The Doctors' Trial

"The defendants in this case are charged with murders, tortures, and other atrocities committed in the name of medical science. The victims of these crimes are numbered in the hundreds of thousands. A handful only are still alive; a few of the survivors will appear in this courtroom. But most of these miserable victims were slaughtered outright or died during the course of the tortures to which they were subjected. For the most part they are nameless dead. To their murderers, these wretched people were not individuals at all. They came in wholesale lots and were treated worse than animals."

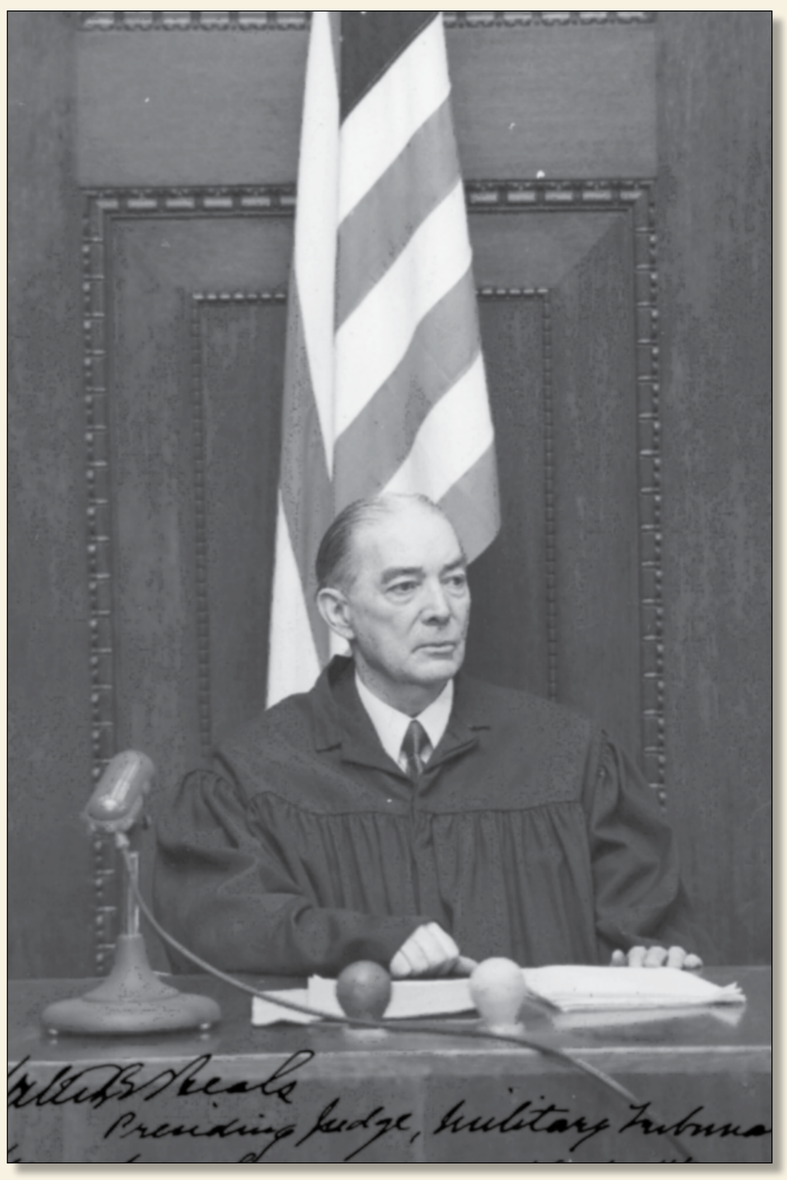
-BG *Telford Taylor, Chief of Counsel for War Crimes,* Opening Statement, Nuremberg Military Tribunal Case No. 1, *December 9, 1946*[1]

In addition to the twenty-four high-ranking Nazi officials who were tried by the International Military Tribunal (IMT), there were many others who held lesser rank in the Nazi regime and deserved to be tried for their conduct during World War II. Shortly after the International Trial began, the four powers occupying Germany – Great Britain, the United States, France, and the Soviet Union – adopted Allied Control Council Law Number 10, which formed the basis for additional war crimes trials. The four occupying powers were allowed to establish tribunals within their respective sectors. Many of the suspects who had participated in medical experiments on concentration camp inmates were being held by the Americans and the British. By mutual agreement, the British transferred a number of "Schutzstaffel," or SS, and military doctors who were suspected of medical atrocities to Nuremberg so that all medical suspects could be tried in a single proceeding within the American zone.

