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# Werl Prison and the British Approach to Military Justice in Germany, 1945–1958

## Abstract

This paper examines how the British Military Government treated German war criminals in custody, from the time of their sentencing in Royal Warrant courts to the time of their final release through mass amnesties by 1958. The British attempted to draw attention away from the imprisonment of war criminals, which was deeply unpopular amongst Germans, by treating them like ordinary common law criminals and having German warders guard them. The British came to deeply regret this system, as it undermined their public relations strategy and jeopardised security.

After the defeat of Germany in 1945, the victorious Allies divided up the country into zones of occupation. Apart from the famous International Military Tribunal at Nuremberg, each occupying power conducted its own series of trials against those who had perpetrated war crimes against Allied nationals in each of the occupying powers' respective zones. The British tried thousands under the Royal Warrant at Lüneburg and Hamburg, the French tried thousands more at Rastatt, and the Americans, in addition to a series of twelve "subsequent Nuremberg trials", conducted trials at the former concentration camp, Dachau.<sup>1</sup> The convicted war criminals were then transferred to a prison in each of the respective occupation zones, where they would either be executed or would serve out their sentence under Allied supervision. The three main prisons were Werl in the British zone, Wittlich in the French zone, and Landsberg in the American zone.

Historians have studied post-World War Two Allied war crimes trials extensively; they have also examined how the intensification of the Cold War – and the desire to have West Germany rearm and join NATO – led to the release of all German war criminals in Western Allied custody by 1958.<sup>2</sup> However, the aims, implementation,

1 The Soviets also conducted trials and imprisoned German war criminals in "special camps" in their zone of occupation, however they did not coordinate their programme with the Western Allies. Legal historian Adalbert Rückerl has stated that we can safely assume "that the number of those convicted [in the Soviet zone] was many times more than the aggregate number of persons sentenced by all the tribunals of the Western occupying powers together". Jonathan Friedman, "The Sachsenhausen Trials: War Crimes Prosecution in the Soviet Occupation Zone and in West and East Germany," in *Atrocities on Trial: Historical Perspectives on the Politics of Prosecuting War Crimes*, eds. Patricia Heberer and Jürgen Matthäus (Lincoln: University of Nebraska Press, 2008), 160.

2 The exceptions were Rudolf Heß, Albert Speer, and Baldur von Schirach, who remained outside of their jurisdiction in the quadripartite prison at Spandau. Spandau was the only prison that remained open, largely because the four Allied powers could never come to a consensus in order to overturn the original quadripartite arrangement for the oversight of the prison. Spandau was only closed when its last, lonely inmate, Rudolf Heß, who had been the sole inhabitant of the castle for twenty-one years, finally died in 1987. The American warden of Spandau from 1964 to 1972 wrote a book about Heß' decades-long solitary confinement entitled *The Loneliest Man in the World*. Eugene K. Bird, *The Loneliest Man in the World: The Inside Story of the 30-Year Imprisonment of Rudolf Hess* (London: Secker and Warburg, 1974).

and evolution of the war crimes programme between sentencing and mass amnesty has received little scholarly attention. A sentence at the end of a trial is simply a promise to carry out a specific punishment. Why, then, have historians of postwar Germany not investigated how these punishments were actually carried out?<sup>3</sup> Until now, the historical lacuna on Allied prisons has been patched by teleology – historians have allowed knowledge of the mass amnesties of the 1950s to affect our understanding of how the war crimes programmes developed. There has been little examination of the period of imprisonment or the surprising amount of agency that Nazi convicts exercised because mass amnesty led to truncated prison terms and scholars knew that the inmates would all be released in a short while. This approach minimises the role and importance of historical contingency: mass amnesties were not inevitable and the activities of the Nazis in prison and their massive support groups mattered. Therefore, historians must engage with this period not simply as a short pause between harsh sentencing and vengeance and political expediency, but on its own terms. If historians want to understand post-war justice, how it was meted out, and how it was received by the German public, it is as important to understand the nature of the German war criminals' incarceration as it is to understand their sentencing and trials.

Very recently the imprisonment of war criminals – as opposed to simply their trials – has attracted the attention of scholars. Franziska Seraphim has drawn on the earlier work on spatiality and territoriality by historians such as Charles Maier and taken the first steps in theorising how scholars could approach the study of these prisons, their surrounding communities, and wider public discourse.<sup>4</sup> It is important to study the public relations surrounding the incarceration of war criminals because this is where the war crimes programme had its most important and sustained public face. It was through the incarceration of war criminals on German soil, rooted in the important context of this specific geography, that Germans from every level of society experienced a profound and constant encounter with the Nazi past – a painful, thorny reminder right in their very neighbourhoods.<sup>5</sup> The legitimacy and purpose of the Allied war crimes programmes would be written and rewritten on a daily basis through quotidian interactions between the prison officials and the Germans who engaged with these institutions – from family members and supporters of

3 Historian Peter Maguire laments this lacuna: "The ensuing story of how some of the worst war criminals of World War II were quietly paroled is worth telling. It is widely known that Rudolf Hess and the other IMT defendants were shown little mercy under quadripartite control in Berlin's Spandau Prison. How did the war criminals in the western prisons (Werl, Wittlich, and Landsberg) fare?" Peter Maguire, *Law and War: An American Story* (New York: Columbia University Press, 2010), 15.

4 Seraphim lays out the importance of such research: "Paying attention to the physical spatiality of the [war crimes] programme can open up a much wider range of legalities than those pertaining to the criminal law of trials. Such an inquiry captures the social meanings contingent on concrete places; it can do so through a serious analysis of both the space inside the prisons themselves as well as their place with-in local, national and even transnational communities. The historical record here is so rich, so understudied and undertheorized, and the memory so remarkably uneven in post war Japan and Germany that it deserves a study of its own beyond the limits of this chapter." Franziska Seraphim, "Spaces of Punishment," in *The Tokyo Tribunal: Perspectives on Law, History and Memory*, eds. Viviane Dittrich, Jolana Makraiova, Kerstin von Lingen, and Philipp Osten (Brussels: Torkel Opsahl Academic E-Publisher, 2020), 394–395.

