

Mass Sterilization Experiments in the Doctors' Trial: Legal, Evidentiary, and Historiographical Dimensions by Alexandra M. Szabo

The surviving victims of sterilization and castration abuses in Nazi concentration camps were pushed to the margins of Holocaust representation and historiography. This marginalization stemmed in no small part from the evidentiary architecture of the trial United States v. Karl Brandt et al., the so-called Doctors' Trial, that convened between October 25, 1946 and August 20, 1947. The documents used and produced in this trial became foundational for the first generation of scholars researching medicine and medical crimes during the Nazi period. The trial failed to establish sterilization and castration as integral components of the genocidal program given the prosecution's weak exposition and ultimately unsuccessful evidentiary showing. Although the prosecution clearly sought to frame these procedures as instruments of genocide, it proceeded cautiously. This caution was shaped by the political need to differentiate Nazi practices from the forced sterilization procedures legalized and administered within the United States itself. This strategic restraint was not openly acknowledged by American actors in the courtroom but becomes apparent when examining the legal, rhetorical, and evidentiary choices made throughout the trial.

Early investigation materials underscore the stakes of what was lost in the transition from investigation to prosecution. Before the Nuremberg proceedings, Allied investigative bodies documented sterilization and castration abuses extensively, grounding their findings in victim and witness testimony. The Soviet Extraordinary State Commission¹ (henceforth on ChGK,

¹ The name of the commission is translated from Russian to "Extraordinary State Commission on Reporting and Investigating the Atrocities of the German Fascist Occupants and their Henchmen and the Damages inflicted by them to Citizens, Kolkhozes, Public Organizations, State Enterprises" or "Extraordinary State Commission for the Establishment and Investigation of the Crimes of the Fascist German Invaders and Their Accomplices, and of the Damage They Caused to Citizens, Collective Farms (Kolkhozy), Public Organizations, State Enterprises, and Institutions of the USSR", see Kiril Feferman, "Soviet Investigation of Nazi Crimes in the USSR: Documenting the

following the Russian name *Chrezvychainaia gosudarstvennaia komissii*) recorded systematic accounts of such atrocities immediately after liberation, and parallel efforts emerged among survivors themselves. In Hungary, the National Committee for Attending to Deportees (from here on DEGOB, following the Hungarian name *Deportáltakat Gondozó Országos Bizottság*) recorded a body of survivor testimonies in the form of detailed protocols. Such materials were intended for use in war-crime prosecutions, including the International Military Tribunal. Yet much of this victim-centered evidence—especially the Soviet investigative records—was excluded from the subsequent Nuremberg trials, including the Doctors' Trial, largely because of emerging Cold War dynamics that reshaped evidentiary legitimacy.

A close analysis of the prosecution's rhetoric in the Doctors' Trial reveals how these structural and political pressures shaped the legal narrative. The indictment relied primarily on perpetrator documents, including correspondence between Nazi doctors and administrators of government agencies, to outline the scope and methods of mass sterilization experiments. This approach reflected the prosecution's broader goal: to demonstrate that the German medical profession had been fundamentally aligned with the aims of National Socialism. Within this framework, sterilization experiments were positioned as the clearest expression of biological genocide, drawing explicitly on Rafael Lemkin's conceptualization of this new term. This framing simultaneously served another prosecutorial aim, namely, to distinguish Nazi sterilization practices from eugenic sterilization programs in the United States by emphasizing genocidal intent rather than public health policy.

Holocaust," *Journal of Genocide Research* 5, no. 4 (2003): 587–602; and Marina Yu. Sorokina, "On the Way to Nuremberg: The Soviets Commission for the Investigation of Nazi War Crimes," in *The Nuremberg War Crimes Trial and Its Policy Consequences Today*, ed. Beth A. Griech-Polelle (Nomos Verlagsgesellschaft mbH & Co. KG, 2020) respectively.

As the trial progressed, the actual length and depth of court discussions around specific sterilization and castration techniques depended on the presence or more often the absence of the perpetrators themselves. The disproportionate focus on the X-ray castration method, for instance, reflected not the actually present defendants before the tribunal but rather the prosecution's interest in focusing on a method whose brutality characterized Nazi crimes and sharply contrasted with eugenic sterilization practiced in the US and elsewhere. To underscore this distinction, the prosecution took an uncommon approach in summoning victims of castration by high-dose radiation to testify, at a time when victims were not yet systematically centered as witnesses in international war crimes trials.² Centering witnesses bore similarities to the Soviet approach to investigating Nazi crimes, though the Soviets distinguished themselves by their early critique of eugenics as an ideology, not merely its extreme applications.³

This context informs the question raised by historian Paul Weindling as to whether the Doctors' Trial can be regarded as a "eugenics trial."⁴ The question captures the core difficulty the tribunal faced: how to adjudicate sterilization carried out under Nazi rule while fending off *tu quoque* ("you did it too") defenses pointing to similar practices in the United States. Although the overwhelming evidence of Nazi brutality made such defenses legally unsustainable, the prosecution nonetheless failed to maintain clear conceptual and evidentiary control over the charge of mass sterilization experiments as this analysis will show. The structure of the trial itself contributed to the collapse of the argument built for the mass sterilization charge. Adolf Pokorny was positioned as the central figure of the charge. He was acquitted, however, having neither

² Lawrence Douglas, *The Memory of Judgment: Making Law and History in the Trials of Holocaust* (Yale University Press, 2001), 79.

³ М.Папава, "Игра в Черепа," *Смена (Smena)*, April 1934, No. 256 Edition, <https://smena-online.ru/stories/igra-v-cherepa/page/3>.

⁴ Weindling, *Nazi Medicine and the Nuremberg Trials*, 225–249.

ordered nor carried out sterilization measures. Moreover, Pokorny was neither a Nazi physician nor integrated into the Nazi medical system, a fact that was clearly established during the trial. His lack of ideological affiliation with National Socialism further undercut the prosecution's attempt to situate him within a broader framework of Nazi medical criminality. Subsequently, attempts to redirect attention to Carl Clauberg's sterilization method was unsuccessful given that prosecutorial momentum and his absence had already constrained the narrative.

A fuller engagement with victim testimony might have altered this trajectory. Yet the evidentiary culture of the period treated survivor accounts as subjective and therefore legally insufficient.⁵ This bias not only undermined the clarity of the prosecution's case but also shaped the historical record that later scholars inherited. The chapter concludes by returning to the perspective of victims and their families to illustrate how profoundly this legal history constrained their possibilities for recognition, justice, and long-term reparations.

1. Early Efforts Towards Legal Accountability

The earliest moment that the documentation of sterilization and castration could be collected for legal purposes from Auschwitz-Birkenau was when the Red Army liberated the camp complex on January 27, 1945.⁶ By that time, the Soviet Extraordinary State Commission (ChGK) had been established, whose primary mission was to bring Nazi criminals to justice by authorizing investigative organs and deploying official representatives across Soviet and Soviet-occupied

⁵ Sonali Chakravarti, "More than 'Cheap Sentimentality': Victim Testimony at Nuremberg, the Eichmann Trial, and Truth Commissions," *Constellations* 15, no. 2 (2008): 223–35, <https://doi.org/10.1111/j.1467-8675.2008.00486.x>. This perception was also true for victims of other genocides and atrocities testifying in trials, see Carolyn J. Dean, *The Moral Witness: Trials and Testimony after Genocide*, Corpus Juris the Humanities in Politics and Law (Cornell University Press, 2019), 31.

⁶ Geoffrey P. Megargee *The United States Holocaust Memorial Museum Encyclopedia of Camps and Ghettos, 1933-1945*. Indiana University Press, 2009, 212.; The Vrba-Wetzler Report, so-called "Auschwitz Protocols," written by escaped inmates Alfred Wetzler and Rudolf Vrba did not contain information about sterilizations or castrations. See: Alfred Wetzler and Rudolf Vrba, "Auschwitz Protocols (1944)," in *The Third Reich Sourcebook*, ed. Anson Rabinbach and Sander L. Gilman, (University of California Press, 2013), 797–802.

territories.⁷ The ChGK had been investigating Nazi crimes on Soviet territories since March, 1943,⁸ and as a local branch in Lublin, the Polish-Soviet Extraordinary Commission came into being in order to conduct investigations in concentration camps in 1944.⁹ The Red Army also undertook investigations of Nazi war crimes during its advance. Acting as auxiliaries to the ChGK, these efforts were carried out by so-called military commissions.¹⁰

As Auschwitz-Birkenau was liberated by the troops of the Ukrainian Front, they became the first documenters of the camp complex in collaboration with other commissions. What would later be consolidated into the Main Commission for the Investigation of German Crimes in Poland (Polish: Główna Komisja Badania Zbrodni Niemieckich w Polsce) initially consisted of several smaller investigative bodies, many of which were dispatched by Jewish or state committees and were active during the early investigations of the camps on Polish soil.¹¹ Yet several other parties were also involved as the Soviet reports stated, for instance, the investigations of the Department of War Crimes under the Ministry of Information of the French Republic from January 7, 1945.¹² They provided a broader overview of medical crimes in various concentration camps, including practices of sterilizations and castrations.¹³ These procedures were mainly investigated through interrogations of prisoner-physicians and prisoner-functionaries, as the descriptions contained very specific information. For example, the

⁷ Other aims included the creation of a complete record of Nazi crimes with the unifying contribution of Soviet state organs, see: Paula Chan, “Eyes on the Ground: Soviet Investigations of the Nazi Occupation” (Dissertation, Georgetown University, 2023), 5.

⁸ The chronology of the ChGK’s establishment and the beginning of its investigative work is somewhat inconsistent in the secondary literature, here I follow: Feferman, “Soviet Investigation of Nazi Crimes in the USSR,” 589.

⁹ The first concentration camp to be investigated by the commission was Majdanek in July, 1944. See: Paula Chan, “Eyes on the Ground: Soviet Investigations of the Nazi Occupation,” 49.

¹⁰ Ibid., 67–68.

¹¹ Louisa Marie McClintock, “Projects of Punishment in Postwar Poland: War Criminals, Collaborators, Traitors, and the (Re)Construction of the Nation” (Dissertation, University of Chicago, 2015), 22–25.

¹² 5653900, M. 33., Records of the Extraordinary State Commission to Investigate German-Fascist Crimes Committed on Soviet Territory.

¹³ Ibid., pp 94–97.

procedures at the laboratory in Block 21, where semen analysis was performed after castration experiments, were documented with medical specificity. Such details included information on the type of microscope utilized. This was a phosphorescence microscope, which “was based on the principle that every living cell is phosphorescent, while a dead cell is not. This allowed them to distinguish a live sperm cell from a dead one.”¹⁴

Similarly, one of the primary investigative methods employed by the ChGK military commissions was the interrogation of witnesses and survivors, from which official reports were subsequently produced.¹⁵ The Polish commissions, working jointly with Soviet investigators, also incorporated questionnaires on the concentration camps into the reportings, to which municipal court judges contributed information obtained from eyewitnesses and survivors.¹⁶ The Military Prosecutor’s Office of the 1st Ukrainian Front (Военная прокуратура 1-го Украинского фронта) also added valuable information from confiscated documentation found in the offices of the medical blocks in Auschwitz, such as reports on the work of surgical divisions or telegrams addressed to the camp command.¹⁷ The reports documented the sterilizations and castrations carried out on victims of multiple nationalities and ethnicities, including Jewish and Romani Hungarian women and men.¹⁸ The testimonies presented in the reports contain

¹⁴ Ibid., pg 97.; This microscopic technique was pioneered by Phillip Ellinger and August Hirt in 1929 under the term “Intravitalmikroskopie.” Hirt later became implicated in murder for anatomical research when, in 1943, eighty-six Jewish prisoners were transported from Auschwitz concentration camp to Natzweiler-Struthof concentration camp and killed for his collection. For more on Ellinger and Hirt’s collaboration, see: Sabine Hildebrandt, *The Anatomy of Murder: Ethical Transgressions and Anatomical Science During the Third Reich* (Berghahn Books, 2016), 133.

