

British Foreign Policy and the Attitudes of Anglo-French
Relations towards the Nuremberg Trial in the Shaping of the
Cold War Front, 1944-1946

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Abstract:

This dissertation reappraises British attitudes toward the development of the Nuremberg Trials during the Second World War and its immediate aftermath. Assessing British reluctance for an international military tribunal, it unearths how British policymakers utilised the diplomatic space to construct the Nuremberg trial for postwar survival. Challenging the collective memory of the Nuremberg Trials as a clinical legal and political procedure for denazification, this dissertation grounds the trials into early Cold War study through the lens of British cultural-legal exchange, competition, and rivalry.

To grasp the complexity of British political manoeuvring, this study examines Britain's diplomatic stance toward France as a fourth major power within the postwar Western European system. It will reveal how British promotion of France as a major Allied power and contributor to postwar operational and major war crimes planning exacerbated wartime Allied tensions due to contrasting legal ideologies. Britain sidelined Anglo-French relations in turn for Anglo-American collusion on the creation of Nuremberg, accentuating both the ideological divide amongst the Allies, but also the hegemonic nature of Anglo-Saxonism. British unwillingness to collaborate openly with France underlined a wider affirmation of Anglo-Saxon superiority towards all ideological frameworks that deviated from its own. This dissertation exposes how British cultural and legal predilection for Anglo-Saxonism strained Foreign Office planning for an Anglo-French alliance and disintegrated inter-Allied cooperation, creating unfeasible political conditions for a second Nuremberg Trial. It highlights how legal and cultural exchanges within major war crimes planning crystallised into a pre-Cold War front.

The first chapter situates the Nuremberg Trials in the international climate of 1944, and the Foreign Office's apprehension toward postwar planning for the treatment of major war criminals and a geostrategic reconciliation with France. The Second chapter follows the British impetus to craft France as a world power, chronologically exploring the subsequent ideological implications within the diplomatic channel of major war crimes planning. The final chapter explores Britain's continued disinclination of the Anglo-French partnership while planning for subsequent trials. It unravels how, by 1946, Anglo-Saxon insularity cemented an ideological divide in the early Cold War, permanently ending inter-Allied cooperation for a failed second Nuremberg Trial.

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Birthered in Bournemouth University's Humanities and Law Department, this dissertation belongs to the discipline of History.

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This thesis is all for you, Dougie.

All research is dedicated to those who fell and suffered under the Third Reich persecution from 1933 to 1945.

Author's Declaration

I hereby declare that all research and gathering of primary and secondary source materials have been collected by myself. This dissertation to the best of my knowledge and all belief, it contains no materials that have already been published, written by another individual or organisation, or associated with an award of any other degree at any university or equivalent institution.

I further declare that the intellectual content of this dissertation to my knowledge is true and correct, and it is the product of my own original research, where any external interpretations and information I have used within this dissertation is appropriately acknowledged and referenced.

Timeline:

17th December, 1942: The first public announcement of the NSDAP mass persecution to eradicate the European Jewish population was declared by the British government.

20th October, 1943: The United Nations War Crimes Commission (UNWCC) is created, operating in London to investigate the nature of atrocities committed during the Second World War.

30th October, 1943: The joint Allied declaration titled, 'Declaration on German Atrocities,' in Moscow is signed, promising postwar retribution.

1st November 1943: The European Advisory Commission (E.A.C.) is consolidated to aid with postwar reconstruction.

6th June, 1944: The primary liberation of France commences.

15th April, 1945: Belsen-Bergen is liberation by the British 11th armoured division, liberating 60 thousand prisoners.

14th June, 1945: The Royal Warrant is created.

26th June, 1945: The London Conference begins to legally negotiate the construction of an International Military Tribunal.

14th July, 1945: The British Commander in Chief, of the British Zone of Control adopts full legal authority of Britain's occupied German zone.

8th August, 1945: The London Agreement is signed.

17th September-17th November, 1945: Commandant of Bergen-Belsen, Josef Kramer, and forty-four NSDAP criminals are tried at Lüneburg under British control.

20th November, 1945: The International Military Tribunal began proceedings of the twenty-two NSDAP defendants.

8th December, 1945 to 11th April, 1946: The American court tries 177 NSDAP war criminals, including industrialists.

13th December, 1945: Josef Kramer and ten other defendants are executed, with fourteen acquitted and the rest given sentences ranging from one to fifteen years in prison.

Glossary of Terms

Abbreviations:

CFLN : Comité Français de Libération Nationale, known as the French Committee for National Libération.

EAC: European Advisory Commission

IMT: International Military Tribunal

NSDAP: Nationalsozialistische Deutsche Arbeiterpartei, the National Socialist German Workers Party. Known as the Nazi Party.

SSR: Sovetskaia Sotsialisticheskaia Respublika, commonly known as the Soviet Union.

UNWCC: United Nations War Crimes Commission

Phrases:

Allied Control Council: The political machinery dealing with the Allied occupation zones in Germany.

Biddle-Hull-Stimson Plan: In November 1944, keen to define NSDAP crimes as unlawful, Francis Biddle, Cordell Hull, and Henry Stimson proposed to prosecute the major war criminals, becoming the foundation for American policy to conduct an International Military Tribunal.

Entente Cordial: The Anglo-French agreement in 1904, that sparked a diplomatic friendship between both states for years after.

The Big Four: The Quadripartite Alliance of America, Britain, France, and Soviet Russia from 1945.

The Big Three: The wartime Alliance, known in historiography as the 'Grand Alliance,' of America, Britain, and Soviet Russia.

The Morgenthau Plan: Harsh postwar planning proposals by Henry Morgenthau, including the executions of major war criminals.

Introduction

The creation and evolution of the Nuremberg Trials from 1944 to 1946 marked one of the last acts of inter-Allied political and ideological mobilisation against the Third Reich, stemming from the experimentative success of Allied wartime victory. Led by America, the first Nuremberg Trial indicted twenty-one of the most prominent NSDAP criminals from November 1945 to October 1946, paving the way for the additional twelve trials that denoted the legal denazification of Europe.¹

Primarily existing to deter aggression within the postwar international system, the four major Allies of America, Britain, France, and Soviet Russia constructed the first International Military Tribunal (IMT) to implement long-lasting peace and security, incorporating international law as a practical and necessary component for safeguarding postwar international affairs. Yet from the beginning, Britain's handling of France during these discussions reveals a tension between wartime alliance rhetoric and postwar strategic calculation. Whilst British policymakers strove to bolster France's status as a postwar major power, Britain simultaneously subordinated and sidelined French influence within the planning of the Nuremberg Trial, instead prioritising ideological exchange with America.

Ideological rivalry and competition incubated within the preliminary plannings for an IMT. Despite being legally operated, the decision to create the trials was primarily concluded by those with little legal qualification to ascertain the appropriate procedures of international law. As a political entity to treat the fall of the Third Reich, senior diplomats representing the four major powers were instrumental in deciding the fate of the most prominent NSDAP leaders according to their postwar foreign interests and national values.

Crucially, it was Britain who stood against the synchronised political interests of their three other confederates, sceptical that an IMT could produce effective and satisfactory postwar justice. Indeed, British decision for international war trials was not an instantaneous reactive response to the behaviours of the Third Reich. Senior officials were reluctant and apathetic to the notion of an IMT, especially if it required to create a multilateral legal culture within the new postwar world. Instead, this thesis highlights how British diplomats translated inter-Allied cooperation into a geostrategic space for Anglo-American alignment, accurately the gradual abandonment of an Anglo-French alliance for Anglo-American dominance within Western Europe.

Although Britain trailed behind the legal and political dominance of America, historians have negated the importance of how it was British foreign policy that exacerbated preexisting inter-Allied tensions within the Nuremberg Trials, and subsequently the broader geopolitical context of the formative postwar years.² Given the multidimensional nature of British foreign

¹ For an overview of Nuremberg historiography see: David Luban, "The Legacies of Nuremberg," *Social Research* 54, no. 4 (1987): 779–829. Historiography continues to reinforce the Nuremberg legacy as an epoch in international law: I.M Lobo de Souza, "Nuremberg's Enduring Legacy to International Justice," *Journal of International Humanitarian Legal Studies* 13, no. 2 (2022): 222–250.

² For a meticulous historiographical evaluation regarding American dominance within Nuremberg's legacy see: Francine Hirsch, "The Soviets at Nuremberg: International Law, Propaganda, and the Making of the Postwar Order" *The American Historical Review* 113, no. 3 (2008): 701–703.

policy, this study examines British attitudes to Anglo-French relations within the political climate and diplomatic construction of the IMT. Notably, centring Britain's Western European policy around France within the diplomatic spaces for developing the IMT yields a rich harvest of Cold War analysis.

This dissertation uncovers that British unwillingness to collaborate with France within the makings of Nuremberg underscored a broader assertion of Anglo-Saxon ideological supremacy, not just regarding continental legal practices, but diplomatic frameworks that deviated from its own. This reflected a deeper reluctance to engage with even Western states unless they conformed to the same cultural and political conventions, reinforcing the insular and hegemonic tendencies of postwar Anglo-Americanism. For Britain, the eventual establishment of an IMT became an instrument of diplomatic power to normalise a democratic ideological standardisation for states within the international system, whilst shaping postwar inter-Allied cooperation to bolster their declining position as a major power within the new world order. Britain, namely through the operation of the War Cabinet and Foreign Office, positioned Anglo-French relations into a political compromise during major war crimes planning. Fruitlessly juggling the Anglo-American alliance, and their vision for France as a recognised major power within postwar Europe, Britain sidelined France, not yet ready to embrace an active plan where France was ideologically, morally, and politically equipped to fulfil their Western European foreign policy.

The Foreign Office anticipated to formulate a renewed Anglo-French alliance during wartime planning. To firstly stabilise and rebuild France's international standing, and secondly reinstate a British-led Western Europe, as a political and economic powerhouse. This in turn would strengthen the British position against the rising superpowers of America and Russia. Yet France, which held little military and economic influence, did little to surmount British concern for its ability to perform as a stable and influential postwar power, especially under the tenuous and dogmatic leadership of General Charles de Gaulle between 1944 and 1946. Unsurprisingly, British postwar planning on such matters was nebulous, often gravitating towards American policies, while France fit awkwardly within Anglo-American cultural and political norms. Subsequently, British diplomats focused mainly on ensuring the Nuremberg Trials were shaped predominantly by Anglo-Saxon prescriptivism to preserve and purify the international system from nondemocratic transgressions, rather than nourishing conflicting cultural practises from France.³

Whilst Britain did not deliberately attempt to complicate the preliminary negotiations for Nuremberg, the wider geopolitical tensions propagating from Anglo-French relations stiffened the diplomatic flow between the Western powers. British alliance building with America and the subsequent disregard for France transformed an expected static postwar legal procedure of an IMT into a broader political and ideological struggle. British diplomatic manoeuvring within negotiations for Nuremberg accentuated the legal differences between Anglo-Saxonism and France's use of continental Roman civil law, framing France into a marginalised subcamp with Soviet Russia for establishing the IMT. Subsequently, Britain aimed to secure an Anglo-Saxon bloc to ensure a united front with America: reinforcing their

³ Antony Anghie, "The Evolution of International Law: Colonial and Postcolonial Realities," *Third World Quarterly* 27, no. 5 (2006): 739.

shared transatlantic cultural and ideological commonalities that eventually outlined the contours of the Cold War by the end of 1946.

This study is significantly beholden to Francine Hirsch, who throughout her works highlights that the Nuremberg Trials were a product of ideological warfare during the early onset of the Cold War.⁴ Hirsch argued that the Trials were ‘one of the Cold War’s first major battles,’ due to America’s incessant need for international control, and the preclusion of Soviet influence within the new establishment of international law.⁵ Hirsch highlights how successful intercultural communication required ideological compatibility when creating the Nuremberg Trials, leaving little diplomatic and legal space for contrasting continental representations of international law against America’s Anglo-Saxon perception. Whilst Hirsch attempted to meticulously rectify the partiality of Russia’s omission from the history of the Nuremberg Trials, it highlights that the Trials are a sorely under-investigated product of Cold War competition.

Hirsch’s works highlight that amongst the scant Cold War historiographical survey of Nuremberg, Britain remains on the sidelines. It was not until the archival turn of 1978, with the release of repositories from the British Public Record Office that historians could intricately assess Britain’s involvement within the Cold War beyond historical narratives saturated in the bipolar Soviet-American domain. Cabinet minutes, political correspondence, and Foreign Office memoranda provided a deeper investigation into Britain’s role in the early shaping of the Cold War front from 1945 to 1946. Subsequently, historians, such as Robert Frazier, began to securely situate Britain’s role not only as a supporting actor in the Cold War, but a leading participant in intensifying early Cold War dynamics.⁶

Peter Weiler has argued that British foreign policy in the aftermath of the Second World War aimed to primarily contain radical political movements whose growing influence appeared to threaten Britain’s strategic international position.⁷ More recently, Giselle Gwinnett in 2017 suggested that the Labour Government played an instrumental role in cultivating and disseminating anti-communist discourse in Europe by 1948 through its strategic use of political warfare.⁸ Crucially, it was Britain who were first paranoid about Soviet expansionism during the Second World War, not America. This dissertation expands these historiographical insights by examining how Britain’s response to such ideological anxieties

⁴ For an invaluable overview of Francine Hirsch’s line of argument see: *Soviet Judgment at Nuremberg: A New History of the International Military Tribunal After World War II* (New York: Oxford University Press, 2020).

⁵ Francine Hirsch, “The Soviets at Nuremberg: International Law, Propaganda, and the Making of the Postwar Order,” *The American Historical Review* 113, no. 3 (2008): 703.

⁶ Robert Frazier, “Did Britain Start the Cold War? Bevin and the Truman Doctrine,” *The Historical Journal* 27, no. 3 (1984): 715–727. See also: Robert M. Hathaway, *Ambiguous Partnership: Britain and America, 1944–1947* (New York, America: Columbia University Press, 1981); Terry H. Anderson, *The United States, Great Britain, and the Cold War, 1944–1947* (Columbia, America: University of Missouri Press, 1981).

⁷ Peter Weiler, “Britain and the First Cold War: Revisionist Beginnings,” *Twentieth Century British History*, 9, no. 1 (1998): 130–131, 137. See also: Anne Deighton, “The ‘Frozen Front’: The Labour Government, the Division of Germany and the Origins of the Cold War, 1945–7,” *International Affairs (Royal Institute of International Affairs 1944–)* 63, no. 3 (1987): 449–450; David Childs, “The Cold War and the ‘British Road’, 1946–53,” *Journal of Contemporary History* 23, no. 4 (1988): 551–572.

⁸ Giselle Gwinnett, “Attlee, Bevin, and Political Warfare: Labour’s Secret Anti-Communist Campaign in Europe, 1948–51,” *The International History Review* 39, no. 3 (2017): 426–449. See also Rory Cormac, “The Pinprick Approach: Whitehall’s Top-Secret Anti-Communist Committee and the Evolution of British Covert Action Strategy,” *Journal of Cold War Studies* 16, no. 3 (2014): 5–28.

and pressures involved efforts not only towards ideological containment, but also an attempt to hegemonise Anglo-Saxonism as the superior cultural and political ideal within the new framework of international law.

Alongside Britain's rise in Cold War historiography was trends of interdisciplinary application to historical reality to comprehend how ideology interacted and directed state policy, but also how sociological and psychological elements such as gender, ethnicity and race shaped the cultural imaginations of policymakers involved. Diplomatic history is no longer a sterile school of thought, for the nature of diplomacy is relational to the condition of the individual mind of the policymaker, but also the condition of the state. Indeed, studying diplomatic history allows an interdisciplinary appreciation of cultural studies to help the historian to understand how ideology is adapted, adopted, and performed amongst states and within the public sphere. David Reynolds sympathises with the new interdisciplinary tools of diplomatic history, arguing that 'culture, discourse, and gender seem to rule supreme.'⁹

Although Akira Iriye claims that culture 'denotes something private' and 'local, whilst constructing a new epoch of international law was the antithesis of that, the IMT was birthed in a diplomatically tenuous period, and negotiations in themselves were intimately and often informally conducted.¹⁰ Jessica Gienow-Hecht argues that 'new scholarship in foreign relations has opened up important and interesting areas of inquiry not shaped by power and the state.'¹¹ For a 'fuller and fairer' assessment of the Cold War Jessica Gienow-Hecht crucially raises historiographical importance of cultural studies within the more traditionalist domains of historical studies.¹²

Subsequently, this dissertation examines British perspectives of the Nuremberg Trials to assess how intercultural communication became a driving catalyst for the demise of inter-Allied cooperation in the direct aftermath of the Second World War.

While intercultural communication has been sociologically associated with mainly linguistic modalities, this dissertation associates the term with political flexibility, building on Will Baker's definition, 'where cultural and linguistic differences are perceived as relevant to the interaction by the participants or researchers involved.'¹³ Within this analysis, intercultural communication is inherently ideological and multifaceted, defined by the practise of communicating and interacting across different legal and diplomatic boundaries to establish the postwar international system. Unlike cross-cultural communication, this study does not clinically examine the legal and cultural differences between the Allies;¹⁴ Instead, it focuses

⁹ David Reynolds, "From World War to Cold War: The Wartime Alliance and Post-War Transitions, 1941-1947," *The Historical Journal* 45, no. 1 (2002): 212.

¹⁰ Akira Iriye, "The Internationalization of History," *The American Historical Review* 94, no. 1 (1989): 5. See also: Akira Iriye, "Culture," *The Journal of American History* 77, no. 1 (1990): 99-107.

¹¹ Jessica Gienow-Hecht, "What Bandwagon? Diplomatic History Today," *The Journal of American History* 95, no. 4 (2009): 1084.

¹² Jessica Gienow-Hecht, "How good are we? culture and the Cold War," *Intelligence and National Security*, 18, no. 2: 274. Works on British perspectives in Cold War cultural diplomacy vital to read are: J.M. Lee, "British cultural diplomacy and the cold war: 1946-61," *Diplomacy & Statecraft*, 9, no. 1 (1998): 112-134; Sarah Davies, *The Soft Power of Anglia: British Cold War Cultural Diplomacy in the USSR. Contemporary British History*, 27, no.3 (2013): 297-323.

¹³ Will Baker, "Intercultural communication," *ELT Journal* 78, no. 2 (2024): 212.

¹⁴ Anglo-Saxon (Common Law) System of America and Britain was an adversarial system, with a firm focus on the confrontation of evidence. Whereas the Continental Civil Law systems of France and Soviet Russia were

on how British diplomats, operating from differing ideological peripheries, interacted upon a strategic, intimate, and personal dimension to influence and alienate France for political protection against the threat of authoritarianism in postwar Europe.

The study of transnational cultural exchange is fluid, constantly expanding, and boundless, thus it is impossible to collectively survey the acculturation of international law. Instead, this dissertation explores how Britain's attitudes to France, and the wider allied system, through political correspondence and wartime planning, moulded, reconceptualised, and challenged international law to create the Nuremberg Trial, hindering any opportunity for a further IMT by 1946.

Intercultural communication is vital within this dissertation for recognising that the Nuremberg Trials were more than legal procedures, but were ideological manifestations of the cultural Cold War, whilst adding to Hirsch's argument that within the Nuremberg Trials, legal exchange between the Allies was symbiotic to the exchange of diplomatic power. Secondly, the study of Britain's intercultural communication enriches the growing scholarship of the Cold War with a fresher perspective of Anglo-French inquiry, through the study of Britain's involvement in major war crime planning.

Assessing British attitudes towards France within the Nuremberg Trials highlights how Anglo-French relations were too delicate to promote British foreign interests within the wider political system. By examining Britain's encouragement for France's participation in postwar European affairs, this dissertation tracks the change and continuity in British Western European foreign policy under the duress of implementing the Nuremberg Trials, and the Cold War impact that followed.

Methodology

Although existing historiography has brushed upon Britain's involvement in the Nuremberg Trials, it remains limited in understanding the impact it had on the wider Cold War political system. As a qualitative study, this dissertation provides a more thorough study of the inter-departmental inner-workings of Britain's involvement with the Nuremberg trials and the nexus of British Western European foreign policy.

However, any effort to construct a single characterisation of British attitudes to Nuremberg proves problematic. Aside from the complexity of legally producing the Trials, the differing political voices disseminating from the War Cabinet and Foreign Office reveal that British attitudes towards the Nuremberg Trials and Western Europe were considerably interchanging and fluid. Although British officials debated less on the decision to conduct an international trial, the decision to proceed with the Allied plans was not rapid and required heavy inter-departmental consideration.

An assessment of core values and ideological assumptions from key policymakers within the Cabinet Office and Foreign Office is essential to first understand why British statecraft attempted to align major war crimes planning in corroboration with their wider foreign policy

more inquisitorial, where the Judge takes a central role to determine the facts of a case. For more on the legal differences in Nuremberg, see: Henry L. Stimson, "The Nuremberg Trial: Landmark in Law," 179–189.

for postwar security. Secondly, understanding the direction and aim of British foreign policy to bolster British international influence, unravels why British policymakers ideologically disapproved of continental legal practises as an unviable paradigm for cultural permanency within the postwar international system.

Subsequently, this dissertation will investigate the attitudes of prominent officials such as Winston Churchill whose pragmatism stanchied Anglo-French relations, whilst his Foreign Secretary Anthony Eden attempted to rectify the impoverished reputation of France as both diplomats harmonised with the Foreign Office for favouring summary execution. Postwar Foreign Secretary Ernest Bevin will also be examined, for he inherited the wartime Foreign Office qualms against Soviet Russia, whilst committing Britain to rebuild a strong France within their Western foreign policy. Britain's ambassador to France, Sir. Alfred Duff Cooper is also crucial to the formation of British Anglo-French policy from 1944 to 1945, as his cultural love of France framed constructive Anglo-French aims within Western Europe policies.

Central diplomats such as Sir. Patrick Dean and Sir. David Scott Fox are also fundamental in discovering how the Foreign Office bureaucratically liaised with the major Allies to ensure Anglo-Saxonism dominated the postwar international system. Subsequently, archival examination, predominantly from the Public Record Office categorisation *FO 371* will highlight British Foreign Office internal discussions, disagreements, and sentiments circulating the British government. This study of the Nuremberg Trials through Foreign Office documentation reveals how the Trials were more than a stationary symbol of legal consequence or system of denazification.

Instead, the IMT was a playfield that Britain used to accrue diplomatic power and weaken the postwar alliance system to prevent ideological and legal exchange from dispersing into the political foundations of international law. Drawn to alliance building, Britain continually failed to ascertain a stable French foreign policy, and the cultural commonality of Anglo-Saxonism prevailed.

Due to the cultural and political weight of this dissertation, it is more appropriate to treat this study as a historical and not legal investigation, finding a solution through an interdisciplinary lens of diplomatic and cultural history against the backdrop of international law. Exclusive legal scrutiny has given a warped view of inter-Allied IMT cooperation as a wartime success, where clinical legal examinations cannot comprehensively explain why although the Trials were efficaciously established, inter-Allied relations could not suffice in creating a second Nuremberg Trial.

Instead, this dissertation blends both diplomatic history, and the analysis of cultural performance through legal practise and the dissemination of ideology into state governance. Unsurprisingly, historians have primarily discredited the approach of cultural studies due to the conundrum of defining what culture actually is. Frode Liand highlights that as a major methodical limitation, the concept of culture is an ongoing interdisciplinary debate of definition, grappled by anthropologists and social scientists as a fluid concept of

sociopsychological properties, and often deterred by diplomatic historians who work with traditional methodologies for unpacking foreign policy.¹⁵

Traditional forms of assessing foreign policy lay within archival studies, and tangible primary sources that have clear intent for day-to-day activities, whereas a cultural exploration into the work of these primary sources highlights the abstract and subjective complexities of politics, such as the symbols of democratic security, foreign interests, and communities.¹⁶ Although this dissertation does not delve into the sociolinguistic discursive of what international law was within its' contemporary social context, the traditional assessment arguing that the Nuremberg Trials was a dual entity of legal and political creation limits the authenticity that as a product of foreign policy, the Trials were a cultural manifestation.

