

The Legacy of Rudolf Hess

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On the evening of May 10, 1941, the Deputy Führer of the Third Reich set out on a secret mission that was to be his last and most important. Under cover of darkness, Rudolf Hess took off in an unarmed Messerschmidt 110 fighter-bomber from an Augsburg airfield and headed across the North Sea toward Britain. His plan was to negotiate peace between Germany and Britain.

Four hours later, after successfully evading British anti-aircraft fire and a pursuing Spitfire, Hess parachuted, for the first time in his life, and sprained his ankle landing in a Scottish farm field. An astonished farmer found the injured pilot and turned him over to the local Home Guard unit. [1]

Winston Churchill promptly rejected Hess' peace offer and jailed him as a prisoner of war, even though he had arrived unarmed and of his own free will. Rudolf Hess, ambassador of peace, was to remain a prisoner until his death in August 1987 at the age of 93.

For many, the passing of the one-time Deputy Führer and last surviving member of Hitler's inner circle simply marked the welcome end of a terrible era. But his true legacy is something far different. He spent 46 years -- half his life -- behind bars, a victim of a cruel victor's justice. More than any other man, Rudolf Hess symbolizes the vindictiveness and hypocrisy of the Nuremberg Tribunal.

The Mission

Hess was deeply shaken by Britain's declaration of war against Germany in September 1939. With Hitler's approval, he began a secret effort a few months later to negotiate a peace agreement between the two "fraternal Germanic nations" through British officials in neutral Portugal and Switzerland. [2] When the endeavor failed, Hess began preparations for his flight to Britain, an unquestionably sincere if perhaps naive effort to end war between his beloved homeland and a nation he greatly admired.

"My coming to England in this way is, as I realize, so unusual that nobody will easily understand it," Hess told a British official a few weeks after the flight. "I was confronted by a very hard decision. I do not think I could have arrived at my final choice [to fly to Britain] unless I had continually kept before my eyes the vision of an endless line of children's coffins with weeping mothers behind them, both English and German, and another line of coffins of mothers with mourning children." [3]

Though there was little chance that Hess' mission could have succeeded, some aspects of his flight and its aftermath remain unclear. The British government took the extraordinary step of sealing dozens of Hess documents for release only in the year 2017. Sefton Delmer, the wartime head of Britain's propaganda broadcasts to Germany, has speculated that the British government might have had good reasons for the secrecy: [4]

At the time, Churchill published nothing about the Hess case; he was passed over in silence. There was a large peace party in Britain, and Churchill probably feared that this party would throw him from his Ministerial seat because he had not agreed to Hess' peace proposals.

Victor's Justice

At the end of the war, Hess was taken to Nuremberg to be tried, along with other German leaders, by the United States, Britain, the Soviet Union and France as one of the "major war criminals."

Although Hess was perhaps treated more unjustly than any other man on trial at Nuremberg, the Tribunal itself was of doubtful legal and moral standing. Many prominent men in America and Europe pointed out that the process violated two cardinal principles.

First, it was a trial of the victors against the vanquished. The former were their own law maker, prosecutor, judge, alleged victim and, in part, accomplice (in the case of the Soviets, in the division of Poland).

Second, the charges were invented for the occasion and defined after the fact ("ex post facto").

US Supreme Court Chief Justice Harlan Fiske Stone called the trials a fraud. "[Chief US prosecutor] Jackson is away conducting his high-grade lynching party in Nuremberg," he wrote. "I don't mind what he does to the Nazis, but I hate to see the pretense that he is running a court and proceeding according to common law. This is a little too sanctimonious a fraud to meet my old-fashioned ideas." [5]

Associate Supreme Court Justice William O. Douglas charged that the Allies were guilty of "substituting power for principle" at Nuremberg. [6] He later also wrote: "I thought at the time and still think that the Nuremberg trials were unprincipled. Law was created ex post facto to suit the passion and clamor of the time." [7]

Soviet participation in the "International Military Tribunal" lent it the aura of a political show trial. Judge I. T. Nikitchenko, who presided at the solemn opening session, had been a judge at the infamous Moscow show trial of Zinoviev and Kamenev in 1936. Before the Tribunal convened, Nikitchenko explained the Soviet view of the enterprise: [8]

We are dealing here with the chief war criminals who have already been convicted and whose conviction has been already announced by both the Moscow and Crimea [Yalta] declarations by the heads of the [Allied] governments ... The whole idea is to secure quick and just punishment for the crime.