5 Historian Franziska Seraphim writes: "More so than the legal process of the trials, which had limited transparency for most, the long-term execution of sentences was grounded in everyday administrative practicalities that made not only the meaning of justice, but also that of democratic rebuilding, concrete for different participants and audiences, including the German, Japanese, and American public, and the victims of war atrocities as well." Franziska Seraphim, "A 'Penologic Program' for Japanese and German War Criminals, 1945–1958," in *Transnational Encounters and Comparisons between Germany and Japan: Perceptions of Partnership in the Nineteenth and Twentieth Centuries*, eds. Joanne Cho, Robert Lee, and Christian Spang (Basingstoke: Palgrave Macmillan, 2016), 194.

war criminals, to chaplains, the press, the government, and interest groups. If the Allied war crimes programmes were to serve any didactic or democratising purpose at all, it would be achieved during this period, through years of everyday interaction with the penal institutions. If the war crimes programmes could not be justified in the marketplace of ideas and if their legitimacy was rejected by most Germans (or even Allied decision makers), then they would fail in securing all but the narrowest definitions of justice. Finally, studying the prisons' public relations also helps us understand how punishment and justice fit in with other goals and objectives of the Allied occupation governments. How resilient were the war crimes programmes? How well could they resist compromising the principles of the trial verdicts in the face of shifting political and strategic priorities?

My work builds on this theoretical framework by using extensive archival research to actually show what life was like in these prisons. Some scholarship exists on the American prison at Landsberg,<sup>6</sup> but the Werl and Wittlich prisons are almost completely unexamined.<sup>7</sup> This article represents the first historical study to describe and analyse the administration, treatment, and life of Werl prison. Werl housed inmates of all ranks and backgrounds, both men and women who had committed a vast range of crimes and atrocities. While some of the inmates were guilty of crimes relating to the mistreatment of Allied military personnel, such as the killing of downed Allied flyers, most inmates were Holocaust perpetrators, especially the staff of concentration camps in Germany. Many of World War Two's worst perpetrators of mass murder wound up there, ranging from low-level concentration camp staff to generals and field marshals such as Albert Kesselring, Erich von Manstein, and Kurt Meyer. In order to examine the incarceration of these war criminals, this paper draws on British and American archival documents, including the records of the British officials who administered Werl prison and the overall war crimes programme, the records of American occupation government officials who worked closely alongside their British counterparts, and copies of German newspaper articles and other prominent publications on the subject. I relied on secondary sources to fill in the high-level diplomatic discourse surrounding the "war criminals problem" and the overall goals of the British occupation of Germany.<sup>8</sup> Focusing my re-

6 See Thomas Raithel, *Die Strafanstalt Landsberg am Lech und der Spöttinger Friedhof (1944–1958): Eine Dokumentation im Auftrag des Instituts für Zeitgeschichte* (München: Oldenbourg, 2009). For a study of Spandau prison, where the IMT convicts were held, see Norman J. W. Goda, *Tales from Spandau: Nazi Criminals and the Cold War* (Cambridge: Cambridge University Press, 2007).

7 For a comparison between the British, American, and French war crimes programmes in Germany, see my forthcoming PhD dissertation: Connor Sebestyen, "The Allied War Crimes Programs and the Struggle to Enact Justice in Germany 1945–58: Prisons, Prisoners, and the Fight for Legitimacy" (PhD dissertation: University of Toronto, 2022). In addition, see Andrew Beattie's new book for a comparison, albeit at a different judicial stage: Andrew H. Beattie, *Allied Internment Camps in Occupied Germany: Extrajudicial Detention in the Name of Denazification, 1945–1950* (Cambridge: Cambridge University Press, 2020).

8 This historiography is quite vast, but a good place to start is Norbert Frei, *Adenauer's Germany and the Nazi Past: The Politics of Amnesty and Integration* (New York: Columbia University Press, 2002). On overall British policy towards the occupation of Germany, see (among many others): Ian D. Turner, ed., *Reconstruction in Post-War Germany: British Occupation Policy and the Western Zones, 1945–55* (Oxford: Berg, 1989); Christopher Knowles, *Winning the Peace: The British in Occupied Germany, 1945–1948* (London: Bloomsbury Academic, 2017); Donald Bloxham, "British War Crimes Trial Policy in Germany, 1945–1957: Implementation and Collapse," *Journal of British Studies* 42, no. 1 (2003): 91–118; Jill Jones, "Eradicating Nazism from the British Zone of Germany: Early Policy and Practice," *German History* 8, no. 2 (April 1990), 145–162; A. P. V. Rogers, "War Crimes Trials under the Royal Warrant: British Practice 1945–1949," *The International and Comparative Law Quarterly* 39, no. 4 (1990); Anthony Glees, "The Making of British Policy on War Crimes: History as Politics in the UK," *Contemporary European History* 1, no. 2 (1992): 171–197; Barbara Marshall, "German Attitudes to British Military Government 1945–47," *Journal of Contemporary History* 15, no. 4 (1980): 655–684; Heiner Wember, *Umerziehung im Lager: Internierung und Bestrafung von Nationalsozialisten in der britischen Besatzungszone Deutschlands* (Essen: Klartext Verlag, 1991); Katrin Hassel, *Kriegsverbrechen*

search on records that pertained directly to the incarceration of the war criminals has helped to highlight factors besides Cold War exigencies that shaped the evolution of the war crimes programme and the crucial decision to amnesty the war criminals.

A close examination of the administration of Werl prison can reveal what this phase in transitional justice was able to achieve and what the limitations were. How was the penal regime at Werl designed? What goals did the British hope to achieve, and how were these plans implemented and modified over time? How did the British defend the prison against misinformation and criticism that threatened to undermine the legitimacy of the war crimes programme? Finally, as the crisis of legitimacy reached its peak, how were the amnesties carried out while still attempting to preserve the appearance of judicial legitimacy? In short, the British pursued a pragmatic and flexible approach to dealing with the war criminals in their custody, eschewing didactic aims. The imprisonment of war criminals was deeply unpopular amongst Germans, so the British attempted to draw attention away by treating them like ordinary common law criminals and having German warders guard them. The British came to deeply regret this system, as it undermined their public relations strategy and jeopardised security.