The Medical Case, U.S.A. v. Karl Brandt, et al. (also known as the Doctors' Trial), was prosecuted in 1946-47 against twenty-three doctors and administrators accused of organizing and participating in war crimes and crimes against humanity in the form of medical experiments and medical procedures inflicted on prisoners and civilians. They were indicted on four counts: 1. conspiracy to commit war crimes and crimes against humanity; 2. war crimes (i.e., crimes against persons protected by the laws of war, such as prisoners of war); 3. crimes against humanity (including persons not protected by the laws of war); and 4. membership in a criminal organization (the SS). The specific crimes charged included more than twelve series of medical experiments concerning the effects of and treatments for high altitude conditions, freezing, malaria, poison gas, sulfanilamide, bone, muscle, and nerve regeneration, bone transplantation, saltwater consumption, epidemic jaundice, sterilization, typhus, poisons, and incendiary bombs.

Palace of Justice, Nuremberg, Germany[2]

Of the twenty-three people tried during the Doctors' Trial, Karl Brandt, Adolph Hitler's personal physician, and six others were convicted, sentenced to death by hanging, and executed on June 2nd, 1948, in Landsberg prison in Bavaria. Nine other defendants were convicted and sentenced to terms ranging from 10 years to life in prison, all of which were reduced in the appeal process. The remaining seven were acquitted.



Justice Walter B. Beals[3]

Justice Walter B. Beals was nearing the end of an illustrious legal career when, at the age of 70, he received a call from the War Department asking him to serve as a judge on one of the newly formed military tribunals trying Nazi war crimes cases in Nuremberg, Germany. He took a leave of absence from his duties as Chief Justice of the Washington State Supreme Court in October 1946 and sat as presiding judge over Nuremberg Military Tribunal No. 1, the Medical Case. It was a grueling nine month trial, lasting from the prosecution's opening statement on December 9, 1946, until August 20, 1947, when Judge Beals read the sentences to the defendants. It included the testimony of 85 witnesses and the submission of almost 1,500 documents. The 179-page judgment alone took eight hours to read. Judge Beals endured ill health and much pain during the trial, losing 25 pounds in the course of his time in Germany. Just three weeks after issuing the sentences, he resumed his seat on the Washington State Supreme Court, eventually regaining his health. He served another four years before retiring in 1951.

Karl Brandt being sentenced to death, August 20, 1947[4]

"KARL BRANDT, Military Tribunal I has found and adjudged you guilty of war crimes, crimes against humanity, and membership in an organization declared criminal by the judgment of the International Military Tribunal, as charged under the indictment heretofore filed against you. For your said crimes on which you have been and now stand convicted Military Tribunal I sentences you, Karl Brandt, to death by hanging."

-Presiding Judge Beals, August 20, 1947[5]

Defendants dock during the Doctors' Trial[6]

On August 19, 1947, the judges of the American military tribunal in the case of the USA v. Karl Brandt et. al. delivered their verdict. Before announcing the guilt or innocence of each defendant, they confronted the difficult question of medical experimentation on human beings. Several German doctors had argued in their own defense that their experiments differed little from previous American or German ones. Furthermore they showed that no international law or informal statement differentiated between legal and illegal human experimentation. This argument worried Drs. Andrew Ivy and Leo Alexander, American doctors who had worked with the prosecution during the trial. On April 17, 1947, Dr. Alexander submitted a memorandum to the United States Counsel for War Crimes which outlined six points defining legitimate research. The verdict of August 19 reiterated almost all of these points in a section entitled "Permissible Medical Experiments" and revised the original six points into ten. Subsequently, the ten points became known as the "Nuremberg Code." Although the code addressed the defense arguments in general, remarkably none of the specific findings against Brandt and his codefendants mentioned the code. Thus the legal force of the document was not well established. The uncertain use of the code continued in the half century following the trial when it informed numerous international ethics statements but failed to find a place in either the American or German national law codes. Nevertheless, it remains a landmark document on medical ethics and one of the most lasting products of the Doctors' Trial. It has since been supplemented by The Declaration of Helsinki, which demands the freely-given, informed consent of the subject of any biomedical research. This declaration is an official policy document of the World Medical Association, the global representative body for physicians. It was first adopted in 1964 in Helsinki and has been revised or clarified several times since.