Besides the Tribunal's dubious legal standing, it held Hess and the other German leaders to a standard to which the Allies were never held. In sharp contrast to his public utterances, the chief US prosecutor at Nuremberg, Robert Jackson, privately acknowledged in a letter to President Truman that the Allies [9]

have done or are doing some of the very things we are prosecuting the Germans for. The French are so violating the Geneva Convention in the treatment of [German] prisoners of war that our command is taking back prisoners sent to them [for forced labor in France]. We are prosecuting plunder and our Allies are practicing it. We say aggressive war is a crime and one of our allies asserts sovereignty over the Baltic States based on no title except conquest.

Nothing better points up the essential injustice of the Nuremberg process than the court's treatment of Rudolf Hess.

He was in the dock primarily because of his important-sounding but somewhat hollow title of Deputy Führer. His duties as Hitler's stand-in were almost entirely ceremonial: He delivered the annual Christmas address to the nation, welcomed delegations of ethnic Germans from abroad, appeared at charitable functions, and presented the Führer at the annual Nuremberg party congress. It is this image of the wide-eyed and ecstatic Hess that much of the world remembers best, most of all from a brief clip of him from the Leni Riefenstahl film of the 1934 Congress, "Triumph of the Will."

Known as the "conscience of the party," he often used what power and influence he had to intervene on behalf of victims of persecution by extremists in the National Socialist party. In his detailed study,

Justice at Nuremberg, which is generally very critical of the German defendants, historian Robert E. Conot called Hess a "decent and honest" man and "a pacifist at heart." [10]

In their Nuremberg indictment of the Deputy Führer, the four Allied powers predictably portrayed him in the most sinister way possible. [11] "Hess began his conspiratorial activities immediately upon termination of World War I by joining militaristic and nationalistic organizations," it charged. It went on to absurdly claim that "Hess was one of the members of the [Nazi] conspiracy who professed as early as 1933 the aim of complete world domination." The joint Allied indictment concluded with the almost ludicrous words:

All through the years from 1920 to 1941 Hess remained the most faithful and relentless executor of Hitler's aims and designs. This complete devotion to the success of the conspiracy was climaxed by his flight in Scotland in an attempt to end the war with England [!] and to receive English support for Germany's demands against Russia, which he had helped to prepare.

The share of Hess' participation in the Nazi conspiracy is as great as that of the Party which he directed. The Party's crimes are his.

In fact, the Allied case against Hess was weak. The Führer had kept his deputy in the dark about his foreign policy and military decisions. It was clearly established at Nuremberg that Hess had not been present at any of the meetings at which Hitler discussed his military plans. [12] And, of course, he could not be held responsible for German actions that took place after his flight to Britain, including those carried out during the campaign against the Soviet Union.

Nevertheless, the Tribunal declared Hess guilty of "crimes against peace" ("planning and preparation of aggressive war") and of "conspiracy" with other German leaders to commit the alleged crimes, but innocent of "war crimes" and "crimes against humanity."

No reputable historian today believes the Nuremberg charge that Hess was guilty of "crimes against peace." Almost all of the criticism of Hess in recent years has focused instead on his signature on the 1935 Nuremberg laws that stripped German Jews of their rights as full citizens and banned marriage and sexual relations between Jews and non-Jews. These laws allegedly "paved the way" for the extermination of the Jews several years later. [13] Whatever the merits of this argument, Hess had nothing to do with the drafting or promulgation of these laws, and his signature on them was completely pro forma. And even so, the laws were domestic statutes that have had counterparts in numerous other countries, including the United States.

Unlike fellow defendant Albert Speer, the wartime armaments minister who did far more than the Deputy Führer to keep Germany's war machine going but who received only a 20 year sentence, Hess refused to ingratiate himself with the Tribunal. He expressed no remorse for his loyal support of Hitler and the National Socialist regime.

