



War Crimes Trials and Other Essays

Carlos Porter

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Approximately 10,000 "War Crimes Trials" have been held since 1945. Trials of Japanese military personnel ended in 1949, yet "war crimes trials" of Germans and Eastern Europeans continue to date.

Almost invariably, the charge is "violation of the laws and customs of war," derived, in turn, from international conventions signed at the Hague in 1899 and 1907.

That these trials have little or no basis in law is clear from the wording of the treaties which are said to have been violated.

The illegalities of "war crimes" proceedings include the admissibility of oral and written hearsay; the introduction of the concept of "conspiracy" into international law (unknown prior to 1945); the total lack of any pre-trial inquest or forensic evidence; and trial before a court itself composed of actual "war criminals."

To quote the writings of Telford Taylor:

"The issues surrounding the war crimes trials are numerous and complex; discussion and criticism of what was done should be welcomed by all who hope for a continuing development of international law... but what should have been done instead is a problem generally ignored by those who condemn what was done in fact."

The alternative is a fair trial before an impartial court under existing procedures and proper rules of evidence.

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