As a cultural and political practise of exchanging ideas for the treatment of war atrocities, the Nuremberg Trials subsequently opened a channel for cultural diplomacy to take place. Within its academic scope, the concept of cultural diplomacy is incredibly new to historiography, let alone the Nuremberg Trials.¹⁷ Seminal social scientist, Joseph Nye in 1989 coined cultural diplomacy as a form of 'soft' and 'co-optive' power, denoting it as 'the ability of a country to structure a situation so that other countries develop preferences or define their interests in ways consistent with its own.'¹⁸ Using non-coercive resources, such as cultural attraction and ideology to entice, persuade, and cajole another state towards its' values, wishes and foreign interests, that state can 'establish international norms consistent with its society.'¹⁹ Nye imperatively underscores how cultural resources, such as legal ideology, could bind states together, but more importantly, create transgressive power if directed to states who refuse to compromise with such attractions nor compromise with such ideological power attracting other states of interest.

Crucially, to situate this argument, it is necessary to place Britain and the Nuremberg Trials within the ideological environment of the early Cold War. It is worth noting that the nature of the Cold War should not be understood as a static event confined to the immediate aftermath of the Second World War, but rather a progressive and evolving ideological conflict that deepened and transformed culture over time. However, within the first few decades of the postwar world, the paucity of British primary sources constrained historiography beyond the Soviet-American narratives of the Cold War. Such narratives until the late 1960s and 1970s, were divided between the camps of traditionalist and revisionist interpretations of the Cold War.

As Arthur Schlesinger highlights, the traditionalist interpretation of the Cold War argues how American foreign policy was reactive, becoming 'the brave and essential response of free men to communist aggression.'²⁰ John Lewis Gaddis asserts how traditionalists believe that due to Soviet hostility and expansionism, the West reluctantly and defensively embarked on

¹⁵ Frode Liland, "Culture As a Foreign Policy Resource on Its Own," *Culture and Foreign Policy: An Introduction to Approaches and Theory*, Norwegian Institute for Defence Studies (1993): 21-29.

¹⁶ Ibid. 21-29.

¹⁷ For historiographical insight into cultural diplomacy see: Pavan K. Varma, "Culture as an Instrument of Diplomacy," *Indian Foreign Affairs Journal* 3, no. 2 (2008): 68.

¹⁸ Joseph S. Nye, "Soft Power," *Foreign Policy*, no. 80 (1990): 167-170.

¹⁹ Ibid. 167.

²⁰ Arthur Schlesinger, "Origins of the Cold War," *Foreign Affairs* 46, no. 1 (1967): 23.

the crusade to purge Soviet communism from their international interests.²¹ Edward Caprol stresses how American intervention within the Vietnam War and Caribbean prompted scholars to question the impetus of American policy within the Cold War, spurring a wave of revisionist works.²² Revisionists argued that America held greater responsibility for the origin of the Cold War with their pursuit to shape the new world order in alignment with capitalist values.²³ The first seminal revisionist work was William Appleman Williams' work, '*The Tragedy of American Diplomacy*,' first published in 1959. As a controversial book, Williams unpacked how American foreign policy was to secure national economic interests and foreign markets to bolster American capitalism.²⁴ Williams thus argued that America was not isolationist, but sought economic and political control within the international system, perceiving the polarising ideology of communism as a threat to their agenda.

Both schools of thought reveal the ideological dimensions of the Cold War were multifaceted and incredibly complex that inevitably permeated into all foreign affairs. Whilst this thesis is not labelled as a revisionist work, Cold War revisionism gives credibility to the claim that America held their own political agenda that required the minimalisation of Soviet influence within Europe. Indeed, Soviet Russia in 1945 did not attempt to isolate the Western Allies within the creation for Nuremberg, but with a nuanced understanding for American motives, it is thus unsurprising why America teamed up with Britain to actively and not reactively sideline Soviet Russia and France to optimise Anglo-Saxon hegemony within international law.

Strikingly, Dianne Kirkby highlights that the British Foreign Office from 1945 and early 1946, 'had been keenly aware of American unwillingness to 'gang up' with a Britain it suspected of seeking to establish an Anglo-American front against the Soviet Union.'²⁵ While externally presenting the construction of Nuremberg as a means to foster peacetime Allied cooperation, inwardly British diplomats sought opportunities to suppress communist influence within Western Europe, and consolidate the Anglo-American alliance. Consequently, this dissertation focuses on ideological competition as the provenance for the Nuremberg Trials and the cultural ramifications of international legal practise.

Furthermore, paralleling France's limited participation in the historiography of Nuremberg, historians have severely neglected France's role within British Cold War policies. Instead, France has tended to be subsumed under the broader framework of Western European diplomacy.²⁶ Whilst existing literature has not provided a satisfactory insight into British Cold War diplomacy and exclusive Anglo-French relations, scholarship underlines the

²¹ John Lewis Gladdis, "The Emerging Post-Revisionist Synthesis on the Origins of the Cold War," *Diplomatic History* 7, no. 3 (1983): 171–172.

²² Edward Caprol, "Some Reflections on the Historiography of the Cold War," *The History Teacher* 20, no. 2 (1987): 251–254.

²³ For example see: Lloyd C. Gardner, *Architects of Illusion: Men and Ideas in American Foreign Policy* (Chicago, America: Quadrangle Books, 1970); Walter LaFeber, *America, Russia and the Cold War, 1945-1980*, New York, America: John Wiley and Sons, 1967).

²⁴ William Appleman Williams, *The Tragedy of American Diplomacy* (Cleveland, America: World Publishing Co., 1959).

²⁵ Dianne Kirby, "Divinely Sanctioned: The Anglo-American Cold War Alliance and the Defence of Western Civilization and Christianity, 1945-48," *Journal of Contemporary History* 35, no. 3 (2000): 387.

²⁶ A seminal exception to this, albeit with American insight, John W. Young, "The Foreign Office, the French and the Post-War Division of Germany 1945-46," *Review of International Studies* 12, no. 3 (1986): 223–234.

importance of Anglo-Americanism, and how pertinent Anglo-Americanism was in the early Cold War front. The overwhelming power of Anglo-Americanism within the immediate postwar is incredibly vital for this dissertation to understand why Anglo-French relations never prevailed within historiography and its integral historical reality within the IMT.

Yet the premise for the trials posing a larger impact than the legal and political implications to the new international system poses threats to the previous historiographical foundation. Poignantly, Tony Shaw argues that ‘there is scant appreciation of Britain's major role in the international cultural Cold War, attributable to its world-wide imperial and non-imperial commitments,’ let alone any foundational investigation within the realm of the Nuremberg Trials.²⁷

Instead, legal debates surrounding the Nuremberg Trials have suffocated any grounding changing for revisionism, preventing the demystification that the Trials were the consequence and propagandistic weapon of diplomatic transnational liaison and cultural exchange. Consequently, this dissertation explores how the Nuremberg Trials contributed to a much wider discussion of inter-Allied Cold War tension, and how British foreign policy contributed to hindering the growth of a long-term Anglo-French friendship.

Structure

It would be illogical to not situate the first chapter in 1944, where the year birthed the transformative event of France’s liberation in June, and the hasty yet crystallising strands of British wartime planning for postwar affairs. The liberation of France provided Britain an opportunity for Anglo-French reconciliation of a prewar geostrategic friendship that could reconfigure the new world order for British advantage. Yet, chapter one reveals how, like the agreement for Nuremberg, the Foreign Office and the War Cabinet were anxious to avoid any overt and sudden changes to British wartime planning. This apprehension is reflected in Britain’s advocacy for a judicial method which was not a political dalliance with international law for justice, but a gradual, apprehensive, and insecure decision associated with their self-perception of British international status. An examination through political documentation in both British major war crime planning and Western European foreign policy exposes how Britain synchronised both foreign policies into a steppingstone for alliance building, and why France was so essential for Britain to maximise their political security in preparation for the postwar world.

With an understanding of British political attitudes by the end of 1944, chapter two explores the intensely short chronological progression of diplomatically forming the first Nuremberg Trial in 1945. Firstly assessing the diplomatic summit of Yalta, the second chapter underlines why Britain fought for France’s place as a fourth major ally, when France held such little worldly power, whilst also exploring the political implications of officially agreeing to punish major war criminals. Secondly, political correspondence within the spring reveals how Britain, tightening their diplomatic ties with America, passively alienated France’s ideological conviction of international law. Consequently, it accentuated the contrasting inter-

²⁷ Tony Shaw, “Introduction: Britain and the Cultural Cold War,” *Contemporary British History*, 19 no. 2 (2005): 109–110.

Allied legal spheres, which, within a few months, resolutely damaged any opportunity to strengthen Anglo-French relations, and further discussions for a second IMT.

Consideration of the impact the Nuremberg Trials had on Anglo-French relations will be explored in the final phases of this chapter, specifically through the analysis of the Foreign Office, and their continuous efforts to prevent further discussion for an IMT until the end of 1946. The final chapter subsequently expounds on Britain's reasoning for not wanting a second international trial, the impact on Anglo-French relations, and why there was a permanent Cold War breakdown into the quadripartite alliance for treating the remaining major war criminals.

Literature Review

The Nuremberg Trials preceded all experimentative attempts for an international trial against war criminals, upheld by its judicial success of convicting the defendants appropriate to the new precedent of international law. Consequently, as an organic product of international law, the Trials originally belonged to international legal studies. Yet, secondary literature has remained rigid in its methodological exploration of the cultural and diplomatic dimensions of the Nuremberg Trials, scarcely investigating such themes at all. Literature continues to remain loyal to the archaic representation that all political ramifications of the Nuremberg Trials can be examined through legal disciplinary rationalisations. Historiographical analysis of the Nuremberg Trials, whilst needed for understanding the origins and evolution of twentieth-century international law, leaves an intimidatingly large gap for an intensive inquiry into the long-term impact the Trials had on the postwar world and Cold War international relations.

Early Scholarly Perspectives of the Nuremberg Trials

During the final phases of the IMT, lawyers who participated in the Nuremberg Trials reflected not only on their experiences of the trials, but also indelibly flavoured the historical collective memory of Nuremberg as an essential measure to regulate and safeguard the postwar international system. Nicolas Doman, appointed to Robert H. Jackson's legal team during the Trials, overtly supported the creation of the Trials, yet believed it was too soon to reflect on the political consequences of its outcome. As a lead counsel in the Trials, Telford Taylor consolidated the wider academic speculation that political tension was already rising, as the Nuremberg Trial held a 'victors' justice in its weakness to maintain legal impartiality.²⁸ Indeed both Quincy Wright and Henry L. Stimson, provided accredited optimistic legal observation and intimate primary accounts of the events surrounding the Trials.²⁹ Mesmerised, Willis Smith, anecdotally recalling events of the Nuremberg Trials, observed the Trials in March 1946 for the *American Bar Association* under the War Department orders.³⁰ Detailing the infrastructure of the Nuremberg courtroom, the linguistic complexities of

²⁸ Nicholas Doman, "Political Consequences of the Nuremberg Trial," *The Annals of the American Academy of Political and Social Science* 246 (1946): 81–83; Telford Taylor, "The Nuremberg War Crimes Trials: An Appraisal," *Proceedings of the Academy of Political Science* 23, no. 3 (1949): 19.

²⁹ Henry L. Stimson, "The Nuremberg Trial: Landmark in Law," 179–189.

³⁰ Willis Smith, "The Nuremberg Trials," *American Bar Association Journal* 32, no. 7 (1946): 390–396.

telephonic apparatus enabling multilingual communication, and the cluster of reporters and official clerks, Smith dressed the Nuremberg Trials in legal sensationalism and awe.

It is hardly surprising that early critique and legal scrutiny of the Nuremberg Trials were published with a strong Western bias, when the Trials were birthed in the chaotic disposition of early Cold War tension. The frictions of the Cold War limited Soviet materials in the Western hemisphere, and it is worth noting that international lawyers were not always impartial to Russia, as they stood firm in their own democratic practise of international law. For example, in 1947, George A. Finch described how it was the opinions of Professor Aron Trainin, one of the major Russian representatives at Nuremberg, ‘who stated that Soviet Russia's punishment of the master Axis criminals will not be limited by traditional legalisms,’ that brought in Crimes Against Peace as the codification of ‘crimes against peaceful relations between nations.’ Yet for Finch, the premise for outlawing aggression could not rest on customary action that could be patently disregarded. Instead, Finch disputed that the indictment against the defendants would have rested on ‘solid legal grounds’ if Russian influence had not intervened during the legal negotiations.³¹ Substantially, the majority of foundational and earliest seminal articles relating to Nuremberg resounded in Western publications such as the *American Bar Association, Foreign Affairs, The American Journal of International Law*, and the *British International Law Quarterly*. Consequentially, the proliferation of academic scrutiny of the Nuremberg Trials afterwards, festered in the fabricated narrative that America led the Trials, whilst the rest of the Allies followed behind.

By the 1960s, there had been sufficient time to analyse the Trials in retrospect, yet international lawyers continued to contest primarily the legal and political validity of the Trials. Instead, the simplistic memory of the Nuremberg Trials as the postmortem of the Second World War left the Trials behind in history as the putative American implementation of international postwar justice.³² The American characterisation of the Nuremberg Trials was a profoundly convincing narrative, overshadowing the assessment of Britain’s role in the making of Nuremberg.

Diplomatic Turn of Nuremberg in the 1970s: The Declassification of Transnational Political Repositories

Historians remained hindered by the limitation of British government documents requiring to be withheld from public scrutiny for fifty years, only changing in 1968 to a thirty-year statute. In 1977, the Public Records Office invaluabley lifted the restriction for a majority of Second World War Foreign Office records.³³ What emerged was a more informed examination of the determinative years of the Nuremberg Trials, as a new wealth of archival sources were used to revise the American interpretations of the Trials. No longer relying on

³¹ George A. Finch, “The Significance of the Nuremberg Trials,” *Proceedings of the Section of International and Comparative Law (American Bar Association)* (1946): 24–27.

³² F.B. Schick, “The Nuremberg Trial and the International Law of the Future,” *The American Journal of International Law* 41, no. 4 (1947): 770–794; Herbert Kraus, “The Nuremberg Trial of the Major War Criminals: Reflections after Seventeen Years,” *DePaul Law Review* Vol. 3, no. 2 (1964): 233–247; Herbert Wechsler, “The Issues of the Nuremberg Trial,” *Political Science Quarterly* 62, no. 1 (1947): 11–26; Otto Kranzbuhler, “Nuremberg Eighteen Years Afterwards,” *DePaul Law Review* 14 No.5, (1965): 333–347.

³³ Donald Cameron Watt, “Britain and the Historiography of the Yalta Conference and the Cold War,” *Diplomatic History* 13, no. 1 (1989): 67–98.

American archives, historians were given extensive insight into British ideological and military perspectives during the Second World War. Regardless of the heavy Cold War interest, there was still an increase in the Nuremberg Trial literature, as historians tentatively began to look at the diplomatic process for the Trials to have occurred under wartime strain and lassitude.

Forty years after the creation of the first IMT, with inexorable analytical reflection, the Nuremberg Trials were met with a new wave of historical temperament. Various works are responsible for illuminating the diplomatic aspects of Nuremberg's preliminary proceedings, namely Ann Tusa and John Tusa's book, *The Nuremberg Trials*.³⁴ Evaluating a vast array of sources, including British archival documents especially from the Public Records Office, *Nuremberg* became the skeletal synopsis for the political construction of the Trials. With a strong focus on the Foreign Office documents, *Nuremberg* provides an essential insight into why Britain was reluctant to establish an IMT, and how this complicated international relations of the Big Four. However *Nuremberg* was not tailored around a British interpretation, instead Britain's reluctance for an international trial was overshadowed by the glorification of the American initiative to conduct one in the first place. Although one of the first comprehensive overarching studies of the Nuremberg Trials, *Nuremberg*'s descriptive and chronological narrative, primarily associated with the legal evolution of the first IMT, did little to shed not only an eclectic French perspective, but the diplomatic implications for including Britain in the first IMT.

Similarly, Bradley F. Smith's seminal book, *The Road to Nuremberg*, was exclusively devoted towards evaluating the American tribulations for creating the first international trial of its time, where Britain and France were mere afterthoughts.³⁵ Smith, born in Seattle, had greater access to American archives, enthusiastically reflected by the abundance of primary sources within *The Road to Nuremberg*. Smith imbedded both British and French history in the lens of American history. Whilst an American perspective deepens the understanding of inter-Allied relations during the Second World War, the academic popularity of American works significantly satisfied the desire to comprehend alternative views of the two other major powers involved. However, it would be an unfair assessment to not note that, enshrined in the collective memory of moral triumph and leadership, America was a central hub of primary and second source materials. Transnational research, especially across a different continent, was a limiting impetus for a historian when Britain had been cast in the shadow of its fellow ally as an accomplice, holding little overt Cold War implications to arouse historiographical interest.

Furthermore, such traditional historiography followed into the final decades of the twentieth century. In 1987, David Luban claimed that the Nuremberg Trials had left a legal and moral legacy, timeless in its conception of international justice and conventional retribution.³⁶ Writing in 1996, D.C. Sharma reflected how the majority of works about the Nuremberg

³⁴ Ann Tusa, and John Tusa, *The Nuremberg Trial* (London, England: Macmillan London Limited, 1983).

³⁵ Bradley F. Smith, *The road to Nuremberg* (New York, America: Basic Books, 1981).

³⁶ David Luban, "The Legacies of Nuremberg," *Social Research* 54, no. 4 (1987): 779–829.

Trials were based on trial-related literature, mainly descriptive, legal, and committed to the Western perspective of law.³⁷

However, with a further decade of British archival freedom, Arie J. Kovachi refreshingly went against the overall movement of the Nuremberg Trials historiography, postulating that it was the British Foreign Office and senior officials, such as Anthony Eden and Winston Churchill, who heavily contributed to the preparations of the trials.³⁸ Chiefly redressing the lack of British insight into their role during the Nuremberg Trials, Kovachi however did not quite accentuate the importance of British Western European foreign policy in its desire to rearrange the Alliance system for postwar national security interests. Yet, it is worth noting that Kovachi's alternative assessment of the Trials reflects that the Nuremberg Trials are a multifaceted construction, and there is not a singular interpretation that can encompass all the legal, political and moral complexities the Trials facilitated in the postwar world. Fundamentally all interpretations are critical to assemble a quintessential and holistic insight of the international impact of the Nuremberg Trials.

Unsurprisingly, questions surrounding why France was included in the first IMT, were never directly addressed by Western seminal works during the twentieth century, and left much for the current historian to investigate. France's legal input into the Nuremberg Trials was incredibly low in comparison to their Anglo-American counterparts, due to the French practise of continental law, when Nuremberg was shaped by traditions of common law.³⁹ Even Guillaume Mouralis, a French historian, in *Le moment Nuremberg - Le procès international, les lawyers et la question raciale*, barely touched on France's inclusion in the Nuremberg Trials.⁴⁰ Mouralis positions the Nuremberg Trials in a fresh lens of social history and using methods of prosopography, to concentrate principally on the backstage operations of American jurists, legal practitioners, and lawyers, as well as the Trials combatting against racism in the United States. France is merely a secondary case study, exploring multiple archival collections from France and America. Yet Mouralis attributes greater historical importance to America, who crafted the central outlines for what the Nuremberg Trial would become.

Legal proceedings were conducted mainly from June to October 1945, and four months of intense transnational negotiations left little time for France's influence to make any meaningful impact outside the realms of criminal responsibility and crimes against humanity. As this dissertation will reveal however, even as France's closest ally during the Trials, British Foreign Office officials were far from flattering to France in British records, detailing little information on France's involvement during the development of an IMT. Diplomatic commitment to the IMT, resounded in the Big Three agreement dating back to

³⁷ D.C. Sharma, "The Nuremberg Trials: Past and the Present," *Proceedings of the Indian History Congress* 53 (1992): 586–592.

³⁸ Arie J. Kovachi, *Prelude to Nuremberg: Allied War Crimes Policy and the Question of Punishment* (Chapel Hill, USA; London, UK: The University of North Carolina Press, 1998).

³⁹ Hervé Ascensio, "The French Perspective / Die französische Perspektive," in *The Nuremberg Trials: International Criminal Law Since 1945: 60th Anniversary International Conference / Internationale Konferenz zum 60. Jahrestag*, ed. Herbert R. Reginbogin and Christoph Safferling (Berlin, Germany; Boston, America: De Gruyter Saur, 2006), 40–41.

⁴⁰ Guillaume Mouralis, *Le Moment Nuremberg: Le procès international, les lawyers et la question raciale* (Paris, France: Presses de la Fondation Nationale des Sciences Politiques, 2019).

1943 and the Moscow Agreement for the generalised punishment of major war criminals. France was merely perched at the negotiating table, as the most prominent voices of America restructured all legal technicalities of the IMT, in collusion with Britain and Soviet Russia.

Absence of Nuremberg in British Foreign Policy Studies

To understand the intercultural importance of British foreign policy concerning the Nuremberg Trials, all thirteen trials of Nuremberg must be situated within a firm contextual understanding of diplomatic relations during the Second World War. Previous diplomatic studies of the 1944 to 1946 period have acknowledged Nuremberg's existence, with only recent scholarship delving into the historical focus of British foreign policy. The historiography of British foreign policy is significantly important to the Nuremberg Trials, because historians created a solid foundation for the psychological and diplomatic understanding of inter-Allied relations, that current studies, including this dissertation, can expand on.

The 1980s welcomed a growing sympathy towards Britain and the Foreign Office contributing to major international affairs during the Second World War and its immediate aftermath.⁴¹ In 1985, Anthony Adamwaite explored the central themes of the socio-political climate of the postwar world, and the internal tensions and clashing personalities the British Foreign Office faced.⁴² Addressing the desperation and desire for international prestige, and the gradual antagonism of communism, Adamwaite thoroughly provides insight into the psychological condition of those who drafted the blueprints for British foreign affairs. Similarly, Henry Kissinger placed considerable weight on the British Foreign Office during the aftermath of the Second World War, corroborating Adamwaites' dismay for an exclusive British appraisal.⁴³ Yet Kissinger not only contextualised the British Foreign Office as a reactive orchestration to the development of American civilisation, but portrayed Britain as a cultural codependent to America; a relationship that has been continually and turbulently intertwined.⁴⁴

Additionally, academics began to reevaluate the overlooked diplomats essential to the evolution of Britain's continental aspirations. Straying away from the fixation of Winston Churchill, Raymond Smith and John Zametica argued for the importance of Clement Attlee during the Cold War.⁴⁵ Jan Melissen and Bert Zeeman based their argument on measuring Ernest Bevin's ability to direct the Foreign Office into the new postwar system, of not only

⁴¹ A crucial study for a holistic early Cold War British perspective: Peter Weiler, "British Labour and the Cold War: The Foreign Policy of the Labour Governments, 1945-1951," *Journal of British Studies* 26, no. 1 (1987): 54-82.

⁴² Anthony Adamthwaite, "Britain and the World, 1945-9: The View from the Foreign Office," *International Affairs (Royal Institute of International Affairs 1944-)* 61, no. 2 (1985): 223-235.

⁴³ Henry A. Kissinger, "Reflections on a Partnership: British and American Attitudes to Postwar Foreign Policy," *International Affairs (Royal Institute of International Affairs 1944-)* 58, no. 4 (1982): 571-587.

⁴⁴ See, David Reynolds, "A 'Special Relationship'? America, Britain and the International Order Since the Second World War," *International Affairs (Royal Institute of International Affairs 1944-)* 62, no. 1 (1985): 1-20, for an essential historiographical overview of the Anglo-American special relationship.

⁴⁵ Raymond Smith, and John Zametica, "The Cold Warrior: Clement Attlee Reconsidered, 1945-7," *International Affairs (Royal Institute of International Affairs 1944-)* 61, no. 2 (1985): 237-252. Whilst Attlee is a much needed revision for British historiography, the profoundly extensive insight from Martin Gilbert on Winston Churchill is equally imperative to any understanding of British foreign policy during the Second World War, see: Martin Gilbert, *Churchill: A Life* (London, England: Pimlico, 2000).

the bipolarity between America and the Soviet Union, but the triangular disposition involving Britain as well.⁴⁶ John Charmley in 1985 assessed the cardinal role of Sir Alfred Duff Cooper, which is central in this dissertation for cementing France into the core foundations of British Western foreign policy.⁴⁷ Charmley's article reflected how Anglo-French relations seeped into all realms of British affairs, as the Foreign Office aimed to bolster French power through the participation of great power responsibility. Another vital work for Anglo-French relations is John Young's journal article, "The Foreign Office, the French and the Post-War Division of Germany 1945-46."⁴⁸ Sympathetic to France, Young concentrated on the political and cultural tension between France under the leadership of General Charles de Gaulle and the British Foreign Office. Although Young favours a British perspective, the importance of France was not compromised. Instead British archival sources reveal how France's generational trauma of both World Wars, and as a lesser power during the ideological battle between the Soviet Union and Anglo-American partnership, became instrumental factors to the precipitation of the Cold War.

