



**Federal President Frank-Walter Steinmeier
at the ceremony marking the 75th anniversary of the start
of the Nuremberg Trials
in Nuremberg
on 20 November 2020**

Ladies and gentlemen, and above all Benjamin Ferencz –even if we cannot speak to and thank you in person today, we consider ourselves fortunate to have you with us. This country, Europe and the world are deeply indebted to you for your wisdom and perseverance. I would like to thank you for your words, your work and your lifelong commitment, your ambition to make this imperfect world a better place.

The images will still be vivid in Benjamin Ferencz's mind. 75 years ago, this room was one of the few courtrooms in Germany which had not been destroyed in the war. It was once one of the largest courtrooms in Bavaria. And yet it doesn't seem large, nowhere near large enough for the purpose it served 75 years ago.

In November 1945, Nuremberg was a scene of devastation. Many German cities had been reduced to piles of rubble. Our country had been razed to the ground – both morally and materially. The law had also long been in ruins, buried under this heap of guilt and destruction.

But an international criminal court was to sit here in this room. The law was to be rewritten here. While the rubble was being cleared outside this court, the four allied victors of the Second World War laid the foundation stone in this very room for the legal order of a new world.

The world had to establish a new order. It was just as obvious here in Room 600 as it was outside the Nuremberg Palace of Justice that the old one was lost. That also applied to international law. No institution was prepared to deal with crimes of the magnitude committed by the National Socialist regime.

Many of the places where these criminal acts took place were not yet known 75 years ago.

Of course, Auschwitz, Buchenwald, Theresienstadt, Sachsenhausen, Dachau and many others were known. However, I've only seen some of them during the last few years: Paneriai in Lithuania, Maly Trostinets in Belarus, Wieluń in Poland. Places of unimaginable horror! These places stand for the will to destroy, for the will to exterminate. And for profoundly criminal methods adopted by the National Socialist regime in warfare.

Even those who bore the main responsibility for the most monstrous crimes called for impunity in this room. Today, 75 years later, reading their testimonies still makes our blood turn cold. Nullum crimen sine lege. Nulla poena sine lege.

Benjamin Ferencz once said that he had never accepted this argument, for no-one could ever convince him that they thought it was lawful to hit a child's head against a tree in order to kill it.

Impunity could not be the answer to crimes of this immensity.

A total of 21 key representatives of the National Socialist regime sat in the dock of this courtroom 75 years ago. They were the planners, instigators and protagonists of the National Socialist reign of terror. They had been in positions of authority within government and had issued orders. Now they were to be held responsible for their actions. The court was situated in Nuremberg. The London Charter created the legal basis for the trials. The most powerful figures of a state stood before a court for the first time in Nuremberg, accused of the gravest crimes the world had ever seen: for unleashing a war of aggression, for war crimes and for crimes against humanity.

By laying the legal groundwork for the Nuremberg Trials, the London Charter initiated a twofold renewal of international law. The prohibition of war crimes or of the ill-treatment of prisoners of war, of the terrorisation of the civilian population and of other serious violations of international humanitarian law was not new. All of that had already been established under customary international law since the Geneva Convention of 1864, the Hague Convention of 1907 and follow-up conventions after the First World War.

Preparing and waging a war of aggression had also been prohibited under international law since the conclusion of the Briand-Kellogg Pact in 1928. Until this point, however, responsibility for violations of international law lay solely with the state, the state in whose name the crimes had been perpetrated. What was new in the London Charter was that it enshrined the individual criminal responsibility of those who had committed the most serious crimes, and the means to prosecute them. Also new was the establishment of crimes against humanity as a criminal offence which was applied for the first time in the Nuremberg Trials 75 years ago.

"Now war, pogrom, persecution, mass killing and torture are sitting in the dock", wrote Erich Kästner, who witnessed the start of the trials here in Nuremberg as an observer for Die Neue Zeitung.

And indeed, initially it was those who gave the orders for the atrocities, the commanders and financial backers, senior government officials, ministers and military leaders who were to be held to account in Nuremberg. It was only in the twelve subsequent Nuremberg trials that those directly involved in the crimes, soldiers and members of the SS, as well as doctors and judges, were prosecuted.

The idea behind the Nuremberg Trials was groundbreaking: "Crimes against international law are committed by men, not by abstract entities", the judges stated very aptly at the time. Those in government office and senior civil servants who had issued heinous orders were no longer to hide behind immunity under international law. Those who received the orders were no longer to claim the defence of superior orders.

This meant that the law was to be used to stand up against power. It was to be used to set limits on the flagrant abuse of power. It formed the basis for universal international criminal law and international criminal jurisdiction – ultimately for an international order based on law and justice. It was also the foundation for the principle of universal jurisdiction, according to which war crimes and grave human rights crimes are not to go unpunished anywhere in the world.

The main war crimes trial in Nuremberg was a revolution. It wrote not only legal history but also a new chapter in world history.

I say world history because the allies had agreed on a joint procedure for the trial. Relations among the Americans, British, French and Russians would be marked by disillusionment soon after celebrating their victory together. Nevertheless, the Nuremberg Trial was a joint trial. It heralded the start of a new, a different history: the emergence of international criminal jurisdiction.

But it didn't come until much later, not until after the Cold War – and the path was laborious and full of setbacks. And yet it was a major breakthrough. There would be no International Criminal Court in The Hague today without the main Nuremberg war trial.