¹⁵ Feferman, “Soviet Investigation of Nazi Crimes in the USSR,” 590–1.

¹⁶ Louisa Marie McClintock, “Projects of Punishment in Postwar Poland: War Criminals, Collaborators, Traitors, and the (Re)Construction of the Nation,” 33.

¹⁷ See, for example: 5724590, M. 33., Records of the Extraordinary State Commission to Investigate German-Fascist Crimes Committed on Soviet Territory, p. 32–34.

¹⁸ There is a whole debate about the paucity of representation of Jews in the majority of the ChGK reports, however, in the case of Auschwitz-Birkenau, this is not prevalent. For such discussions, see: Paula Chan, “Eyes on the Ground: Soviet Investigations of the Nazi Occupation,” 12–15.

significantly less representation of Romani victims of the mass sterilization experiments, most likely because the family section of the camp had already been eliminated and the victims had been killed in August 1944.

Parallel to the more systemic work carried out by the liberating military forces, another important facet of the early pursuit of legal accountability was initiated by survivors themselves, who did so in increasingly institutionalized ways. Across fourteen European countries, survivors established historical commissions and documentation centers almost immediately after liberation.¹⁹ One of the first organizational efforts emerged on August 29, 1944 in Lublin, as five Polish Jews founded a historical commission to collect evidence and record testimonies of what had occurred under Nazi persecution, which later became the Central Jewish Historical Commission in Poland.²⁰ In Hungary, similar efforts were undertaken through the National Committee for Attending to Deportees (DEGOB). DEGOB recorded thousands of testimonies from Hungarian survivors who returned from concentration camps, forced labor sites, or displaced persons' camps.²¹ Although it did not institutionalize to the same extent as its Polish counterpart, it nevertheless established the first systematic framework in Hungary for collecting survivor testimony and preserving documentary traces of the Holocaust.

These initiatives were not merely acts of remembrance; they were driven by an acute awareness that such documentation could become instrumental in future war crime trials. Laura

¹⁹ Jockusch, *Collect and Record! Jewish Holocaust Documentation in Early Postwar Europe*, 15.

²⁰ Laura Jockusch, ed., *Khurbn-Forshung: Documents on Early Holocaust Research in Postwar Poland*, 1st ed. (Vandenhoeck & Ruprecht, 2022), 19–24.

²¹ The registry book of the DEGOB protocols, which was found alongside the original copies of the typewritten testimonies in the Hungarian Jewish Museum and Archives in Budapest, counts 3,665 protocols. However, the World Jewish Congress after taking over the documentation of DEGOB on June 15, 1946 enumerated 4,600 protocols. See: Horváth, *A Magyarországi Zsidók Deportáltakat Gondozó Országos Bizottsága (DEGOB) Története*, 51. I have also found some not registered protocols in Hungary, see: Alexandra M. Szabo, "The Discovery of an Unknown Holocaust Testimony: The DEGOB Protocol of a Spouse," *Eastern European Holocaust Studies* 1, no. 2 (2023): 589–606.

Jockusch has shown that the Central Jewish Historical Commission in Poland furnished evidence by forwarding material to the High Commission for the Investigation of German Crimes in Poland and the first war crime trial following the Second World War, the International Military Tribunal at Nuremberg.²² The role of DEGOB's work in contributing to war crime trials against National Socialists is more difficult to assess due to a lack of research on questions that include whether the collected testimonies were used in any legal proceedings, and if so, for which trials and to what extent. The legal intention behind the documentation effort is nevertheless evident. Most notably, the decision to label the testimonies as 'protocols' (*jegyzőkönyvek*) already suggests that the material was conceived not only as historical documentation but also as potential legal evidence. Rita Horváth, a historian of the DEGOB, has found that the Jewish Agency financed the work of DEGOB with the explicit purpose of providing evidence for war crime trials.²³ These efforts therefore represent the earliest survivor-led attempts to preserve history and prepare evidence for legal accountability. Survivor historians who worked extensively with these documents for early histories and source collections did address sterilization and castration in their publications in the immediate postwar years.²⁴

The materials collected from and on concentration camps, especially by the Soviet commission, the ChGK, on Auschwitz-Birkenau, were intended to be forwarded to Nuremberg in preparation for the forthcoming war crimes trial to be held together with the other Allied powers, the United States, the United Kingdom, and France. The document collection was very rich, however, its utilization was not a straightforward process. The Soviets faced wider political and

²² Jockusch, *Khurbn-Forshung Documents on Early Holocaust Research in Postwar Poland*, 24.

²³ Rita Horváth, "Jews in Hungary after the Holocaust: The National Relief Committee for Deportees, 1945–1950*," *Journal of Israeli History* 19, no. 2 (1998): 75.

²⁴ Poliakov, *Harvest of Hate: The Nazi Program for the Destruction of the Jews of Europe*, 245–280.; Friedman and Friedman, *Roads to Extinction*, 381–386. Friedman's work was published posthumously, but he wrote the piece on sterilizations in 1951.

legal battles with the other victorious powers while proceeding with the first and only four-power war crimes trial against high-ranking representatives of the National Socialist regime before the International Military Tribunal (IMT) between November 20, 1945 and October 1, 1946.

Grounded in Joseph Stalin and Foreign Minister Vyacheslav Molotov's wartime objective of securing reparations to rebuild Russia, the Soviet leadership assumed a prominent role in initiating the IMT trial to begin with.²⁵ Beyond political motives, the Soviet effort to bring Nazi crimes to justice was shaped by the processing and interpretation of the extensive evidentiary material collected by the ChGK.²⁶ The other Allied powers, however, also played a significant role in shaping the trial, and each arrived with distinct experiences and sought to assert its own narrative.²⁷ They had agreed to create a distinct investigative commission, the United Nations War Crimes Commission (UNWCC), which first convened without Soviet representation in October 1943, although its members pushed for cooperation with the ChGK by late March 1945.²⁸ Ultimately, the ChGK materials formed the core of the Soviet case at the IMT, though they came under scrutiny for several reasons, largely because they did not present a coherent narrative and would also provide incriminating evidence against the USSR.²⁹ Nevertheless, historian Paula Chan argues that the materials presented from the investigative materials of ChGK were significant in the trial for “putting human faces on Nazi crimes”.³⁰

Historian Francine Hirsch demonstrates how the Americans ultimately came to dominate the tribunal's legal, evidentiary, and narrative frameworks, leading to the collapse of four-power

²⁵ Francine Hirsch, *Soviet Judgment at Nuremberg: A New History of the International Military Tribunal after World War II* (Oxford University Press, 2020), 4.

²⁶ David M. Crowe, *Stalin's Soviet Justice: "Show" Trials, War Crimes Trials, and Nuremberg* (Bloomsbury Academic, 2019), 8.; Hirsch, *Soviet Judgment at Nuremberg*, 20.

²⁷ Hirsch, *Soviet Judgment at Nuremberg*, 4.

²⁸ *Ibid.*, 30–41.

²⁹ Paula Chan, “Eyes on the Ground: Soviet Investigations of the Nazi Occupation,” 362.

³⁰ *Ibid.*, 364.

subsequent trials.³¹ This clearly entailed the exclusion of Soviet investigative material from the Doctors' Trial, which the Americans had already begun preparing for during the IMT's closing phase. The core issue with this exclusion—especially regarding the mass sterilization experiments—was not the lack of human representation in the trial, but that it obscured the extent to which these practices had been a central component of Nazi persecution in the camp complex. The ChGK's reports on Auschwitz-Birkenau demonstrate that sterilization and castration were camp-specific practices that warranted their own dedicated spaces in the camp structure, just as the crematoria, administrative structures, prisoner hierarchies, and regimes of punishment and torture, among others, did. Crucially, sterilization and castration also constituted a distinct category of experience, separate from broader medical experimentation.

The resulting loss of perspective and scope with which the Doctors' Trial began was largely due to the Cold War having arrived in the court room of the IMT already on March 5, 1946, following Winston Churchill's "Iron Curtain" speech.³² Therefore, during the preparation for the Doctors' Trial, collaboration was already out of question between American and Soviet representatives, not only due to the rising tensions between the two victorious powers but because their opposing and primary interests rested in trying Nazi German industrialists separately.³³ Moreover, on an individual level, key Soviet actors who worked to advance the understanding of the scale of Nazi persecution before and during the IMT continued to channel their efforts toward the development of international law by the trial's end.³⁴ There must also have been reluctance to acknowledge that sterilization and castration procedures were a systemic

³¹ Hirsch, *Soviet Judgment at Nuremberg*, 353.

³² Ibid., 246.

³³ Hirsch, *Soviet Judgment at Nuremberg*, 395.

³⁴ I am referring specifically to Aron Trainin, who similarly to Raphael Lemkin, saw the entirety and complexity of Nazi persecution, which he termed "Crimes against Peace".

component of Nazi persecution by American actors. Had it been taken into account, the available knowledge could have informed not only investigative practices but also the formulation of the indictments in the emerging American Military Tribunal's trial against Nazi medical professionals.

2. Constructing Mass Sterilization Experiments in the Courtroom: Rhetoric and Strategy

After the Second World War, the Allied powers established multiple legal mechanisms to prosecute war crimes, drawing on military authority, international agreements, and inspiration from domestic legislation.³⁵ On June 5, 1945, the four Allied powers asserted supreme authority over Germany under the Berlin Declaration and, on that basis, established the International Military Tribunal (IMT) alongside military government courts in the four occupied zones.³⁶ A bit over two months later, on August 8, 1945, the Allied powers then issued the Charter of the International Military Tribunal (also referred to as the London Charter) that granted the court jurisdiction over three categories of international crimes: Crimes Against Peace, War Crimes, and Crimes Against Humanity, in addition to conspiracy.³⁷ On 20 December 1945, roughly one month after the IMT trial opened, the Allied Control Council adopted Control Council Law No. 10 to regulate the prosecution of war crimes beyond the IMT trial.³⁸ The law confirmed the authority of each zone's commander in chief to establish tribunals for the prosecution of war

³⁵ British trials of war criminals were authorized by the Royal Warrant of 14 June 1945, while the US appointed military commissions. See: A. P. V. Rogers, "War Crimes Trials under the Royal Warrant: British Practice 1945–1949," *The International and Comparative Law Quarterly* (Cambridge, UK) 39, no. 4 (1990): 786–7.

³⁶ *Ibid.*, 787.

³⁷ Michael J. Bazyler, *Holocaust, Genocide, and the Law: A Quest for Justice in a Post-Holocaust World* (Oxford University Press, 2016), 72–3.

³⁸ *Ibid.*, 91.

crimes and, at the same time, created a uniform legal framework across Germany for trying perpetrators not brought before the International Military Tribunal.³⁹

Following the conclusion of the IMT trial in 1946, which tried the so-called “major war criminals” under procedures established by the London Charter, the Palace of Justice in Nuremberg remained the central site of postwar prosecutions.⁴⁰ Over the next three years, twelve additional trials were conducted there by the United States military authorities (the U.S. Army and the Office of Chief of Counsel for War Crimes, operating under the jurisdiction of the U.S. Military Government in Germany). These proceedings, known collectively as the Nuremberg Military Tribunals (NMTs), emerged after deteriorating relations between the Allied powers made further joint IMT trials impossible.⁴¹ Although the IMT itself was disbanded, the American Office of Chief of Counsel for War Crimes continued its work, assuming responsibility for prosecutions within the U.S. occupation zone. The first of the NMT trials was the so-called Doctors’ Trial, held between December 9, 1946, and August 20, 1947, in which twenty physicians and three administrators were charged with war crimes and crimes against humanity for their involvement in medical experimentation, in addition to charges of membership in a criminal organization.