Scholars such as John Baylis, John Charmley, and John Young have provided extensive insight into British wartime planning and aspirations for French restoration and partnership.⁴⁹ David Gowland, Arthur Turner, and Alex Wright investigated how Britain's imperial decline manifested into the status and prestige of a second-ranking power, and how post-war British foreign policy aimed to rectify that.⁵⁰ Yet there still remains a gap charting Britain's role in securing France's place within the Nuremberg Trials from a diplomatic and not a legal lens, and how their attempt to instigate firm Anglo-French relations led to France's eventual participation in the Nuremberg Trials.

Current Trends in Recent Scholarship

Recent years have seen much more important scholarship attempts to unpick the Nuremberg Trials from a wide range of multidisciplinary strands. Historians such as Sandra Walklate have cemented the Nuremberg trials into sociological strands of victimological criminology,

⁴⁶ Jan Melissen, and Bert Zeeman, "Britain and Western Europe, 1945-51: Opportunities Lost?" *International Affairs (Royal Institute of International Affairs 1944-)* 63, no. 1 (1986): 81–95. For more on American-Anglo-Soviet relations see: David Reynolds, "From World War to Cold War: The Wartime Alliance and Post-War Transitions, 1941-1947," *The Historical Journal* 45, no. 1 (2002): 211–227; Ray Merrick, "The Russia Committee of the British Foreign Office and the Cold War, 1946-47," *Journal of Contemporary History* 20, no. 3 (1985): 453–468; Raymond Smith, "A Climate of Opinion: British Officials and the Development of British Soviet Policy, 1945-7," *International Affairs (Royal Institute of International Affairs 1944-)* 64, no. 4 (1988): 631–647.

⁴⁷ John Charmley, "Duff Cooper and Western European Union, 1944-47," *Review of International Studies* 11, no. 1 (1985): 53–64.

⁴⁸ Irwin Wall, "France in the Cold War," *Journal of European Studies*, 38 no. 2 (2008): 121–139; John Wilson Young, "The Foreign Office, the French and the Post-War Division of Germany 1945-46," *Review of International Studies* 12, no. 3 (1986): 223–234.

⁴⁹ John Baylis, "Britain, the Brussels Pact and the Continental Commitment," *International Affairs (Royal Institute of International Affairs 1944-)* 60, no. 4 (1984): 615–629; John Baylis, "British Wartime Thinking about a Post-War European Security Group," *Review of International Studies* 9, no. 4 (1983): 265–281; John Wilson Young, "The Foreign Office and the Departure of General de Gaulle, June 1945-January 1946," *The Historical Journal* 25, no. 1 (1982): 212–213.

⁵⁰ David Gowland, Arthur Turner, and Alex Wright, *Britain and European Integration since 1945: On the Sidelines* (London, England: Routledge, 2009), 19.

including feminist studies.⁵¹ Writing in 2022, Gregory S. Gordon examined the public relations efforts of the Nuremberg Trials, analysing how American influence shaped the role of the Nuremberg Trials within the media against the grain of Soviet competition.⁵²

However, the reputation of the Nuremberg Trials belonging to international legal studies remains sturdy. Although works continue to revere Nuremberg in international law, academics have shifted focus onto the ethical revisionism of Allied behaviour and the violation of international law.⁵³ In 2024, Faiza Chaudri, Saqiba Saleem, and Anum Shahid analysed the intricacies and complications of defining justice within international law, and situated the Nuremberg Trials as an epochal timestamp for the global community to take accountability for war atrocities.⁵⁴ Adding to the reputation that the Nuremberg Trial was built to deliver international justice, was Fay Anderson's examination of war trials and Holocaust awareness through the lens of Australian journalism.⁵⁵

Regarding Allied behaviour, the daunting realisation that only a few scholars have conducted a thorough investigation for the subsequent twelve Nuremberg Trials looms over the historiographical climate. Only a few historians, such as Donald Bloxham, have underpinned how all thirteen Nuremberg Trials have not been accredited with a rich multidisciplinary investigation.⁵⁶ In 2013, Bloxham assessed the established literature of the Trials, where the Trials are mainly known for the first IMT, and the failure for a second IMT sheds insight into the Cold War pressures of inter-Allied cooperation. Bloxham, although assessing the British Foreign Office's impetus for manipulating American representatives to prevent further quadripartite trials amidst the increasing Cold War geopolitical tension, attributes most of his study to an American perspective, paving the way for further opportunities in academic engagement and revisionism. Highlighting Cold War tension as a diplomatic dimension of the Trials is imperative, underscoring Francine Hirsh's works that the Nuremberg Trials are still

⁵¹ Sandra Walklate, "Victimology and Genocide: Neglected Stories?" in *Genocide and Victimology*, ed. Yarin Eski (London, England: Routledge, 2020), 23-37.

⁵² Gregory S. Gordon, "The Nuremberg Trials Public Communications Apparatus: Propaganda for WWII Healing and Cold War Positioning at the Dawn of PR in ICL," *Journal of International Criminal Justice* 20, no.1 (2022): 11-53.

⁵³ Elizabeth Borgwardt, "A New Deal for the Nuremberg Trial: The Limits of Law in Generating Human Rights Norms," *Law and History Review* 26, no. 3 (2008): 679-705; Jochen von Bernstorff and Enno L. Mensching, "The Dark Legacy of Nuremberg: Inhumane Air Warfare, Judicial Desuetudo and the Demise of the Principle of Distinction in International Humanitarian Law," *Leiden Journal of International Law* 36, no. 4 (2023): 1117-1140; Jonathan Jackson, "Victors Write the Rules: Hypocrisies and Legacies of the Nuremberg Trials," *Journal of Global Faultlines* 8, no. 2 (2021): 265-270.

⁵⁴ Faiza Chaudri, Saqiba Saleem, and Anum Shahid, "War Crimes and the Principle of Complementarity: Balancing National Prosecutions with International Tribunals," *International Journal of Human and Society* 4, no. 1 (2024): 421-430.

⁵⁵ Fay Anderson, "War Trials, Refugees and Holocaust Awareness: 1945-1949," in *The Holocaust and Australian Journalism*, ed. Fay Anderson (Melbourne, Australia; Cham, Switzerland: Palgrave Macmillan), 223-271.

⁵⁶ Donald Bloxham, "From the International Military Tribunal to the Subsequent Nuremberg Proceedings: The American Confrontation with Nazi Criminality Revisited," *History* 98, no. 4 (332) (2013): 567-570; Paul Weindling, "From International to Zonal Trials: The Origins of the Nuremberg Medical Trial," *Holocaust & Genocide Studies* 14, no. 3 (2000): 367-389, *HeinOnline*.

held in a narrow historiographical tunnel, focusing on the role of American contribution rather than the efforts of Soviet Russia.⁵⁷

Indeed, historians have only begun to understand the ways the Nuremberg Trials were entangled in Cold War diplomacy, and legal competition, making this dissertation fundamental in its contribution to the wider historiographical scene. Although America, and the ideological implications of Soviet Russia offer greater access to primary sources, with the potential for an easier methodology to bridge various subdisciplines together to understand how the Nuremberg Trials were organically political, it does not equate to neglecting the more forgotten aspects of the Trials- including the transnational perspectives of the other major Allied powers. This dissertation consequently redresses the malnourished interpretations regarding inter-Allied communication and how ideological exchanges through legal and diplomatic spaces of the Nuremberg Trials directly implicated Britain's Western European foreign policy in aggravating the Cold War tension by 1946. Subsequently, the next chapter unpacks how British foreign policy in 1944 became instrumental in shaping inter-Allied postwar cooperation, setting the tumultuous direction of postwar Anglo-French relations.

⁵⁷ Francine Hirsch, *Soviet Judgment at Nuremberg: A New History of the International Military Tribunal After World War II* (New York, America: Oxford University Press, 2020); Francine Hirsch, "The Nuremberg Trials as Cold War Competition: The Politics of the Historical Record and the International Stage," in *Memory and Postwar Memorials. Studies in European Culture and History*, ed. Marc Vatan and Florence Silberman, 15-30, New York, America: Palgrave Macmillan, 2013; Francine Hirsch, "The Soviets at Nuremberg: International Law, Propaganda, and the Making of the Postwar Order," *The American Historical Review* 113, no. 3 (2008): 701–730.

British Wartime Major War Crimes Planning and the Political Quest for Postwar Security in Western Europe in 1944.

In the climate of incubating Allied tensions and international flux in 1944, deliberations on an International Military Tribunal (IMT) were neither instantaneous nor coherent. Britain in particular did little to direct the Allied policies on the issue of treating major war criminals, instead hastily advocating for a summary execution as a rapid and pragmatic solution whilst preoccupied with the final phase of the war. British attitudes were uncertain of the magnitude of political and legal mobilisation that an IMT could entail. Subsequently, within the preliminary stages for treating major war criminals, it was British political contestation that delayed a brisk unified Allied response.

With no previous successful example and the inchoate practicality of international law failing to deter a second world war, Winston Churchill and his Foreign Office repudiated US and SSR claims that an IMT could undertake the moral and political responsibility for effectively treating the major war criminals.⁵⁸ Individual Allied plans for handling major war criminals were not yet crystallised in 1944, and the Foreign Office instead favoured to devote their time considering postwar diplomacy, than deliberate legal nuances and experimentation.

Yet British foreign policy was entangled in the continued cooperation of the major wartime powers of America and Soviet Russia in the 'Big Three' alliance as not an optional means, but a necessary component to winning the war. It is pertinent to understand that British influence in foreign affairs had been curtailed by the larger powers of America and Soviet Russia, wartime economic and military incapacitation, and the increasing loss of colonial territories.⁵⁹ This chapter illuminates that without a firm independent self-image, British foreign policy was tenuous because it was co-dependently contingent upon the directives and deliberations on the Big Three Alliance.

Whilst the Foreign Office accepted France was vital for postwar security and began preparations for France as a fourth major power, they deemed France not morally, legally, or diplomatically fit to engage with the Big Three in 1944. Navigating a premature active Anglo-French alliance, whilst juggling the wartime demands from their two biggest Allies, intensified the structural strains within British wartime planning for postwar geopolitical control. Subsequently, British involvement in the development of a major war crimes policy was a taut axis between sustaining cooperation within the Big Three, whilst striving to shield and advance their political and legal interests for the postwar reconstruction of Western Europe.

British policymakers within 1944 mirrored major war crimes planning against Western European foreign policy, where both policies reveal Britain's scepticism of postwar inter-Allied cooperation, cognisant of the delicate diplomatic relations amongst the Big Three, and

⁵⁸ Ann Tusa, and John Tusa, *The Nuremberg Trial* (London, England: Macmillan London Limited, 1983), 61-63.

⁵⁹ George C. Herring, "The United States and British Bankruptcy, 1944-1945: Responsibilities Deferred," *Political Science Quarterly* 86, no. 2 (1971): 264, 277-280.

the Foreign Office desire to substitute France as an alternative geostrategic alliance if the Big Three alliance dissolved. Whilst in 1944 France was not included in Big Three discussions for treating major war criminals, French liberation in June 1944 was the turning point for Britain to craft an active British Western European policy that would eventually implement Anglo-French relations within the foundation of European integration- including talks for an IMT.

After the liberation of France from central Axis control, France's availability as a military and politically defenceless provisional state reshaped British European strategy into the paternal sentiment of reconstructing and supervising France into a major power. The consensus of the Foreign Office favoured Anglo-French relations to become the foundation for a strong continental alliance that could passively stifle Soviet antidemocratic influence without overt aggravation, and regrow British imperialism without the threat of state aggression.⁶⁰ Although Britain diplomatically liaised with Soviet Russia, it did not negate that Russian communist ideology made intercultural engagement undesirable for British diplomats. Thus, Britain aimed to culturally restore France to its democratic heritage, to prevent Soviet Russia from fostering Western Europe into its communist regime.

Yet Philip Bell clarifies that British proposals for France in the new world order were unrealistic and overambitious. Bell argues that France was not only tainted by the lack of sovereignty and political structure due to the domination of the Third Reich, but various prominent British diplomats, such as Churchill, severely disliked the French Liberation leader, General Charles de Gaulle, for his perceived arrogance and dictatorial attributes.⁶¹ Indeed, this chapter corroborates Bell by highlighting that due to such factors, there was no active British Anglo-French policy by the end of 1944, exacerbating inter-Allied tensions when the first IMT would be decided in 1945.

This chapter will chronologically unpack why British diplomats delayed the process of establishing a major war crimes plan to avert political confrontation amongst the Big Three, whilst pursuing Anglo-French relations due to the diplomatic and ideological insecurity of the postwar order. This chapter aims to explicate that the political landscape in which the IMT was conceived, to gain a richer insight into the complexity and importance of British politicisation of international law, the quintessential decision to include France within a Western European foreign policy that surmounted their inclusion in an IMT, and the diplomatic gravity Britain faced in the final stage of the war.

antagonistic relationship with de Gaulle, Foreign Secretary Anthony Eden and the dynamic of the Foreign Office, and Britain's ambassador to France, Sir Alfred Duff Cooper and his instrumental memorandum in the Spring of 1944 that revolutionised Foreign Office direction on Anglo-French relations.

⁶⁰ D. K. Fieldhouse, "'Imperialism': An Historiographical Revision," *The Economic History Review* 14, no. 2 (1961): 187–209.

⁶¹ Philip Bell, "Entente Broken and Renewed: Britain and France, 1940-1945," in *Anglo-French Relations in the Twentieth Century: Rivalry and Cooperation*, ed. Alan Sharp and Glyn Stone (London, UK: Routledge, 2000), 240-241; William I. Hitchcock, *France Restored: Cold War Diplomacy and the Quest for Leadership in Europe, 1944-1954* (Chapel Hill, USA; London, UK: The University of North Carolina Press, 1998), 12-14. For more on Philip Bell's interpretation pertaining to Anglo-French relations see: Philip Bell, *France and Britain: 1940-1994: The Long Separation* (New York, USA; Essex, UK: Addison Wesley Longman Inc, 1997), 54-59.

Through intricate examination of political correspondence and archival examination, this analysis will explore the roles and perspectives of key figures in Churchill's Cabinet. Attention will focus on Churchill himself, particularly in relation to his often antagonistic relationship with General Charles de Gaulle. But also the cultural imaginations Churchill sought for postwar Europe. Consideration will also focus on Foreign Secretary Anthony Eden, whose management of the Foreign Office reveals the complexities of wartime anxiety for postwar planning and the navigation of alliance building within an increasingly polarised international system. This thesis will also examine the contributions of policymakers such as Britain's ambassador to France, Sir Alfred Duff Cooper, whose influential memorandum in the Spring of 1944 revolutionised Foreign Office policy towards France.

Indeed British attitudes towards a major war crimes policy as a political opportunity to build alliances, crafts the IMT as a far more organically diplomatic process than historians have previously recognised. Preceding scholarship has been reluctant to provide a confident assessment of the British perspective of France during the initial stages of the Trials, mainly because France was not included until 1945. Historians such as Gerald Hughes and Graham Ross highlight how American historiography has eclipsed Britain and France's role in wartime Allied diplomacy.⁶² Although, France's role in the early Cold War context has been extensively researched by seminal scholars such as Andrew Williams, J.B Duroselle, and William I. Hitchcock, the Nuremberg Trials have not been deliberately included.⁶³

This chapter is a twofold investigation, assessing not only how the decision for major war crimes planning resided in the heavy contestation of a political, and not legal, formulae in British foreign policy; but why British foreign policy towards France was a slow progression to an active implementation: where both foreign policies outline the international fluidity, and pre-Cold War tension that Britain faced by the end of 1944.

Churchill's Apprehension For Postwar Planning Towards Major War Crimes and Western European Security, 1942-1944

It was unsurprising that by 1944, while the British War Office was grappling with the mounting international pressures of war, officials were hesitant to impart an active policy for dealing with severe war atrocities. By 1942, Allied intelligence on Axis war atrocities pertaining to the mass murder of Jews was becoming increasingly public, and British

⁶² Gerald Hughes, *The Postwar Legacy of Appeasement* (New York, USA; London, UK: Bloomsbury Publishing Plc, 2014); Graham Ross, "Allied Diplomacy in the Second World War," *British Journal of International Studies* 1, no. 3 (1975): 283–286.

⁶³ Andrew Williams, "France and the Origins of the United Nations, 1944–1945: "Si La France ne compte plus, qu'on nous le dise," *Diplomacy & Statecraft*, 28, no.2 (2017): 215-216; J.B Duroselle, "The Crisis in French Foreign Policy," *The Review of Politics* 16, no. 4 (1954): 416–420; William I. Hitchcock, *France Restored: Cold War Diplomacy and the Quest for Leadership in Europe, 1944-1954* (Chapel Hill, USA; London, UK: The University of North Carolina Press, 1998). For a more comprehensive overview see: Andrew J. Williams, "'Reconstruction' before the Marshall Plan." *Review of International Studies* 31, no. 3 (2005): 541–558; Gadi Heimann, "What Does It Take to Be a Great Power? The Story of France Joining the Big Five," *Review of International Studies* 41, no. 1 (2015): 185–189; Philip Bell, "Entente Broken and Renewed: Britain and France, 1940-1945," in *Anglo-French Relations in the Twentieth Century: Rivalry and Cooperation*, ed. Alan Sharp and Glyn Stone (London, UK: Routledge, 2000), 233-243; Sean Greenwood, "The Most Important of the Western Nations: France's Place in Britain's Post-War Foreign Policy," in *Anglo-French Relations in the Twentieth Century: Rivalry and Cooperation*, ed. Alan Sharp and Glyn Stone (London, UK: Routledge, 2000), 244-263.

indecision for treating the major war criminals was an unsatisfactory response as a major Allied power. On 22nd June 1942, the Prime Minister of the Polish Government-in-Exile, General Wladyslaw Sikorski, contacted President Roosevelt, imploring America and Britain to join the January 1942 St. James Declaration to stand against the NSDAP terrorism in occupied countries.⁶⁴ Fighting the Third Reich was not just a military operation, but an ideological one too, and Britain could not wrangle out of their responsibility to dissolve Nazism within Europe.

Subsequently, British Foreign Secretary Anthony Eden proposed to address the international community, and the same day, circulated to the War Cabinet his memorandum requested by the Law Officers of the Crown. Eden acknowledged that British foreign policy could no longer exist on Churchill's seemingly blasé October statement in 1941 that declared the question of dealing with Axis atrocities, such as the shooting of French hostages, 'must henceforward take its place among the major purposes of war.' Due to the increasing depravity of the situation, especially to the governments of Poland and Czechoslovakia, it had become 'increasingly difficult,' to refer to the 'general principle' of eventual Allied action, without having a progressed British stance.⁶⁵

Churchill's tepid response to war atrocities was not the lack of humanitarian concern, but the acceptance that winning the war could only provide enough clarity to divulge into the complexities of dealing with major war criminals; especially when postwar planning was directly contingent upon Allied wartime success.⁶⁶ Thus Churchill did not see the political interest to waver his stance, desiring a month later to 'make a big show' of punishing NSDAP criminals, especially Adolf Hitler, arguing that 'we shall certainly put him to death in the electric chair without a trial at all.'⁶⁷ As Micheal J. Cohen highlights, an 'inherent element' of Churchill's personality was 'his impulsivity and "flights" from issue to issue, henceforth, the intricacies of British foreign policy gestated in Eden's Foreign Office to be further unpacked.'⁶⁸

Formulating a Foreign Office plan for treating major war criminals was relatively easy. In coherence with Churchill, Eden and the Foreign Office were 'not in favour of creating an international court,' for a 'judicial procedure would be seen inappropriate for dealing with Hitler' and other infamous NSDAP leaders, where 'the guild [*sic*] of such individuals is so black that they fall outside and go beyond the scope of any judicial process.'⁶⁹ An International Military Tribunal (IMT) would merely create 'a handful of trials' and in 'inadequate sentences.' Like Churchill, Eden did not think it was 'necessary or desirable for

⁶⁴ Richard Breitman, "The Allied War Effort and the Jews, 1942-1943," *Journal of Contemporary History* 20, no. 1 (1985): 135–156.

⁶⁵ "Treatment of War Criminals," memorandum by Anthony Eden, 22nd June 1942, CAB 66/25/44, W.P (42) 264, f.1-4, Kew, England: The National Archives.

⁶⁶ Kim Christian Priemel, *The Betrayal: The Nuremberg Trials and German Divergence* (Oxford, England: Oxford University Press, 2016), 63-68.

⁶⁷ "Sir Norman Brook Notebook: War Cabinet Minutes, WM (42) 47th - 155th meetings (86)," July 6, 1942, CAB 195/1/17, f. 67-68, Kew, England: The National Archives.

⁶⁸ Michael J. Cohen, "Churchill and Auschwitz: End of Debate?" *Modern Judaism* 26, no. 2 (2006): 128–130.

⁶⁹ "Treatment of War Criminals," memorandum by Anthony Eden, 22nd June 1942, CAB 66/25/44, W.P (42) 264, f.1-4, Kew, England: The National Archives; Bradley F. Smith, *The road to Nuremberg* (New York, America: Basic Books, 1981), 18.

any further statements of policy to be made at present.⁷⁰ An IMT could not assuage the Foreign Office opinion that international law would deter the destructive nature of totalitarianism, when it obtained little moral and military deterrence to contain international state action. An IMT was an unviable and unsatisfactory instrument of justice as promised in the St. James Declaration.

The consensus among British officials strengthened after 1942, as government ministers and civil servants sought to postpone discussions for postwar major war crimes planning.⁷¹ Yet with mounting interest from Soviet Russia for international tribunals, Britain was caught between the political tides of delivering international justice, and following their ideological ethos for wartime atrocities. However, regardless of inter-Allied beliefs, the British directive did not change, as Churchill in collusion with Eden on November 9th 1943, argued that ‘we should avoid all the tangles of legal procedure.’⁷²

Crucially, British diplomatic deliberations for major war crimes planning centred around the Big Three Alliance, not France. This is unsurprising as the political vacuum created by the NSDAP occupation of France since 1940, permanently altered the international system. Without a firm friendship with France, Britain instead latched onto the Big Three Alliance. Indeed, during Allied negotiations in August 1942, Churchill marked British war planning with the prioritisation of the Big Three cooperation, hoping to ‘establish a solid and sincere relationship’ with Stalin, admitting to the War Cabinet, that ‘victory was certain provided we did not fall apart’ as the Big Three ‘held the power to shape the future of the world.’⁷³

Churchill’s most seminal biographer Martin Gilbert meticulously encapsulates Churchill as a ‘statesman of vision and ability,’ where ‘he never allowed personal animosity on his part to stand in his way.’⁷⁴ Pertinently, Gilbert highlights that Churchill was an opportunist, with little time to plan for British security against the Axis powers, he directed foreign policy towards immediate relief from the ongoing war. Subsequently, Churchill strived to work with Stalin and Roosevelt, despite their vast political differences, recognising that the geostrategic and economic prowess of the Big Three combined, was salient for winning the war against the Third Reich. Yet the major limitation of Churchill’s pragmatism was that it focused on the imminent political and military priorities for ending the war. Ideological compromise became a central characteristic of inter-Allied diplomacy, as the quest to win the war required inter-Allied cooperation regardless of their political and cultural qualities.

Yet the cultural globalisation and the establishment of a permanent new precedent of international law were far more complex than military planning. As Anthony Glees underlines, international law faced the challenge of universally applying a set of ethical measurements to only a certain number of individuals, when NSDAP indoctrination morally

⁷⁰ Ibid. f.1-4.

⁷¹ Ann Tusa, and John Tusa, *The Nuremberg Trial* (London, England: Macmillan London Limited, 1983), 62.

⁷² “The Punishment of War Criminals,” memorandum by Winston S. Churchill, 9th November 1943, CAB 66/42/46, W.P (43) 496, f.2, Kew, England: The National Archives; Ann Tusa, and John Tusa, *Nuremberg*, 63.