In Germany, the allies paved the way in Nuremberg for the country's judicial scrutiny of the National Socialist era. However, the crime against humanity that was the Shoah was not addressed by German courts until many years later: in the Ulm Einsatzkommando trial in 1958 and finally in the Frankfurt Auschwitz trials from 1963 onwards. Without the perseverance of people such as Fritz Bauer and his small number of associates this would probably not have come about. It was Nuremberg that paved the way for this first Auschwitz trial.

For what would we know today about National Socialist crimes without the evidence gathered for the Nuremberg Trials? What would we know about the perpetrators and their victims – without the files and documents of the National Socialist administration, the images showing piles of corpses in the concentration camps, which were collected by the prosecution in Nuremberg?

Nuremberg, the city of the National Socialists' party congresses and the race laws, was a mirror for the Germans. Before the eyes of the world, Nuremberg confronted them with the fact that National Socialism in itself, including its war of aggression, had been a crime. The trial and the judgment of Nuremberg left no more room for justification. Indeed, they demanded purgation. But the Germans found that hard.

The learning process – also beyond Germany – was protracted. What Nuremberg had initiated, the concept that the most serious crimes against international law must not go unpunished, only became an established principle much, much later. Ideas such as maintaining the criminal tribunal here as a permanent institution, as it were, as an outpost of the United Nations, were still a long way off. Decades were to pass until the spirit of Nuremberg took tangible form in the shape of an international criminal court. Only after the atrocities of the Yugoslav war did the will grow to establish an international institution to persecute crimes against international law. The time after the lifting of the Iron Curtain in Europe was a period of optimistic internationalism.

During the last two decades, we have again seen the hopes that the rule of law would be strengthened in international relations remain unfulfilled. Old and new powers began to compete against each other and continue to do so. Internationally binding norms are regarded as a limitation on a state's own power. International criminal jurisdiction is increasingly challenged, even here in Europe. The United States and Russia have not joined the International Criminal Court. Nor have China, India or dozens of other states.

The United States, which played a major role in the establishment of the International Military Tribunal in Nuremberg and whose international law experts thus also inspired the creation of the International Criminal Court, has more or less worked actively against the court in The Hague under the current Administration.

And yet, I have faith that the nation which remained a friend to our country over many decades on our path to democracy and the rule of law, will now resume cooperation, cooperation which recognises the value of international criminal jurisdiction. And I hope that through its work, the International Criminal Court can enhance the confidence in its impartiality and incorruptibility under international law, an impartiality which is needed to convince the sceptics.

Robert Jackson, the US Chief Prosecutor in Nuremberg, expressed the long-term goal 75 years ago so aptly when he said: "We must never forget that the record on which we judge these defendants today is the record on which history will judge us tomorrow."

I know that indictments by the International Criminal Court against national leaders are not always regarded as helpful, especially during fragile peace processes. Trials can narrow the political scope for negotiations. The pressure they exert can also make it difficult for dictators to back down. How can we prevent criminal law being used as a weapon against political opponents if what we really want to do is prepare the ground for political dialogue? The mediators in many internal conflicts around the world are faced with this question. For instance, it played a role in the ending of the policy of apartheid in South Africa and in the peace talks in Colombia. Inevitably, a balance has to be struck between legal considerations and political interests when it comes to international criminal jurisdiction.

Nevertheless, Nuremberg marked a breakthrough on the road towards strengthening the law within the framework of international relations. However, international criminal jurisdiction demonstrates time and again how difficult it is to help bring about more justice in the world through normative principles.

The International Criminal Court has yet to fulfil some lofty hopes. In some respects, however, the attacks against the court in The Hague also highlight its effectiveness, the fear of ruthless autocrats of being meted out a just punishment.

Despite all its imperfections and faults, international criminal jurisdiction has become established. The desire to use the means of the law to address unprecedented excesses of power 75 years ago was a start. Today, the International Criminal Court is a well-established institution. Not punishing the gravest crimes would be disastrous – and this lesson learned in Nuremberg certainly had an impact.

Without Nuremberg, warlords in Serbia, Croatia or Rwanda would not have been held to account over mass murder, torture or rape, nor would genocide be prosecuted as a crime.

Without Nuremberg, there would be no principle of universal jurisdiction and national courts would be unable to prosecute those who have violated international law. It would have been extremely difficult to ensure that two former members of the Syrian secret service who had fled to Germany would be tried today in a Koblenz court for crimes against humanity committed in their home country.

Without Nuremberg, there would be less hope of justice – also for the victims. For Lewiza and Dalal, for example, only two of many Yazidi women who were abducted and raped by IS, who later found shelter in Germany and have been helped here to overcome their trauma. They

were the protagonists of the documentary "I was a Yazidi Slave" by the British lawyer Philippe Sands and the director David Evans. I'm delighted that Philippe Sands is with us here today.

Dalat and Lewiza hope that one day the perpetrators will have to answer for their crimes before the International Criminal Court. They hope that their plea will be heard, for the aim of such trials is not only to convict the perpetrators. It's important that the victims have an opportunity to give testimony about the crimes committed against them, that atrocities are documented and recorded for posterity. It's important that the truth comes to light. For no-one can hide behind this truth. It remains a legacy, a task and a test.

That was the aim of Nuremberg.

Ultimately, criminal jurisdiction can only ever be one part of the answer. Crimes against international law are a betrayal of all civilised values. If they remain unpunished, not only the law but humanity as a whole suffers. Our aim must be to restore broken law in the name of humanity. The law must win the day in the struggle with power. It cannot always overcome power but it can place limits on it.

In other words, not the concert of the powerful alone but strengthening the law within the context of international relations forms the foundation of a global order which the world needs – and continues to urgently need.

That is the legacy of Nuremberg. We Germans have a special responsibility to carry on and defend this legacy.