### Administration and Conditions

The British Military Government designed Werl prison in keeping with the best practices of indirect rule that they had established through a long history of colonialism and empire.<sup>9</sup> They were content to hand over most of the administrative duties to local German authorities while maintaining executive control through a skeleton crew of British supervisors. The British ended the Second World War victorious but in financial ruin. Compounding these problems, the British zone of occupation in Germany encompassed the urban, industrial heartland of the country and was thus the most expensive to run. As a result, the British Military Government's goals in Germany were more limited than those of the Americans: their war crimes programme would have to be "cheap" and court "little diplomatic controversy".<sup>10</sup> At Werl, the British deliberately mixed incarcerated war criminals with ordinary German criminals convicted of common law offenses. Unlike their American counter-

*vor Gericht: Die Kriegsverbrecherprozesse vor Militärgerichten in der britischen Besatzungszone unter dem Royal Warrant vom 18. Juni 1945 (1945–1949)* (Baden-Baden: Nomos, 2009); Tom Bower, *Blind Eye to Murder: Britain, America and the Purging of Nazi Germany – A Pledge Betrayed* (London: Warner Books, 1995); Anne Deighton, *The Impossible Peace: Britain, the Division of Germany and the Origins of the Cold War* (Oxford: Clarendon Press, 1990); J. H. Hoffman, "German Field Marshals as War Criminals? A British Embarrassment," *Journal of Contemporary History* 23, no. 1 (1988): 17–35; and Perry Biddiscombe, *The Denazification of Germany: A History 1945–1950* (Stroud: Tempus, 2007).

9 The top leadership within the British Military Government, including Bernard Montgomery, Brian Robertson, and Alec Bishop, made frequent and explicit references to their work in Germany in terms of the wider mission of the British Empire. See the memoirs of the military governors: Ivone Kirkpatrick, *The Inner Circle: Memoirs of Ivone Kirkpatrick* (New York: St. Martin's Press, 1959); Bernhard L. Montgomery, *The Memoirs of Field-Marshal the Viscount Montgomery of Alamein* (London: Collins, 1958); Sholto Douglas with Robert Wright, *Years of Command: The Second Volume of the Autobiography of Sholto Douglas, Marshal of the Royal Air Force Lord Douglas of Kirtleside G.C.B. M.C. D.F.S.* (London: Collins, 1966). Also, many British Military Government officials had served in the Colonial Service. On the links between empire and the administration of the British zone in Germany, see Christopher Knowles, "Winning the Peace: The British in Occupied Germany, 1945–1948" (PhD dissertation: King's College London, 2014), 66–74, 103–114, 122–123. See also Biddiscombe, *The Denazification of Germany*, 83, and Turner, *Reconstruction in Post-War Germany*.

10 Donald Bloxham, *Genocide on Trial: War Crimes Trials and the Formation of Holocaust History and Memory* (Oxford: Oxford University Press, 2001), 35.

parts at Landsberg, they tried to downplay the fact that these were men convicted of extraordinary crimes and treated them like ordinary prisoners.<sup>11</sup> War criminals imprisoned at Werl experienced very good conditions, which compared favourably with conditions at the French prison, Wittlich, though not as good as the exceptional conditions at the American prison, Landsberg. There were three main reasons for the differing conditions in the prisons. First, the administration of Werl had access to less resources and funding than the Americans lavished on Landsberg. Second, the British maintained more modest ambitions for what a war criminals' prison could achieve in terms of educational value for the general German public, so there was less of an incentive to pull out all the stops when it came to amenities and programming for the inmates. Third, the British Military Government's philosophy on how best to avoid exacerbating political tensions over the contentious war crimes programme was best served by a humane but conventional penal regime.

A "British Governor" and six other British officials oversaw the running of Werl prison and supervised the German guards and staff.<sup>12</sup> Problematically, only one British warder had a "fluent command of German". The British administrators considered the assignment to supervise Werl prison to be the most unpopular job of any of the British staff in Germany.<sup>13</sup> A report on the British staff similarly stated that "the job is an unusual one, which would be very distasteful to most people. The men are extremely isolated from amenities and they are beginning to suffer from the still minor hostility of the population."<sup>14</sup> The British staff often complained of the isolated nature of their post, far from the amenities of the big city (the nearest being Dortmund) and having to live in a shared "mess" without their wives and families.<sup>15</sup>

These British supervisors oversaw a much larger group of German warders who directly organised daily life at the prison. The war criminals spent the night in their individual cells, which could be decorated with plants and stocked with radios, toiletries, books, and other personal items. They awoke at 5:30 am and proceeded to their work duties, which were assigned according to the skills and abilities of the prisoners and ranged from work in agriculture to factory work and skilled trades. No one over the age of sixty was required to work. They earned a wage, half of which could be used at a prison store selling food, cigarettes, and personal items, and the other half was saved and doled out upon release.<sup>16</sup> During the workday, prisoners enjoyed an hour-and-a-half break for eating lunch, again in their cells.<sup>17</sup> In the evenings, they had access to recreation rooms, with radios, a large assortment of reading material and newspapers, and games. In their spare time, prisoners were allowed to

11 The Americans intended to use Landsberg Prison to teach the Germans about the value of democratic institutions and due process. They intended for their practices to be beyond reproach, to show how a civilised country treated their enemies upon defeat.

12 National Archives and Records Administration (NARA), College Park, Maryland, Record Group 466, Prisons Division General Records, Box 5, "Disposition of War Criminals" briefing note, Mr. Kelleher, Deputy General Counsel, 17 October 1951. A number of the British supervisors at Werl over the years also served rotating terms at Spandau, the quadripartite prison for Major War Criminals in Berlin. The National Archives of the United Kingdom (TNA), London, Foreign Office (FO) 1060/330, Letter from F.C. Everson to C.F.J. Roots concerning warders at Werl, 27 May 1955; TNA, FO 1042/18, "Report on the Joint Inspection of the Prison for War Criminals at Werl," 23 September 1955.

13 TNA, FO 1060/330, "Status of Penal Branch Staff," M.E. Bathurst, Legal Adviser, 14 May 1955.

14 TNA, FO 1060/330, "Administrative Problems – Werl Prison," M.E. Bathurst, Legal Adviser, 2 November 1953.

15 They were exempt from Operation Union, the British government initiative to bring government staff's wives to occupied Germany.

16 TNA, FO 1060/532, Translation of an article published in *Westfalenpost*, issue dated 24 April 1951 – AP correspondent George Boulwood.