⁷³ “Minutes of a Meeting Held in the kremlin, Moscow,” August 13th 1942, documented by secretariat Colonel K.I.C Jacob, 15th August 1942, FO 800/300, f.5-6, p. 82, Kew, England: The National Archives; Telegram from Churchill to Deputy P.M, War Cabinet and Others Concerned, 13th August 1942, FO 800/300, f.4, p. 75-76, Kew, England: The National Archives; Telegram from Churchill to Deputy P.M, War Cabinet and Others Concerned, 14th August 1942, FO 800/300, f.3-4, 97-98, Kew, England: The National Archives.

⁷⁴ Martin Gilbert, *Churchill: (Great Lives Observed)* (Englewood, New Jersey: Prentice-Hall, Inc, 1967), 1-2.

polluted all realms of Germany and those under the Third Reich.⁷⁵ Allied cooperation required a firm and politically altering universal stance on NSDAP atrocities, requiring inter-Allied administration and organisation, ideological compromise, and negotiation. Without untangling the ideological and political incompatibilities within the war, Britain missed the opportunity to craft a diplomatic foundation for a consistent postwar alliance that could have made political and legal operations not only manageable, but stabilised the international system.

Subsequently, when inter-Allied cooperations increased for treating major war crimes, the diplomatic space did little to alleviate political tensions. Much to British dismay, Russia was as tenacious as Britain in their policy, and the difference of political opinion accentuated the diplomatic divide between Soviet Russia in the East, and Anglo-American friendship in the Western hemisphere. Indeed, it was unsurprising when the Foreign Office noted in July 1942, that Russia ‘had never shown any desire’ to discuss matters on war criminals since January 1942.⁷⁶

Fundamentally, the friction between Britain and anti-democratic culture was escalating, and it foretold the fraught inter-Allied climate in the years ahead. Months later, Britain’s Permanent-Under Secretary, Sir. Alexander Cadogan, wrote in his diary, that on the 14th of October 1942, ‘the Russian Government demanded the trial of all war criminals already in Allied hands,’ yet they refused to join the proposed conception for a United Nations War Crimes Commission (UNWCC) for investigating Axis War crimes.⁷⁷ With Russia only just replying to the Foreign Office’s note sent him on the 3rd October, the delay left the Foreign Office ‘anxious to receive the Soviet observations’ for swift cooperation on the matter. British efforts to establish an international committee to draw a firm conclusion for major war crimes planning proved unmanageable, hampered by ‘blated’ Soviet replies and delayed communications.⁷⁸

Notably, the UNWCC was shaped by Western liberal norms, influencing the international system with new institutional frameworks and legal investigations that Soviet Russia could not engage in without challenging its ideological convictions and practises. Whilst in 1943, Anglo-Saxonism did not outline how major war criminals would be handled, the contours of Anglo-Saxonism transforming into a bloc against contrasting ideological practises began to form.

Whilst British and Soviet ideologies pulled in opposite directions, Anglo-American relations, known during this period as the ‘special relationship,’ became a diplomatic relief within inter-Allied planning. Indeed, American officials were deliberating whether summary execution was an appropriate manner for punishment. Thus with the American approval, Britain had no

⁷⁵ Anthony Glees, “The Making of British Policy on War Crimes: History as Politics in the UK,” *Contemporary European History* 1, no. 2 (1992): 171–175.

⁷⁶ Telegram by the Foreign Office, “War Criminals: Foreign Office telegram to Moscow, No 300. Unwillingness of Soviet Government to discuss this question,” 25th October 1942, FO 954/31A/53, Kew, England: The National Archives.

⁷⁷ Alexander Cadogan, *The Diaries of Sir Alexander Cadogan, O.M. 1938–1945*, ed. David Dilks (London, England: Cassell, 1971), 484.

⁷⁸ Telegram by the Foreign Office, 25th October 1942, FO 954/31A/53, Kew, England: The National Archives.

firm pressure to create a solidified war plan, and consequently the methodological differences for punishment did not tarnish Anglo-American relations.⁷⁹

Although the extent and intimacy of the Anglo-American special relationship is oft debated by historians, David Reynolds defines the term as ‘a device used by a declining power for trying to harness a rising power to serve its own ends,’ especially driven by Britain who was the lesser state during the Second World War.⁸⁰ Britain clung onto American friendship as a renewed buoyancy for political control within the international system, to constrict and balance the power of Soviet Russia within postwar affairs.

Indeed, Churchill, writing years later in his memoirs, believed Russia to be a joint participant in the perpetration of war atrocities, contentiously prescribing the SSR as the ‘cold blooded calculation of the soviet [*sic*] government and enormous communist machine.’⁸¹ However, Churchill’s policy for pragmatism persisted, and Britain prioritised Big Three unity, publicly promoting international peace, and vowing retribution under Allied collaboration in the Moscow Declaration on Atrocities in October 1943.⁸² The Moscow Declaration did not promise a firm method for punishment, instead it guaranteed Big Three commitment to the international community in the outcome of war and inter-Allied discussions, to eventually find a solution for major war crimes.

In June 1944, with increased interest for international retribution, Foreign Secretary Anthony Eden on behalf of the Foreign Office circulated to the War Cabinet a memorandum, recognising that the government still had not ‘cleared their own minds’ on an international war crimes policy.⁸³ Foreign Office opinion remained resilient however, and Eden’s proposal reflected the War Cabinet’s expectation that chosen criminals would ‘personify the worst and most extreme features of Nazism and Fascism.’ Although Eden survived the First World War, his brothers did not. With experience in the League of Nations, Eden was no stranger to the traumatic experiences of war and the need for its eradication.⁸⁴

Eden persisted in shaping official policy towards the deterrent of death to preserve the moral integrity that as the worst crimes committed, major NSDAP leaders would ‘not be brought to trial for specific war crimes.’ Instead ‘punished by some form of summary action solely based upon their identification.’⁸⁵ With Britain still awaiting official plans from America and Russia, Eden found it ‘unwise’ to discuss international cooperation on such matters.⁸⁶

⁷⁹ Ann Tusa, and John Tusa, *The Nuremberg Trial* (London, England: Macmillan London Limited, 1983), 63.

⁸⁰ David Reynolds, “A ‘Special Relationship’? America, Britain and the International Order Since the Second World War,” *International Affairs* (Royal Institute of International Affairs 1944-) 62, no. 1 (1985): 1–4.

⁸¹ Winston S. Churchill, *Memoirs of the Second World War* (Massachusetts, USA: Houghton Mifflin Company, 1959), 460; SSR, is the abbreviation for *Sovetskaia Sotsialisticheskaia Respublika*.

⁸² Annex 10: Declaration of German Atrocities, “Moscow Conference of Foreign Secretaries, 1943 (Most Secret Protocol),” in *Treaties and Other International Agreements of the United States of America, 1776-1949: Multilateral 1931-1945*, Law Library of Congress, ed. The US State Department, and Charles Bevans, 844.

⁸³ “Treatment of Major Enemy War Criminals,” memorandum by Anthony Eden, 16th June 1944, CAB 66/51/30, W.P (44) 330, f.142-145, Kew, England: The National Archives.

⁸⁴ David Dutton, “Simon and Eden at the Foreign Office, 1931-1935,” *Review of International Studies* 20, no. 1 (1994): 35–52.

⁸⁵ “Treatment of Major Enemy War Criminals,” memorandum by Anthony Eden, 16th June 1944, CAB 66/51/30, W.P (44) 330, f.142-145, Kew, England: The National Archives.

⁸⁶ “Treatment of Major Enemy War Criminals,” memorandum by Anthony Eden, 16th June 1944, CAB 66/51/30, W.P (44) 330, f.142-145, Kew, England: The National Archives.

Uncertain of the Allied direction, Britain wanted to delay the process, rather than take an proactive role in defining the most appropriate punitive treatment for major war crimes alone.

Thus, with American policy still tethering onto the Morgenthau Plan for a summary arraignment, in September 1944, Churchill, in accordance with Eden and Roosevelt, drafted a memorandum to Stalin, arguing that ‘it would seem that the method of trial, conviction, and judicial sentence is quite inappropriate for notorious ringleaders.’⁸⁷ Much to Churchill’s surprise it was Stalin who ‘took an unexpectedly ultra respectable line’ that there ‘must be no executions with a trial, otherwise the world would say we were afraid to try them.’⁸⁸ Although Churchill ‘pointed out the difficulties in international law,’ Stalin retorted ‘if there were no trials there must be no death sentences.’⁸⁹ There was no surprise that writing to America nine days later, Britain admitted that, only with American support, they were open to engaging with the Allies, for ‘Mixed Military Tribunals to deal with cases which for one reason or another could not be tried in national courts.’⁹⁰ Russian ethical values resonated with the world opinion desperate for justice, and to deliver justice was a duty that Britain could not back out of. However, Britain proposed mixed military tribunals ‘in virtue of their powers as military commanders.’ Holding little judicial weight, such tribunals ‘could be settled by the Commanders-in-Chief when establishing the Tribunals,’ allowing the perfect opportunity for summary arraignment to be dressed up with military attributes to it.⁹¹

British policy contingent upon American loyalty, rather than a wider Allied consensus, was especially evident in the marginalisation of France after its liberation in 1944. Although France was not a predominant factor in British major war crimes planning in 1942 to 1943, understanding Britain’s diplomatic manoeuvring against contrasting ideologies is vital. For it reveals how Britain was actively trying to balance alliances to not only shape the postwar world, but their position within it, becoming the basis for how Britain would cautiously shape Anglo-French relations in 1944.

British Attitudes to France’s Involvement in the Contribution and Implementation of a Major War Crimes Policy

Britain’s postwar planning in 1944 became the turning point for the British when France was liberated in June, as the future of Anglo-French relations remained uncertain with the fall of France in 1940. It was an alliance that could only be rebirthed with the complete de-Nazification of Hitler and the Third Reich.⁹² What was additionally problematic, was that when France fell and signed the Franco-German Armistice of 22nd June 1940, France was governed not only by the Third Reich, but also by the Vichy Regime under Marsal Philippe

⁸⁷ Winston S. Churchill, Draft of Suggested Telegram to be Sent by the President and the Prime Minister to Marshal Stalin, 17th September 1944, in “Major War Criminals,” a memorandum by Anthony Eden, 3rd October 1944, CAB 66/56/5, W.P (44) 555, f.1-2, Kew, England: The National Archives.

⁸⁸ Prime Ministers Personal Telegram to President, 21st October 1944, FO 954/31A/57, Telegram No. T.1946/4, f. 58-59, The National Archives.

⁸⁹ Ibid. 58.

⁹⁰ The British Embassy, “The British Embassy to the Department of State: Aide-Mémoire,” 30th October 1944, in *Foreign Relations of the United States: Diplomatic Papers, 1944, General, Volume I*, ed. E. Ralph Perkins, S and Everett Gleason (Washington, America: United States Government Printing Office, 1966), 1389-1391.

⁹¹ Ibid. 1389-1391.

⁹² Gerald Hughes, *The Postwar Legacy of Appeasement* (New York, USA; London, UK: Bloomsbury Publishing Plc, 2014), 3-5.

Henri Petain, who enforced the Third Reich constitution. NSDAP ideology rejected major principles of international law, not just through aggressively occupying states, but also through the dehumanisation and persecution of the Jewish population.⁹³ Belonging to Hitler's regime of authoritarian and antisemitic brutality, France too committed Axis war crimes, including the deportation of over 140,000 civilians to concentration camps during the war.⁹⁴

The appeal of conservative governing, and antisemitic attitudes from its largely Catholic civilians led to the Vichy regime's popularity amongst the public, both nationally and internationally.⁹⁵ Although Hitler's attempts to Nazify France were abundantly clear, as Gladys Kammerer highlights, the Vichy regime was an ideological manifestation of France itself.⁹⁶ French liberation thus did not grant France the prerogative as a major wartime power, because although Britain never formally declared war on France, France had alienated Britain and the Allies through its cultural practise of Hitlerism.⁹⁷

As Leia Sadat Wexler highlights, Western democratic legal systems during the twentieth century were a moral medium to connect the public with the law by defining and structuring socially acceptable behaviours.⁹⁸ International law scholar Detlev F. Vagts further pinpoints the infrastructure of the Third Reich legal system as 'confused and unsystematic,' seeping into the daily governing of Vichy. Consequently, it was the ideological tyranny, loss of French culture, and the administrative chaos of the Third Reich indoctrination, that led Britain to delay foreign policy plans with France, even after liberation in June 1944.⁹⁹

France was undesirable to Britain which had little impetus to establish a deeper connection with them so early after their liberation.¹⁰⁰ Churchill, reflecting in 1945, proclaimed that France 'was beaten to the ground and took some time to recover' and that Britain was 'absolutely alone.'¹⁰¹ It was not that Churchill dismissed France as a potential option, but that France was merely not an option at all, as Britain had no choice but to seek military and political solace in the largest Allied states in the war.

However, for the Foreign Office, on European soil with fresh memories of an alliance, Britain had the geostrategic advantage of influencing France's position in the European system due to British international precedence. Britain's place in the postwar international system

⁹³ Detlev F. Vagts, "International Law in the Third Reich," *The American Journal of International Law* 84, no. 3 (1990): 694.

⁹⁴ Leila Sadat Wexler, and Mark Zaid, "Prosecutions for Crimes against Humanity in French Municipal Law: International Implications," *Proceedings of the Annual Meeting (American Society of International Law)* 91 (1997): 270–276.

⁹⁵ Gladys M. Kammerer, "The Political Theory of Vichy," *The Journal of Politics* 5, no. 4 (1943): 407–411.

⁹⁶ Ibid. 407–420.

⁹⁷ John D. Grainger, *Traditional Enemies: Britain's War With Vichy France 1940-42* (Yorkshire, England, Pen and Sword Books limited, 2013), 1-10.

⁹⁸ Leila Sadat Wexler, "Reflections on the Trial of Vichy Collaborator Paul Touvier for Crimes against Humanity in France," *Law & Social Inquiry* 20, no. 1 (1995): 191–193.

⁹⁹ Detlev F. Vagts, "International Law in the Third Reich," *The American Journal of International Law* 84, no. 3 (1990): 693.

¹⁰⁰ Charlotte Faucher, "Restoring the Image of France in Britain, 1944–1947," *The Historical Journal* 64, no. 5 (2021): 1428-1430; Philip Bell, *France and Britain: 1940-1994: The Long Separation* (New York, USA; Essex, UK: Addison Wesley Longman Inc, 1997), 54-59.

¹⁰¹ Winston Churchill, "Five Years of War," Broadcast to the British Nation," 13 May 1945, *University of North Carolina at Chapel Hill: iBiblio, online information database*, <https://www.ibiblio.org/pha/policy/1945/1945-05-13a.html>, last accessed 15th October 2024.

however, was a continuous uncertainty, and a political aberration. The Foreign Office in anticipation of France's independence, sought to consider an Anglo-French partnership to bolster British power relative to American and Soviet influence in the postwar world.

In May 1944, Britain's French ambassador Sir. Alfred Duff Cooper stipulated one of the most prominent wartime memoranda for France's place in British Western European foreign policy.¹⁰² Circulated to the Foreign Office, the memoranda urged that for postwar British survival, 'alliances are preferable to isolation' whilst placing the necessity for a 'policy of Great Britain to prevent the domination of Europe by any one too powerful nation... for to abandon it would be to sign our own death warrant.'¹⁰³ Cooper anchored any future Western policy in Anglo-French relations, concerned that without a strong France, there would be a power vacuum within Western Europe, disrupting the balance of power system, and Europe would be exposed to Soviet infiltration, leaving Britain vulnerable. Enticing the Foreign Office with a continental defence system involving France, Cooper envisaged that smaller but focal powers of Western Europe 'would probably follow the lead of France,' such as Belgium, Denmark, and Holland.¹⁰⁴

Residing mainly in Paris during the war, Alfred Duff Cooper was crucial to the Foreign Office because his experience of the cultural and political interior of France permitted him to apprise the Foreign Office of the French situation, whilst endorsing the mutual Anglo-French benefit of French convalescence and reintegration onto the world stage. Cooper advocated for France, proclaiming that France 'for long been the most important power on the western continent of Europe... her prestige will have suffered... her wealth will be greatly reduced owing to the depredations of the enemy,' urging Eden and the Foreign Office to 'bring about the reconstruction of France.'¹⁰⁵ Cooper was a fervent advocate for Anglo-French cooperation, appreciating that France, although incapacitated from the war, remained a keystone to the unassailability and stability of Western Europe.¹⁰⁶

Furthermore, Cooper was a close friend to Anthony Eden, making him an essential intermediary to Eden's policymaking judgments. As a crucial policymaker in leading the Foreign Office, Eden drove Cooper's sentiments for an Anglo-French alliance with avid optimism, leaving a striking mark in Western European foreign policymaking. In replying to Duff-Cooper's memorandum, Eden noted that 'from the political point of view, therefore, I suggest that our policy should be directed towards establishing some kind of defence system in Western Europe whether we are successful in creating a world organisation or not.'¹⁰⁷ Due to the economic and political interdependence from the Big Three, Eden expressed his concern for alienating Russia, with a Western organisation, urging that any official organisation would be a 'policy of collaboration based on an Anglo-Soviet alliance,' with the

¹⁰² "Policy in Western Europe," memorandum by Alfred Duff Cooper, 30th May 1944, CAB 66/53/9, W.P (44) 409, Kew, England: The National Archives.

¹⁰³ Ibid. f.2.

¹⁰⁴ Ibid. f. 5

¹⁰⁵ Ibid. f. 4

¹⁰⁶ John Charmley, "Duff Cooper and Western European Union, 1944-47," *Review of International Studies* 11, no. 1 (1985): 53-56; Klaus Larres, *Churchill's Cold War: The Politics of Personal Diplomacy* (New Haven, USA; London, UK: Yale University Press, 2002), 71-74, 91-92.

¹⁰⁷ "Policy in Western Europe," memorandum by Anthony Eden, 25th July 1944, CAB 66/53/9, WP (44) 409, f.7-8, Kew, England: The National Archives.

‘sole purpose of preventing a renewal of German aggression.’¹⁰⁸ With France’s international reputation feeble as a barely functioning power, Cooper’s solution for a transformative France as a useful postwar geopolitical ally opened political avenues within the Foreign Office for postwar planning.

Prominently, Gladwyn Jebb, a leading architect for Britain’s role in postwar reconstruction as the head of the Foreign Office’s Economic and Reconstruction Department, followed Eden’s directive and narrowed foreign policy aims to safeguard British geopolitical interests. Jebb vouched for political compromise instead of focusing on ‘silly anti-Soviet prejudice,’ nor any attempts to ‘single out the Soviet Union as the only potential enemy.’¹⁰⁹ Jebb echoed and crystalised the Foreign Office consensus within postwar planning to not undermine the Big Three alliance with an ambiguous and brash Anglo-French alliance.

Whilst the Foreign Office was not yet ready to actively incorporate France into an ambitious Western foreign policy, France’s political prostration was perceived to be temporary, and subsequently British interest towards France did not waver. Consequently, the Foreign Office grounded Western European policy upon Cooper’s proposal to bolster France’s international reputation and to create a close nonaggressive Anglo-French friendship, that upon a wider and pertinent scale, became integrated into the ideological fabric of postwar British foreign policy planning for the years to come.¹¹⁰

Navigating the Big Three and France: Diplomatic Tensions and the Struggle to Improve Anglo-French Collaboration on Major War Crimes Planning

Whilst the Foreign Office were desperate to mend relations with France, Anglo-French relations did little to improve because of the taut and exhausted relationship between Churchill and General Charles de Gaulle, the leader of Comité Français de Libération Nationale (CFLN).¹¹¹ Although de Gaulle was conservative, and vehemently distrusted communism, Churchill believed that de Gaulle did not have the potential to lead France and maintain its conservatism, preventing the reunion of a Entente cordial relationship they once had before 1940.¹¹² Subsequently, Churchill was extremely paranoid about France’s susceptibility to extremism, writing to Sir Alfred Duff Cooper, in April 1944, that if any

¹⁰⁸ Ibid. f. 7-8.

¹⁰⁹ Gladwyn Jebb, Foreign Office minute, 7th June 1944, FO 371/40740/U6253, f.209, Kew, England: The National Archives.

¹¹⁰ John Baylis, “Britain, the Brussels Pact and the Continental Commitment,” *International Affairs (Royal Institute of International Affairs 1944-)* 60, no. 4 (1984): 615–629.

¹¹¹ Klaus Larres, *Churchill’s Cold War: The Politics of Personal Diplomacy* (New Haven, USA; London, UK: Yale University Press, 2002), 51-56.

¹¹² “President Roosevelt to Prime Minister,” 8th April 1944, Official Prime Minister: Prime Minister’s Personal Telegrams, CHAR 20/161, Telegram No. T/762/4, f. 69, Cambridge, England: The Churchill Archive Centre; “Prime Ministers Personal Telegram to President,” 21st October 1944, FO 954/31A/57, Telegram No. T.1946/4, f. 58-59, Kew, England: The National Archives; “Prime Minister to Mr. Duff Cooper,” 9th April 1944, Official Prime Minister: Prime Minister’s Personal Telegrams, CHAR 20/161, Telegram No. T.768/4, f. 79-81, Cambridge, England: The Churchill Archive Centre; “Winston Churchill to Duff Cooper,” 6th April 1944, Official Prime Minister: Prime Minister’s Personal Telegrams, CHAR 20/161, Telegram No. T730/4, f. 32, Cambridge, England: The Churchill Archive Centre; Philip Bell, *France and Britain: 1940-1994: The Long Separation* (New York, USA; Essex, UK: Addison Wesley Longman Inc, 1997), 8-10.

members of the CFLN 'were infected with communism, they will certainly not be made party to any British, or I expect, American secrets.'¹¹³

Addressing the House of Commons in May, Churchill insisted he recognised the CFLN as a 'political entity' that should have the 'fourth place in the Grand Alliance.' Yet Churchill wavered on the axis of long-term foreign policy aims with a secure France, and the humbling reality that France was domestically unstable, and governed under De Gaulle's guild, for any immediate strategy. Unsurprisingly, Churchill did not 'wish to commit ourselves at this stage... without more knowledge than we now possess of the situation in the interior of France.'¹¹⁴

Churchill's anti-de Gaullist attitude was further precipitated by Roosevelt, as diplomat Clement Attlee noted how 'American disdain towards the General was calculated to make de Gaulle the personification of French resentment.'¹¹⁵ With the strong allegiance of Roosevelt and Churchill, as John W. Young highlights, Churchill's conviction against de Gaulle was diplomatically corrosive to the cause for a powerful postwar Anglo-French friendship for the remainder of 1944.¹¹⁶

Churchill merely played a passive role in the development of foreign policy, yet executed diplomatic affairs to his own will, impeding the role of the Foreign Office in enacting a consistent Western policy. Ailing health and wartime exhaustion did Churchill little help in his executive functioning skills, as Cadogan noted in the Summer of 1944 that Churchill 'looked flushed and was very woolly,'¹¹⁷ The situation merely worsened, and by August Cadogan wrote in his diary how Churchill could not 'conduct business... it's all hot air.'¹¹⁸ The Foreign Office was not only faced with the uncertainty of external threats, but the internal manoeuvring of a man who was unpredictable, unstructured, and resolutely dogged.

Frustration mounted in the Foreign Office, as the composition of postwar Western foreign policy required a strong Anglo-French friendship. Eden was trapped between Churchill's refusal to work with de Gaulle, and the Foreign Office anticipation to collaborate with France. Concerned, Sir. Alfred Duff Cooper wrote on 13th June 1944, that 'Anthony said that he had never been so unhappy or so perplexed by anything as he was by the French situation at the time.'¹¹⁹ With little improvement in relations, sympathy for Eden's efforts to bring Anglo-French relations alive grew. Days after French liberation, Permanent-Under-Secretary Sir. Alexander Cadogan wrote in his private diary how Eden 'has to tackle' Churchill, becoming 'temperamental' about de Gaulle, paraphrasing and retorting Churchill's

¹¹³ Winston Churchill to Duff Cooper, 6th April 1944, Official Prime Minister: Prime Minister's Personal Telegrams, CHAR 20/161, Telegram No. T730/4, f. 32, The Churchill Archive Centre, Cambridge: UK.