The indictments in all NMT proceedings followed a common structure modeled on the IMT trial, except for the change in crimes against peace to crimes against humanity.⁴² This had been suggested by Polish-Jewish lawyer Hersch Lauterpacht, who published a book that laid the

³⁹ Rogers, “War Crimes Trials under the Royal Warrant: British Practice 1945–1949,” 787.

⁴⁰ Bazyler, *Holocaust, Genocide, and the Law*, 72.

⁴¹ Ibid., 90.

⁴² Ibid., 91.

foundation for the modern system of human rights in 1945.⁴³ Together with Lauterpacht, Jewish groups had been campaigning since 1942 for the term “crimes against humanity” to be used in law to capture the totality of Nazi policy that aimed to exterminate the Jewish people specifically.⁴⁴ The indictments of the Doctors’ Trial were based on four counts: (1) conspiracy to commit war crimes and crimes against humanity, (2) war crimes, (3) crimes against humanity, and (4) membership in a criminal organization. Among these, counts two and three encompassed twenty-one specific charges of medical experiments, including sterilization experiments.⁴⁵ The wording of the sterilization experiments in count two (war crimes) of the indictment was as follows:

(I) From about March 1941 to about January 1945 sterilization experiments were conducted at the Auschwitz and Ravensbruck (*sic!*) Concentration Camps, and other places. The purpose of these experiments was to develop a method of sterilization which would be suitable for sterilizing millions of people with a minimum of time and effort. These experiments were conducted by means of X-Ray, surgery, and various drugs. Thousands of victims were sterilized and thereby suffered great mental and physical anguish. The defendants Karl Brandt, Gebhardt, Rudolf Brandt, Mrugowsky, Poppendick, Brack, Pokorny, and Oberhauser are charged with special responsibility for and participation in these crimes.⁴⁶

Similarly to all the other medical experiment charges, the paragraph begins with a specific set of dates. The timeline of March 1941 to January 1945 encompasses only procedures carried out

⁴³ Philippe Sands, “East West Street: Then and Now: Lionel Cohen Lecture 2019, Jerusalem, 6 May 2019,” *Israel Law Review* 52, no. 3 (2019): 417, <https://doi.org/10.1017/S0021223719000116>. Lauterpacht’s book: Hersch Lauterpacht, *An International Bill of the Rights of Man* (Oxford University Press 1945).

⁴⁴ Cooper, *Raphael Lemkin and the Struggle for the Genocide Convention*, 65–66.

⁴⁵ Telford Taylor, “Indictment against the defendants in Case 1,” 25 October 1946, page 11 out of 18, Nuremberg Trials Project, Harvard Law School Library, <https://nuremberg.law.harvard.edu/documents/564-indictment-against-the-defendants?q=indictment+case+1#p.12>, accessed 15 September, 2022.

⁴⁶ Taylor, “Indictment against the defendants in Case 1,” page 11.

during the war, specifically in two concentration camps and other locations, as the military tribunal's jurisdiction extended to wartime atrocities.

The expression "other places" introduced ambiguity that left room for identifying additional sites. Although this technical framing of dates was restrictive, especially given the scale of the crimes, it represented only an approximation, signaled by the inclusion of the word "about" before both dates. Although not laid out specifically by the prosecution in Nuremberg on the opening day of the trial, Telford Taylor in his opening speech highlights the date of March 1943: "The defendant Viktor Brack in March, 1941, submitted to Himmler a report on the progress and state of X-ray sterilization experiments."⁴⁷ This report appears to have served as the starting point in the timeline of the charge, and more broadly, of the general awareness of a Nazi sterilization project. It represents a perpetrator source that reveals Nazi officials were already contemplating the implementation of mass sterilizations. The timeline of the charge concluded the investigated and prosecuted cases at precisely the time of the liberation of Auschwitz-Birkenau by Soviet forces.

Although the location and timeline might seem equivocal in its phrasing, the indictment included facts from the vast investigation behind it. First, the nature and the purpose of the sterilizations, in which it was a project to be achieved on a mass scale in a relatively short time, is clearly described, since the prosecution had the incriminating evidence in the form of correspondence among Nazi leaders. These documents clearly indicate that the opening date of the charge concerning sterilization experiments was derived from these exchanges of communication, demonstrating the prosecution's overwhelming reliance on perpetrator sources

⁴⁷ Nuremberg Military Tribunals, "Transcript for NMT 1: Medical Case," 19 March 1947, page 37, Nuremberg Trials Project, Harvard Law School Library, https://sfo2.digitaloceanspaces.com/harvard-law-library-nuremberg-transcripts/NRMB-NMT01-01_00052_0.jpg, accessed 17 September 2022.

as the primary basis for incrimination. The numerical formulation of the crime as presented in the count, moreover, was also taken from the information in the captured correspondence, as the defendant Viktor Brack and Carl Clauberg referred explicitly to figures in the thousands.⁴⁸

The prosecution's knowledge of the methods appears ambiguous overall, though certain aspects were clearly established through the incriminating correspondence. In these letters, both physicians detailed the number of instruments and the state of research necessary to achieve the promised volume of sterilizations within a short timeframe. However, beyond these specific references, the methods remain vaguely described in the prosecution's wording. The indictment's mention of "various drugs" as a means of sterilization further underscores the lack of certainty regarding the substances employed. One of the leads that the prosecution had and was following up on was *caladium seguinum*, a specific medicinal plant they had known about, yet its efficacy in acting as a sterilization agent had been unknown. This concerned the defendant Adolf Pokorny, who was specifically prosecuted in the trial for having drawn Himmler's attention to sterilization with the use of *caladium seguinum*. The indictment's use of the word "various" is also an indicator of the prosecution team's uncertainty as to what other drugs specifically might have been used, but these "various others" had been alluded to in perpetrator sources. As mentioned in Chapter 1, for example, Clauberg had reported to Himmler that he could achieve the high number of successful sterilization by "a single injection made from the entrance of the uterus in the course of the usual customary gynaecologic examination as known to every physician".⁴⁹ However, while Clauberg

⁴⁸ Carl Clauberg ,as mentioned in the previous chapters, had calculated that "by one adequately trained physician in one adequately equipped place with perhaps 10 assistants (the number of assistants in conformity with the desired acceleration) most likely several hundred -- if not even 1000 per day" of Jewish women could be sterilized. See: Carl Clauberg, "Letter to Heinrich Himmler concerning sterilization experiments."; Viktor Brack more elusively had written: "Castration by X-rays, however, is not only relatively cheap but can also be performed on many thousands in the shortest time," see: NMT, "Transcript for NMT 1: Medical Case," page 38.

⁴⁹ Carl Clauberg, "Letter to Heinrich Himmler concerning sterilization experiments."

was specific about the method, he never revealed which substance he used for the injections and it also remained unidentifiable for the investigation and the court.

The wording of the indictment thus shows that the prosecution team built heavily on perpetrator sources regarding the sterilization and castration experiments, even to the extent that unspecified details of the criminal plan remained questionable at the opening of the trial. This illustrates the marginal role of victim sources in the case against the defendants, a dynamic that legal historians have since emphasized in their analyses of early postwar trials.⁵⁰ Historian Michael R. Marrus found in his research, moreover, that the preparation for the Doctors' Trial was poor due to various logistical and infrastructural reasons, such as understaffed teams working on the case.⁵¹ Nevertheless, as historian Paul Weindling has shown, investigations into medical crimes prompted sterilization victims to approach investigators directly and to lobby persistently for recognition.⁵² Although Soviet sources were not taken into account, they had access to British analytical reports compiled in the so-called *Basic Handbooks* series well before the trial began, which documented at least 350,000 forced sterilizations.⁵³ The *Basic Handbooks* series, issued by Her Majesty's Stationery Office, consisted of British government briefing reports compiled in late 1944 for Allied occupation authorities, presenting analyses of Nazi administrative and medical structures.⁵⁴

Weindling, therefore, argues against Marrus and Donald Bloxham by stating that Jewish and Roma victims were taken seriously and testimonies made strong cases for the criminality of

⁵⁰ Bloxham, *Genocide on Trial*, 2.; Heberer and Matthäus, *Atrocities on Trial*, xv; Bilsky, "The Eichmann Trial," 39–42.

⁵¹ Michael R. Marrus, "The Nuremberg Doctors' Trial in Historical Context," *Bulletin of the History of Medicine* 73, no. 1 (1999): 106–23, 106–7; Bloxham, *Genocide on Trial*, 49.

⁵² For example, liberated prisoner-physicians from Auschwitz published an international declaration "Die Häftlingsärzte von Auschwitz an die internationale Öffentlichkeit" on 4 March 1945; and survivors organized an International Investigation-Office for Medical SS-Crimes in the German Concentration Camps in Dachau and issued an appeal on 11 June 1945. See Weindling, *Nazi Medicine and the Nuremberg Trials*, 1, 46–48, 61.

⁵³ Ibid., 35–36.

⁵⁴ Ibid., 35, 375.

sterilization and eugenics, in general.⁵⁵ The historians' differing interpretations of an overburdened investigative and prosecutorial team, as chief-prosecutor Telford Taylor himself acknowledged,⁵⁶ are not mutually exclusive. In my reading, victims were present and willing to testify, and their accounts were heard and taken seriously during the investigative phase; however, what posed a challenge for the Allied court was the ideological framework through which these testimonies had to be situated. This becomes evident, first, in the wording of the indictment. One of the prosecution's primary aims, reflected in the charge of membership in a criminal organization, was to advance a political argument that criminalized medical experimentation and the German medical profession, which it construed as fundamentally aligned with National Socialism.⁵⁷

In the trial, framing mass sterilization experiments conducted during the war as one of the Nazi state's inherent practices raised questions about totalitarianism and the systemic nature of medical abuse. This had already been the case for the much larger picture of Nazi criminality in the IMT, where 22 captured "major," high-ranking National Socialist leaders were tried.⁵⁸ Legal and medical advisors to the Doctors' Trial recognized that Nazi criminality could not be understood solely in terms of murder, or eugenic sterilization, and therefore sought a new conceptual framework to capture its distinct nature. For the category of murder, it was crucial to demonstrate that the crimes amounted to more than a series of individual killings, more to an orchestrated system of persecution. In the case of sterilization, it was equally important to show that the procedures were not merely driven by eugenic ideology but constituted a form of violence that was

⁵⁵ Ibid., 226.

⁵⁶ Marrus, "The Nuremberg Doctors' Trial in Historical Context," 107.

⁵⁷ Following this line of interpretation, Weindling's work on the Doctors' Trial concludes that the proceedings located responsibility chiefly in the Nazi state, not in the medical profession or in German medicine as such.