17 TNA, FO 371/104150, Letter – Hankey to Nutting on "conditions under which war criminals' sentences are served in Werl," 10 September 1953.

continue their education through correspondence courses.<sup>18</sup> They also tended gardens, where they could grow their own vegetables to supplement their diet, and they were given time to exercise for forty-five minutes twice daily. During work, recreation, religious services, and exercise, war criminals were mixed with ordinary German criminals. Lights out was at 8 pm, later moved to 10 pm.<sup>19</sup>

Inmates sentenced to death had little time to settle into this regular prison routine. The British waited and gathered between thirty to fifty death sentences, enough for two days' straight worth of executions, and then sent for the official executioner from London, Albert Pierrepont, who would fly in to carry out the hangings.<sup>20</sup> The executioner was paid ten pounds per hanging. Executed war criminals were buried in unmarked graves on prison precincts until they were full and then in an annex of the Hameln cemetery.<sup>21</sup>

Representatives of a variety of government and non-government agencies, such as the British Penal Administration and the Red Cross, as well as German politicians, regularly inspected these prison procedures, especially after the creation of West Germany in 1949. The inspection reports were generally positive regarding the efforts of the British administration to accommodate the needs and comfort of the inmates. Even the West German chancellor, Konrad Adenauer, gave the prison glowing praise after a surprise inspection in 1953, which is especially noteworthy considering Adenauer's at times acrimonious relationship with the British occupation government.<sup>22</sup> The war criminals' communication with their family and friends outside of prison was in line with the rules and regulations that governed ordinary German criminals. Visits from legal counsel were unlimited but supervised by a guard "out of earshot". Visits from loved ones were limited to once every two weeks.<sup>23</sup> In terms of diet, the food served at Werl prison was considered adequate both calorically and nutritiously, consisting of an array of vegetables, breads, meats, and fats.<sup>24</sup> Taste, however, was a different story. The menu could be bland and repetitive, with one prison inspector reporting that the meals were "far above minimum standards and the vitamins may be theoretical sufficient . . ." yet the food was "unpalatable . . . and deleterious. British cooking is notoriously below continental standards . . ."<sup>25</sup> Despite this criticism, the war criminals were certainly eating better than the vast majority of the German population, especially in the heavily industrial and urban British zone that struggled to import enough food to avoid starvation. Rations for Germans in

18 TNA, FO 371/104153, "Background for Correspondents: Werl Prison – German Press Campaign," November 1953.

19 TNA, FO 1060/532, Translation of an article published in *Christ und Welt*, 15 March 1951.

20 To the disapproval of the Americans, the British executed ten women as well as around 180 men. Fern Hilton, *The Dachau Defendants: Life Stories from Testimony and Documents of the War Crimes Prosecutions* (Jefferson: McFarland, 2004), 153.

21 TNA, FO 371/104149, Letter from M.F.P. Herchenroder to H.W. Evans, comments on article in the *Illustrierte Post of Hamburg*, 21 August 1953.

22 Giles MacDonogh, *After the Reich: The Brutal History of the Allied Occupation* (New York: Basic Books, 2007), 262–264; Biddiscombe, *The Denazification of Germany*, 50.

23 Once a year at Christmas, families were allowed to send ten-kilogram packages to the prisoners. This was a smaller allotment than in the American prison. British authorities feared that if too many packages were allowed a dangerous black market would form and threaten the security of the prison. The war criminals could regularly send and receive mail, but it was censored by British authorities. TNA, FO 1060/532, Appendix to "Background for Correspondents" issued in connection with Press Release PR/Bonn 567, November 1953.

24 TNA, FO 371/104150, Letter – Hankey to Nutting on "conditions under which war criminals' sentences are served in Werl," 10 September 1953.

25 Another report recommended the following to the prison staff: "... please keep the question of the prisoners' food before you and make every effort to vary it as much as possible and discourage the German tendency to serve 'stew' at every meal." TNA, FO 1060/532, Memo on weekly submission of prison diet sheets, Principal Legal Adviser, 29 March 1951.

the British zone in 1946 averaged 1,550 calories per day, but sometimes dropped below 800 calories per day.<sup>26</sup>

While British planners designed the war crimes programme to treat all inmates equally, regardless of rank, facts on the ground superseded this policy; treatment at Werl prison was ultimately based on a hierarchical system. British military supervisors developed cordial relationships with high-ranking German military officers in the prison and arranged for these men, especially the generals, to be treated in a manner commensurate with their status. Former German generals and high-ranking officers received special treatment – favours and exceptions were made to make their imprisonment as comfortable as possible. For example, generals were housed separately in their own wing of the prison. One inspection reported that they were “... living in single cells with armchairs and other comfortable equipment unusual to prisons and almost providing an air of detainment of honour”.<sup>27</sup> High-ranking officers at Werl were given radios and had daily newspaper deliveries. They were not required to work and had great freedom to pursue their own interests. Some, such as the former Field Marshal Erich von Manstein, pursued horticultural interests and lovingly tended a small garden.<sup>28</sup> Many of the generals engaged in lively correspondence with British generals about specific aspects of strategy and tactics from various campaigns that they had fought against each other. Some, such as Field Marshal Kesselring, dedicated themselves to writing books about the war.<sup>29</sup> In a 1951 interview with the German newspaper *Westfalenpost*, the generals praised the prison menu and recreational facilities. Their only complaints were the fortnightly limit on visits from friends and family, and frustration at the inability to provide financial support to their families.<sup>30</sup>

The German warders were happy to go along with the lenient policies towards the high-ranking war criminals. Many of these guards were formerly soldiers in the German army and continued to treat their former superior officers with respect and deference. A British report expressed distrust in the German warders, stating that many had “joined local ex-soldiers’ organizations whose aims include the liberation of war criminals”. The report went on to state that “... one cannot expect that the German warders will be other than sympathetic towards the war criminals, some of whom were high-ranking officers whom the warders, when in the Army ranks, learned to respect”.<sup>31</sup> There are a few reasons to explain why the British condoned special treatment for this category of inmates. First, many British officers – especially high-ranking ones – felt a certain comradeship and respect for their German counterparts. This stance was modelled by leading public figures such as Winston Churchill, who famously contributed to Field Marshal von Manstein’s legal defence fund.<sup>32</sup> Similarly, Basil Liddell Hart, one of Britain’s leading military experts, devel-

26 Jessica Reinisch, *The Perils of Peace: The Public Health Crisis in Occupied Germany* (Oxford: Oxford University Press, 2013), 177–178; The war criminals’ diet, however, was nothing compared to that of the Landsberg prisoners, who enjoyed a staggering 3400 to 3800 calories per day. NARA, RG 466, Entry 48, Box 11.

27 TNA, FO 1060/532, Translation of an article published in the *Hamburger Abendblatt*, “Behind the Walls of Werl Prison,” dated 7/8 July 1951.

28 Ibid.

29 On Kesselring, see Kerstin von Lingen, *Kesselring’s Last Battle: War Crimes Trials and Cold War Politics, 1945–1960* (Lawrence: University Press of Kansas, 2008).