¹¹⁴ Winston Churchill, "Foreign Affairs," 24th May 1944, *Parliamentary Debates*, House of Commons, vol. 400, cols. 780.

¹¹⁵ Clement Attlee, "France: From Mr Attlee. Need for plain speaking to the President about the French situation," 31st May 1944, FO 954/9A/142, f.142, Kew, England: The National Archives.

¹¹⁶ John Wilson Young, "The Foreign Office and the Departure of General de Gaulle, June 1945-January 1946," *The Historical Journal* 25, no. 1 (1982): 209.

¹¹⁷ Alexander Cadogan, *The Diaries of Sir Alexander Cadogan, O.M. 1938-1945*, ed. David Dilks (London, England: Cassell, 1971), 611.

¹¹⁸ *Ibid.* 653.

¹¹⁹ Alfred Duff Cooper, *The Duff Cooper Diaries*, ed. John Julius Norwich (London, UK: Phoenix, 2006), 313.

frustration, ““Why can’t de G. help me at all?” We haven’t helped de G. much.”¹²⁰ As John Charmley highlights, Western European foreign policy was postponed, until the Allies were struck with better diplomatic weather.¹²¹

Yet, it would be an unfair assessment to argue that Churchill had no interest in France as a central component for British stability. Instead Churchill was waiting for France to be restored before Anglo-French talks could take place. Speaking to the House of Commons in early August 1944, Churchill hoped that ‘France shall again be raised, and raise herself, to her rightful place among the Powers of Europe and of the world.’¹²² With Churchill’s approval, Eden cemented France into an eventual Western European foreign policy, believing there was a ‘real desire of everyone’ in the government to ‘see a speedy restoration of France,’ and ‘to see the strengthening of the bonds of friendship between us and to see our close association after the war in the rehabilitation of Europe.’¹²³ British foreign policy pertaining to Anglo-French relations could only be described in 1944 as hopeful, premature, and openminded, yet having a very little active role in immediate diplomatic Allied affairs.

However, due to Anglo-French estrangement, British consideration of negotiating with France was unviable on the matter of major war atrocities. Unsurprisingly, in July 1944, Britain rejected France’s proposal for a separate declaration for the punishment of major war criminals.¹²⁴ Pertaining to the resolution that Britain needed to formulate their own stance, Eden, on behalf of the Foreign Office, sent a telegram to the British embassy, arguing that ‘there is nothing that could usefully be added at the present time to earlier declarations on this subject.’¹²⁵

The lack of Anglo-French unity on major war criminal planning merely reinforced that Britain rebuffed any plans to amalgamate their political and legal identities, ideology, and autonomy with France for the sake of an Anglo-French friendship. Whilst France believed that ‘declarations hitherto made do not appear to have any deterrent effect,’ suggesting that ‘only energetic collective action is likely to achieve results.’ British policy on major war crimes planning was neither energetic, nor politically collective. Whilst justice was for the world, the method of shooting the major criminals was a private and seamless job, requiring little political input on the matter.¹²⁶

Instead, Eden and the Foreign Office sidelined France, for American support, wishing that ‘before replying therefore we should like to concert our answer with the U.S Government,’ as the French committee addressed American officials with a similar request.¹²⁷ Political and

¹²⁰ Alexander Cadogan, *The Diaries of Sir Alexander Cadogan, O.M. 1938–1945*, ed. David Dilks (London, England: Cassell, 1971), 638.

¹²¹ John Charmley, “Duff Cooper and Western European Union, 1944-47,” *Review of International Studies* 11, no. 1 (1985): 56.

¹²² Winston Churchill, “War Situation,” 2nd August 1944, *Parliamentary Debates*, House of Commons, vol. 402, cols. 1480.

¹²³ *Ibid.* 1545.

¹²⁴ P.H Gore-Booth “The First Secretary of the British Embassy (Gore-Booth) to the Legal Adviser (Hackworth),” 6th July 1944, in *Foreign Relations of the United States: Diplomatic Papers, 1944, General, Volume I*, ed. E. Ralph Perkins, S and Everett Gleason (Washington, America: United States Government Printing Office, 1966), 1234-1236.

¹²⁵ *Ibid.* 1235-1236.

¹²⁶ *Ibid.* 1235-1236

¹²⁷ *Ibid.* 1235-1236

legal exchange to refine inter-Allied policy was implausible because France was not a qualifying actor for Britain to engage with such significant diplomatic concerns. As France's principal ally, Britain subsequently minimised the opportunities for France to partake in joint and inter-Allied major war crimes discussions. Britain saw little use for both establishing an IMT, and including France into potential IMT discussions as a goodwill gesture to strengthen Anglo-French relations for a Western European foreign policy, because both policies were deemed inapposite in 1944. Subsequently, France remained a repository in postwar planning until the Foreign Office deemed it an appropriate political climate to enact such a policy.

Conclusion

By the end of 1944, although Churchill and his cabinet were reluctant to divert wartime efforts away from winning the war, British foreign policies of both major war crimes planning and Anglo-French relations became progressively important for Britain's international security. Allied pressures to establish a unified postwar policy for treating major war criminals forced the Foreign Office to unpack the political and legal dimensions for an International Military Tribunal (IMT) that merely translated British attitudes into cyclical, ineffectual, and reluctant questioning for what Britain's stance should entail. The question for an IMT reflected the underlying wider issues of Britain's self-image in both the wartime and potential postwar climate: Britain was geopolitically isolated, and clinging onto the diplomatic approval for Soviet-American international governance.

The absence of an influential Anglo-French alliance accentuated Britain's political interdependence on the Big Three regarding postwar affairs. For Britain, it was the power vacuum established upon the contingency of not only the loss of an Anglo-French dominated Europe, but also the fall of the Third Reich, that drove Britain to nostalgically constructing a geostrategic plan to reaffirm themselves as a great power whilst preventing antidemocratic practises infiltrating the postwar world- including the legal and ideological exchange of communism.

Whilst British Western European foreign policy and major war crimes planning were respectively varying, the commonalities between both policies were striking. Both policies were founded upon ideological reluctance towards antidemocratic and authoritarian practises infringing upon the international system. Yet it was Britain's hopeful aims for ameliorating Anglo-French relations that became a solution for preventing international instability and protecting the organic cultural processes of the West.

Unpacking the central motives amongst key policymakers, this chapter stressed how British diplomats considered war crimes planning no different to that of other non-legal aspects of foreign policy, a central theme that emphasised Britain's aversion to working with the Soviet Union and France. What is striking is that Britain's disinclinations towards France in inter-Allied postwar discussions were not only due to the internal and international fragility of the French government; but the British War Cabinet and Foreign Office saw no purpose in including an incompetent France into major Allied spaces, when it did not serve their geopolitical interests.

Flippancy towards France's involvement in war crimes talks was not necessarily an attempt to prevent France from advancing as a major ally, but with the legal and ideologically

compromised nature of a freshly liberated France, there was very little impetus to invite France into premature discussions that the Foreign Office were still uncertain on. Interacting with France without a firm implementation of foreign policy seemed impractical, and too much of a risk when major wartime military and diplomatic operations were occurring.

Consequently, this chapter reveals that 1944 was a profoundly crucial year for the development of pre-Cold War tension. Although Cold War sentiment remained covertly hidden within the British war departments, the lack of an Anglo-French alliance gravitated Britain towards an Anglo-American alliance. The already alienating nature of Anglo-Saxon operations for investigating Axis war atrocities, alongside Britain's willingness to settle on mixed military trials directly with America rather than France, aimed to counter the potential threat of antidemocratic practise within both the IMT, and the international system under the guise of the Big Three. Subsequently, British predilection for Anglo-Saxonism drove Allied postwar planning to reshape and de-nazify Europe into legal, diplomatic, and intercultural rivalry by 1945.

The next chapter subsequently surveys British impetus and engagement for France as a major fourth power in 1945, that contributed to France's participation within the establishment of the first Nuremberg Trial. Assessing key historical timestamps, such as the Yalta Conference, and the diplomatic preliminary deliberations for Nuremberg in the spring of 1945, the next chapter investigates how France's involvement merely accentuated the legal and cultural differences amongst the Allies, as France's slow restoration as a major power led to the British Foreign Office abandoning an active Western European foreign policy for Anglo-American domination within the West. This included instigating Anglo-Saxon alienation and competition towards France and Russia for ideological superiority over the establishment for international law.

Forgetting France: British Preference for Anglo-Saxonism within the Makings of the Nuremberg Trial, 1945

Introduction

By the beginning of 1945, the Big Three alliance of America, Britain, and Soviet Russia were ostensibly united, fixated on the final phase of the Second World War. As Allied forces were advancing into Western Germany and occupied Axis states, it was becoming increasingly transparent that Allied plans for postwar reconstruction were imminent. Yet treatment for major NSDAP war criminals was still undecided, and tasked with the restoration and preservation of postwar European integration and stability, the major Allies were instructed with the ambiguous and grave task of delivering international justice as cathartically and quickly as possible.

Questions of whether major war criminals merited absolution or should face international punishment were not originally legal concerns, but were political decisions handled by the central diplomats during the war. Although France was not actively participating in Allied major war crimes planning, British involvement in restoring France as a great power state by the spring of 1945 elevated France's international reputation amongst the Big Three, and widened the gateway for French inclusion within postwar affairs. Subsequently, French representatives were invited to establish the first International Military Tribunal (IMT) in May 1945.

However, as the previous chapter highlights, the ideological differences among the Allies merely intensified within the legal and cultural boundaries of international law. As this chapter unravels, political rivalry crystallised into procedural disputes, alliance alienation, and the complete domination of Anglo-Saxon legalism. The IMT equated to more than international demand for supranational retribution against the major war criminals. But it was an ideological struggle amongst the Allies to formulate the universal ethical and legal precepts for the postwar world.

Robert Jackson, the leading American lawyer of the IMT, reflected that the trial incurred two 'fundamental conflicts,' which were 'a relation between a court and the government which establishes it; the other as the nature to the criminal process.'¹²⁸ International law was vulnerable to the exploitation of statecraft due to the flimsy political legitimacy of the IMT as a victors' justice, and the novel legal precedents for establishing the new cultural fabrics of the international system.

Overpowered by Allied desires for legal retribution, this chapter investigates the role of Britain in the deterioration of intercultural cooperation for an IMT. British attitudes to Anglo-French relations not only led to French participation in the IMT, but consequently gelled the

¹²⁸ Robert H. Jackson, "Nuremberg in Retrospect: Legal Answer to International Lawlessness," in *Perspectives on the Nuremberg Trial*, ed. Guénael Mëttraux (Oxford, England: Oxford University Press, 2008), 357-358.

cultural, legal and political fissures of Western liberalism and any other antagonising ideologies attempting to craft the postwar international landscape.

This chapter reflects how upon a geopolitical scale, France's international weakness gave little impetus for Britain to use the diplomatic process for an IMT to bolster a scarcely fertile Western European foreign policy. However, France under the ordinance on the Reestablishment of Republican Legality in August 1944, was free from the despotic penal legislature of the Vichy Regime. Tracking the short-term hope for Anglo-French cooperation, this chapter reveals why France was so important to British foreign politics in 1945.

Belonging to the dual policy of stabilising France's international reputation, and evolving British Western European foreign policy, Britain sought to incorporate France in the discussion of postwar administration, including the treatment of major war crimes. Britain's depreciating economic and imperial power, whilst relying on the Big Three alliance and grappling with anti-Soviet sentiment, pushed the British Foreign Office to make amends with France for a continental alliance against the amassing Soviet-American international power.

Reestablishing France as a contributor to the legal and moral foundation of the new international system, Britain aimed to support the democratic structures of France, and improve relations with General Charles de Gaulle to prevent French domestic instability from straying into extremist and communist clutches. Thus attracting France with the promise of postwar responsibility, Britain aimed to secure an Anglo-French alliance suitable for Britain's Western European foreign policy to initiate when the war would end.

Through the examination of the Yalta Conference and Britain's efforts to incorporate France as a major Allied power, alongside the diplomatic correspondence surrounding the IMT churned Cold War competition, this chapter reveals how British postwar planning for Anglo-French relations was quixotic.

Instead, the diplomatic and political weakness of France hindered Britain from enacting a fully operational Western European policy. Coupled with the legal differences of Anglo-Saxon Common Law, France had little political and legal attraction to Britain. The accumulation of intercultural differences merely bestowed Anglo-French relations to a detached and curt rapport, as Britain pressed for an Anglo-Saxon regime to govern the new international system during the preparation for the IMT.

Using political archival documentation to reveal the inter-departmental interplay of personalities, policies, and discussions within the British government, this chapter reflects why France was cast aside as a secondary option for Britain. Thus, British Western foreign policy was still too premature to be enacted in the wartime and immediate postwar world. The involvement of France in Allied discussion merely diluted the process from the Big Three to the Big Three plus one, and severed intercultural communication as British preference for Anglo-Saxon law presided over the negotiations of the IMT, pitting the four major powers into two equal subcamps of ideological polarities.

Additionally, seminal historians such as Stuart Croft, Raymond Smith, and Peter Weiler have extensively brushed upon Britain and the Cold War, as they argue that the threat of communism from Russia's Soviet Union rapidly escalated into an overtly growing concern for Britain in 1945- leading to the diplomatic penchant for Anglo-American cooperation

during the early onset of the Cold War.¹²⁹ Indeed, Croft revels in the conviction that the continuance of the War Cabinet's conservative preference for a traditionalist and competitive alliance system, rather than a collective entity of unified and equal powers, isolated, alienated, and worsened post-war international relations beyond repair.¹³⁰

This chapter subsequently deepens the historiographical discourse, placing the Nuremberg Trials into the causes and escalation of the early Cold War front, and why British attitudes towards Anglo-French relations worsened inter-Allied cooperation during the diplomatic stages of the first Nuremberg Trial.

Britain's Political Gamble for France at the Yalta Conference

As the final phases of the war loomed over Europe, the British War Cabinet were adamant that Britain must remain an influential postwar major power. Internal conflict festered in policymaking, as Winston Churchill refused to abandon his place in the Big Three Alliance, for exclusive loyalty to France and their leader, General Charles de Gaulle. Towards the end of 1944, Churchill believed Britain would lose 'nothing from the point of view of security' from France, and was cautious not to 'involve ourselves in liabilities which we cannot discharge.'¹³¹

Churchill and the Foreign Office did not want to lose French contact, but with British power rapidly declining, they had no choice but to compromise Anglo-French relations for postwar survival.¹³² As Philip Bell highlights, contemporary humourists described the tripartite alliance as the 'Big Two-and-a-Half,' where although Britain had a high contribution to the war, they faced grave limitations after the end of war.¹³³ Britain thus greeted France only with conditional loyalty. British pursuit for an Anglo-French alliance was merely due to, as Andrew Williams describes France's 'residual prestige.'¹³⁴ French residual prestige rested upon their legacy as a great power state, yet France was bestowed a political threshold that they had to meet to be taken diplomatically seriously by Britain. Instead, Churchill was

¹²⁹ Anthony Adamthwaite, "Britain and the World, 1945-9: The View from the Foreign Office," *International Affairs (Royal Institute of International Affairs 1944-)* 61, no. 2 (1985): 223-235.

Peter Weiler, "British Labour and the Cold War: The Foreign Policy of the Labour Governments, 1945-1951," *Journal of British Studies* 26, no. 1 (1987): 54-82; Raymond Smith, and John Zametica, "The Cold Warrior: Clement Attlee Reconsidered, 1945-7," *International Affairs (Royal Institute of International Affairs 1944-)* 61, no. 2 (1985): 237-252; Stuart Croft, "British Policy towards Western Europe, 1947-9: The Best of Possible Worlds?" *International Affairs (Royal Institute of International Affairs 1944-)* 64, no. 4 (1988): 617-629.

¹³⁰ Peter Weiler, "British Labour and the Cold War: The Foreign Policy of the Labour Governments, 1945-1951," *Journal of British Studies* 26, no. 1 (1987): 54-82; Stuart Croft, "British Policy towards Western Europe, 1947-9," 617-618.

¹³¹ Telegram from Winston Churchill to Anthony Eden, 31st December 1944, T 236/257, PM. M.1259/1, f. 447-448, Kew, England: The National Archives.

¹³² Philip Bell, *France and Britain: 1940-1994: The Long Separation* (New York, USA; Essex, UK: Addison Wesley Longman Inc, 1997), 58-59.

¹³³ Philip Bell, *Twelve Turning Points of the Second World War* (New Haven, America: Yale University Press, 2011), 202.

¹³⁴ Andrew Williams, "France and the Origins of the United Nations, 1944-1945: "Si La France ne compte plus, qu'on nous le dise," *Diplomacy & Statecraft*, 28, no.2 (2017): 223.

fixated on the transatlantic Anglo-American alliance that promised long-term diplomatic engagement with their internationalist strategy for the postwar international system.¹³⁵

By the beginning of 1945, American hegemony had stolen the centre stage of Allied engagement, reshuffling the major power balance, and creating new political and military prospects for the postwar world. In converse with his friend and fellow diplomat, Sir. Alfred Duff Cooper, Foreign Secretary Anthony Eden argued that an active Anglo-French pact was too soon, where although it would be ‘against a resurgent Germany’ it would be ‘limited in scope of Europe,’ because it had the potential to be ‘misunderstood by the American Allies,’ as a Western bloc against Russia.¹³⁶

Nervous over the SSR’s expansionist ambitions, the Foreign Office naturally latched onto America, whose continental commitment to Western Europe would have garnered a far greater likelihood of infiltrating any communist ideology emanating from Russia. Coupled with diplomatic Anglo-French contempt, Duff Cooper unsurprisingly wrote in his diary on 5th January 1945, that De Gaulle was ‘not keen’ on an Anglo-French pact, and remarked that neither was Churchill.¹³⁷ Churchill was exhausted, with Allied ties threadbare, France simply complicated postwar planning with external fragmentary visions of French nationalism and retribution. Confessing to Roosevelt on 8th January, Churchill feared how ‘the great allies are so divided and the shadow of the war lengthens out before us.’¹³⁸ Churchill did not want to compromise the Big Three unity.

Yet British diplomatic frustration towards De Gaulle translated into diplomatic fixation, as France’s active role in British foreign policy became a lingering itch aching to be scratched. Churchill writing to Eden impatiently protested that De Gaulle was ‘a menacing and hostile man,’ and felt it was ‘impossible’ to involve him in the upcoming Yalta Conference.¹³⁹ The Yalta Conference was to answer the cardinal questions of shaping the postwar world by the major Allies. However, Churchill believed France was not yet a major ally, resenting France’s ‘masquerade as a great power for the purpose of war.’¹⁴⁰ Churchill’s opinion further hardened, speculating that if de Gaulle was invited to Yalta, de Gaulle would attempt to manipulate and break up the Big Three, by ‘playing two against the third’ for France’s imperial motives.¹⁴¹

Anthony Eden, on behalf of the Foreign Office wrote to Churchill, hoping for ‘French participation in some form,’ to strengthen Anglo-French relations. But it was axiomatic that

¹³⁵ Martin A. L. Longden, “From ‘Hot War’ to ‘Cold War’: Western Europe in British Grand Strategy, 1945–1948,” in *Cold War Britain: New Perspectives*, ed. Michael F. Hopkins, Michael D. Kandiah and Gillian Staerck (Basingstoke, England; New York, America: Palgrave Macmillan, 2003), 111-126.

¹³⁶ Anthony Eden to Duff Cooper, 3rd January 1945, FO 954/9B/447, U102/1/G, Kew, England: The National Archives.

¹³⁷ Alfred Duff Cooper, *The Duff Cooper Diaries*, ed. John Julius Norwich (London, UK: Phoenix, 2006), 345.

¹³⁸ Winston S. Churchill, “Prime Minister to President Roosevelt, telegram No. 880,” 8th January 1945, in *Foreign Relations of The United States: Diplomatic Papers, Conferences at Malta and Yalta, 1945*, ed. Bryton Barron, William M. Franklin, G. Bernard Noble (Washington, America: Government Printing Office, 1955).

¹³⁹ Telegram from Prime Minister to Eden Regarding His Views on De Gaulle, 19th January 1945, FO 954/9B/458, f. 458-460, Kew, England: The National Archives; Winston Churchill to Eden, 11th January 1945, FO 954/9B/451, Kew, England: The National Archives.

¹⁴⁰ Prime Minister to Eden, 19th January 1945, FO 954/9B/458, f. 458-460

¹⁴¹ Telegram from Prime Minister to Eden Regarding His Views on De Gaulle, 19th January 1945, FO 954/9B/458, f. 458-460, Kew, England: The National Archives.

Churchill's sympathies resided with American dislike of de Gaulle, for it 'settled the question' that de Gaulle would not be joining Yalta.¹⁴² Although Britain attempted to minimise inter-Allied quarrels, the Yalta Conference is infamous however within historiography for foreshadowing the ideological and political contestations within Cold War inter-Allied diplomacy.¹⁴³ Disputes at Yalta unveiled that behind Allied wartime cooperation, there was a gestation of polarising geostrategic objectives amongst the Big Three for governing the postwar European system.

Whilst Big Three wartime collaboration presided over military operations and the debauchery of Hitlerism, deliberations for postwar planning merely crystallised the fundamental ideological differences amongst the actors, especially between the West and Soviet Russia. Khurshid Hasan pictures the British delegation, welcomed in a remote village of Yalta by Stalin, as 'nervous and agitated.' The Yalta Conference created three weeks of politically intimate space shared by the three main Allied leaders of war. Churchill and his representatives were cautious to engage with Russia's 'lengthening shadow,' materialising into postwar Europe.¹⁴⁴ Additionally, Elizabeth Barker highlights that Britain was also mistrustful of the American commitment to internationalism. Western European defence aid 'rested on shaky foundations,' when at Yalta, Roosevelt announced that American military commitment would only last two years in Europe.¹⁴⁵

Furthermore, Britain had little American support for French restoration. A year prior, Roosevelt chided Churchill, that he was 'absolutely unwilling to police France... After all, France is your baby and it will take a lot of nursing in order to bring it to the point of walking alone.'¹⁴⁶ Thus, Britain sought to advance their long-term Western European foreign policy by procuring France as a fourth major Allied power. Churchill ultimately took the diplomatic gamble to claim France as their own postwar project, and bolster Anglo-French relations with the promotion of France as a great power. Neither Churchill nor the Foreign Office desired a Western European foreign policy relying solely on American aid. Already financially interdependent on American Lend Lease aid since 1941, Britain sought fresh prospects to define their own great power within the postwar world.¹⁴⁷

During Yalta, Britain consequently went against the status quo for France's participation in central postwar political affairs, namely for France's participation in the occupation of Germany, and within the Allied Control Council. On the 5th of February, Churchill fought for France's international status. It was noted that Churchill 'personally felt that France should play a very important role,' in postwar affairs, pointing out that 'France had had a long experience in dealing with the Germans... and could be of great help in the administration of

¹⁴² Anthony Eden to Prime Minister, 12th January 1945, FO 954/9B/455, P.M 45/23, Kew, England: The National Archives.

¹⁴³ Khurshid Hasan, "The Yalta Agreements." *Pakistan Horizon* 8, no. 2 (1955): 369-370.

¹⁴⁴ Ibid. 369-370

¹⁴⁵ Elizabeth Barker, *The British between the Superpowers, 1945-50* (London, England: Palgrave Macmillan, 1983), 12-14.

¹⁴⁶ Franklin D. Roosevelt, "President Roosevelt to the British Prime Minister (Churchill)," telegram, 7th February 1944, in *Foreign Relations of the United States: Diplomatic Papers, 1944, General, Volume I*, ed. E. Ralph Perkins, S and Everett Gleason (Washington, America: United States Government Printing Office, 1966).

¹⁴⁷ Anne Deighton, "The 'Frozen Front': The Labour Government, the Division of Germany and the Origins of the Cold War, 1945-7," *International Affairs (Royal Institute of International Affairs 1944-)* 63, no. 3 (1987): 453-454.