⁵⁸ Rodger D. Citron, "The Nuremberg Trials and American Jurisprudence: The Decline of Legal Realism and the Revival of Natural Law," in *Die Nürnberger Prozesse: Völkerstrafrecht seit 1945 internationale Konferenz zum 60. Jahrestag*, ed. Herbert R. Reginbogen et al., with Jacob D. Fuchsberg law center (Saur, K G, 2006), 139.

more fundamentally murderous in nature. Namely, that this was not about racial engineering but about elimination. As mentioned in the introduction, Polish-Jewish jurist Raphael Lemkin came to be the most important figure in shaping this understanding, as he coined and advocated for the term ‘genocide’ throughout this legal context. Lemkin worked under a temporary appointment in the War Crimes Office of the Judge Advocate General’s Office in Washington D.C. from the spring of 1945, from which position he was sent to London to assist Justice Robert H. Jackson, U.S. chief-prosecutor of the IMT in drafting the indictment against the Nazi leaders.⁵⁹

The term genocide was, therefore, used in count three (war crimes) of the indictment in the IMT: “They conducted deliberate and systematic genocide, viz., the extermination of racial and national groups, against the civilian populations of certain occupied territories in order to destroy particular races and classes of people and national, racial, or religious groups, particularly Jews, Poles, and Gypsies and others.”⁶⁰ Lemkin’s term was only used once in the indictment, as the more pronounced conception to capture the massive criminality of the Nazis was rather termed in the phrase “crimes against humanity.” Although both Jewish lawyers shared professional and personal motivations, their approaches diverged in the legal concepts they advanced.⁶¹ Lemkin’s concept of “genocide” wanted to capture the destruction of a group of people, while Lauterpacht advocated for a term that conveyed the killing of individuals as a part of a systemic plan.⁶² To Lemkin’s disappointment, the charge of crimes against humanity, listed as Count Four in the IMT indictments, was retained in the subsequent Nuremberg trials and adopted as Count Three in the

⁵⁹ Cooper, *Raphael Lemkin and the Struggle for the Genocide Convention*, 63–64.

⁶⁰ International Military Tribunal, Trial of the Major War Criminals before the International Military Tribunal, Blue Series, volume 1, (1945), 43, https://www.loc.gov/item/2011525338_NT_Vol-I/, accessed November 17, 2025.

⁶¹ For more about the personal aspects, see: Philippe Sands, *East West Street: On the Origins of “Genocide” and “Crimes against Humanity,”* (Vintage Books, 2017).

⁶² Sands, *East West Street*, xxix.

Doctors' Trial.⁶³ It was under this charge, and under charge two of war crimes, that the sterilization experiments were itemized.⁶⁴

Historians have viewed the concept of genocide as the unifying framework in the Doctors' Trial and a crucial tool for understanding medical atrocities, despite its contentious reception at the time.⁶⁵ The term "thanatology," advocated by Dr. Leopold (Leo) Alexander, the medical expert advisor to the Chief Counsel for War Crimes, was also emphatically used during the trial to interpret evidence of the medical profession's criminal practices as an effort to achieve death on a massive scale. Alexander regarded thanatology as an instrument of genocide, explicitly invoking the term coined by his "old friend" Lemkin in a letter to his wife, with which he meant the science of death, after studying Himmler's documents on research methods for exterminating large populations in the most inconspicuous ways.⁶⁶ Although neither "genocide," nor "thanatology" appeared in the indictment, both concepts were taken seriously during the trial's preparatory phase.⁶⁷ In his opening statement for the prosecution, Telford Taylor drew directly on the work of Lemkin and Alexander to frame the medical crimes of the defendants:

For the moment, we will christen this macabre science 'thanatology,' the science of producing death. The thanatological knowledge, derived in part from these experiments, supplied the techniques for genocide, a policy of the Third Reich exemplified in the 'euthanasia' (sic!) program and in the widespread slaughter of Jews, gypsies, Poles and Russians. This policy of mass extermination could not have been so effectively carried out without the active participation of German medical scientists.⁶⁸

⁶³ Sands, "East West Street," 419.

⁶⁴ Telford Taylor, "Indictment against the defendants in Case 1," page 11 out of 18.

⁶⁵ Weindling, *Nazi Medicine and the Nuremberg Trials*, 46.

⁶⁶ Ulf Schmidt, *Justice at Nuremberg: Leo Alexander and the Nazi Doctors' Trial* (Palgrave Macmillan, 2004), 165.; Weindling also remarks the friendly relationship between Leo Alexander and Rafael Lemkin, see: Weindling, *Nazi Medicine and the Nuremberg Trials*, 230.

⁶⁷ Ibid.

⁶⁸ NMT, "Transcript for NMT 1: Medical Case," page 23.

Although the term genocide introduced a new dimension to the understanding of mass murderous intent, it was not yet employed as an overarching category for the totality of Nazi crimes. Taylor sketched the interpretive frameworks they had been working with, including Leo Alexander's concept of thanatology, but genocide did not yet function as a legally chargeable crime because it had not yet been written into law.⁶⁹ This is also mirrored in the prosecution's opening line: "The defendants in this case are charged with murders, tortures, and other atrocities committed in the name of medical science."⁷⁰ The charges therefore center on murder, torture, and atrocity rather than on genocide. Yet throughout the trial, the meaning of genocide began to emerge gradually, particularly in relation to the crime of forced sterilization.

In his rhetoric, chief-prosecutor Telford Taylor was assertive in describing the extreme nature of Nazi sterilizations, as his first sentence about the crime exemplifies: "In the sterilization experiments conducted by the defendants at Auschwitz, Ravensbrueck, and other concentration camps, the destructive nature of the Nazi medical program comes out most forcibly."⁷¹ This explicit reference to sterilization in Nazi concentration camps positions it as the most extreme expression of the entire Nazi medical enterprise, placing its destructive force at the apex of coercive medical experimentation. This emphatic statement was followed by an invocation of the term genocide, used to further underscore and intensify the destructive implications of Nazi sterilization equating it with murder: "The Nazis were searching for methods of extermination, both by murder and sterilization, of large population groups by the most scientific and least

⁶⁹ Genocide became a legally codified crime only with the adoption of the United Nations Genocide Convention in December 1948 and therefore was not included in Allied Control Council Law No. 10.; United Nations, Convention on the Prevention and Punishment of the Crime of Genocide, adopted December 9, 1948, United Nations Treaty Series, 78, no. 1021 (1951), 277–279.

⁷⁰ NMT, "Transcript for NMT 1: Medical Case," page 12.

⁷¹ NMT, "Transcript for NMT 1: Medical Case," page 36.

conspicuous means. They were developing a new branch of medical science which would give them the scientific tools for the planning and practice of genocide.”⁷²

The prosecution used the term genocide an overall total of eight times in the trial.⁷³ The first was the reference noted above in Taylor’s opening statement; another instance was used in the phrase “genocide policy of the Third Reich” to characterize the overarching aims of Nazi rule, especially with euthanasia and sterilization; twice the term was used in connection with the “euthanasia” program and its associated charges; and Most often –four times– it came up in reference to sterilization practices, underscoring the role of forced sterilization in shaping the emerging understanding of genocide, as intended by Lemkin.⁷⁴ However, the prosecution’s motivation was also to demonstrate that the charge of forced sterilization possessed a distinct character in the context of practices in the Nazi concentration camps, compared to sterilizations by the eugenics movement. This was reinforced by a crucial aspect of the term: it made clear that forced sterilization functioned as an experimental and punitive measure during the war, rather than a public health initiative grounded in eugenic policy as which it had been first introduced into German legislation in 1933.⁷⁵ This distinction was crucial for the American prosecution, as the firmly institutionalized eugenic practices in the United States were under scrutiny during the period and thus required careful differentiation from the criminal sterilization policies carried out in the camps.⁷⁶

⁷² Ibid.

⁷³ As mentioned above, the IMT trial’s indictment employed “genocide”, and other trials also borrowed the term before it was ratified into international law, such as Amon Göth’s trial between August and September of 1946: Michael J. Bazyler and Frank M. Tuerkheimer, *Forgotten Trials of the Holocaust* (New York University, 2016), 117.; or the Einsatzgruppe Trial in 1947: Ibid., 166.

⁷⁴ NMT, “Transcript for NMT 1: Medical Case,” pages 23, 36, 537, 566, 7261, 7532, 11220.

⁷⁵ Weindling, *Nazi Medicine and the Nuremberg Trials*, 241.

⁷⁶ Ibid., 229.

The prominence of coercive sterilization in the legal arguments is also apparent in the opening statement, where it receives one of the most extensive discussions among the medical experiments listed in the indictments. In presenting the charge of mass sterilizations in concentration camps, the chief prosecutor began by outlining the methods employed by the perpetrators, as documented in their correspondence. These methods—examined in detail in Chapter 1—formed the core structure of the charges. The first was herbal sterilization, brought against the defendant Adolf Pokorny, a Czech ethnic German dermatologist who was not a member of the Nazi party or the SS, nor part of the experimental projects in camps, or elsewhere. He was chosen as a defendant solely on the basis of his correspondence with Heinrich Himmler, in which he wrote that millions of the enemy should be destroyed through the prevention of reproduction, using medicinal sterilization as a “new powerful weapon.”⁷⁷ The prosecutor cited a passage from the evidentiary document dated October 1941 from the defendant Pokorny that, yet again, specifically pointed to the extremely destructive nature of the sterilization methods:

If, on the basis of this research, it were possible to produce a drug which after a relatively short time, effects an imperceptible sterilization on human beings, then we would have a powerful new weapon at our disposal. The thought alone that the 3 million Belsheviks (sic!), who are at present German prisoners, could be sterilized so that they could be used as laborers but prevented from reproduction, opens the most far-reaching perspectives.⁷⁸

This excerpt pointed to the destructive nature of sterilizations by evoking militant language in stating that “imperceptible” sterilization could represent a powerful new weapon for Nazi leaders. Moreover, the passage points to the massive scale in which the sterilization program was to be utilized by the Nazi regime, namely a possibility to target millions of the enemy at the same time.

⁷⁷ Robert Jay Lifton, “Nazi Doctors,” 275.

⁷⁸ NMT, “Transcript for NMT 1: Medical Case,” page 37.

The chief prosecutor continued by introducing the large-scale sterilization programs, beginning with a brief reference to the injection method conducted by Carl Clauberg in Auschwitz. He then turned to the surgical procedures carried out in Buchenwald and Ravensbrück allegedly by Karl Gebhardt, with Herta Oberheuser involved in their implementation. Finally, he discussed the X-ray sterilization method at greater length, naming Viktor Brack as an accomplice. The extent of discussion devoted to each sterilization method also reflected the presence or absence of defendants in the courtroom. Carl Clauberg was not on trial, as he had been captured by Soviet forces and was imprisoned in Russia at the time, whereas the other figures mentioned were seated among the defendants. However, the principal perpetrator of the X-ray castrations, Dr. Horst Schumann, was likewise absent although he was in Germany at the time. Schumann registered in Gladbeck on April 15, 1946 and practiced medicine there for five years before fleeing to Ghana.⁷⁹ In his case, the prosecutor relied on correspondence between Viktor Brack and Heinrich Himmler, which implicated Brack in the planning of the method, although he had not conducted the experiments himself.

The extensive deliberation on of the X-ray method was not based on the defendants' presence in the courtroom, but more likely a prosecutorial emphasis on the uniquely violent and physically destructive nature of this specific castration technique. As mentioned above, the entire timeline of the charge on mass sterilizations was based on the correspondence about the planning of X-ray castrations in concentration camps, to begin with. The most striking means by which the prosecution presented this method was through the use of photographic evidence and the courtroom testimony of victims of X-ray castration. A Jewish man from Poland, who asked to remain anonymous, took the witness stand on December 16, 1946, to tell the story of how he had

⁷⁹ Weinberger, *Fertility Experiments in Auschwitz-Birkenau*, 215.

been forcibly castrated by X-ray and then had undergone bilateral orchiectomy. Not long after he had been deported and imprisoned in Camp B of Auschwitz in 1943, men from his group were called to volunteer for work, specifically 20–24-year-old-men, which seemed suspicious to him, so he did not volunteer. Some of the volunteer group came back and remained silent while working afterwards. The following day, the selection was not voluntary anymore but compulsory in alphabetical order, so he was selected to go. His recalling of the events, while brief, was informative and emotional:

A. A Luftwaffe officer came -- a tall man -- on a motorcycle. He took us to a machine and sterilized us. It took about fifteen or twenty minutes. That hurt, and afterwards we had to put our clothes on and go right back to work. We had to work very hard. Some of us after two or three days --- a pus began to form. They had to work anyhow until they fell down and then were taken to a hospital and I do not believe any of them are alive now.