30 TNA, FO 1060/532, Translation of an article published in *Westfalenpost*, issue dated 24 April 1951 – AP correspondent George Boulwood.

31 TNA, FO 371/104153, Report on German press campaign against Werl, Office of the United Kingdom High Commissioner, Bonn, 26 November 1953.

32 Anthony Glees, “The Making of British Policy on War Crimes: History as Politics in the UK,” *Contemporary European History* 1, no. 2 (1992): 187.

oped close relations with German generals, helped them publish books about their military campaigns, and advocated on their behalf.<sup>33</sup> Second, the German generals were the subject of much more intense public interest and political pressure than lesser-known war criminals, so the fallout from any allegations of mistreatment would be magnified tenfold.<sup>34</sup> This was especially true in the 1950s after West Germany was formed and the thorny issues of sovereignty and German rearmament came to the fore. Finally, the German generals were not often directly involved in the carrying out of atrocities and this distance from the killing made it easier to overlook their complicity in mass murder and genocide. By the 1950s, the “myth of the clean Wehrmacht” had already taken hold. For all of these reasons, high-ranking war criminals were able to establish comfortable lives for themselves in Werl, despite the prison being designed with the principle of equal treatment in mind.

### Disillusion with the Mixed-Prison System

Over the years, the British grew less and less trusting of the German staff of Werl prison and other local institutions, such as the hospital and police. The unreliability of German staff undermined the entire British philosophy for their war crimes programme – namely, to run a pragmatic, efficient programme that eschewed quixotic aims and avoided courting public controversy. The considerable friction and mistrust between the British administrators and the German staff of Werl prison were outlined in a series of reports in 1956 by the British governor H.S. Meech, who had become a vocal advocate for limiting contact between the German staff and the war criminals.<sup>35</sup> Meech claimed that the German prison director had even stated “most emphatically, that although a German Warder would fire at an escaping German Court prisoner, under no circumstances would he fire at an escaping War Criminal”.<sup>36</sup> He went on to say that “[i]f a War Criminal managed to escape I know most of my staff would wish him the best of luck”.<sup>37</sup> The British staff therefore felt there was always a high risk when a war criminal had to leave the grounds of Werl prison for any reason because they could not trust German staff not to aid in their escape.<sup>38</sup> For example, during the planning for a hospital visit for the infamous SS commander Kurt Meyer, British authorities bluntly stated that “we cannot rely on the German authorities to assist us in re-arresting an escaped war criminal or one who breaks parole. Similarly, we cannot rely upon the German authorities to withhold travel facilities from an escaped war criminal or one on parole”.<sup>39</sup>

One of the most serious breaches in trust was the result of the high-profile escape of two war criminals from Werl. In August 1952, the war criminals Hans Kühn, who was convicted of murdering four Canadian pilots, and Wilhelm Kappe, who was convicted of murdering a Russian POW, escaped while working outside the prison.

33 Alaric Searle, “A Very Special Relationship: Basil Liddell Hart, Wehrmacht Generals and the Debate on West-German Rearmament, 1945–1953,” *War in History* 5, no. 3 (1998): 327–357.

34 NARA, RG 466, Entry 48, Box 5. See also the very helpful review article by Kerstin von Lingen, “Soldiers into Citizens: ‘Wehrmacht’ Officers in the Federal Republic of Germany (1956–1960),” *German Historical Institute London Bulletin* 27, no. 2 (2005): 45–67.

35 TNA, FO 1042/18.

36 TNA, FO 1042/18, Letter from Meech to Perkins, 11 September 1956.

37 TNA, FO 1042/18, Letter from Meech to British Embassy, Bonn, 7 September 1956.

38 TNA, FO 1042/18, Letter Perkins to McCarthy, 18 December 1956.

39 TNA, FO 371/104150, Letter M.E. Bathurst to J. Sarnes, Canadian Embassy, 13 August 1953.

The escape was widely reported in the sympathetic German press.<sup>40</sup> An article in a French newspaper stated that these two war criminals had been transformed into “heroes of the people”.<sup>41</sup> German public opinion fell so firmly on the side of the escapees that, when the municipal councillor Heidepeter of the town of Aurich caught wind of their presence in his town and reported them to the local police, he was subsequently fired from his position due to the public outcry.<sup>42</sup> It was later discovered that the escape had been aided by German police, who had re-arrested Kappe but then released him after learning that he was a war criminal.<sup>43</sup> Even the vice president of the German Red Cross, Frau Else Weecks, provided financial aid and employed networks of support to help the escapees.<sup>44</sup> Weecks was subsequently banned from visiting Werl.<sup>45</sup> British authorities located Kappe in 1954, but a heated debate ensued as to whether or not it would be worth the public outcry if they rearrested him, especially considering that during his time on the loose the Mixed Board had commuted the rest of his sentence.<sup>46</sup> After this demoralising series of events, a report summed up the complete breakdown of trust between the British and the German staff:

[There is a] ... fundamental difficulty of continuing to hold German war criminals in part of a German prison with the help of German staff. On the subject of war criminals, even sensible and otherwise well-intentioned Germans are unreliable ... It is also inevitable that the German Prison Chaplains may connive at assisting war criminal prisoners to avoid prison regulations.<sup>47</sup>

Eventually, the deterioration in security and public relations at Werl pushed the British to attempt to mimic aspects of the American system, which housed the war criminals in a special prison with no German guards.<sup>48</sup> In 1954, the British authorities finally transferred the war criminals into their own separate section of the prison – out of the direct supervision of German warders and away from ordinary criminals. This was only made possible because amnesties had drastically reduced the prisoner numbers: only sixty-three war criminals remained in Werl by July 1954.<sup>49</sup>

40 Frei, *Adenauer's Germany and the Nazi Past*, 217.

41 Ministère des Affaires Étrangères Archives (MAE), La Courneuve, Archives de L'Occupation Française en Allemagne et en Autriche, Affaires Judiciaires (AJ), Boîte 2634; *France-Soir*, “Criminel de guerre se transforme en héros populaire,” 5/6 October 1952.