Germany.¹⁴⁸ Churchill pleaded to Stalin and Roosevelt that ‘sooner or later we would have to take France in,’ and they therefore ‘must provide for France in the future to stand guard on the left hand of Germany.’¹⁴⁹

However neither Stalin nor Roosevelt wanted France as a major power, because as Stalin argued, ‘the control and administration of Germany must be only for those powers standing firmly against her from the beginning and *so far* France does not belong to this group.’¹⁵⁰ Churchill’s loyalty to France remained dogged, pushing ‘uniformity in treatment of Germany between the four allies or there will be endless bitter disputes.’¹⁵¹ As the Yalta Conference dragged, it became clear that the Anglo-French and Russo-American divide was solidifying, with Churchill fearing that ‘a deadlock could result with the French and British on one side and the Russians and Americans on the other.’¹⁵² But, the diplomatic risks were low, for British desires to restore France’s political legitimacy as a great power were expected due to Anglo-French geopolitical commonality. Indeed, Britain’s reputation as a major Ally was unequivocal, and neither Stalin nor Roosevelt could deny Britain’s place at the postwar negotiating table.

With Britain’s relentless push for France, on the 10th of February American attitudes began to waver.¹⁵³ President Roosevelt admitted that ‘the more I think of it the more I think that the Prime Minister is right... I think it would be easier if France is on the commission to get de Gaulle to agree to join the liberated areas declaration and many other things.’¹⁵⁴ With Russia overpowered, the Allies agreed to Eden’s amendment to associate France in the draft declaration on liberated Europe and to ‘clear up the ambiguous situation in regard to France.’¹⁵⁵ France was reinstated as a fourth great power for postwar affairs.

This is pertinent because a month prior, under American directives, preliminary planning for an Allied control machinery was suggested, which would organise and operate German zonal occupation, where ‘the elimination of Nazism and militarism in any of their forms’ was an essential objective. Alongside ‘the immediate apprehension of war criminals for punishment

¹⁴⁸ “Bohlen Minutes: Treatment of Germany,” 5th February 1945, in *Foreign Relations of The United States: Diplomatic Papers, Conferences at Malta and Yalta, 1945*, ed. Bryton Barron, William M. Franklin, G. Bernard Noble (Washington, America: Government Printing Office), 617.

¹⁴⁹ Ibid. 617-618.

¹⁵⁰ “Matthews Files,” 5th February 1945, in *Foreign Relations of The United States: Diplomatic Papers, Conferences at Malta and Yalta, 1945*, ed. Bryton Barron, William M. Franklin, G. Bernard Noble (Washington, America: Government Printing Office, 1955), 628-629.

¹⁵¹ “Matthew Files: Matthew Minutes,” 7th February 1945, in *Foreign Relations of The United States: Diplomatic Papers, Conferences at Malta and Yalta, 1945*, ed. Bryton Barron, William M. Franklin, G. Bernard Noble (Washington, USA: Government Printing Office, 1955), 719.

¹⁵² “Bohlen Collection: Bohlen Minutes,” 7th February 1945, *Foreign Relations of The United States: Diplomatic Papers, Conferences at Malta and Yalta, 1945*, ed. Bryton Barron, William M. Franklin, G. Bernard Noble (Washington, USA: Government Printing Office, 1955), 710.

¹⁵³ Khurshid Hasan, “The Yalta Agreements,” *Pakistan Horizon* 8, no. 2 (1955): 369-370.

¹⁵⁴ Franklin D. Roosevelt, “Matthews Files: Matthews Minutes,” 10th February 1945, in *Foreign Relations of The United States: Diplomatic Papers, Conferences at Malta and Yalta, 1945*, ed. Bryton Barron, William M. Franklin, G. Bernard Noble (Washington, America: Government Printing Office, 1955), 908.

¹⁵⁵ Anthony Eden, “Matthews Files: Matthews Minutes,” 10th February 1945, in *Foreign Relations of The United States: Diplomatic Papers, Conferences at Malta and Yalta, 1945*, ed. Bryton Barron, William M. Franklin, G. Bernard Noble (Washington, America: Government Printing Office, 1955), 908.

are essential steps.’¹⁵⁶ Upholding major Allied postwar responsibility, France consequentially was centred in the Allied planning for establishing postwar political operations, including the eventual treatment of major war criminals.

Whilst Churchill and Eden pushed for French participation in postwar affairs, plans for treating major war atrocities were merely a cursory discussion. With British policy still ambivalent, Churchill’s diplomacy certainly resided in persuading Roosevelt and Stalin to change direction for an international trial to handle major war crimes. Subsequently, Churchill apprehensively attempted ‘to discuss the treatment of war criminals,’ having ‘sent a paper to the conference at Moscow,’ in believing that ‘this is an egg I have laid myself.’ Churchill, regarding major war criminals with no geographical location, ‘thought they should be shot once their identity is established,’ arguing for judicial trials for war criminals with lesser crimes, such as Rudolf Hess. However, Roosevelt quickly quashed any discussions, no longer vouching for summary arraignment, but the Stimson-Biddle-Hull plan. Matured over the years by his closest diplomats, it proposed international courts, and Roosevelt swiftly adopted such a vision in early 1945. With little patience, Roosevelt demanded an adjournment to the proposals of war crime punishments.¹⁵⁷

Indeed, Churchill and Eden had no fervour to press for an inter-Allied plan on major war atrocities, especially when Roosevelt, their most illustrious ally, was unwilling to politically negotiate. Subsequently, major war crimes planning was placed on the backbench at Yalta. Although affirming that major war crimes was a necessary political postwar concern, Britain greeted such proposals with great reluctance. The matter of major war crimes planning was a complex legal manoeuvre not designed for hasty and exhausted political plotting. Instead, the Big Three merely came to the ambiguous agreement for a ‘just and swift punishment’ to handle major war criminals.¹⁵⁸

British Major War Crimes Planning After Yalta

Unsurprisingly, the Yalta Conference was not the appropriate forum for Britain to change the emerging consensus on international trials as the central solution for prosecuting major war criminals. In the following months, Britain struggled to hew the right political conditions to influence their preferences for summary execution, obstructing and delaying the process for

¹⁵⁶ Wallace E. Whitson, Kelvin Nutting, and Harold W. Mosely, “Directive to Commander in Chief of U.S. (U.K.) (U.S.S.R.) Forces of Occupation Regarding the Military Government of Germany in the Period Immediately Following the Cessation of Organized Resistance (Post Defeat),” 6th January 1945, in *Foreign Relations of the United States: Diplomatic Papers, 1945, European Advisory Commission, Austria, Germany, Volume III*, ed. William Slany, John P. Glennon, Douglas W. Houston, N. O. Sappington, George O. Kent, E. Ralph Perkins, S. Everett Gleason, and Fredrick Aandahl (Washington, America: United States Government Printing Office, 1968), 380-382.

¹⁵⁷ Winston S. Churchill, “Matthews Files: Matthews Minutes,” 9th February 1945, in *Foreign Relations of The United States: Diplomatic Papers, Conferences at Malta and Yalta, 1945*, ed. Bryton Barron, William M. Franklin, G. Bernard Noble (Washington, America: Government Printing Office, 1955), 854-855; Franklin D. Roosevelt, “Matthews Files: Matthews Minutes,” 9th February 1945, in *Foreign Relations of The United States*, 854-855; Ann Tusa, and John Tusa, *The Nuremberg Trial* (London, England: Macmillan London Limited, 1983), 63.

¹⁵⁸ “Report of the Crimea: Communique at the End of the Conference,” 11th February 1945, *Foreign Relations of The United States: Diplomatic Papers, Conferences at Malta and Yalta, 1945*, ed. Bryton Barron, William M. Franklin, G. Bernard Noble (Washington, USA: Government Printing Office, 1955), 969-975.

establishing the Nuremberg Trial. Anglo-French relations within the initial preliminary stages of the IMT were met by worsened relations, due to the exclusion of France at Yalta.

After the Yalta Conference, de Gaulle was brazenly bitter, devastated that France had not earned their place at the Big Three conference, protesting that France was 'ready to play her full part in the negotiations for the future world organisation.'¹⁵⁹ For de Gaulle, an Anglo-French pact was non-existent until the preconditions of Britain 'eliminating certain vestiges of an out-of-date rivalry' were met, revealing that Churchill's dual policy at Yalta to appease France whilst maintain Big Three geopolitical interests, pushed a potential alliance further away.¹⁶⁰

It is worth noting that, as a standing great power, Britain not only had more diplomatic and political control within the international system, but solely drove France's reinstatement as a major Allied power at Yalta. Anglo-French relations were tilted on an uneven balance of power of diplomatic puppetry, whereby Britain moulded and directed France in alignment with their Western foreign policies.

Subsequently, Britain continued to keep France at arm's length until the war was over. On the 1st March, the Foreign Office wrote to the American delegation that 'as regards to discussion with the French government on post-surrender matters, these will be to a large extent covered by the E.A.C discussions.'¹⁶¹ The European Advisory Commission (E.A.C) was tasked with endorsing different options for Germany's role in the future of Europe, conditions of surrender, and the economic and political complexities pertaining to the rehabilitation of the postwar world. Britain handling French correspondence through an official political channel was an undiplomatic manoeuvre to distance France in central political affairs, until France upheld the appropriate cultural, military, and diplomatic attributes required to be a major postwar power.

Due to Britain's diminished image of France as a major power, the Foreign Office found such matters on 'the proposed international court' holding 'great difficulties in bringing the French alone into conversations on these questions without giving other Allies a chance to participate.' To the Foreign Office 'the smaller Allies have suffered in proportion at least as heavily, if not more heavily, than the French from atrocities committed by war criminals.' Consequently, the Foreign Office argued that 'it would provoke resentment among them if they were excluded in favour of the French alone.'¹⁶² Britain sought to prevent compromising major war crimes planning by including legal traditions it perceived as culturally and judicially inferior.

It is worth noting that by late 1944, Britain had determined to conduct local trials against minor NSDAP criminals, and a holistic appraisal of British war crimes planning is imperative to comprehending why Britain was deeply adverse to an IMT. As Donald Bloxham has observed, by 1945, Britain's position as a major Allied force and principal occupying power had thrust British policymakers into controlling one of the zones in defeated Germany, and

¹⁵⁹ Telegram from Alfred Duff Cooper, "Summary of General De Gaulle's Broadcast Speech on Foreign Affairs," 6th February 1945, FO 371/49154/Z1816, no.216, Kew, England: The National Archives, f.181-183.

¹⁶⁰ Ibid. f-181-183.

¹⁶¹ Foreign Office out-file telegram to Washington, 1st March 1945, FO 371/51012/U1076, telegram no. 1972, Kew, England: The National Archives.

¹⁶² Ibid.

thus inheriting the responsibility to investigate and prosecute wartime atrocities committed within its jurisdiction. The British zonal trials were conducted under the provisions of the Royal Warrant, with the first emblematic case commencing in September 1945: the trial of forty-five of the major perpetrators at the Belsen-Bergen camp. Churchill and the War Cabinet simultaneously navigated the question of localised war crime trials whilst comprehending the legal complexity of punishing major NSDAP criminals who committed acts that had no grounding in legal practise.¹⁶³ It was thus unsurprising that the latter was more of a political burden, than dealing with lower-ranking NSDAP criminals whose crimes, such as murder against prisoners of war, were legally easier to grapple when such crimes existed within peacetime.¹⁶⁴

The question of why Britain was inconsistent with their legal approach to zonal trials and the implementation of an international tribunal can be answered by understanding the nature of the Royal Warrant. Proceedings conducted under the Royal Warrant reveal Britain's inclination for prosecutions that were locally administered and circumscribed to British interests, and grounded in military jurisdiction with an existing legal frameworks and traditions on how war criminals should be punished. Indeed, the contrast with British attitudes to an IMT is striking. The legal structure to conduct an IMT remained embryonic until the final phase of war, requiring multilateral cooperation with ideologically polarising states. Whilst zonal trials embodied legal traditionalism, and prosecutorial pragmatism on one hand, the IMT demanded legal innovation and inter-Allied compromise, becoming a political obligation on the other hand. Britain's reluctance for an IMT illustrates the uneasy coexistence between the cautious adherence to familiar judicial forms on a covert level, and a reluctant recognition that political necessity required international participation for a trial that the Foreign Office saw little point in; Especially when participation required the ideological exchange of legal cultures.

Whilst France was already a high risk for convoluting the political process of dealing with Axis atrocities due to their different legal practises, Britain also faced the looming dilemma of legally, and thus ideologically exchanging with Soviet Russia. Colin S. Gray highlights how 'capitalist powers are irreconcilable enemies of Socialism,' and the ideological differences were inescapable, thus Britain strove to delay ideological confrontation for as long as possible in the domain of postwar reconstruction.¹⁶⁵

Writing to the Foreign Office, diplomat John Wilson advised that 'we should limit our contacts with the Russians on the question of war crimes to the absolute minimum, their ideas on the subject and ours seem to differ so fundamentally that almost any contact is liable to lead to a clash which it will be almost impossible to resolve.'¹⁶⁶ Wilson underscored the how British deliberation for a major war crimes plan extended beyond the question of how Axis criminals should be punished when the guilt was so apparent, but the political ramifications for interculturally communicating with ideologically polarising and unstable states. Thus,

¹⁶³ Donald Bloxham, "British War Crimes Trial Policy in Germany, 1945–1957: Implementation and Collapse," *Journal of British Studies* 42, no. 1 (2003): 91–98.

¹⁶⁴ Ibid. 92–95.

¹⁶⁵ Colin S. Gray, *The Soviet-American Arms Race* (London, England: Saxon House, 1976), 66.

¹⁶⁶ John Wilson, Foreign Office minutes, "War Crimes and European Advisory Commission," 23rd March 1945, 51014/U1859, f.19-21, Kew, England: The National Archives.

Britain not wanting to be injudicious when Allied relations were so tentative, did not reach a solid conclusion on their major war crimes policy until it was diplomatically essential, and negotiations could not wait any further.

Yet within less than a month, in the spring of 1945, a proliferation of substantial arrangements and meetings commenced in London to consolidate an inter-Allied methodology for treating major war criminals. The Foreign Office, already a primary political hub in the formulation, reshaping, and reconsideration of Britain's major war crimes planning, became crucial for managing the intercultural interactions among the major Allies within the establishment of an IMT. Sir Patrick Dean, one of the leading architects of Britain's approach to major war criminals, wrote to the German Department of the Foreign Office that 'major war criminals bristles with political points,' where 'the Foreign Office, in spite of all the difficulties, should insist on being kept properly in the picture and the negotiations with the Allies being conducted either through the Foreign Office channels or at least with its full knowledge and consent.'¹⁶⁷ The German Department subsequently agreed, especially 'when it comes to dealing with the Russians,' as well as 'negotiations with our Allies and a lot of tricky foreign politics.'¹⁶⁸

Indeed, previous historiography has not fully appreciated the workings of the Foreign Office in the Nuremberg Trials.¹⁶⁹ For it is vital to stress that as a product of foreign policy, the creation of an IMT intertwined with the broader political and eventual Cold War ties Britain was involved with in 1945. The Foreign Office was not just apprehensive about working with Soviet Russia, but how Britain should interact with America and France to secure their foreign interests, whilst achieving their directive for inter-Allied cooperation for the new world order.

By April 1945, Britain still had not been able to cajole America or Russia into a summary execution arraignment. Yet the Foreign Office were cautious not to compromise British international power and agitate the wider inter-Allied system with an obstinate foreign policy that went against the Allied status quo for desiring an IMT. Foreign Office Permanent Under-Secretary Sir Alexander Cadogan described the Allied tension as a 'fundamental difference of views,' and that America felt 'strongly of the opinion there must be some sort of judicial process and that we couldn't dispose of major criminals by political decision.'¹⁷⁰

Cadogan writing to Judge Samuel Rosenman, expressed that Britain was 'also deeply impressed with the dangers and difficulties' for an IMT, especially 'if the method of public trial were adopted,' it could be perceived from the world that the 'whole thing is a "put-up-

¹⁶⁷ Patrick Dean, draft Foreign Office minutes for presentation to the War Cabinet, 27th April 1945, FO 371/51019/U3319, Kew, England: The National Archives.

¹⁶⁸ John G. Ward, German Department Foreign Office minutes, 28th April 1945, FO 371/51019/U3319, f.1-f.2, Kew, England: The National Archives.

¹⁶⁹ However a rare but foundational exception is the works of Donald Bloxham, especially "'The Trial That Never Was': Why There Was No Second International Trial of Major War Criminals at Nuremberg," *History* 87, no. 285 (2002): 41–54, that underpins Foreign Office impetus for political dissuasion of the IMT and further trials.

¹⁷⁰ "Treatment of Major War Criminals," a message by Alexander Cadogan to the Lord Chancellor, 22nd April 1945, FO 371/51018/U3034, f. 1-2, Kew, England: The National Archives.

job” designed by the Allies to justify a punishment they have already resolved on.’¹⁷¹ Britain was ‘most anxious,’ for an agreement into the methodological approach for major war crimes when the option for an IMT seemed to trivialise and denounce any punishment towards Hitler and his chief associates as a ‘farce.’¹⁷²

Yet as David Reynolds highlights, both Britain and America still heavily relied on their transatlantic alliance against the threat of communism.¹⁷³ However, American officials, although preferring to collude with Britain, felt trapped by Britain’s refusal of an international trial without firm French or Soviet support.¹⁷⁴ For America, an alternative to legal means was unnegotiable. Retrospectively, Martti Koskenniemi interprets the Nuremberg Trials, as a didactic paradigm, built to soothe a ‘wounded community’ and to ‘recreate the conditions of viable social life.’ Koskenniemi meticulously highlights that the IMT enabled new ideological conditions within the postwar world. Although the IMT was intrinsically political, America didn’t want a show trial or a draconian summary execution. American lawyers, especially Judge Robert H. Jackson, wanted to cultivate an IMT as a sacrosanct cultural deterrent to guide and instruct states, where atrocities in the Second World War were not only unacceptable, but did not coincide with the collective values of peace and security that defined the new international system.¹⁷⁵

Longing to break the political deadlock, American Assistant Secretary of War, John McCloy hoped to garner French support for an international trial. Speaking to General Charles de Gaulle on 11th April, de Gaulle professed to McCloy that ‘we should try by an interallied tribunal the chief figures of Nazism,’ and to McCloy’s relief, ‘it sounded very much as it were substantially the same as our proposition.’¹⁷⁶ This was an immensely frustrating contrast to Britain, as the ‘position of the War Cabinet was that judicial action was so precarious and difficult we had better operate entirely political action.’¹⁷⁷

French support for an international tribunal was crucial to the establishment of the Nuremberg Trials. Upholding American liberalism in agreeance for an international tribunal, France had the potential to geopolitically symbolise democratic values against the growth of communism in Western Europe. Crucially French support outweighed British incentives for a swift summary execution of the major war criminals. Indeed, British officials did not want to alienate their two greatest allies, especially when the end of war was in sight and Russia too supported an IMT. Subsequently, with diplomatic confidence, America stood firmer in their position for an international trial against Britain, only accepting Britain’s arraignment

¹⁷¹ Alexander Cadogan, Aide-Memoire to Judge Samuel Rosenman, April 23rd, 1945, “International Conference on Military Trials : London, 1945: Aide-Memoire from the United Kingdom, April 23, 1945,” in *International Conference on Military Trials: London, 1945. Report of Robert H. Jackson, United States Representative to the International Conference on Military Trials: London, 1945*. Department of State Publication 3080 (Washington, DC: Government Printing Office, 1949), <https://avalon.law.yale.edu/imt/jack02.asp>, last accessed October 19, 2025.

¹⁷² Ibid.

¹⁷³ David Reynolds, “From World War to Cold War: The Wartime Alliance and Post-War Transitions, 1941-1947,” *The Historical Journal* 45, no. 1 (2002): 211–217.

¹⁷⁴ Bradley F. Smith, *The road to Nuremberg* (New York, America: Basic Books, 1981), 5, 154, 173-174, 190-191.

¹⁷⁵ Taylor, Telford. “The Nuremberg Trials,” *Columbia Law Review* 55, no. 4 (1955): 489-493.

¹⁷⁶ Diary of John J. McCloy, 1945, April 11th 1945, in John J. McCloy Papers (Box DY1, folders 16-19), Archives and Special Collections, Amherst College Library.

¹⁷⁷ John McCloy, April 16th 1945, in John J. McCloy Papers.

procedure of a summary execution if it were ‘sufficiently dressed up’ with legal qualities to it.¹⁷⁸

However, it is important to stress that the Big Three perceived France as still not politically fit to perform as a major Allied power, and French support for an IMT did not guarantee increased participation with America or Britain for major war crimes planning. It took until 3rd May 1945 for the British Foreign Office to agree with their Allies in the San Francisco Conference that ‘the French Delegation should be associated with further discussions’ for dealing with major war criminals.¹⁷⁹

A day later Cadogan in San Francisco circulated a memorandum by the Lord Chancellor that was to become the central active British policy on major war crimes where although ‘execution without trial is the preferable course... if our two major Allies remain convinced that this is necessary, we are willing to accept their views in principle’ for judicial trials.¹⁸⁰ Whilst Britain was backed into a corner to appease the Allied push for an IMT upon the backdrop of French support for one, within documentation France was still not considered as a major international Ally. Although British Western European policy widened the gateway for France to belong as the fourth power in postwar planning, and indirectly crystallising operations for an IMT, British attitudes to France as a second-ranking power remained stagnant.

With no choice but to follow Allied planning, Britain proceeded to sideline any opposing legal exchanges and communications with France, instead prioritising Anglo-Saxon legalism to dominate the Nuremberg Trial. In an aide-memoire on 6th June 1945, the Foreign Office argued that there needs to be ‘uniformity and similarity of outlook’ for the creation of the IMT, where it ‘would clearly simplify matters and make for speed’ if the United States suggestions were to be adopted for an exclusive Anglo-American tribunal.¹⁸¹

Britain opted for a swift establishment of an IMT, and for such a successful occurrence it required minimal political and ideological disputes that would prolong the diplomatic and legal processes. Intercultural communication posed a significant risk in establishing international law not founded upon Western values, where Anglo-Saxonism classified all dictatorial regimes as organically dangerous. As Kim Christian Priemel highlights, the Allies aimed to transform despotism into democracy, whilst promoting an ethical and political design superior to the fallen NSDAP regime.¹⁸² Western liberalism was the greater fit, elucidating the postwar world of democratic principles of freedom and peace. British preference for Anglo-Saxon legalism transformed into hegemonic moral and ideological

¹⁷⁸ “Treatment of Major War Criminals,” a message by Alexander Cadogan to the Lord Chancellor, 22nd April 1945, FO 371/51018/U3034, f. 1-2, Kew, England: The National Archives; Bradley F. Smith, *The Road to Nuremberg* (New York, America: Basic Books, 1981), 190-191.

¹⁷⁹ UK Delegation, Outward telegram to Australia, Canada, the D.O Section, New Zealand and South Africa Government, Received 10th May 1945, FO 371/51019/U3450, Kew, England: The National Archives.

¹⁸⁰ “The Argument for Summary Process Against Hitler A Co,” Annex B memorandum in “Treatment of Major War Criminals,” a memorandum by the Lord Chancellor, 3rd May 1945, FO 371/51019/U3450, f.1, Kew, England: The National Archives.

¹⁸¹ Aide Memorandum on “War Criminals,” by Earl of Halifax, 6th June 1945, FO 371/51026/U4704, f. 1-2, Kew, England: The National Archives.

¹⁸² Kim Christian Priemel, *The Betrayal: The Nuremberg Trials and German Divergence* (Oxford, England: Oxford University Press, 2016), 3.

manoeuvrings, aiming to minimise the infiltration of all continental prosecution- including France's practise of continental Civil Law.

British insistence on Allied unity during the making of the Nuremberg Trial when they stood out as the main state against such a concept, merits a richer understanding of what British diplomats hoped to gain from inter-Allied cooperation. Ultimately, British policymakers aimed for speed, smooth cooperation, and moral triumph in the postwar world.

In the Summer of 1945, British officials and lawyers, upon accepting that an IMT was the primary plan, accepted it rapidly and eagerly to maintain their partnership with America during the proceedings. Whilst legal interaction with Soviet Russia and France was expected, Britain opted for a close alliance with America to bolster the pace of negotiations. By July 1945, American legal advisor Sidney Alderman claimed that 'the British and we would each undertake to produce a preliminary draft of the indictment for further consideration,' of 'tacitly' selecting how each war criminal should be tried.¹⁸³ America was too not keen on an equal partnership with neither France nor Russia in penally categorising the list of defendants, with the intent to 'submit the results from time to time to the Soviet and French delegations.'¹⁸⁴ With Anglo-Saxon legal unity, it was harder for Russia and France to diverge against such views, and whilst there was legal disputes, the disputes were greatly minimised as a result of this tactic.