After two weeks after the sterilization a group of my comrades and I were taken on foot -- we had to walk to Auschwitz 1, and we were given an injection and put on the operation table. We were told nothing. We were ordered to get on the table. The operation was performed. My testicles were removed.

Q. Witness, do not be afraid.

A. Please excuse me for crying.

(...)

I was there three weeks in the Auschwitz hospital. Then there was a selection and 60% of our lot were taken to be gassed. Afterwards I was afraid and I left the hospital when I was still sick and went back to work. I was put to work. I had to work very hard and I was beaten very much. I went through a bombing and I was lucky I got through it. Afterwards, I was there until the 18th of January 1945.⁸⁰

After this account of the forced castration procedures, the Polish Jewish man continued to describe how he was then forced on a death march right before liberation. After some time, the prosecution lawyers returned to the topic of X-ray sterilization and the surgical removal of the testes, seeking to elucidate the circumstances and effects of these procedures at the moment of

⁸⁰ Ibid., page 541.

questioning. When the witness was asked whether he had known who conducted these medical interventions, he referred to Dr. Schumann by name:

Q. Do you know any of the doctors or other people in the camp who did these things to you?

A. No, but I asked at Auschwitz: "Who does these things?" I heard of [a] name. The name of Dr. Schumann and I remembered that name and I remember it until today but I do not know that person myself.⁸¹

Likely in an effort to strengthen their case based on the concept of destruction with the framework of thanatology and genocide, the prosecution next asked the witness:

Q. Do you know whether or not any of the other boys who were sterilized with you died as a result of the sterilization?

A. From the sterilization, no. But later many were gassed. Very few are still alive.⁸²

This answer further underscored the genocidal nature of the castration experiments, conducted through extreme irradiation of the hormone-producing glands, by demonstrating that those who did not die from the procedure itself were subsequently gassed. Because the concept of genocide was not yet fully developed or widely adopted, the prosecution sought to frame castration within the perpetrators' own logic of death. The American effort to distinguish these experiments from eugenic sterilization rested on a distinction that applied only to castration, not sterilization. Castration was considered procedurally more brutal by the prosecution because it involved the burning of reproductive tissues, although intrauterine injections likewise caused severe pain, inflammation, and tissue destruction, as the following chapter shows.

⁸¹ Ibid., page 543.

⁸² Ibid.

By the end of the trial, the prosecution emphasized the method of the destruction of male and female organs through X-ray as the most illustrative image of mass sterilization. This rhetoric was deliberate and intended to continue an approach established at the IMT, where X-ray castration had already been framed as a new and deadly method of achieving mass sterility. During the closing argument of the Doctors' Trial on July 14, 1947, the prosecution highlighted this continuation, citing an important and unique precedent with the IMT, to summarize what the tribunal must now recognize as legally established fact:

Many of the medical experiments with which this case is concerned have long since been held to have been criminal by a number of different courts, The International Tribunal stated that: 'The inmates were subjected to cruel experiments at Dachau in August 1942, victims were immersed in cold water until their body temperature was reduced to 28° Centigrade, when they died immediately. Other experiments included high altitude experiments in pressure chambers, experiments to determine how long human beings could survive in freezing water, experiments with poison bullets, experiments with contagious diseases, and experiments dealing with sterilization, of men and women by X-rays and other methods.' The International Military Tribunal held that the foregoing experiments constituted War Crimes and Crimes against Humanity.⁸³

Unlike the Soviet investigators in the ChGK reports on Auschwitz-Birkenau, who handled the sterilizations and the castrations as a separate entity of Nazi crimes, the IMT handled X-ray and other sterilization methods as one of the various medical experiments the Nazis conducted during the war. This important difference represents a different approach, which is inherently rooted in the implication of a eugenic mindset.

In Russia, eugenic ideas appeared late compared to other nations, emerging in the 1910s and 1920s, when elsewhere in Europe eugenics had already been institutionalized.⁸⁴

⁸³ Ibid., page 10765.

⁸⁴ Nikolai Krementsov, "From 'Beastly Philosophy' to Medical Genetics: Eugenics in Russia and the Soviet Union," *Annals of Science* 68, no. 1 (2011): 65.

Nevertheless, following the Bolshevik revolution, eugenicists emerged in the new Union of Soviet Socialist Republics of Russia and new institutional bases were built that were in close contact with international eugenicists, most notably Americans.⁸⁵ Russian eugenics faced Marxist criticism almost immediately, and its initially growing enterprise was halted by Stalin's radical policy shift referred to as the "Great Break."⁸⁶ In this context, Soviet "eugenics-turned-medical-genetics" collapsed once the state recast it as "fascist science."⁸⁷ An early example of such criticism appeared in 1934, when Soviet commentators condemned Germany's forced-sterilization program as being driven by "racial considerations."⁸⁸ Although accurate, this critique primarily served to contrast Nazi racial ideology with what was presented as the correct view according to Soviet ideology, grounded in class analysis. As historian Alexander Friedman demonstrates, this interpretive framework persisted into the postwar decades: Soviet discussions of Nazi sterilization policies resurfaced in the 1970s in the context of criticizing West Germany for its failure to compensate sterilization victims.⁸⁹

In contrast to the Soviets, the Americans did not technically consider the forced sterilizations based on the 1933 German law as one of the specific Nazi crimes to be tried in their court. As noted earlier, one important reason for this exclusion was that the American Nuremberg Military Tribunal (NMT) were oriented toward the prosecution of wartime atrocities. Nevertheless, the NMT emphasized the atrocity paradigm, as described by Lawrence Douglas,

⁸⁵ Ibid., 71–72.

⁸⁶ For more about this mode of governance, see James R. Harris, *The Great Fear: Stalin's Terror of the 1930s* (Oxford University Press, 2016), 94–114.

⁸⁷ For a nuanced understanding of the rhetoric change by eugenicists during this period in Russia, see Krementsov, "From 'Beastly Philosophy' to Medical Genetics," 80–88.

⁸⁸ М Папава, "Игра в Черепа," *Смена (Smena)*, April 1934, No. 256 Edition, https://smena-online.ru/stories/igra-v-cherepa_3.

⁸⁹ Alexander Friedman, "Murders of the III in the Minks Region in 1941 and Their Historic Reappraisal in the Soviet Union and the Federal Republic of Germany," in *Mass Murder of People with Disabilities and the Holocaust*, ed. Brigitte Bailer-Galanda and Julianne Wetzel (International Holocaust Remembrance Alliance ; Metropol, 2019), 161.

making crimes against humanity the principal charge in the Doctors' Trial.⁹⁰ Although the central framework of crimes against peace, or the war paradigm, carried over from the IMT trial to the subsequent NMT trials, it assumed primary importance in proceedings other than the Doctors' Trial.⁹¹ This was the case because Allied Control Council Law No. 10 technically broadened the legal definition of crimes against humanity by no longer requiring a direct link to aggressive war, yet in practice this change had limited effect.⁹² Most judges in the subsequent Nuremberg trials continued to follow the earlier IMT approach, which meant that crimes committed by the Nazi regime against German nationals before the war, unless directly connected to the conduct of aggressive war, were generally not treated as punishable international crimes.

In principle, this legal framework would have allowed the prosecution in the Doctors' Trial to address prewar sterilizations under the charge of crimes against humanity. In practice, however, neither the tribunal nor the prosecution treated the German sterilization program as criminal, despite the fact that the war paradigm itself did not preclude such consideration. Beyond logistical constraints mentioned above, there were also severe budget cuts imposed by the U.S. Congress.⁹³ Yet the reluctance also reflected a deeper problem: sterilizations carried out in Germany during the 1930s were policy-based, institutionalized practices of the international eugenics movement. Similar measures existed in the United States, and American medical experts involved in the trials were themselves largely supportive of eugenic principles. Under these conditions, prewar eugenic sterilization could neither be easily framed as criminal nor

⁹⁰ Lawrence Douglas, "From IMT to NMT: The Emergence of a Jurisprudence of Atrocity," in *Reassessing the Nuremberg Military Tribunals : Transitional Justice, Trial Narratives, and Historiography*, ed. Kim C. Priemel and Alexa Stiller (Berghahn Books, Incorporated, 2012), 281.

⁹¹ Crimes against peace were charges in four cases: the IG-Farben trial, the Krupp trial, the High Command trial, and the Ministries trial. See: Kevin Jon Heller, *The Nuremberg Military Tribunals and the Origins of International Criminal Law* (Oxford University Press, Incorporated, 2011), 199.

⁹² Lawrence Douglas, "From IMT to NMT: The Emergence of a Jurisprudence of Atrocity," 282.

⁹³ Ibid., 278.

convincingly argued as genocidal, and consequently it remained outside the scope of prosecution.

3. Eugenics in the Courtroom

In his extensive work on medicine during the Nazi period and the Nuremberg trials, historian Paul Weindling raises the question whether the Doctors' Trial could be considered a eugenics trial.⁹⁴ This question encompasses how the “euthanasia” patient murders and sterilization procedures carried out by the Germans during the war were to be adjudicated, and to what extent the framework of eugenics imposed limitations on treating these experiments and procedures as criminal acts. This was a delicate issue for the court to navigate, given that eugenic thinking informed the mindset of participants on both sides of the trial. The main medical expert of the trial, Leo Alexander, shared the conviction of the importance of eugenics himself.⁹⁵

In the opening statement, chief-prosecutor Taylor interpreted the medical experiments on trial as a significant part of a “well-integrated program”.⁹⁶ The notions of ‘integration’ and ‘program’ aimed to show the cohesive power of criminal acts at large, an understanding echoing the concept of genocide. His rhetorical framing in the opening statement revealed the prosecution’s view of the Nazi medical agenda as twofold: pursuing discovery on one hand and finding grounds for the charge of genocide on the other. Taylor framed medical discovery as corrupted by Nazi Germany’s drive toward destruction, an ambiguous allusion to his view of the distinction between American and German eugenic sterilization. He substantiated this reading by tracing the failure of

⁹⁴ The question “A Eugenics trial?” is the title of the twelfth chapter in his monograph, see: Weindling, *Nazi Medicine and the Nuremberg Trials*, 225–249.

⁹⁵ Weindling, *Nazi Medicine and the Nuremberg Trials*, 229.

⁹⁶ NMT, “Transcript for NMT 1: Medical Case,” page 62.