42 MAE, AJ Boîte 2634, *Wittlicher Tagblatt*, “Denunziant vom Amt Suspendiert,” 4/5 October 1952.

43 An October 1952 edition of *Der Spiegel* includes a fascinating article describing the reaction to Kappe's arrest in the town of Aurich. The man who reported Kappe's whereabouts, Wilhelm Heidepeter, was subsequently labelled a “traitor” and driven into hiding. The local police allowed Kappe to escape through a window before British officials arrived to take him back to Werl. *Der Spiegel*, “Hier wohnt der Verräter,” no. 41 (1952), <https://www.spiegel.de/politik/hier-wohnt-der-verraeter-a-c07a8d32-0002-0001-0000-000021977917>.

44 TNA, FO 371/104153, Report on High Commissioner visit to Werl for Chief of Information Services Division, 18 November 1953. Kühn was recaptured a couple of years later, without the help of the uncooperative German police, but he only served six more months in Werl. TNA, FO 371/109730, Letter Johnston to Hancock, UK High Commission, Bonn, 17 December 1954.

45 TNA, FO 371/109730, Letter Johnston to Hancock, UK High Commission, Bonn, 17 December 1954.

46 I have yet to find a document that states whether or not Kappe was, in fact, re-arrested.

47 TNA, FO 371/104153, Report on German press campaign against Werl, Office of the United Kingdom High Commissioner, Bonn, 26 November 1953.

48 NARA, RG 466, Entry 48, Box 5.

49 TNA, FO 1008/310, 12 April 1954; TNA, FO 371/109726, List of War Criminals at Werl Prison, 28 July 1954.

## Fighting and Losing the Public Relations War

American officials saw the media coverage and public relations of Werl prison as a disaster to be avoided. Unlike at Landsberg, where there were only American staff and Polish guards working and the message could be tightly controlled, at Werl there were many information leaks by the German staff working at the prison.<sup>50</sup> According to an American report, German press attacks against Werl, especially in local newspapers, were more intense than against Landsberg.<sup>51</sup> In a 1953 report on German press coverage of the prison, British officials argued that there was a concerted and coordinated campaign to delegitimise Werl. They blamed the German staff for providing grist to the German misinformation mill:

The campaign has been fed by misinformation taken out of the prison by the German staff, who, from feelings of the injustice of war crimes convictions or from hope of gain, have been ready to peddle news of daily events in the prison which in other circumstances would pass unnoticed. Thus a prisoner suffering from loss of appetite through ill-health caused by rheumatism appears in the press as a hunger-striker protesting against a harsh regime; a German warder, dismissed by the German authorities for trafficking with war criminals in food and tobacco over a considerable time, is hailed in the press as a humanitarian, an example to his fellow-countrymen ... and the banning from the prison of some issues of a local newspaper, which has used illicit information and consistently abused the British authorities, formed the basis of a story that the prisoners are now not allowed any newspapers at all. This press campaign has given rise to anxiety not only among the families of the prisoners, but also among German officials and politicians, some of whom, including the Federal Chancellor, and members of the Bundestag, have raised the matter with me in conversation or in correspondence.<sup>52</sup>

This pressure exerted upon Werl by the German press and other public figures and institutions had a very real impact on British policy making. As a result, British policy concerning war criminals was flexible and subordinate to the wider political interests of cultivating good ties with the German public. A 1953 document explicitly stated that the British would change their policy in order to curry favour with the German press:

There have been few recent criticisms in this country of clemency on our part towards war criminals. Indeed, most of the correspondence we receive nowadays accuses us of being too harsh ... *For these reasons, it is suggested that we might adopt a more lenient policy than last year.*<sup>53</sup>

Similarly, the British were keen to keep up with any changes in the policy of the Americans and the French, so that they could not be accused of treating the inmates more harshly. When it came to light that the Americans had a more lenient policy concerning how many packages a prisoner could receive, the British decided to match it:

50 Aside from German guards, prison chaplains served as a vessel for communication between the war criminals and their supporters in the German public.

51 NARA, RG 466, Entry 48, Box 11; TNA, FO 1008/310, "War Criminals in British and French Custody: Suggested Transfer to Landsberg," C.H. Johnston, 27 February 1954.

52 TNA, FO 371/104153, Report on German press campaign against Werl, Office of the United Kingdom High Commissioner, Bonn, 26 November 1953.

53 TNA, FO 371/104153, italics added for emphasis, Report: "Christmas Clemency for Prisoners in Werl," P.F. Hancock, 23 November 1953.

It is just food for propaganda against this country as compared with the Americans and French. I suggest that this ought to be straightened out so that ... *when they are released on parole or otherwise they and their families do not nurse a grievance against us.*<sup>54</sup>

German supporters of war criminals were able to extract concessions by using these tactics of playing the Allied prison administrations off against each other. In order to combat this, the Western Allies seriously considered amalgamating the three Western Allied prisons, shipping all remaining war criminals to Landsberg.<sup>55</sup> Especially after 1949, the British were keen to keep their policy in line with the Americans. The Americans were the key ally of the new West German state and could absorb much more criticism than the British.<sup>56</sup> Due primarily to the potential difficulties of having three different clemency and release procedures under one roof and the potential side effect of inadvertently creating a site of martyrdom that the German press attacks could focus on, these plans were never carried out. Instead, the British proceeded to speed up the rate of releases in order to wrap up the war crimes programmes once and for all.<sup>57</sup>

As the Cold War confrontation between the United States and the Soviet Union intensified, the Americans were eager to incorporate the West German state into the defence of the West. By the 1950s, the war crimes programmes were seen by the Allies as a toxic and anachronistic point of contention that was getting in the way of West German rearmament. In search of a speedy end to the war crimes programme, the British authorities exerted pressure on the Mixed Board, a joint Allied-German body charged with sentence review and reduction, to hand out clemency in a sequence and timeframe that suited their wider political and strategic needs. The British government already had a date in mind for the closure of Werl, and the clemency decisions would just have to fit.<sup>58</sup> This is an important point because there is still a common misconception that the Modification and Clemency boards of the 1950s were somehow making amends for earlier harsh sentencing and arbitrary victor's justice.<sup>59</sup> In reality, the Interim Mixed Consultative Boards and the later Mixed Parole and Clemency Boards should be understood as nothing more than political tools for facilitating the release of all war criminals as quickly as possible in a manner that maintained the appearance of judicial due process.<sup>60</sup>

54 TNA, FO 371/104150, italics added for emphasis, Letter – Hankey to Nutting on “conditions under which war criminals’ sentences are served in Werl,” 10 September 1953.