Subsequently, the four major Allies balanced on the scale of Anglo-American friendship on one end, and France and Russian legal differences on the other. British officials feared that the 'certain divergencies of opinion as to the way the trials should be conducted' posed to aggravate American representatives. Dean feared that Judge Robert Jackson would 'magnify differences' between Allied legal practices by opening the gateway for certain trials, that the Foreign Office feared would turn into 'Soviet by character.'¹⁸⁵ Magnifying legal differences ultimately posed risks to not only threaten Soviet isolation and thus the collapse of an IMT for separate zonal trials, but overly engaging and culturally exchanging with Soviet legalism would dilute and tarnish the Anglo-Saxon model that American and British lawyers had strived to achieve. Making legal divergences obvious, not just via Soviet differences, but France's differing views, where half of the Allies were overly compromising and sacrificing, threatened to accentuate the ideological fragmentation at the dawn of the postwar world.

Furthermore, although France did not practise Soviet legalism, and in theory French legalism was democratic, sympathising with France posed additional risks. Indeed, if British policy fostered French continental legal practise, then Britain would have no choice but to adopt Soviet legal ideologies too without compromising Allied unity. Furthermore, coupled with a failed diplomatic strategy for Anglo-French relations, French legal organisation and direction were feeble and awkward.

During preliminary IMT sessions in London in June 1945, France led by Judge Robert Falco, barely spoke, uttering only a few suggestions that bore little significance in comparison to the

¹⁸³ Sidney S. Alderman, "Negotiating the Nuremberg Trial Agreements," in *Negotiating With the Russians*, ed. Raymond Dennett and Joseph E. Johnson (Boston, America: World Peace Foundation, 1951), 84.

¹⁸⁴ *Ibid.* 84-85.

¹⁸⁵ War Crimes Negotiations," draft Foreign Office minute from Patrick Dean, 1st July 1945, Received 7th July 1945, FO 371/51029/U5302, Kew, England: The National Archives.

other Allies.¹⁸⁶ Unsurprisingly, France's conduct appalled British representatives, with Sir Patrick Dean worrying, that similar to Russia, France would 'differ profoundly from Anglo-Saxon ideas.'¹⁸⁷ Indeed, Richard Beaumont from the War Crimes department, commented to Dean, and his colleague legal advisor David Scott-Fox, that France was 'very slow both in accepting U.S draft and appointing their counterpart to Judge Jackson... one wonders whether General de Gaulle's pique with us and the U.S can have any bearing on their delay.'¹⁸⁸

The Foreign Office merely saw France's efforts as spiritless and dysfunctional, contributing little to the holistic organisation of the tribunal in comparison to Anglo-American exertions. Diplomatic contention from General Charles de Gaulle merely heightened Foreign Office paranoia that the wider inter-Allied tension was infecting the process of establishing an IMT when they had only just begun. The lack of positive Anglo-French relations tightened British Foreign Office perceptions that France posed a diplomatic risk that could endanger the outcome of an Anglo-Saxon-led trial necessary to outline the cultural values of the postwar international system.

Subsequently, although France successfully pushed to include their prisoners Franz von Papen and Konstantin von Neurath as suitable defendants, Anglo-American collaboration isolated France's immediate and direct involvement until it was necessary to cooperate.¹⁸⁹ Diplomatic focus was solely on Anglo-American relations to ensure that the legal directive of the IMT threaded through with Anglo-Saxon ideology. British cultural exchange rested primarily on upkeeping formality, uniformity, and legal progression for an IMT.

Consequently, Patrick Dean writing in August 1945, argued that 'negotiations with the three Allies have hitherto been difficult and these difficulties will continue until the trials are completed,' especially when legal 'differences which already exist between Anglo-American procedure on one hand and continental procedure (which would be familiar to the Soviet and French representatives) on the other.'¹⁹⁰ British attitudes to French legalism, and the nature of establishing an IMT was uncompromising and insular. Whilst British diplomats did not intend to exacerbate early Cold War tensions, their incentive to disseminate Western cultural ideas of democracy through the IMT, regardless of the political implications, divided the Allies into two Cold War ideological subcamps. Indeed, Russia did not attempt to Stalinise the IMT, instead Cold War tensions surmounted the limited reciprocation of Anglo-Saxon legal exchange.

Whilst the Nuremberg Trial did proceed as a legally collaborated inter-Allied IMT, the ideological tension between the Allies surmounted all possibility of a diplomatically unified court proceeding when trials did commence in November 1945. Whilst Britain did not overtly demonise communist convictions for international law, the diplomatic and legal spaces to

¹⁸⁶ Ann Tusa, and John Tusa, *The Nuremberg Trial* (London, England: Macmillan London Limited, 1983), 74-76.

¹⁸⁷ "War Crimes Negotiations," draft Foreign Office minute from Patrick Dean, 1st July 1945, Received 7th July 1945, FO 371/51029/U5302, Kew, England: The National Archives.

¹⁸⁸ Foreign Office minute from Richard Beaumont, 19th June 1945, FO 371/50125/U4665, Kew, England: The National Archives.

¹⁸⁹ Sidney S. Alderman, "Negotiating the Nuremberg Trial Agreements," in *Negotiating With the Russians*, ed. Raymond Dennett and Joseph E. Johnson (Boston, America: World Peace Foundation, 1951), 87.

¹⁹⁰ Patrick Dean, "War Crimes: Appointment of a Chief Prosecutor and the Choice of a British Member of the International Military Tribunal," Foreign Office minute to the Secretary of State, 7th August 1945, FO 371/51033/U6169, Kew, England: The National Archives.

construct the IMT overtly sidelined both Russia and France. The Nuremberg Trial ultimately became an early Cold War front where policymakers actively engaged in ideological competition and rivalry that had a profound impact on postwar legal operations. Subsequently, such spaces merely worsened Anglo-French cooperation, and the opportunity to interact and cooperate on high intelligence postwar affairs, by November, was a lost opportunity in the face of postwar instability.

Conclusion

Although the Nuremberg Trials began in November 1945, Anglo-French partnership did not. Britain was not averse to France's involvement within Nuremberg, but British diplomats did not use the International Military Tribunal (IMT) to engage, cooperate, or establish cultural legal commonality with France to bolster and secure their Western European foreign policy.

Instead Britain was politically inattentive when it came to formulating a foreign policy on major war crimes planning, for legal procedure was not an organic solution, nor was inter-Allied cooperation with France on such matters. British diplomats instead crafted the diplomatic space for establishing the first Nuremberg Trial to strengthen Anglo-Saxon governance within the postwar world, concentrating the political capacity to accommodate varying ideological systems with the heavy direction of Anglo-American cooperation that threaded throughout the entire process in 1945.

Although Britain vouched for France's political potential as a fourth major postwar power at Yalta, Soviet-American economic and political prowess eclipsed the international system, and for British officials, an Anglo-French alliance was undesirable as a primary foreign policy directive. British French foreign policy was driven by desperation to remain a postwar major power, fixated on the geopolitical advantages of a potential, and essentially recovered France. Yet British ambition was fatally impetuous, and British foreign policy was too premature to enact a precise and effective Western European plan that would reunite Anglo-French comradeship, and secure the Foreign Office's postwar interests for Western European integration.

Whilst France was not necessarily ideologically dangerous, nor contaminated with deep-rooted communism unlike Soviet Russia, French involvement in the Nuremberg Trial did not promote the standard of legal and cultural values that Britain required for an alliance within the makings of an IMT.

Crucially, the creation of the IMT was not politically charged enough to overtly worsen inter-Allied relations due to the political commonality in punishing major war criminals. However, the intercultural differences in ideological and legal culture covertly wore away at the fabric of inter-Allied cooperation, and accentuated the cultural differences among the Allies. Britain opted for similarity, and a uniformed hegemonic position with America for treating not only the ideological contagion of Nazism, but internationally, enforcing legal boundaries to deter nondemocratic and war-incurring behaviours.

Consequently, France was merely tolerated by Britain, and without supporting the legal practise of Anglo-Saxonism, they instead balanced the scales of Anglo-Saxonism and Soviet legalism, into two overt subcamps during the preliminary IMT negotiations that progressively grew wider apart.

Whilst British participation within the first Nuremberg Trial was not a direct attempt to worsen Anglo-French relations, the political ramifications were a byproduct of British egoism for a controlled and organised Western international tribunal, with minimal continental influence. However, British attitudes towards France did not direct the Allies into actively isolating France, nor prevent French legal contribution.

Although Britain manoeuvred France into major Allied postwar operations, France was not entirely dependent upon British diplomatic support. Whilst France's participation was strikingly minimal, French officials further pushed the Foreign Office into a corner for legal proceedings that led to Britain's eventual resignation for a summary arraignment. Yet the lack of Anglo-French unity on such matters merely foreshadowed the political abyss between them that the Second World War caused, and Britain's unwillingness to ideologically nor legally compromise with France drove the Foreign Office towards an Anglo-American led Nuremberg Trial.

Subsequently, when the Nuremberg Trial did commence in November 1945, the British focus on the Anglo-American partnership churned ideological competition, Anglo-French rivalry and alienation, setting the foundation for Cold War tension in the deliberation for a second IMT in 1946 as explored in the final chapter.

The Consequence of Alliance: The End of Anglo-French Cooperation for a Second International Military Tribunal, 1945-1946

Introduction

On the 2nd January 1946, *The Times* described the quadripartite cooperation for treating major war crimes as fulfilling a ‘fundamental Allied policy.’¹⁹¹ On the surface, prosecuting major war criminals had created, as Nicolas Doman wrote in July 1946, a ‘spirit of harmony’ amongst the four powers, as a ‘valid force of world politics.’¹⁹² However, investigation into talks for the twelve subsequent Nuremberg Trials reveals how the diplomatic process for an International Military Tribunal (IMT) translated wartime alliance cooperation into a rapid retreat from further subsequent inter-Allied trials at Nuremberg.

With a secured example of a successful IMT, the necessity and need to prove to the world that the Allies could deliver justice greatly lessened, especially when talks for a second IMT were shrouded in escalating geopolitical tension of Allied postwar planning. Although the subsequent trials were executed by mainly America, it was Britain who drove the departure of the Big Four in the works for a second IMT. This chapter highlights that instead of using the opportunity to build an alliance with the space created for an extended war crimes policy, Britain continued to isolate France through legal proceedings, and to balance Russo-French forces by maintaining Anglo-American ideological and legal hegemony over any potential outcomes for postwar international security.

The Twelve subsequent Nuremberg Trials succeeding the first IMT are founded on threadbare and little historiography, overshadowed by the overwhelming academic and public obsession for analysing their predecessor.¹⁹³ The Nuremberg Trials are renowned as the singular trial of 1945, emblematic not as a fluid paradigm channelling Cold War tension and competition, but a showcase of the Allied experimentative exploration into international law for delivering a cathartic postwar examination of major war atrocities.¹⁹⁴ Francine Hirsch describes the first Nuremberg Trial as a ‘foundational event of the postwar era,’ shrouded in the ‘classic narrative’ as an American-Western prescription for the terrors and atrocities committed in the war.¹⁹⁵

¹⁹¹ "Rooting Out The Nazi Evil," 2nd January 1946, *Times*, pg.11, *The Times Digital Archive*, https://link.gale.com/apps/doc/CS184893986/TTDA?u=bu_uk&sid=bookmark-TTDA&xid=b6bfa7f4, last accessed 28th December 2024.

¹⁹² Nicholas Doman, "Political Consequences of the Nuremberg Trial," *The Annals of the American Academy of Political and Social Science* No. 246 (1946): 81.

¹⁹³ Donald Bloxham, "From the International Military Tribunal to the Subsequent Nuremberg Proceedings: The American Confrontation with Nazi Criminality Revisited," *History* 98, no. 4 (332) (2013): 567–570.

¹⁹⁴ Francine Hirsch, "The Soviets at Nuremberg: International Law, Propaganda, and the Making of the Postwar Order," *The American Historical Review* 113, no. 3 (2008): 703-706.

¹⁹⁵ Ibid. 703-706.

Crucially, Hirsch highlights that by 1945, ‘the Soviets began to fully envision international law as an instrument for reshaping the international system.’¹⁹⁶ International law was more than a structural process of punishment, but a political device for international state governance. With Soviet interest in reconfiguring the new world order, Britain desired to prevent any differing continental practises, including French Civil Law, from diluting the ascendancy of Anglo-Saxon legalism in establishing the new moral and political boundaries for state regulation.

Consequently, Anglo-French relations remained stagnant, beyond collaborative repair, and sidelined in favour of the Foreign Office’s pursuit of containing communist influence within the postwar international legal system. Strikingly, this chapter reveals how talks for further international trials intensified British alienation towards France as the Foreign Office strove to politically manoeuvre the Allied decision towards separate zonal tribunals. Unsurprisingly, as this dissertation has so far proved, Allied cooperation was merely an unbalanced scale of diplomatic power, driven by British disregard for differing cultural ideals, and Soviet-French defeat in pursuing their national interests; For the sake of maintaining the façade of postwar Allied unity amidst the Cold War.

Cold War historiography since political commentators and academics wrote in the late 1940s, has predominantly focused socio-economic Cold War frameworks on the Americanisation of the Western world, especially as Hirsch highlights, within their contribution to international law that offered little room for other Allies to partake in.¹⁹⁷ International law is not just a legal and political process, but a manifestation of cultural ideas and political identities rooted in moral and ideological egoism. Thus the subsequent Nuremberg Trials are further assessed to expand upon the preexisting historiographical interpretations within Cold War studies.

Although the Nuremberg Trials are renowned for their Anglo-Saxonist mark, historians have scarcely brushed upon Britain’s role in the subsequent Nuremberg Trials, namely Anglo-French relations, with only a handful of scholars such as Donald Bloxham and Paul Weindling, conducting extensive examinations into why Britain did not want additional Nuremberg Trials.¹⁹⁸ Unpacking political documents and governmental archives, Bloxham highlights that the strands of Cold War tension in the suggestion for a second IMT were tightened by Britain’s distaste for it, with the British Foreign Office desiring to maintain the balance of power system with America, dividing the quadripartite alliance entirely.¹⁹⁹

Chronologically assessing the breakdown for diplomatic discussion regarding subsequent Nuremberg Trials, this chapter through the use of namely Foreign Office documentation, and political papers, portrays how Britain wanted a rapid succession of national and transnational

¹⁹⁶ Ibid. 705-706.

¹⁹⁷ Francine Hirsch, *Soviet Judgment at Nuremberg: A New History of the International Military Tribunal After World War II* (New York, America: Oxford University Press, 2020), 1-10.

¹⁹⁸ Donald Bloxham, “‘The Trial That Never Was’: Why There Was No Second International Trial of Major War Criminals at Nuremberg,” *History* 87, no. 285 (2002): 41–54; Paul Weindling, “From International to Zonal Trials: The Origins of the Nuremberg Medical Trial,” *Holocaust & Genocide Studies* 14, no. 3 (2000): 367-389, *HeinOnline*. For additional insight into the diplomatic evolution for the subsequent Nuremberg Trials see: Michael Marrus, “The Nuremberg Doctors’ Trial in Historical Context,” *Bulletin of the History of Medicine* 73, no. 1 (1999): 106–123.

¹⁹⁹ Donald Bloxham, “‘The Trial That Never Was’: Why There Was No Second International Trial of Major War Criminals at Nuremberg,” *History* 87, no. 285 (2002): 41–54.

trials, rather than a prolonged event that required further diplomatic engagement with the Allies. Subsequently, this chapter delves into Britain's continued unwillingness to engage equally with France in postwar major war crimes planning.

What is pertinent is that through the lens of British attitudes concerning Anglo-French relations, the political discussions of a second IMT were embroiled in Allied insecurity about the future of Western Europe. It proved unfathomable for the Allies to resolve these differences within diplomatic spaces for international legal construction. Yet it proved ample opportunity and time for the permanent aggravation of intercultural communication amongst the four major powers into a Cold War front by 1946.

Led by a Promise: British Reluctance for a Second Trial in the Summer of 1945

The success of the first Nuremberg Trial did little to convince the British Foreign Office that an additional IMT was viable, desirable, and could buttress inter-Allied relations while implementing international justice and denazification. Towards the end of legal negotiations, neither diplomats nor lawyers were able to coherently cooperate without ideological contention. British lawyers and diplomats organising the first IMT were in close alignment with Foreign Office ideals for the new international system. Subsequently, neither legal nor diplomatic negotiations within the Nuremberg Trial proved to create amicable grounds enough for British officials to expand upon postwar major war crimes planning.

Seminal historian Donald Bloxham describes Britain's aversion to subsequent trials based on 'political grounds,' where multiple trials would be 'anticlimactic,' and 'unnecessarily expensive.'²⁰⁰ Facing financial impoverishment and the loss of empire, Britain had little time to engage in their international responsibility for delivering extensive moral and political catharsis to the postwar world.

Yet the Foreign Office faced a major problem for potential subsequent trials, because once again, they stood against the Allied consensus for a second IMT. At the London Conference between June and July 1945, America proposed for further trials extending the scope of war atrocities prosecuted, to industrialists who had significantly engaged in NSDAP crimes against peace and criminal conspiracy. Chief American Judge, Robert Jackson, encouraged the indictment of the Krupp family of Essen, especially Gustav Krupp, whose industrial empire churned German wartime machinery.²⁰¹

Britain however greeted such proposals for a second IMT with notable caution. Whilst the Foreign Office did not want further trials, they held little diplomatic power to dissuade the Allies of such plans. Instead, the Foreign Office continued to maintain the Anglo-American balance of power to safeguard against any infiltration of continental legalism into further major war trials. In July 1945, Sir. Patrick Dean, outlined the primary consensus within the Foreign Office, that 'the only important contribution of the Russian and French was to support the American proposals,' towards any arrangement of subsequent Nuremberg

²⁰⁰ Donald Bloxham, "From the International Military Tribunal to the Subsequent Nuremberg Proceedings: The American Confrontation with Nazi Criminality Revisited," *History* 98, no. 4 (332) (2013): 576.

²⁰¹ Donald Bloxham, "'The Trial That Never Was': Why There Was No Second International Trial of Major War Criminals at Nuremberg," *History* 87, no. 285 (2002): 46.

Trials.²⁰² British attitudes were almost sterile, lacking any diplomatic loyalty to the Quadripartite Alliance that Britain fought to secure in the Yalta Conference merely five months prior.

France, as revealed in the previous chapter, was not an equal partner to Britain, and Anglo-French relations held little moral and legal value in constructing the first Nuremberg trial, let alone any additional trials. British policy accentuated the differences between Anglo-French wartime experiences, for postwar vindication against more intricate crimes of economic complicity was not a British priority, but was essential to France. France's cultural fabric had been stripped by Nazism, and indicting industrialists as symbols of systemic NSDAP corruption was vital for France to grieve a nation that had been taken from them. Nazism was not only a political force, but permeated into the economic and cultural spaces of France. Intimate spaces of day-to-day living, and French identity were transformed into instruments of Third Reich nationalism and warfare. As Bloxham reflects, NSDAP industries and organisations caused extensive damage to France, and France refused to back down during the negotiations for the first trial in desiring additional trials.²⁰³ With American and Russian support, a few months before the commencement of the Nuremberg Trial, the Big Four agreed upon the need for legal action to take place against the main industrial leaders.²⁰⁴

However, medical opinion deemed Gustav Krupp unfit for trial. Judge Telford Taylor's final report of the Nuremberg Trial proceedings, noted that on 12th November 1945, on behalf of the American delegation, he requested the 'alternative that his son, Alfried Krupp von Bohlen, be designated as an additional defendant in the case.' Yet on the same day, British Chief Prosecutor Hartley Shawcross declined the Allied request to include potential NSDAP industrialists in the first IMT, unless tried in absentia, due to his concerns of delaying the trial any further.²⁰⁵ Britain's reluctance merely hardened Anglo-French relations, causing France to purportedly find Britain's resignation to prosecute 'unpalatable' due to the economic exploitation and slave labour of French men under the duress of the Krupp industry.²⁰⁶

To prevent Allied disunity within the most crucial stage for executing the IMT, Britain attempted to placate the Allies for a second IMT, whilst also attempting to prevent further discussion on the matter and ensure that the IMT would be conducted as quickly as possible. As Dean admitted in June 1946, Britain 'came to be committed to a second trial by reason of an oral promise' to France and Russia the day before the first IMT, 'in getting them to agree to go forward on the 20th November' and begin the Nuremberg Trial.²⁰⁷ For Dean, 'the

²⁰² Patrick Dean, Foreign Office Correspondence to David Scott-Fox in 'Agreement of Charter for Four Power Military Tribunal,' July 18th 1945, Received July 23rd 1945, FO 371/51031/U5665, Kew, England: The National Archives, f. 11-13; Donald Bloxham, "The Trial That Never Was," 47-49.

²⁰³ Donald Bloxham, "The Trial That Never Was," 41-54.

²⁰⁴ Telford Taylor, *The Anatomy of the Nuremberg Trials: A Personal Memoir* (Boston, America: Back Bay Books, 1992), 90-93.

²⁰⁵ Lord Frederick Elwyn-Jones, *In My Time: An Autobiography* (London, England: Futura Publications, 1988); Telford Taylor, *Final Report To the Secretary of the Army on the Nuremberg War Crimes Trials Under Control Council Law No. 10* (Washington D.C, America: US Government Printing Office, 1949), 22.

²⁰⁶ Telford Taylor, *Final Report*, 22-23.

²⁰⁷ Patrick Dean, "Second Trial," Foreign Office minute, 14th June 1946, FO 371/57584/U5875, Kew, England: The National Archives.

existence of this promise' was the only reason for supporting Russo-French interest towards a second IMT.²⁰⁸

Hartley Shawcross writing in July 1946, claimed it was the 'obligations which seem to arise' with the firm belief that there were 'very strong procedural and political reasons why in fact an American or a British judge should preside over the trial,' that led to Britain issuing a public joint Anglo-French declaration for prosecuting further war criminals on the first day of the Nuremberg Trial.²⁰⁹ Britain merely went along with the major powers to guarantee that the Allies would follow an Anglo-Saxon tribunal once again.

Within the wider political climate, Anglo-French relations had not met the hopes for Foreign Secretary Ernest Bevin's reappraisal of a 'Western Group' led by Anglo-French forces to prevent Europe from being 'eaten up one by one' through Soviet expansionism. Collaborating with France for major war crimes was not the most diplomatically significant channel to strengthen relations. With the Anglo-French alliance not a 'viable option,' to the Foreign Office, such sentiments stiffened the diplomatic negotiations and decisions made within the Foreign Office for major war crimes planning.²¹⁰ Working with France was merely a duty, not a partnership or attempt to build a postwar alliance. Instead, political gain stemmed from the security of American internationalism building the legal foundations of the postwar world. Unsurprisingly, the end of 1945 marked a separation of major war crime policies and its potential to influence Western European policy. Britain and France were simultaneously strangers and partners: joined together to achieve postwar justice, yet estranged by their visions of what justice should be.

The Foreign Office Failure in Anglo-French Cooperation for Further Trials, 1946

In January 1946, Sir. David Scott-Fox, a prominent legal advisor within the Foreign Office, sought an internal consensus for additional trial preparations that they would put forward to the Allies. Scott-Fox was 'closely connected with the negotiations' of the first IMT, and thus was aware of the political implications the IMT held, highlighting that 'at any time now we may therefore be subjected to further pressure from our Allies to proceed further with international trials.'²¹¹ Writing to the German Department in the Foreign Office, David Scott-Fox argued that 'when the measure of agreement has been reached with the Americans at Nuremberg the matter can be raised with the other two prosecutors.'²¹² Britain continued to sideline France, emphasising American responsibility, and the ideological purity of Anglo-Saxon legalism as the main carrier for any further deliberations of an IMT.

²⁰⁸ Ibid.

²⁰⁹ Hartley Shawcross, "British War Crimes Executive (E.S)," letter to Mr Justice Jackson from Hartley Shawcross, 25th July 1946, in *Final Report To the Secretary of the Army on the Nuremberg War Crimes Trials Under Control Council Law No. 10*, ed. Telford Taylor (Washington D.C, America: US Government Printing Office, 1949); Telford Taylor, *Final Report*, 23.

