s doctors, so what they did is they infected 15 people in then treated them to see how the medicine would work.

When you look at the doctors’ faces, you see that they all have scars in their faces, which means that they were all members of German *Studentenverbindungen,* fraternities. A lot of the doctors were hardline conservatives. Even today but even more than the 1920s and 30s these fraternities were not just about drinking, but really, really hard-core conservative, in an anti-modern impulse. The problem is the 1920s and 30s was that the German insurance distant was very complicated. Younger doctors could not get a job and an appointment easily. Quite a high unemployment rate among doctors. The Nazis reorganize the whole health system. For example, they opened up a lot of jobs for doctors because the prohibited the church doctors could work. So a lot of these doctors became Nazis supporters right away from 1933 on. They defended themselves with the necessity of war: we had these problems because we had to sacrifice a few to save several thousand. It was a pseudo-rational argument, and they did not care about their oath. They also argued that other countries did similar things to do research. What is interesting is what resulted from the doctors trial, that is the Nuremberg code. The Nuremberg code was in some areas also incorporated into national law. That includes for example, a point that you need the informed consent if you participate in any experiment whatsoever, the subject has to give voluntarily his consent to the treatment. The only think you may be left uncertain about is whether he is in the test group or the control group, but that’s it. He has to give his full informed consent, and he has to be in control to stop the treatment or the experiment whenever he wants to. This is definitely something the Nazis did not care about. They picked random inmates of concentration camps and infected them with typhoid. They also did this to keep bacteria all life, so not even for experiments just as containers for these diseases. Philosophically it sounds like a good concept, this informed consent. But it has at least three major problems when you think about this. One problem is for example, it’s just look at this case: you are in a coma and there is a new treatment available. The new treatment may cure you, but you can’t give consent anymore. So there could be a cure but if you act strictly according to the Nuremberg code, you can’t cure someone. Another problem is when you deal with genetic engineering and biotechnology. At the moment, on the doctors actually in a position to inform get enough? Do they know every consequence of what they are doing, or is technology not just one step ahead of us today so can they really inform you. The third is, can I give you informed consent to kill me. This would be a stupid idea, but just the concept of the informed consent, that may lead to the debate about euthanasia and assisted suicide, for example. Therefore there were a few updates on the Nuremberg code, but these are still open questions. It was also used for the bill of patients, so there are some legal constructs that are actually binding for the doctors, but there is still an attempt to solve the problem, but it’s far away from being complete or covering everything on because behalf the problem with the free will, that is a key question here.

*AUTHOR: In the main trial, some of the witnesses both for the prosecution and defense were in custody to be tried later on. Were they forced to testify for the prosecution by the allied forces? For example, there was a Nazi who was tried in a follow-up trial later who had to testify in the main trial.*

MR. EIGEN: They were not really forced to testify. I would say most of them testified voluntarily. Like in the doctors trials, they said openly what they were doing, because did not think that what they were doing was wrong. So in the absence of an insight into the crime, they actually thought they could help the others, by pointing out that it was not that bad. So they were not really forced to testify. Of course, some of them refused, but there were so many Nazis around who could have testified, and they had plenty of affidavits and documents. It also created some awkward situations, because Nuremberg did not have enough rooms to find shelter for all of them. So you would often get a guest house where you have an SS guard and is a fiver from a concentration camp living next door, like the *Zeugenhaus* in Erlenstegen. So that was one of these problems. In general they testified voluntarily.

One of the psychologists in Nuremberg wrote the book The Nuremberg Interviews, with insights that are quite interesting to read.

*AUTHOR: I was also wondering about the Nuremberg Code. To what international extend has that been adopted? Is that now in use in every country or have only certain countries taken it into their national law?*

MR. EIGEN: As far as I understand it, it is now the new oath of Hippocrates. It is something the doctors as a group agreed-upon, to act upon the standards. Besides the self-definition of the doctors how they want to treat their patients today, it is incorporated into national law in some countries. But it is interesting to see what the self-definition of doctors is, what they wanted to act upon.

*AUTHOR: You mentioned changes in international law. I was wondering whether the ICC operates very closely to how the Nuremberg trials did, or how the ideas if international law have evolved since Nuremberg.*

MR. EIGEN: They operate very closely to what they did in Nuremberg. The use the same counts of the indictment, war crimes, crimes against humanity. Of course, they have updates to the Geneva Convention. Of course, it has evolved a bit, there have been some modifications because now it’s 70 years later. But there are still deeply rooted in the principles here in Nuremberg. For example, one result from Nuremberg that was a dilemma in the first trial, if you were a member of the Army unit you may get tried if you do not follow orders because you might get shot yourself. The result is, since then, because now we get the ex post facto problem, United Nations, and that’s what the ICC is using, the Nuremberg principles. If you follow orders, and you know the orders of violating international law, that will not protect you from prosecution. There is some results from the Nuremberg trials in the charter of United Nations leading to the ICC.

*AUTHOR: Were there any major dissenting people from the allied nations at the time, who thought the trial was an unfair show trial, or who thought that the international community did not have jurisdiction?*

MR. EIGEN: No, the jurisdiction was given the London statutes. Not only by the allies, but the London statutes was also signed by 15 other nations, or something around 15. The only one who was really disappointed with the outcome was Stalin. If you watch “Judgment at Nuremberg,” what’s coming up is the problem off the Berlin crisis, reared the airlift to Berlin starts and they need these Nazis. We need these specialists, they said. So if anyone was disappointed, it was probably survivors of concentration camps, that there were not more trials going on. But there was no one from the allied point of view saying that this is a show trial and we shouldn’t do it.