Nazi aims to a warning already articulated in 1931 at a meeting of Bavarian psychiatrists in Munich, where he quoted the influential professor Oswald Bunke,⁹⁷ who stated:

If by sterilization we can prevent the occurrence of mental disease then we should certainly do it, not in order to save money for the government but because every case of mental disease means infinite suffering to the patient and to his relatives. But to introduce economic points of view is not only inappropriate but outright dangerous because the logical consequences of the thought that for financial reasons all these human being who could be dispensed with for the moment should be exterminated, is a quite monstrous logical conclusion ... if the discussion about sterilization today is carried into the arena of political contest, then pretty soon we will no longer hear about the mentally sick but, instead, about Aryans and non Aryans, about the blonde Germanic race and about inferior people with round skulls.⁹⁸

In this excerpt, Taylor emphasized the two motivators for sterilizations that he deemed unacceptable and a warning to the failure of the Germans in their war aims. One was the economic motive, which basically pointed to the social selection of those deemed “unfit” by Nazi standards, and the other was the racial motive which predicted the biological motives of the Nazis. This excerpt gestures toward the broader historical context of the 1930s, in which eugenics had long been accepted as a social and medical norm. In particular, eugenic sterilization was widely understood to produce beneficial social and personal effects, a belief that by the mid-twentieth century had resulted in approximately 60,000 eugenic sterilizations in the United States.⁹⁹ Taylor’s choice of this excerpt to strengthen his argument suggests that he saw sterilization itself as a medical intervention accepted by those discussing it in the trial, and that he saw the question at hand more fundamentally in the motive for the implementation of sterilization and what this motive should or could have been. . The prosecution was constructing a fine line that the Nazis’

⁹⁷ For more about Oswald Bunke, see H. Steinberg, “Oswald Bumke in Leipzig,” *Der Nervenarzt* 79, no. 3 (2008): 348–56, <https://doi.org/10.1007/s00115-007-2356-3>.

⁹⁸ NMT, “Transcript for NMT 1: Medical Case,” pages 70-71.

⁹⁹ Stern, *Eugenic Nation*, 24.

might have walked; however, in the hands of Nazi leadership, the eugenic medical practice was turned into an economic and political tool, and in the extreme, a genocidal one. And while the obvious reason of uncovering this logic was to show that the Nazis had overstepped this fine line, it shows us today that sterilization was normalized in this context; the prosecution's aim was rather to prove how much the Nazis diverged from this norm.

The international movement of eugenics had been established long before the National Socialist Party in Germany came to power in 1933. The International Federation of Eugenic Organizations (IFEO) in 1934 translated its aims into recommended policies, and a resolution was sent to the leaders of Western countries.¹⁰⁰ Most notably, the IFEO's global reach suggested to the Germans that their racial policies were being legitimized within diplomatic relations. Crucially, this perceived approval was not merely assumed by the Nazis but actively articulated in their discourse. Sociologist Stefan Kühl's research shows that the several nations that participated at IFEO conferences were appreciative of the information presented by German racial hygienists.¹⁰¹ Among the leading nation of the movement, American eugenicists were one of the strongest foreign supporters of the Nazi race policies.¹⁰² This most certainly was a reciprocal admiration as the Germans considered the US eugenic policies and regulations as a model.¹⁰³

The prominent status of American eugenics became a key element in the defense's attempt to construct *tu quoque* arguments during the trial, the strategy of pointing to the United States to

¹⁰⁰ Stefan Kühl, *The Nazi Connection: Eugenics, American Racism, and German National Socialism*, Oxford University Press, 1994, 27.

¹⁰¹ Ibid., 30.

¹⁰² Ibid., 37.

¹⁰³ Ibid., and James Q. Whitman, *Hitler's American Model: The United States and the Making of Nazi Race Law* (Princeton University Press, 2018), 1-2.

assert that “you did it too”.¹⁰⁴ The most obvious connection related to sterilization specifically was made by defendant Karl Brandt’s defense team, who provided key excerpts from a publication on racial hygiene in the United States to show that eugenics and racial hygiene principles were already widely developed and applied in the U.S. before similar policies were implemented in Germany.¹⁰⁵ The argument behind presenting this text was that American scholars and institutions pioneered research and policy concerning racial hygiene, which included forced sterilization measures intended to prevent reproduction among “undesirable” groups. The excerpts implied that such practices predated German sterilization policies, positioning the U.S. as an originator of such ideas.¹⁰⁶ The premise on which the defense worked was that if the United States had already practiced sterilization and racial hygiene as legitimate science and public policy, then similar actions in Germany should not be considered criminal in wartime.

A central element of the *tu quoque* defense was intertwined with the question of medical ethics. Although the defendants argued that their actions did not violate the “general principles of criminal law as derived from the criminal laws of all civilized nations,” the overwhelming evidence of Nazi brutality ultimately made this claim unsustainable.¹⁰⁷ Moreover, Andrew C. Ivy, representative of the American Medical Association (AMA) in the Doctors’ Trial, testified as an expert witness that various types of medical research conducted on prisoners in the United States during the war was voluntary and ethically sound, fully in line with accepted standards of

¹⁰⁴ Although this approach was the most focused in the trial, the prosecution might also have anticipated the need to address questions of American involvement and financial support for medical experimentation before the war, particularly in light of the Rockefeller Foundation’s sponsorship of twin research in Germany. See: Gretchen Engle Schafft, *From Racism to Genocide: Anthropology in the Third Reich* (Univ. of Illinois Press, 2004), 156.

¹⁰⁵ Geza von Hoffmann, “Extract from a book concerning eugenics,” Date unknown, page 1-2 of 2. Nuremberg Trials Project, Harvard Law School Library, <https://nuremberg.law.harvard.edu/documents/2704-extract-from-a-book?q=exhibit%22Brandt%2C+K.+58%22#p.1>, accessed 10 December, 2021.

¹⁰⁶ This comparison has been extensively developed in American lawyer and law professor James Q. Whitman’s monograph, where he argues in depth that the United States served as a “model nation” whose forms of “biological thinking” significantly shaped German policy. See: Whitman, *Hitler’s American Model*.

¹⁰⁷ Marrus, “The Nuremberg Doctors’ Trial in Historical Context,” 119–120.

medical experimentation.¹⁰⁸ However, the committee on which Ivy based his claim, the Green Committee, had not even convened before he testified, and thus had not deliberated, reviewed evidence, or evaluated the studies on U.S. experiments in any professional manner to base his testimony on.¹⁰⁹ Its report appeared six months after the trial, and was retrospectively treated as evidence, despite lacking any prior expert review or independent assessment. Ivy's testimony therefore conveyed the impression of existing ethical oversight when, in reality, he was drawing on a committee that had no established findings at that time, a move that scholars since have described as "flirting with perjury."¹¹⁰

Ivy testified about several different experiments, most notably about the malaria experiments conducted at Stateville Penitentiary in Illinois. Subject participation began with written notices posted in the facility explaining the purpose of the study and indicating the hazards involved to which application was made voluntarily and under no duress.¹¹¹ He further testified that there had been an agreement signed by the prisoner-volunteers before the experiments.¹¹² This procedure most likely followed the AMA's code to require voluntary consent by the human subjects and prior animal testing for the given experiment.¹¹³ The question of voluntary consent, however, took on an entirely different character in the context of sterilization practices in the twentieth-century United States. First of all, sterilizations had not been considered experiments, in the way they were framed in the case of sterilizations in Nazi

¹⁰⁸ NMT, "Transcript for NMT 1: Medical Case," pages 9122–9123.

¹⁰⁹ The "Green Committee" was an advisory panel established in Illinois at the suggestion of Andrew C. Ivy to assess the ethical conditions of medical experimentation on state prisoners. It was named after Illinois Governor Dwight H. Green, who formally appointed the committee at Ivy's request.

¹¹⁰ Based on Marrus, "The Nuremberg Doctors' Trial in Historical Context," 117, the original source: Jon M. Harkness, "Nuremberg and the Issue of Wartime Experiments on US Prisoners: The Green Committee," *JAMA* 276, no. 20 (1996): 1672, <https://doi.org/10.1001/jama.1996.03540200058032>;

¹¹¹ NMT, "Transcript for NMT 1: Medical Case," pages 9125–9126.

¹¹² *Ibid.*, 9129.

¹¹³ Susan E. Lederer, *Subjected to Science: Human Experimentation in America before the Second World War* (Johns Hopkins University Press, 1995), 74.

concentration camps. Sterilization procedures were most commonly perceived as eugenic, which were governed by law in the U.S., yet sterilizations for non-eugenic reasons largely depended on the discretion of the physicians.¹¹⁴ Nevertheless, historian Johanna Schoen contends that the voluntariness of eugenic sterilizations performed on “undesirables” before the Second World War in the U.S. was equally questionable.¹¹⁵

First, in the case of women, the extent of voluntariness was already compromised by the fact that wives had virtually no autonomy in decisions about contraception in the form of sterilization; the husband’s objection carried decisive weight before the Eugenic Boards that authorized the procedure.¹¹⁶ Women giving birth to children out of wedlock, on the other hand, were easy targets for being labelled as “feeble-minded,” a construction on behalf of the state that would help override the question of consent for sterilization. Although state statutes formally required the consent of candidates or their legal guardians, as Schoen shows, Eugenic Boards could nevertheless authorize sterilization even in the face of explicit objection.¹¹⁷ These practices, however, had begun to draw criticism from the public and scientific communities and, by 1942, from legal actors as well. Among various dynamics, reports of sterilization abuses in Nazi Germany, along with the U.S. Supreme Court’s invalidation of an Oklahoma law that mandated the sterilization of felons, added to a relative decline in interest in eugenic sterilization.¹¹⁸ Others contribute this decline more to civil rights movements that took place in the 1960s and 1970s.¹¹⁹ As legal historian Alexandra Minna Stern cautions in her study of American eugenics, however, examining U.S. eugenics through the lens of the Holocaust

¹¹⁴ Johanna Schoen, *Choice & Coercion: Birth Control, Sterilization, and Abortion in Public Health and Welfare* (The University of North Carolina Press, 2005), 78.

¹¹⁵ Ibid., 79.

¹¹⁶ Ibid., 77–8.

¹¹⁷ Ibid., 85–6.

¹¹⁸ Ibid., 104–5.

¹¹⁹ Mark A. Largent, *Breeding Contempt* (Rutgers University Press, 2008), 140.

requires understanding it as a parallel history: the fall of Nazism can create the illusion that eugenics vanished altogether, when in fact it persisted in the United States.¹²⁰

4. Caladium Seguinum and the Collapse of Prosecution

As eugenic sterilizations were legally justified before and during the Second World War in both countries, the American prosecution had to make sure that the charge of Nazi mass sterilization did not only stand out for its cruelty but its experimental nature. Given that many of the principal perpetrators of the mass-sterilization program in Auschwitz-Birkenau were either not yet captured or were not taken to Nuremberg, the tribunal focused on the most prominently documented methods during the wartime.¹²¹ These included the X-ray castrations for the reasons discussed above and a herbal sterilization procedure that drew particular attention because of its experimental character. The prominence of these methods stemmed from perpetrator correspondence, which unequivocally showed that their implementation had been ordered by Heinrich Himmler. The “Clauberg-method” was also in a foremost position as Allied investigators first gave more attention to Carl Clauberg than to Josef Mengele.¹²² Clauberg had, however, been captured by the Soviets and taken to Moscow and other prisons in Russia, while Mengele escaped and was never taken into custody.¹²³ Beyond the leading figures in Nazi medical administration and the Ravensbrück perpetrators, Adolf Pokorny was likewise charged with participation in mass sterilization. Trained as a dermatologist, he was neither affiliated with the Nazi Party nor employed as a physician by the SS in any capacity.

¹²⁰ Most shockingly, Stern follows the continuities up to 2013, when a report was released about 150 female inmates from California state prisons who had been sterilized without proper authorization. See: Stern, *Eugenic Nation*, 3.

¹²¹ As the entire dissertation, this focus excludes the discussion of sterilization experiments and methods in the Ravensbrück concentration camp.

¹²² Weindling, *Nazi Medicine and the Nuremberg Trials*, 88.

¹²³ Silvia Wilking, “Der Gynäkologe Carl Clauberg (1898-1957) Zwischen Verachteter Normalität Und Bagatellisierten Extremen,” 518–9.