55 Similar to the Americans, the British also entertained the idea of moving all of the war criminals out of Germany altogether by transferring them to a facility in the United Kingdom, out of the reach of meddling German politicians. This was rejected because “such an arrangement would deprive the prisoners of visits from relatives, German welfare workers, and chaplains”. TNA, FO 371/104153, Report on High Commissioner visit to Werl for Chief of Information Services Division, 18 November 1953. See also the other many related reports and correspondence in this file.

56 To quote a British occupation government official: “... the Germans will on the whole probably be more reluctant to have a major row with the Americans than with us or the French. There is therefore advantage in having all the war criminals under an American umbrella.” TNA, FO 1008/310, Frank K. Roberts, 12 April 1954.

57 TNA, FO 1008/310, a series of reports and correspondence in the winter/spring of 1954.

58 There is a lot of correspondence along these lines. See, for instance, TNA, FO 1042/18.

59 For example, author Patricia Meehan repeated the official lines of the British High Commission officials, arguing that the Mixed Board was righting the injustices of the early vengeful years of the occupation. Patricia Meehan, *A Strange Enemy People: Germans Under the British, 1945–1950* (London: Peter Owen, 2001), 86–87.

60 Historian Francis Graham-Dixon characterises the efforts of war crimes programme administrators in the 1950s in a different way. In a 2013 article on the administration of British justice in West Germany, he wrote: “All the evidence of the British regime’s conduct towards prisoners at Werl from 1949 points to obfuscation and bureaucratic delays in the implementation of sentence reviews, causing added stress to the inmates.” According to my assessment, any such delays or “obfuscations” should not be looked upon with scorn, but rather as the last attempts of those who believed in the justice of keeping mass murderers and their accomplices in prison to fight against the tide of public opinion that would rather forget the atrocities of the recent past. In any

As the war criminals were considered for release, the parole system turned out to be a big public relations success for the Americans that the British would later go on to mimic.<sup>61</sup> It allowed them to justify the release of large numbers of war criminals, which pleased the German public. This mirrors the trajectory of the entire British war crimes programme: it shifted from a “doing it our way”, laissez-faire approach in the 1940s, to an approach of much closer cooperation with the Americans. The British adopted American models for reducing prison sentences, parole, and ultimately amnesty. They came to realise the many pitfalls of their approach, such as working too closely with the Germans, which had left them open to serious security and public relations shortfalls. The British announced war criminal releases to the press, whereas the Americans liked to keep things quiet.<sup>62</sup> Upon a war criminal’s release from Werl prison, representatives of the German Red Cross would often greet them outside the gates with flowers and a press photographer, and then take them to a meal at a hotel.<sup>63</sup> After receiving this warm welcome, they would receive assistance reintegrating back into German society, all the while collecting a pension for “POWs” from the West German government.<sup>64</sup>

## Conclusion

While Landsberg prison often served as a symbol for the entire war crimes programme in Germany, Werl prison was frequently referred to in relation to its better-known American counterpart – “*Landsberg der Engländer*”.<sup>65</sup> This was a fitting summation of British policy towards the war crimes programme in the 1950s: they attempted to coordinate policy as closely as possible with the Americans, keeping up with releases and other policy changes, in the hope that any criticism would be soaked up by their ally. In the early days of the occupation, however, the British had chosen a different path from the Americans. The first military governor, Bernard Montgomery, claimed that the British were on a mission to “save the soul of the German nation”,<sup>66</sup> but this lofty ambition ran up against the reality of administering a war crimes programme that suffered from a lack of resources and many competing priorities. The mid-level British officials in charge of designing the penal regime therefore fell back on their familiar, battle-tested method of governing an occupied population: ruling indirectly. By staffing Werl prison with German warders and treating the war criminals like any other common law prisoners, the British hoped to

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case, any delays were not particularly effective, as the British released the last prisoner from Werl in July 1957, almost a full year before the Americans closed Landsberg. Francis Graham-Dixon, “British Justice in Western Germany, 1949–55,” *Social and Education History* 2, no. 3 (2013): 227–228.

61 The Americans had painstakingly instituted a parole system, complete with a network of German parole officers and American supervisors, to keep tabs on the war criminals long after their release from Landsberg. This made granting clemency more palatable, as there was always the threat, however remote, that the war criminal could be returned to prison if the terms of parole were breached.

62 NARA, RG 466, Prisons Division General Records, Box 17, “Publicity on Parole and Clemency Actions Relating to War Criminals,” 9 June 1954; TNA, FO 371/104149, “Draft Press Release” for the release of nine men from Werl, M.F.P. Herchenroder, 20 August 1953.

63 TNA, FO 1042/18, “Memorandum,” H.S. Meech, 11 June 1956.

64 On the issue of the employment possibilities of released war criminals, British High Commissioner Sir Ivone Kirkpatrick, in a letter to the editor of *Abendpost*, stated: “... it would present a great problem to decide where to fit such elements in German society ... unless they were encouraged to find employment in the Soviet Zone concentration camps, where their special tastes and talents would be appreciated.” TNA, FO 371/104153, Report on High Commissioner visit to Werl for Chief of Information Services Division, 18 November 1953.

65 TNA, FO 1060/532, copy of undated magazine article: “...und was ist nun mit Werl?” Kurt Neher, *Badische Illustrierte*.

66 Knowles, *Winning the Peace*, 69–72.

draw attention away from this political flashpoint and ensure smooth relations with the occupied German public. Ultimately, meting out justice for genocide and mass murder was less important than getting West Germany back on its feet economically and cultivating an important diplomatic (and later military) ally in the intensifying Cold War.

The British believed that they could counter the “victor’s justice” narrative by involving the Germans, but this was unsuccessful because the Germans could never support the imprisonment of their fellow countrymen by a foreign occupying power.<sup>67</sup> The breakdown of trust that occurred between the British and the German staff led to security breaches and created an open conduit through which both information and misinformation made its way to the German press. This resulted in disastrous relations with the public that even American officials pitied. In the ensuing scramble to find a solution to this quagmire, the British chose politics over principles in order to meet their wider goals for relations with West Germany. Attempts to reform the prison regime by finally separating the war criminals from the German guards and ordinary criminals were belated and ultimately overtaken by the broad amnesty programmes carried out by the British, French, and Americans. Amnesties shrunk the prisoner population to such an extent that the change could be carried out quietly, without drawing attention to the grave errors committed in designing Werl. Four years later, in 1958, the last war criminals were released from Western Allied custody and the Werl, Wittlich, and Landsberg prisons were handed over to the German authorities. They remain active prisons today.