²¹⁰ Foreign Office minute by Hoyer Millar, "Anglo-French Relations and a 'Western Group,'" 6th August 1945, FO 371/49069/Z9639, f. 75, Kew, England: The National Archives.

²¹¹ David Scott Fox, "Further International War Crimes Trials," Foreign Office minute, 7th January 1946, FO 371/57583/U878, f.1-2, Kew, England: The National Archives.

²¹² Ibid. f.3.

Subsequently, Foreign Secretary Ernest Bevin a month later on February 5th expressed to Prime Minister Clement Attlee, how preliminary discussions regarding a Second IMT should be discussed with the Chief United States prosecutor, Robert Jackson, 'before breaching the subject with the Soviet and French prosecutors.'²¹³ John Young critically describes the traditional portrayal of Bevin as 'uninterested in Western Europe after the war' who was 'more interested in co-operation with the United States.'²¹⁴ Yet Bevin was a leading pioneer for prosecuting major war criminals. Like Scott-Fox and the Foreign Office, seeking solace and direction under American directives, Bevin sought to ensure smooth proceedings if Britain had no choice but to comply with further tribunals.

Within weeks of taking office in August 1945, Bevin had quickly reaffirmed the Foreign Office's position as the primary forum for major war crimes planning. Bevin had an unyielding appreciation that 'many difficulties with our Allies are likely to arise before the trials are successfully concluded,' and if 'a fiasco is to be avoided, the Foreign Office should be kept well in the picture.'²¹⁵ Having worked under Churchill's coalition War Cabinet as Minister of Labour and witnessed the diplomatic complexities of strategy in Britain's postwar planning, Bevin followed the footsteps of Eden's Foreign Office. Thus six months later, Bevin endorsed the Foreign Office's decision to prioritise Anglo-American collusion. Although this isolated France, Bevin and the Foreign Office instead aimed to secure reliable and realistic alliances, before making tentative steps with France both inside and outside the courtroom.

The continued support from Bevin exposes how British attitudes towards major war planning were diplomatically unanimous. Whilst formulating policies required debate and discussion, British policymakers were grounded in ideological stability, cohesion, and confidence, paving the way for quick foreign policy planning necessary to react to the Soviet-French demands for further trials.

As their closest ally, Britain strived to instead change the minds of America for further trials. In March 1946, Judge Sir. Hartley Shawcross overseeing the proceedings for further trials, wrote to the attorney general that 'we do not want such a trial, if we can honourably avoid it.'²¹⁶ Yet neither Shawcross nor the Foreign Office could not avoid such a predicament due to the heavy political and public support from America. Withdrawing from subsequent IMT negotiations would have undermined British international support for postwar justice and reconstruction, whilst alienating themselves from the major allies. Honourably avoiding a trial required not only Britain to resign from four power IMT planning, but America too.

However, the Foreign Office did not have high expectations that they could honourably avoid a second IMT. Instead, the Foreign Office accepted that Britain's role in establishing a second IMT was contingent upon American commitment for subsequent trials. In April 1946, under Scott-Fox's advice, the Foreign Office's 'best immediate tactics' was 'to pass ball to the

²¹³ Ernest Bevin, "War Criminals," 5th February 1946, FO 800/520, WC/46/1, f.43, Kew, England: The National Archives.

²¹⁴ John W. Young, "The Foreign Office, the French and the Post-War Division of Germany 1945-46," *Review of International Studies* 12, no. 3 (1986): 226.

²¹⁵ Ernest Bevin to Prime Minister, "War Criminals," telegram, 11th August 1945, FO 800/520, WC/2, f.3-4, Kew, England: The National Archives.

²¹⁶ Hartley Shawcross to Attorney General, 26th March 1946, out-file, FO 371/57583/U2996, Kew, England: The National Archives.

Americans and await developments' for the organisation and circumscription of a second IMT.²¹⁷ Without American control of the subsequent trials, British 'commitment would lapse.'²¹⁸ Whilst British loyalty to France to negotiate both an IMT and a second IMT was blatantly non-existent, the Foreign Office within a year had angled their foreign policy in hopes that inter-Allied cooperation would dissolve between them. Britain wanted minimal responsibility, and minimal involvement with France, and their sullen complaints for further trials merely worsened communications and correspondence with France.

Predictably, Scott-Fox was flippant to France's legal suggestions for a subsequent IMT, finding French ideas on 'the subject seem pretty nebulous' with 'little to no work towards its preparation.'²¹⁹ Struggling to interculturally connect with France, Britain had little interest for a lengthy collaboration with them. The Nuremberg Trial was merely meant to be a symbolic exercise for executing triumph against fascism, not a protracted long-term solution towards fixing Anglo-French tension from the arduous remnants of the war.

In the Summer of 1946, the question for additional trials was 'still hanging fire,' especially when the French public would have preferred 'an international trial to a national trial of these people.'²²⁰ Yet, the French Prosecutor, M. Dubost noted that the 'political temperature' to have a second IMT in Berlin as 'unsuitable,' with the growing external Cold War tensions. Although France desired a second IMT. They were not naive in that France alone could carry an IMT alone. France was adamant that the president for the trial 'should be English,' wanting the Anglo-Saxon model, with already a proven record, to produce the trials they longed for.²²¹ Although France submitted to Anglo-Saxonism, they still desired additional trials, and with Britain desperate to avoid them, the Foreign Office perceived them as a political burden than bearing appreciation for France's ideological cherishment of Anglo-Saxonism.

In July 1946, Scott-Fox, anxiously wrote to the Foreign Office, how French 'opinion of Nuremberg is evidently hardening in favour of a second trial.' Whilst France was previously vocal for a second tribunal, their relentless attitude was wearing British attitudes down. Scott-Fox, having phoned Paris a few days before to discuss French views for a second trial, still had no answer to bring to the Foreign Office. Exasperated by France's slow replies, Scott-Fox was waiting from his fellow diplomat Sir. Alfred Duff Cooper, to see if France was 'as favourable to a second trial as representatives at Nuremberg would have us believe.'²²²

Indeed, until France was organised enough to respond, Scott-Fox argued that 'it would, I think, be premature to consider further whether it is any use attempting to prevent a second

²¹⁷ David Scott Fox, Foreign Office minute, 24th April 1946, FO 371/57583/U4268, f. 1-2, Kew, England: The National Archives.

²¹⁸ Ibid.f.1-2; William J. Bosch, *Judgment on Nuremberg: American Attitudes Toward the Major German War-Crime Trials* (Chapel Hill, University of North Carolina Press, 1970), 95-110.

²¹⁹ David Scott Fox, Foreign Office minute, 24th April 1946, FO 371/57583/U4268, f. 1-2, Kew, England: The National Archives.

²²⁰ Hartley Shawcross to Sir. Basil Newton, 21st May 1946, out-file, FO 371/57584/U5598, Kew, England: The National Archives.

²²¹ David Scott Fox to Sir. Basil Newton, 1st June 1946, FO 371/57584/U5875, Kew, England: The National Archives.

²²² David Scott-Fox, Foreign Office Minute, 8th July 1946, FO 371/57585/U6233, Kew, England: The National Archives, f.1.

trial being held, e.g. by suggesting to the Americans that they should pressure on the French in this matter.’ The Foreign Office hoped that to place as much legal weight onto the American shoulders, Britain could convince their comrade that American zonal trials were more appropriate than what the French had suggested. However, the reality of such hopes seemed thin, and Scott-Fox warned that Britain must ‘proceed carefully not to lay ourselves open to the accusation that we were trying to get out of our commitment, possibly for political reasons.’²²³

It is worth noting that although France acquiesced to Anglo-Saxon ideals, they were however becoming increasingly communist in 1946. Whilst France still retained a democratic system, and was open to Anglo-Saxon legalism for further trials, France still lacked an international identity secure enough for Britain to engage with. As Britain’s French ambassador Sir. Alfred Duff Cooper wrote in April 1946, ‘it was only Russia amongst all the powers who were prepared to give any support, politically or military to France.’²²⁴ Internal political instability crept through French politics, as ‘everything seemed to be playing in the hands of the communists,’ and Foreign Office trepidation about communism in the West increased.²²⁵

As Martti Koskeniemi argues, the implications of anti-Soviet attitudes had pushed Britain away from fully cooperating with Russia during the first Nuremberg Trial.²²⁶ Although a second IMT did not have the diplomatic or political jurisdiction to grant world power to states, it did have the power to prescribe legal control onto the international system, and the ethical and moral sanctions in which international law itself should be prescribed. Indeed, Britain was apprehensive of alternative options to Anglo-Saxonism, such as extremist and expansionist ideologies, posing to rupture the remaining peace within the international system. British loyalty to America grew tighter, more exclusionary, and more hegemonic. In July, deliberating legal matters for a new president in a second IMT, Hartley Shawcross colluding with Jackson, suggested that if both American and British Judges ‘agree informally that they will not vote for a Soviet or French president it would, under the Charter, be impossible for the Soviet or French judge to be appointed.’²²⁷

Whilst Britain did not put French communism on the same pedestal as the SSR, it is worth noting that French communism was the product of what the West feared: expansionism. Working alongside two states incubating communism was not only politically concerning, but accentuated the ideological divide between them. Additional trials were no longer to dispense justice, but it was a political channel that opened spaces for states to negotiate and acquire national interests in non-related foreign affairs. On July 31st 1946, Foreign Office Senior diplomat Sir Orme Sargent, predicted to Attlee that although France ‘are in favour of having such a trial, the trial ‘might well develop into a wrangle between the rival ideologies with

²²³ Ibid. f.1.

²²⁴ Telegram from Alfred Duff Cooper to Foreign Office, 11th April 1945, FO 371/59960/Z3518, Telegram No. 211, Kew, England: The National Archives.

²²⁵ Ibid.

²²⁶ Martti Koskeniemi, “Between Impunity and Show Trials,” *Max Planck Yearbook of United Nations Law Online* 6 no. 1 (2002): 9.

²²⁷ Hartley Shawcross, “British War Crimes Executive (E.S.),” letter to Mr Justice Jackson from Hartley Shawcross, 25th July 1946, in *Final Report To the Secretary of the Army on the Nuremberg War Crimes Trials Under Control Council Law No. 10*, ed. Telford Taylor (Washington D.C, America: US Government Printing Office, 1949), 283-284.

unfortunate political consequences.²²⁸ Whilst the Allies were in denial during the first Nuremberg Trial, they could no longer ignore that legal and political ideologies were inherently intertwined.

Sargent also was wary of France's involvement in a second IMT believing France would 'exploit the proceedings to discuss irrelevancies' of world affairs 'such as the future of the Ruhr.'²²⁹ The American delegation for the war crime trials was also anxious that further trials could result in accentuating 'ideological differences that could defeat purpose.'²³⁰ American attitudes too became to stiffen at the notion of a four-power IMT.

While the Foreign Office remained hopeful that further trials could be honourably avoided, they nonetheless prepared for the possibility of one. As deliberations began to finalise in August, France's lack of preparation riled the Foreign Office, given that it was France, and not Britain, who relentlessly advocated for a second IMT. It was noted that France's continued 'poor effort' for planning a second IMT did not sit well with David Scott-Fox, who frustratingly wrote that France 'are in no way ready for a second trial,' fearing that there could be delay if France became as heavily involved as Britain and America 'who have done a lot of spade work' and 'would have to carry them.'²³¹

During the final stages of the first IMT in October 1946, an active plan for further trials was formulated. Upon the escalating ideological inter-Allied tension, American Judge Telford Taylor proposed to President Harry Truman in his final report 'that each of the occupying powers assume responsibility for the trial within its own zone of the prisoners in its own custody.' America additionally noted Britain was 'cautious' and not unanimous in their attitudes for a second IMT. As America's closest ally, British reluctance imposed the trials with an extra burden of weight, that for Taylor, it deemed the mounting Allied pressure to lead a trial started by 'the French Government consistently and emphatically,' as unviable because 'a four-power, four-language international trial is inevitably the slowest and most costly method of procedure.'²³²

Thus, with American refusal for a four-power trial, the Foreign Office by the end of October 'did not favour a more direct participation either on the bench or behind the bar,' and the crusade against the holding of a second international trial became a success.²³³ The establishment for a second IMT failed, and from December 1946, America and Russia led the next twelve Subsequent trials independently. The lack of a joint Allied effort reflects how the

²²⁸ Orme Sargent, "Trial of German Industrialists Before an International Military Tribunal," 31st July 1946, PREM 8/391, f.3, Kew, England: The National Archives.

²²⁹ Ibid. f.3.

²³⁰ Confidential Telegram from Clay to Schulgen, '141. War Crimes trials,' 4th August 1946, CC. 1206, "Volume One: Book II 1946," in *The Papers of General Lucius D. Clay: Germany 1945-1949, Volume One*, ed. Jean Edward Smith (Bloomington, USA; London, UK: Indiana University Press, 1974), 247; Telford Taylor, *The Anatomy of the Nuremberg Trials: A Personal Memoir* (Boston, America: Back Bay Books, 1992), 287-288; Donald Bloxham, "'The Trial That Never Was': Why There Was No Second International Trial of Major War Criminals at Nuremberg," *History* 87, no. 285 (2002): 41-54.

²³¹ David Scott Fox, Foreign Office minute, 21st August 1946, FO 371/57585/U6724, Kew, England: The National Archives.

²³² Telford Taylor, *Final Report To the Secretary of the Army on the Nuremberg War Crimes Trials Under Control Council Law No. 10* (Washington D.C, America: US Government Printing Office, 1949), 24-25.

²³³ Secret Foreign Office memo from Permanent Secretary, 21st October 1946, FO 937/143. Kew, England: The National Archives.

accumulation of diplomatic tension translated into a reluctance to politically engage with one another, and eventually led to inter-Allied withdrawal from postwar operations. Although Cold War tensions were only beginning to shape diplomacy, the ideological divisions between the Big Four over the role and establishment of international law intensified the political fractures unfolding in the postwar world.

Conclusion

By the end of 1946, Anglo-French relations did not develop appropriately to provide support for collaboration on additional trials. The change from the public joint declaration in November 1945, to the declaration of independent zonal trials in 1946, sheds insight into Britain's inconsistency in appeasing France for friendship and ameliorating relations, as well as their persistent disengagement for the sake of postwar survivalism under the protection of Anglo-American friendship. As the Allies navigated the early phases of the Cold War, legal and political collaboration became less attractive, and the Nuremberg Trials proved to be a training ground for exercising ideological and international power against one another. Although France had geopolitical potential, the legal and diplomatic negotiations for subsequent trials were too inappropriate to germinate a proactive Anglo-French friendship.

Indeed, not only did Anglo-French relations worsen, but international law by the end of 1946 did not have the legal or political basis to prevent the Cold War front from solidifying. British distaste for France, and subsequently lack of cultural harmonisation within the West, merely weaponised Anglo-Saxon law to contain and control any external ideological otherness, including France's continental legalism. The finalisation of the first Nuremberg Trial had ripped away the veil of inter-Allied cooperation, and the exhausting struggle to maintain positive relations with France and Russia proved too much for Britain who as an increasingly second-ranking power, had no interest in melding with communist-affiliated states. France's participation, and the lack of an alliance with Britain, concentrated the Anglo-Saxon domination of any potential trials into an ideological divide. The subsequent Nuremberg Trials were thus symbolic of the disintegrations and enervation within the wider political landscape of the postwar world, portraying the incompatibility and the uncompromising nature of Anglo-French diplomacy doing little to bridge the Big Four together by the end of 1946.

Conclusion

Unsurprisingly historians have given little thought to British attitudes, responses, and political planning regarding France within the domain of the Nuremberg Trials. Assessing British perceptions of France unravels British prioritisation of France within the inter-Allied system was sparse, whilst British foreign policy was entangled with supporting and promoting Anglo-American incentives for shaping the postwar world. To increase their political and financial security in preparation for any postwar eventualities, British policymakers were devoted to nourishing an alliance with America, instead of France, which promised them far greater geopolitical investments within the postwar world. Whilst on the surface Allied cooperation was uniformed in approach and outlook for punishing major NSDAP war criminals, the diplomatic undertakings for constructing the International Military Tribunal (IMT) exposed a political and hegemonic power struggle. Assessing the pivotal years of 1944 to 1946 unveils how the negotiations over major war crimes functioned to assert hierarchal diplomatic structures.

The Nuremberg Trials are cherished as a fragile collective memory of the finalisation of the Second World War. Orchestrating the IMT was an ideological fraternity to legally emancipate the international system from despotism. Subsequently, literature has encased the Nuremberg Trials in legal opinion, associated with American dominance and characterised by differing Soviet legal interpretation, whilst overlooking the geopolitical and ideological motives behind them. Due to the historiographical dominance of America and Russia, Britain has merely been relegated to a secondary role behind America in their directive for an Anglo-Saxon IMT. Yet this dissertation uncovers that neither the diplomatic nor legal strands were mutually exclusive in Nuremberg, for they stemmed from the cultural fabric of the early Cold War, where the major Allies engaged in a tactful rivalry to ideologically exchange for the sake of postwar reconstruction.

Crucially, Britain firmly opposed any legal methodology for treating major war crimes. Preoccupied with the military operations of the war, Winston Churchill and his colleagues were flippant towards an international trial when it was blatantly obvious that the crimes had been committed. With France fallen to the Third Reich in 1940, and suffering major economic and imperial losses, Britain severely struggled with the postwar transition into a lesser great power than American and Soviet Russia, fading into the historiographical shadows of Nuremberg as America took control.

Perceiving limited legal or ethical significance for arranging an IMT, Britain was merely motivated by diplomatic expediency. France was not an imminent component of British foreign policy by 1945, and the Foreign Office's Western European policy for an Anglo-French partnership was too embryonic to be birthed into the tenuous international climate. Whilst Britain initiated the preliminary steps for Anglo-French cooperation, pushing for France to become a great power state and involve themselves in postwar organisation, France remained diplomatically undesirable. The differing traumas of war outstood any commonality between Britain and France, and France's domestic position was compromised by sociopolitical instability. With diplomatic clashes between prominent leaders such as Winston Churchill and General Charles de Gaulle, the Foreign Office had little choice but to withhold

an Anglo-French alliance. Consequently, Britain opted to dissuade French continental legal practise, remaining codependent on Anglo-Saxonism and subsequently alienating both France in the process.

With British allegiance to America, Anglo-Saxonism dominated the IMT, alienating the continental practises of France and Soviet Russia, penetrating the postwar international system with Western legal values to regulate state behaviour with democratic principles in alignment with primarily American standards. Pertinently, Anglo-Saxonism was not just a legal practise, but an instrument of Anglo-American policy of cultural imperialism and globalisation.

The legal competition that churned between the four major states through international law was symptomatic of the ideological polarisation of Europe, and the drive for state security and control. Prematurity, this dissertation has revealed, was a central theme for the Nuremberg Trials, for inter-Allied cooperation on postwar matters stood on shaky grounds, merely creating a concentrated and intimate political space to exchange legal ideology when such exchanges were unviable and undermined any cooperation at all.

Subsequently, the ramifications for British inclination towards America prevented France's full presence during the Trials from emerging, dividing the Allies into two subcamps of Anglo-Saxon and continental legal practise. France, although not an adversary to Britain, served little purpose in the early stages of postwar foreign policy. By 1946, France's incompatibility with Britain merely accentuated the uncompromising nature of Anglo-Saxonism and their inability to cooperate with culture they deemed inferior.

Whilst Britain did not plan to overtly ostracise France from IMT planning, it was a secondary consequence to a primary decision of American appeasement within the War Cabinet. The biographical, psychological, and cultural direction for this dissertation further illuminates that British foreign policies were not limited to just the Foreign Office, but were continually changing and adapting within inter-governmental and transnational environments. Whilst the Foreign Office battled with the internal conflict of adhering to Churchill and the War Cabinet's pragmatic proclivity for sidelining de Gaulle within postwar affairs, it was obvious that Britain could not compromise their own legal and diplomatic position to compromise with France for the sake of a potential friendship.

The connection between Foreign Office attitudes, and Britain's self-image throughout the war and immediate postwar years has been barely reviewed by historians as a reason why Britain reacted to an IMT with political contempt. The analysis of Foreign Office archival documents revolutionised this study, for British correspondence shed light on the interplay between key diplomats, interdepartmental attitudes and how central attitudes within the Foreign Office were symbiotically influenced by the British War and postwar Cabinet, and vice versa. By understanding the psychological and political impetus of differing diplomats, this study delves into why Britain directed the Foreign Office in a flailing manoeuvre of the triple 'Big Three' alliance. It also considers how Britain favoured the familiarity of its Anglo-American partnership in contrast to continental legalism, other ideological derivatives, and anti-democratic processes. Indeed, France's participation has been awkwardly assigned in historiography as the fourth representing member, dispensed by the Big Three. Yet upon a deeper surface, archival papers portray that whilst the Allies were aware that the preclusion of

France was not permanently ideal, it was Britain who vouched for France's early inducement into major postwar occupation.

The Nuremberg Trials reflected the wider political tensions within the early onset of the Cold War, and thus should not be excluded from Cold War historiography based on the predication that it was a legal procedure. Previous academic proclivity for legal analysis has merely tarnished the Nuremberg Trial as a static and clinical trial, with little appreciation for the twelve subsequent trials, bearing feeble insight into the cultural and diplomatic consequences that shifted inter-Allied relations. Interdisciplinary interpretations investigating the emulsification of culture and legalism as a byproduct of ideology, merits a new approach into the study of Allied foreign policies during the Nuremberg Trials.

This dissertation has uncovered how legal and diplomatic exchanges via day-to-day correspondence, diplomatic summits, and legal conferences were organically politicised. Individual state cultural values, legal representations, and intimate political opinions of officials within the establishment for an IMT clashed because each state and their governing bodies believed that their ideological envisionments outweighed all other credible options for regulating the postwar world. Britain pursued Anglo-American law because they perceived Anglo-Saxonism morally and legally superior to any other regime. Differing states bearing different cultural approaches to law thus legally and politically exchanged with International law was merely expansionist, infiltrating, and enforced principles and codifications onto cultural values within each state to institutionally control their behaviour, effectively becoming an extension of statecraft. Whilst history remembers the Nuremberg trials as a didactic expression of deterrence, what is crucial is that it was, international, law and thus dispersed and disseminated across all Allied spheres of influence. The Trials were in fact a delicate manoeuvre of ideological compromise, paranoia, rivalry and dispute, and did little to quell British anxieties regarding the international situation.

This dissertation reflects how France and Britain's' historiographical place within the Nuremberg Trials is more significant and foundational than previous historians have suggested. The Nuremberg Trials were multifaceted, and with a myriad of diplomatic primary source materials untouched and understudied that are essential to the Trials, historians must look towards assessing its organic properties as a form of statecraft rather than legal procedure with compromising ethical validity. Whilst various works have accomplished this, America and Russia have taken centre stage, and the Nuremberg Trials exist beyond this perspective. Crucially, historians must look towards understanding how all legal and diplomatic elements of the Trials dealt with international Cold War pressures, and inter-Allied rivalry for legal domination of the postwar international system.

Yet this dissertation is limited in its scope to exploring more themes and events that highlight how British attitudes towards Anglo-French relations, worsened inter-Allied cooperation during the Nuremberg Trials. Although the mere capacity of this dissertation limits an extensive exploration to assess a variety of Allied experiences under the lens of intercultural communication, this dissertation reveals the potential for further research, especially towards France who is extremely understudied in the Nuremberg Trials. A step further within such research would be to naturally incorporate a rich flavour of French primary sources, and assess various diplomatic milestones for the Nuremberg Trials that this dissertation could not intensively cover. Such as illuminating how the breakdown of Anglo-French relations within

the Levant during the Second World War exacerbated deteriorating French cooperation within the Trials, the role of the United Nations War Crimes Commission for liaising with France, or a deeper delve into the San Francisco Conference in 1945 where the Allies officially incorporated France into participation for the IMT. This dissertation, limited to the scope of a British perspective, is not a standalone study, but an insight into the wider historical reality waiting to be uncovered by historians.

What this dissertation portrays however, is the overriding importance of comprehending the Nuremberg Trials, for it reveals the psychological conviction of diplomats, state behaviour, and the Allied reaction to the abhorrent atrocities committed in the Second World War that transformed international politics forever.

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