The prosecution set forth the crime of mass sterilizations by exhibiting a letter from Pokorny to Himmler as the most incriminating evidence, quoted at length several times in order to present evidence that Pokorny was indeed involved in the plans for herbal sterilizations in a criminal sense. The prosecution underscored that, in his letter, Pokorny had described *Caladium seguinum* as an effective sterilizing agent, urged that it be tested on human subjects, and recommended to Himmler that it be produced synthetically due to the challenges of natural cultivation.¹²⁴ The prosecution successfully presented evidence that Himmler had taken up Pokorny's suggestion and followed through with medical and botanical experts to begin experimenting on human beings, testing the effectiveness of *Caladium seguinum*. Pokorny denied having taken part in the planning of mass sterilization and claimed to have written the letter solely to derail Himmler and plans for alternative effective methods of mass sterilization. The defense placed considerable emphasis on the assertion that Pokorny's proposal to Himmler was meant to deceive and thereby obstruct large-scale, surgical sterilizations.¹²⁵ This claim was, however, fundamentally flawed, as the trial demonstrated that the Nazis were themselves intent on abandoning surgical sterilization due to its inefficiency and expense. The prosecution did not address the question of Pokorny's personal access to Himmler or the improbability, under an authoritarian regime, that an unsolicited letter to a high-ranking official would reach its recipient. This omission became a point of contention during cross-examination, when the defense called the defendant to the stand.

The defense council also spent considerable effort on proving that Pokorny had been a leftist liberal who opposed the Nazi party and presented many documents and witnesses who

¹²⁴ Adolf Rudolf Pokorny, "Letter to Heinrich Himmler proposing the development of medicinal sterilization."

¹²⁵ NMT, "Transcript for NMT 1: Medical Case," page 2282.

testified to his character. The most convincing explanation for Pokorny's apparent distance from Nazi and antisemitic ideology lies in his family background: his first wife was Jewish, and his children, categorized by the regime as "mixed" (*Mischlinge*), were compelled to escape to the United Kingdom on a Kindertransport.¹²⁶ Pokorny, however, admitted to having divorced his Jewish wife in 1942, emphasizing that it had not been for political reasons. Later during cross-examination, it turned out that in the same year, in 1942, his ex-wife had been deported to Theresienstadt.¹²⁷ Pokorny recalled his wife having called him (no clarification on precise timelines) to go back to Prague, where they had lived together, to help her but Pokorny claimed in court that an SS man had threatened him with death should he help her.¹²⁸ Although this episode prompted curiosity about how he had dared to deceive Himmler, it simultaneously indicated that he was, in other contexts, readily susceptible to intimidation. The way Pokorny avoided the comparison was short and rather unconvincing, but the prosecution failed to pursue this point of inconsistency further:

Q: But you were the man who had sufficient amount of courage to write a letter to no less a man than the Reichsfuehrer-SS in an effort to sabotage his sterilization program, knowing fully well that if you were discovered the results would be fatal that your family perhaps would be threatened? Yet, you didn't have sufficient courage to go to the aid of your wife in Prague. How do you reconcile this, doctor?

A: The situation is entirely different in respect to Himmler than the situation I found myself since I knew that my house would certainly be watched and that any attempt to get to Prague would have the most serious consequences.

¹²⁶ Ibid., page 10017.

¹²⁷ Ibid., page 10103.

¹²⁸ Ibid., pages 10091-10095.

Q: Now you have stated here that in the spring of 1942 you received an inquiry regarding the production of the drug. What drug are you referring to in that inquiry?¹²⁹

It is unclear why the prosecution allowed this line of questioning to lapse, especially given the logical weakness of Pokorny's response. Only three additional questions followed, mainly about the timeline of Pokorny's correspondence with Himmler, which was confused by the prosecution and then the examination of Pokorny concluded. It remains unclear what motivated this rather unfocused re-examination by the prosecution. The most plausible explanation is that they recognized that pursuing the defendant further would be pointless, given that he had not personally carried out any of the sterilization experiments or procedures.

Subsequently, the defense counsel successfully strengthened Pokorny's stance and placed significant pressure on the question of *Caladium sequinum* used for mass sterilization. One of the explanations of this success involved a very personal tone that Dr. Georg Froeschmann, a part of the defense team,¹³⁰ used when turning to the evaluation of Pokorny, which he began by "frankly admitting" his observational position: "During the Trial and, particularly after the presentation of evidence for the Defendant Dr. Adolf Pokorny, I have been repeatedly asked what is my attitude to the motive stated by Dr. Adolf Pokorny and what I think about it."¹³¹ Dr. Froeschmann maintained this observational attitude throughout his speech, strictly adhering to the first person singular as he began every idea regarding the defendant by repeating "I understand" or "I considered". This empathetic personal tone shows that official legal actors were in conversation, the defense lawyer, an intelligent and powerful actor of the court room was discussing the case

¹²⁹ Ibid., page 10095.

¹³⁰ Although it is not Dr. Georg Froeschmann who is the defense lawyer for Pokorny, but Dr. Karl Hoffmann, the minutes show that he is talking here.

¹³¹ Ibid., page 11245.

with the other powerful legal actors present, most specifically with the judges and the prosecution. Moreover, the defense's rhetoric device embedded the entire court room into the perception of the defendant, which served to elevate the defendant *Dr. Adolf Pokorny* (emphasis on Dr.) into their realm. By creating this atmosphere, the defense struck down by reminding the judges and the prosecution that there were different interests lying behind the laws according to which the defendant would be judged.

By turning to the legal implications of the charges against the defendant Pokorny, the defense claimed that the letter to Himmler relied on the basis of Allied Control Council Law No. 10, which as Dr. Froeschmann put it, contained legal abstractions "as for example, the abstraction of murder, of being a culprit, of aiding and abetting the culprit, of planning, and so forth."¹³² Yet he called Pokorny's involvement a "special case" because through the exhibited letter to Himmler, or the subsequent letters, it could not be proven that anyone was sterilized, or murdered having used caladium seguinum. At this point, the lawyer carefully highlighted the nuance that if Pokorny was to be charged under Control Council Law No. 10, any basic planning of mass sterilization –without proof of genocidal outcomes– was liable to the same extent. Next, he discussed the different interpretations of the Allied members who had created this law and in his emphasis on the different legal traditions backing it up, the defense lawyer emphasized the American legislation: "Murder, being a culprit, aiding and abetting the culprit, and planning, to mention these examples only, are definded [sic] differently in AngloAmerican [sic] criminal laws than in the Russian or French criminal law systems."¹³³ This sentence, in particular, reveals how the defense wove in a barely concealed argument about the thin line that sterilization policies traced across various national contexts. At its core, the defense maintained that if planning

¹³² Ibid., page 11249.

¹³³ Ibid.

sterilization constituted a crime, it should have been treated as such universally rather than imposed solely on the defendant, in order to avoid the appearance of victor's justice. They argued that anything less "would be unfair and would contradict the uniform purpose of Control Council Law No. 10."¹³⁴

To avoid such potential self-incrimination, the defense proposed to instead consider and apply the German criminal law, which was less abstract and did not criminalize Pokorny in two respects. First, the chronology of planning would have been considered and thus: "According to German criminal law he is also not an instigator because the plan for committing the extermination had been established long ago. It was just this plan which he [sic] had heard about that inspired him for his action."¹³⁵ Secondly, abetment was punishable under German criminal law, yet the prosecution could not present any case where a person was sterilized by Caladium seguinum, let alone killed. The lack of proof exhibited therefore technically meant:

In the present case, however, the evidence has shown that there is no question of an abetment as to plant Caladium seguinum has not been tested on any human being but only on animals. The execution of the crime which concerns us in the present case has therefore not been started, much the less the national extermination of millions of humans.¹³⁶

The strength of this communication rested in the grammar of the declarative structures ('there is no', 'has not been'), in the articulation of logical deduction ('has therefore not been started'), and the use of powerful quantifiers and vocabulary ('the national extermination of millions of humans'). I find it important to note that the defense lawyer employed the term national, even though the mass-sterilization experiment at issue was anything but national in scope. This was

¹³⁴ Ibid., page 11250.

¹³⁵ Ibid., page 11254.

¹³⁶ Ibid., page 11266.

clearly a deliberate rhetorical move—a reminder of sterilization programs in other countries—rather than a factual error. Substantively, the force of the defense's argument also lay in its reference to experimentation on animals, which, as noted above, fell within the bounds of acceptable medical practice under American standards. Moreover, at this point in the trial, there was no proof that humans had been subjected to experiments involving *Caladium seguinum*.

This episode had a significant impact on the diminishing emphasis placed on mass sterilization experiments as a criminal offense during the trial, particularly given the disproportionate amount of time devoted to this single example of herbal sterilization. By contrast, other methods received far less attention—most notably Carl Clauberg's sterilization procedure, despite the existence of unequivocal incriminating evidence, including a letter dated 7 June 1943 documenting his sterilization of thousands of women in Auschwitz.¹³⁷ Since the Nazi gynecologist was not among the defendants, this issue could not form a central part of the trial. The prosecution nevertheless attempted to connect the remaining defendants to some awareness of the notorious Clauberg method, but this tactic appeared hastily constructed and drew an immediate objection from the defense.¹³⁸

The attempt was directed at Karl Eduard A. H. Genzken, Chief of the Medical Office of the Waffen-SS.¹³⁹ The prosecution additionally charged him with “sterilization experiments of Dr. Clauberg,” alongside altitude and freezing experiment in their closing brief, which the defense team rejected for not bearing any “special responsibility to them.”¹⁴⁰ In his closing arguments, Genzken’s defense attorney maintained that Genzken was indicted largely because of

¹³⁷ Clauberg, “Letter to Heinrich Himmler concerning sterilization experiments”

¹³⁸ NMT, “Transcript for NMT 1: Medical Case,” page 10998.

¹³⁹ For more details about him, see: Harvard Law School, “Karl Eduard A. H. Genzken,” *HLS Library Nuremberg Trials Project*, <https://nuremberg.law.harvard.edu/documents/authors/327-karl-eduard-a-h-genzken>, accessed December 3, 2025.

¹⁴⁰ NMT, “Transcript for NMT 1: Medical Case,” page 10998–9.

his position as chief of SS-physicians, strategically stressing that he neither oversaw nor performed the experiments himself.¹⁴¹ The defense then proceeded to dissect the details of the remaining experiments in order to demonstrate the extent to which Genzken could or could not have borne responsibility or possessed knowledge of them. Notably, however, the defense entirely omitted any rebuttal concerning the sterilization experiments.

At first glance, this appears to have been a deliberate strategy of relegating the issue to insignificance—partly as a means of conserving time and space within the closing argument. Yet the additional charges that the prosecution had ultimately withdrawn were mentioned, accompanied by the remark that ‘further explanations are unnecessary.’ The question therefore arises as to why Clauberg’s sterilization work does not reappear in Genzken’s case at this stage. The only plausible conclusion is that by this point the entire treatment of the sterilization experiments had become so downplayed within the proceedings that revisiting them would have been regarded as unnecessary and merely duplicative by the tribunal. Ultimately, the defense concluded by asserting that, since no specific responsibility for the high-altitude, freezing, or sterilization experiments had been attributed to Genzken in the indictment, he could not subsequently be held liable for them.

5. Legal and Historiographical Consequences of the Omission of Victim Voices

Although the prosecution’s effort to criminalize sterilization, ultimately framing it as a form of genocide with the secondary aim of distancing itself from American sterilization policies, was clearly perceptible, it ultimately failed in this endeavor. This failure translated into Holocaust historiography, most notably through the conclusion regarding *Caladium seguinum*: since no individual victim could be identified during the trial as having been sterilized with it,

¹⁴¹ Ibid., 10995.

historians came to regard the compound as not having been used successfully. As the Kurt Bachmann materials discussed in Chapter 2 demonstrate, however, only one or two years of investigation had elapsed by the time of the trial, leaving the scale of production unknown, including how many ampoules of *Caladium sequinum* Madaus & Co. manufactured for concentration camps at the request of Himmler and Pohl. The trial's conclusion thus reflect an overly hasty historical judgment, while it also marginalizes the other methods of sterilization that were not discussed in the trial for the absence of the direct perpetrators and misdirected focus.