Witnesses waiting to give testimony[7]

"Several medicines were given to us…against malaria. One time when I had an attack, I was given so called perifer. All of a sudden my heart felt like it was going to be torn out. I became insane. …I told the nurse about…the complications…and that I did not want to receive [anymore] injection[s]. He told me, 'I know you know what can happen if you don't accept the injection.' Dr. Ploettner came…and told the nurse…to give me the rest of the injections. The physician…looked at me and said 'I am responsible for your life, not you.'"

-Excerpt from Fr. Leo Miechalowski's testimony, December 21, 1946[8]

The Nuremberg Code[9]

1. The voluntary consent of the human subject is absolutely essential.
2. This means that the person involved should have legal capacity to give consent; should be so situated as to be able to exercise free power of choice, without the intervention of any element of force, fraud, deceit, duress, over-reaching, or other ulterior form of constraint or coercion; and should have sufficient knowledge and comprehension of the elements of the subject matter involved, as to enable him to make an understanding and enlightened decision. This latter element requires that, before the acceptance of an affirmative decision by the experimental subject, there should be made known to him the nature, duration, and purpose of the experiment; the method and means by which it is to be conducted; all inconveniences and hazards reasonably to be expected; and the effects upon his health or person, which may possibly come from his participation in the experiment.
3. The duty and responsibility for ascertaining the quality of the consent rests upon each individual who initiates, directs or engages in the experiment. It is a personal duty and responsibility which may not be delegated to another with impunity.
4. The experiment should be such as to yield fruitful results for the good of society, unprocurable by other methods or means of study, and not random and unnecessary in nature.
5. The experiment should be so designed and based on the results of animal experimentation and a knowledge of the natural history of the disease or other problem under study, that the anticipated results will justify the performance of the experiment.
6. The experiment should be so conducted as to avoid all unnecessary physical and mental suffering and injury.
7. No experiment should be conducted, where there is an a priori reason to believe that death or disabling injury will occur; except, perhaps, in those experiments where the experimental physicians also serve as subjects.
8. The degree of risk to be taken should never exceed that determined by the humanitarian importance of the problem to be solved by the experiment.
9. Proper preparations should be made and adequate facilities provided to protect the experimental subject against even remote possibilities of injury, disability, or death.
10. The experiment should be conducted only by scientifically qualified persons. The highest degree of skill and care should be required through all stages of the experiment of those who conduct or engage in the experiment.
11. During the course of the experiment, the human subject should be at liberty to bring the experiment to an end, if he has reached the physical or mental state, where continuation of the experiment seemed to him to be impossible.
12. During the course of the experiment, the scientist in charge must be prepared to terminate the experiment at any stage, if he has probable cause to believe, in the exercise of the good faith, superior skill and careful judgement required of him, that a continuation of the experiment is likely to result in injury, disability, or death to the experimental subject.

1. http://www.ushmm.org/research/doctors/telford.htm; 2. http://www.holocaustresearchproject.org/trials/nurnbergtrial.html; 3. http://lib.law.washington.edu/ref/nuremberg.html; 4. http://www.spartacus.schoolnet.co.uk/GERbrandtK.htm; 5. http://www.ushmm.org/research/doctors/sentence.htm; 6. http://www.ushmm.org/uia-cgi/uia_doc/photos/1198?hr=null; 7. http://www.holocaustresearchproject.org/trials/nurnbergtrial.html; 8. http://www.ushmm.org/research/doctors/miechalowski.htm; 9. http://www.hhs.gov/ohrp/references/nurcode.htm