*AUTHOR: The other big term I don’t quite understand his denazification and the whole process that occurred after World War II.*

MR. EIGEN: The idea of denazification was that they tried to classify them gradually in being full Nazis since 1918, or those joining the Nazi party later on for example to boost their careers, and bystanders and groups like that. The allies hoped that by doing that they could make a difference and a distinction between those who really committed a crime – that there was not really such a thing as a collective guilt. The problem is of course that if you get 10 Nazis, how do you know who was a bystander who was not. It doesn’t work, so the concepts, I would say, was a good approach, a nice try, but with that many Nazis of course it wouldn’t work. Every Nazi was a crown witness that the other Nazi was no Nazi, and vice versa. The denazification process was not something the Germans started themselves, but it was put upon them by the Allies. That’s why it didn’t work and by the Germans would rather step back and refuse to expose anyone as a Nazi.

*AUTHOR: That makes sense. What else was I meaning to ask? You answered a lot of the questions I had during the tour. Okay, there was a mention that there was irrelevant evidence sometimes, that the court was allowed dismiss. What kinds of things were considered irrelevant?*

MR. EIGEN: Well, I wouldn’t say the evidence was irrelevant, but they didn’t have to hand in everything, like when Jodl signed the commissar order, to shoot Russian propaganda officers. He also wrote two other orders with a similar content: don’t take that group as prisoners of war and shoot them after interrogations. So you don’t really have to percent every one of them in the court. They have on purpose ordered the whole army to violate the Geneva conventions, so that they didn’t have to use everything. They had a lot of material up their sleeves, in case something backfire to wouldn’t work, but in the end it was really regarded as not relevant.

*AUTHOR: I had read that something that the allies did, I think you mentioned it, but they set up this kind of web, this conspiracy theory that the whole Nazi regime was a conspiracy to get them all on one count that Robert Jackson really want to present in court. I’m not quite sure what that means but what he meant to do.*

MR. EIGEN: The concept of conspiracy. They used the same concept here Nuremberg for the doctors trial. The conspiracy meant that all these doctors from the beginning, for example, had planned to commit these experiments, so this was not something to didn’t want to do, or that happened by coincidence. In this case they didn’t used to concept of conspiracy to start the whole war, but to say okay, you were in the situation in 1939, you knew about the war going on, and you meant to build concentration camps. He did experiments with them because she wants to get results. In the main trial the concept was used to say, you want to break the peace treaty of first I, you wanted to start the war and you wanted to have a clash of ideologies the Soviet Union but didn’t care about international law.

*AUTHOR: For the doctors trials, I know that there was – they kept records obviously of everything they did. Was any of it deemed scientifically important or relevant enough for them to have kept as scientific knowledge at the time, over the results mostly discounted?*

MR. EIGEN: We should have a closer look at what happened in Japan. They got experimental results that were important, and the doctors trial, as far as I know, some of the drugs they experimented with not a sufficient is penicillin, therefore as there was already a better cure available, these experiments were all dealing with the first of the cure that was not working as well, so it was not bringing science a step ahead. Other results may have had some scientific value. In a lot of cases, for example, the results were affected by – for example in one case where they give people salt water to drink, one of the nurses supplied them with a few cases of drinking water, so what happened was that she ruined the test in the control group scheme of the experiment. The whole experiment was invalid and didn’t prove anything whatsoever. Maybe NASA looked at the decompression experiments when they sent the first people to the moon, but otherwise it would not be valuable.

*AUTHOR: What were some of the other subsequent trials about? I know they had judges and some major industrialists on trial, but I know there were a lot more of them.*

Mr. Eigen: there were trials against the *Einsatzgruppen*, the snowball execution squads that were run by the SS and operated straight behind the front lines. There was a trial going on against the Army, especially for crimes – the hysteria they had had on partisans behind the front lines, where they shot especially thousands and thousands of civilians in Yugoslavia. It is also interesting to know that the judges sometimes acted a bit different than in the main trial. For example in the main trial, it was declared to be a war crime to shoot civilians as revenge for partisan actions. In one of the follow-up trials, the judges said the ratio is wrong, so they didn’t – they said we can’t shoot hundreds of civilians in revenge for one Nazi. So maybe two or three to 1 may be okay, but not hundreds of them. Judges were really independent. They used the London statute, but they also at the individual freedom to make decisions in general.

*AUTHOR: So I know that the other major international military tribunals were held in Rwanda and former Yugoslavia in the 1990s.*

MR. EIGEN: So that’s your ICC.

*AUTHOR: But the investigation started earlier. That they draw a lot of things directly from Nuremberg, what did they just investigate independently? I don’t really know how these trials worked. Were they really run by the ICC? I thought the ICC didn’t start until later.*

MR. EIGEN: When did the ICC start? I think Rhonda and Yugoslavia were ad hoc trials, before the ICC. The first chief prosecutor of the ICC started in 2000 or 2001. So that’s all leading to the ICC, and then the ICC took over the trials later.

*AUTHOR: The last question I have is about genocide. I don’t think that was a term that was widely used during that time. Is that something that was defined during the Nuremberg trials?*

MR. EIGEN: I think that is something that came up during the Nuremberg trials, or slightly before the Nuremberg trials. It was used to get a grasp on the mass executions, on several mass executions of the same victim group.

*AUTHOR: Thank you very much.*