Moreover, it is important to note that during the Doctors' Trial, prevailing legal culture did not include presenting a broad cohort of victims as witnesses before the American Military Tribunal. A reorientation toward an earnest effort to place Holocaust victims at the center only arrived in 1961 the Eichmann trial (*Criminal Case 41/60: Attorney General v. Adolf Eichmann*).¹⁴² Legal scholar Leora Bilsky links the juridical recognition of witness testimony to historiographical practice by drawing explicitly on Saul Friedländer's framework of integrated histories.¹⁴³ The main reason historians of Europe did not implement Jewish or other victim groups' voices to their work early in Holocaust historiography was out of the positivist conviction that these sources were not considered objective enough.¹⁴⁴ German historian Martin Broszat went as far as calling the victims' memory of Nazi atrocities "mythical," as in Jews mythicized past events by being stuck in the commemorative mode of history they had outlaid.¹⁴⁵ Friedländer responded to Broszat and the claim of objectivity by asking how German historians did not consider themselves, or the

¹⁴² Bilsky, "The Eichmann Trial," 27–57.

¹⁴³ Saul Friedländer, *Nazi Germany and the Jews*, xv-xvi; Saul Friedländer, "An Integrated History of the Holocaust," 181–9.

¹⁴⁴ Nicolas Berg, "'Prehistorical Excavations and Absolute Objectivity': On the Travail of the Polish Jewish Historian of the Holocaust Josef Wulf," in *The Holocaust and West German Historians: Historical Interpretation and Autobiographical Memory*, edited by Nicolas Berg and Joel Golb, University of Wisconsin Press, 2015, 181–183.

¹⁴⁵ Martin Broszat and Saul Friedländer, "A Controversy about the Historicization of National Socialism," *New German Critique*, Spring - Summer, 1988, No. 44, 85-91.

perpetrators for that matter, unaffected and subjective, being also a part of the society in question.¹⁴⁶ Friedländer raised the broader methodological problem of treating objectivity as a prerequisite for legitimate historical inquiry, a concern that extends into the legal sphere as well, particularly regarding the selection of witnesses deemed suitable to take the stand. His exchange with Broszat highlighted how Jewish survivors were often regarded as “less objective” witnesses, a problematic assumption that had already surfaced during the Doctors’ Trial itself and was, presumably, also acutely felt by the victims who sought to testify. While this debate helps explain the broader marginalization of victim testimony in early Holocaust historiography and jurisprudence, the specific omission of victims of sterilization and castration cannot be fully accounted for on these grounds alone and remains a question for further investigation.

Historian Ulf Schmidt opens his book on Leo Alexander with a mysterious event that happened around July 12, 1947 and illuminates how victim testimony could be dismissed as procedurally immaterial during the Doctors’ Trial.¹⁴⁷ An unidentified person broke into Alexander’s office and left behind a decoded theatrical script titled *Saturnalia*, evidently intended to mock the Doctors’ Trial and its claims to achieving justice. The play portrays Alexander—as a character bearing his own name—becoming so frustrated with the legalistic approach of the proceedings that he transforms the judges into extraterrestrial beings devoid of any earthly understanding of life or death, justice or injustice. Although the satire is unmistakable, the central critique, as Schmidt interprets it, lies less in the defendants’ refusal to assume responsibility and self-presentation as victims of the regime, and more in the paradox that the prosecution possessed an extraordinary wealth of evidence and yet was repeatedly

¹⁴⁶ Ibid., 95-96.

¹⁴⁷ Schmidt, *Justice at Nuremberg*, 1-2.

undermined by the defense counsel. The play's culminating irony arrives when the testimony of a victim is declared "immortal to the case," meaning that the examination of victims introduced too many contentious issues, and even the literal presentation of a corpse in the courtroom was depicted as insufficient to satisfy the judges' standards of proof.

The *Saturnalia* episode exposes a deeper anxiety embedded in the Doctors' Trial, namely, the disjunction between the overwhelming evidentiary record of atrocities witnessed by victims themselves and the tribunal's limited capacity—or willingness—to use this evidence. The play's satirical transformation of the judges into extraterrestrials underscores a perceived estrangement of the legal process from the moral and experiential realities of the crimes being adjudicated. In this sense, the play placed into Alexander's office becomes an interpretive lens through which contemporaries registered the structural deficiencies of a legal forum that struggled to accommodate the full ethical weight of medical atrocities. Concerns dramatized by the play centered on the unsettling possibility that even a corpse, the most incontrovertible material fact, of murder could fail to secure judicial recognition. These anxieties reflected broader contemporary doubts about the tribunal's evidentiary standards. On one level, those standards were constrained by prevailing assumptions about credibility and objectivity. On another, emerging Cold War dynamics further narrowed the range of materials deemed admissible. The Soviet investigative files produced prior to the trial and more attentive to victims' experiences, for instance, were largely dismissed under these geopolitical conditions.

Although the recognition of the Jews as the main target group of the Holocaust only received broader recognition among Western audiences with the Eichmann trial in 1961, the recognition of the Roma as a victim group was also significantly delayed. Romani survivors from Lackenbach were still fighting well into the 1980s to have the Lackenbach camp officially

recognized as a concentration camp, for instance.¹⁴⁸ Within these strugglesome politics of recognition, Roma victims' voices gradually fell silent. In this context, it is almost unsurprising that no victim eventually emerged who could be identified as having received *Caladium seguinum*. The historiographical treatment of other sterilization and castration practices has developed somewhat more fully. Clauberg's Block 10 in Auschwitz, for example, has been researched extensively, and at least two monographs and a documentary film examine its history in detail.¹⁴⁹ Yet, as the preceding chapters demonstrate, this remains only a partial history, for Clauberg's injections claimed additional victims in Birkenau as well. Moreover, the investigative team for the Doctors' Trial identified six hundred survivors from Block 10 of Auschwitz who were prepared to testify in detail about the atrocities they had endured.¹⁵⁰ Yet none of them were ultimately included in the official record. Such substantial omissions further impeded survivors' ability to articulate the complex harms they had been suffering. Families were devastated not only by the physical, psychological, and social consequences of sterilization and castration, but also by the persistent lack of acknowledgement and compensation for these abuses.

Even long after his wife's death at an advanced age, John B. recounted with palpable intensity his ongoing struggle with the courts and the justice system over the harm inflicted upon her. His wife had been subjected to medical experimentation, and despite the decades passed since, John clearly recalled both the perpetrators and the specific context of Auschwitz by name:

¹⁴⁸ "For us Gypsies, there is another problem in Burgenland in connection with reparations, which must be tackled with determination. It is the question of the formerly racially persecuted Gypsies from the Lackenbach camp, which has not been recognized by the government to this day. The government and other bodies claim that the Lackenbach camp was not a concentration camp like Mauthausen, Lanzendorf or Wöllersdorf." In Paul Hodoschi, "Diskussionsbeitrag auf der Österreich-Konferenz zur Wiedergutmachung," 24 November, 1957, Folder 2606, DÖW.

¹⁴⁹ Weinberger, *Fertility Experiments in Auschwitz-Birkenau*, Lang, *Die Frauen von Block 10.*); *Made In Auschwitz: The Untold Story of Block 10.*

¹⁵⁰ Weindling, 61.

And especially-- listen, if you have been sterilized, you see there-- there are two men in this world who knew about it. That is the Dr. Clauberg, who was able to commit suicide in Nuremberg. And there was a Jewish professor, a-- also a-- a prisoner. And they-- they killed him because-- that he never can say what happened. You know, Professor Samuel-- Samuels from Cologne.¹⁵¹

John's mention of Clauberg may not necessarily indicate specific knowledge of the personnel involved in sterilization experiments at Auschwitz, but his reference to Dr. Maximilian Samuel certainly does. As discussed in Chapter Two, Dr. Samuel—a Jewish prisoner-physician who worked in Block 10—was unlikely to have been known to survivors who were not directly connected to that block, particularly because he had been killed.¹⁵² John's awareness of Dr. Samuel is therefore striking: Samuel's name never surfaced in the Nuremberg proceedings, and scholarly publications documenting his activities only appeared after John's interview was conducted.

A factual error in John's account concerns Clauberg's fate after the war: Clauberg did not commit suicide in Nuremberg, but instead died of heart failure in a hospital in Kiel. After ten years of imprisonment in the USSR, Clauberg had returned to Germany in 1955 and been arrested there.¹⁵³ This error itself is revealing, as it implies that John mentally situated Clauberg within the framework of the Nuremberg proceedings. John's account of Clauberg's death indicates that he followed postwar reporting on the physician's prosecution. It is unsurprising that John, and likely his wife, monitored such developments, given that she had been subjected to sterilization experiments. John's wife continued to experience severe pain until her death, prompting their long pursuit of justice for the injuries she had sustained. His anger was still

¹⁵¹ John B. Holocaust Testimony (HVT-243), Fortunoff Video Archive for Holocaust Testimonies, Yale University Library.

¹⁵² Sari J. Siegel, "Treating an Auschwitz Prisoner-Physician: The Case of Dr. Maximilian Samuel," *Holocaust and Genocide Studies* 28, no. 3 (2014): 466.

¹⁵³ Weinberger, *Fertility Experiments in Auschwitz-Birkenau*, 389.

unmistakable when the interview was conducted in 1984.: “Uh, if it comes to that, I'm very angry. Because I want justice, you know-- not the money.”¹⁵⁴ Next to justice, John, and likely his wife, wanted knowledge. They wanted to understand what exactly had happened to her, what had been injected into her body: “She got s[sic?]- 86 injections in the breast and in the back. Nobody knows what he gave her for an injection. That's the whole problem. Nobody can find out.”¹⁵⁵ This suggests that the couple had pursued medical clarification, most likely from gynecologists. Such an inference is reinforced by the medical records submitted by Hungarian women in compensation claims through the Red Cross. The next chapter elaborates on these long-term medical consequences.

Conclusion

Across the Doctors’ Trial, the mass sterilization experiments were consistently framed as lethal acts, an emphasis that aligned with the realities of concentration camp conditions but obscured the fact that not all procedures resulted in immediate death. The fatal dimensions of these abuses extended far beyond the moment of incarceration, and the long-term consequences for those who survived bear closer comparison to eugenic sterilizations than the trial narrative allowed. Yet the American prosecution and tribunal sought to cast sterilization—particularly the X-ray castration method—as a distinctly genocidal crime in order to insulate their case from the *tu quoque* challenge posed by the United States’ own sterilization programs.

As the following chapters demonstrate, genocidal intent need not be measured solely by immediate lethality. The mass sterilization experiments, regardless of method, constituted a form of biological destruction whose effects unfolded across survivors’ lifetimes. The concept of

¹⁵⁴ John B. Holocaust Testimony (HVT-243).

¹⁵⁵ Ibid.

prolonged genocide captures this temporally extended form of annihilation, in which the violence lies in the eradication of reproductive futures and family lines.

This chapter has shown how the legal architecture of the Doctors' Trial, and the historiographical traditions that grew out of it, marginalized the charge of mass sterilization experiments and the surviving victims of these procedures. The resulting narrative silences—partial but consequential—shaped both scholarly understanding and the broader public memory of these crimes. The next chapter turns to the medical and psychological consequences of sterilization and castration to delineate their long-term impact and to further articulate how these procedures functioned as a prolonged form of genocidal harm.