In assessing the legacy of the Western Allied war crimes programmes in Germany, at first glance the British programme comes out in a better light because its goals were comparatively modest. However, by most of the metrics that the Allies set for themselves, the war crimes programmes in Germany were failures. First, they did not help to democratise the Germans, nor could they achieve even a modicum of legitimacy in the eyes of the German public. They were certainly not helpful in bringing about a general reckoning with the Nazi past; if anything, they only served to delay such a reckoning by binding Germans together in opposition to foreign “victor’s justice”. There is no evidence that the war criminals were brought to any sort of moral reckoning during their time in prison.<sup>68</sup> If anything, all the support that they received from German society seems to have made them feel more than ever secure and comfortable in their decisions and narratives of the past.<sup>69</sup> Second, as discussed above, the incarceration’s value as punishment creaks and groans under the weight of scrutiny. Third, the rehabilitation of war criminals existed only as vague notions in the minds of the prison planners. While the war crimes programmes clearly paid more lip service than committed action towards re-education and rehabilitation, it is unclear whether these were possible from a purely penological point of view. The war criminals’ crimes, while being heinous, were committed in such a specific context that it is hard to imagine many of them “reoffending” or leading a life of crime upon release. There is no denying, however, that Nazism as a system that enabled these war

67 This same lesson was learned by the organisers of the de-Nazification campaigns, who also faced the consequences of devolving responsibility for their programme to less-than-enthusiastic Germans.

68 Katharina von Kellenbach has written about imprisoned war criminals from the perspective of theology. She examined the perpetrators’ conceptions and understandings of their own guilt, and posited a model based on the biblical parable of the mark of Cain as a better way for a society to deal with past systemic violence rather than forgiving or forgetting. Katharina von Kellenbach, *The Mark of Cain: Guilt and Denial in the Post-war Lives of Nazi Perpetrators* (Oxford: Oxford University Press, 2013).

69 For an in-depth examination of the war criminals’ narratives of their wartime experiences and action, see my forthcoming PhD dissertation, Sebastyen, “The Allied War Crimes Programs,” chapter three.

crimes in the first place was delegitimised and largely eradicated from public life. This process was a result of a combination of Allied occupation policy – of which the war crimes programmes played a part – and broader social, political, and economic factors. Disentangling and assigning importance to each of these factors that led to the emergence of a successful Western-style democracy in West Germany is a challenging historical undertaking that has and will continue to be vigorously debated by scholars.

Although the Allied war crimes programmes did collapse, they should not be viewed as a total failure. The Western Allies administered the prisons – including Werl – and treated the war criminals humanely and fairly. Any of the credible accusations and criticisms that have come to mar the legacy of the programmes were directed at the investigation and trial stages.<sup>70</sup> In the prisons, the war criminals were treated with care, respect, and a professionalism that rose above any passions that some suspected may have arisen concerning the nature of the prisoners' crimes. In addition, some of the worst criminals remained in prison for the entire thirteen-year length of the war crimes programmes' existence. However, acknowledging this fact raises a difficult question that is certainly beyond the scope of a historical study, but at the same time is impossible to ignore: does a thirteen-year prison term – or much less in most cases – elicit any sort of sense of satisfaction in the observer? Is roughly a decade's worth of prison time "enough" of a punishment for genocide? Can we conclude that "justice" was served? If not, then what number of years (if any) *would* be satisfactory?

If these questions seem absurd, or if the answer is an emphatic "no number of years", then perhaps we need to re-examine the aims and inherent limitations of a war crimes programme. We must examine the broader, more philosophical question of what, as a society, we would want a war crimes programme to achieve. What *can* legal remedies achieve in an international framework? I do not purport to have answers to any of these moral, ethical, and philosophical questions, but my empirical research and attempts to answer the "hows" and "whys" of the collapse of the post-World War Two war crimes programmes in this article and elsewhere bring them uncomfortably close to mind. When faced with systemic violence again, we would do well to study the obstacles that impeded the German war crimes programmes and adjust our ambitions for any future programmes accordingly. We must soberly contemplate what can be achieved once the exigencies of social, political, diplomatic, and international relations priorities are brought into the equation. Changes in the social or diplomatic relationships between nations – as occurred in the relationship

<sup>70</sup> The US Army Dachau trials, for example, proved to be particularly controversial. Many of the defendants complained that they were severely mistreated during the pretrial investigation process. US Army investigators would set up mock courts, send in fake priests, and engage in physical and verbal abuse. Under increasing pressure, a series of congressional investigations were eventually ordered: the Simpson Commission investigated the Malmédy Massacre trial, the Ferguson Commission investigated the Buchenwald trial, and the Armed Services Committee, comprised of such infamous politicians as Senator Joseph McCarthy, investigated the whole trial series. See Frank M. Buscher, *The U.S. War Crimes Trial Program in Germany, 1946–1955* (New York: Greenwood Press, 1989) for more on the investigations. The congressional investigations provide very rich source material that would benefit from further study. Though the mistreatment of prisoners was not found to be widespread, evidence of abuse was uncovered by all three investigative bodies. The historian Tomaz Jardim interviewed Benjamin Ferencz, who was one of the Mauthausen trial prosecutors. When asked about these rough investigation practices, Ferencz "recalled having no qualms both humiliating and threatening the lives of those he interrogated in order to get the information he sought". He goes on to recount an interrogation of an SS officer when he had the man strip naked and said: "I am a Jew – I would love to kill you and mark you down as *auf der Flucht erschossen* ... you are gonna sit down and write out exactly what happened ..." Tomaz Jardim, *The Mauthausen Trial: American Military Justice in Germany* (Cambridge: Harvard University Press: 2012), 82.

between the Western Allies and the new West German state in the context of the first stages of the Cold War – are bound to affect the status of war criminals; the prosecution of war crimes never occurs in a vacuum. Finally, the findings of such an examination should be compared with equally detailed studies of alternative responses to mass violence.<sup>71</sup> In the end, all transitions from dictatorship to democracy – in the context of international war or otherwise – involve amnesties and unpunished crimes to some extent. Perfect justice in the face of systemic violence simply does not exist. All we can do is choose a balance between punishment, amnesty, commemoration, remembrance, support for victims, reconstruction, and building a brighter and more just future. Above all, we must set as realistic and attainable goals for war crimes programmes as possible.

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<sup>71</sup> Some of the most common alternatives include truth and reconciliation commissions, summary judgments, financial reparations, and – most common of all – simply doing nothing at all to pursue justice.

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