In his final statement to the court on August 31, 1946, he declared:

I had the privilege of working for many years of my life under the greatest son my nation has brought forth in its thousand-year history. Even if I could, I would not wish to expunge this time from my life.

I am happy to know that I have done my duty toward my people, my duty as a German, as a National Socialist, as a loyal follower of my Führer. I regret nothing.

No matter what people may do, one day I shall stand before the judgment seat of God

Eternal. I will answer to Him, and I know that He will absolve me.

When it came time to decide his sentence, the judges were not inclined to deal leniently with such an unrepentant defendant. The Soviet judge and his alternate thought he should be executed. The British and American judges and the American and French alternates voted for life imprisonment, while the French judge suggested a sentence of twenty years. The British alternate abstained. They settled on life imprisonment. [14]

The eminent British historian Professor A. J. P. Taylor summed up the injustice of the Hess case in a 1969 statement: [15]

Hess came to this country in 1941 as an ambassador of peace. He came with the ... intention of restoring peace between Great Britain and Germany.

He acted in good faith. He fell into our hands and was quite unjustly treated as a prisoner of war. After the war, we could have released him.

No crime has ever been proven against Hess ... As far as the records show, he was never at even one of the secret discussions at which Hitler explained his war plans.

He was of course a leading member of the Nazi Party. But he was no more guilty than any other Nazi or, if you wish, any other German. All the Nazis, all the Germans, were carrying on the war. But they were not all condemned because of this.

That Rudolf Hess -- the only one at Nuremberg who had risked his life for peace -- was found guilty of "crimes against peace" was certainly the Tribunal's most ironic perversion of justice.

Spandau

From 1947 until his death, Hess was held in West Berlin's Spandau prison, which was run by the four Allied powers. Regulations stipulated that "imprisonment will be in the form of solitary confinement" and forbade prison officials to ever call Hess by name. He was addressed only as "prisoner No. 7."

Conditions were so bad that French chaplain Pastor Casalis protested to the prison Directorate in 1950: "It can safely be said that Spandau has become a place of mental torture to an extent that does not permit the Christian conscience to remain silent ..." [16]

For 20 years, Hess at least had the limited company of a few other Nuremberg defendants, but from October 1966 until his death 21 years later, he was the only inmate in the fortress-like prison originally built for 600. He was, in the words of Spandau's American Director, Lt. Col. Eugene Bird, "the loneliest man in the world."

Keeping this one man in Spandau cost the West German government about 850,000 marks a year. In addition, each of the four Allied powers had to provide an officer and 37 soldiers during their respective shifts, as well as a director and team of warders throughout the entire year. The permanent maintenance staff of 22 included cooks, waitresses and cleaners.

In the final years of his life, Hess was a weak and frail old man, blind in one eye, who walked stooped forward with a cane. He lived in virtually total isolation according to a strictly regulated daily routine. During his rare meetings with his wife and son, he was not allowed to embrace or even touch them.

[17]

Long before his death, Hess' imprisonment had become a grotesque and absurd spectacle.

Even Winston Churchill expressed regret over his treatment. In 1950 he wrote: [18]

Reflecting upon the whole of the story, I am glad not to be responsible for the way in which Hess has been and is being treated. Whatever may be the moral guilt of a German who stood near to Hitler, Hess had, in my view, atoned for this by his completely devoted and frantic deed of lunatic benevolence. He came to us of his own free will, and, though without authority, had something of the quality of an envoy. He was a medical and not a criminal case, and should be so regarded.

In a 1977 interview, Sir Hartley Shawcross, who was Britain's chief prosecutor at Nuremberg, called the continued imprisonment of Hess a "scandal." [19]

The injustice against Hess was not something that happened once and was quickly over. It was, rather, a wrong that went on, day after day, for 46 years. Rudolf Hess was a prisoner of peace and a victim of a vindictive age.

Notes

1. Ilse Hess, *Rudolf Hess: Prisoner of Peace* (Torrance, Calif.: IHR, 1982), pp. 31-38, 25-27; Wolf R. Hess, *My Father Rudolf Hess* (London: W.H. Allen, 1986), pp. 17-24; Eugene K. Bird, *Prisoner # 7: Rudolf Hess*, (New York: Viking Press, 1974), pp. 184, 200, 209-210.
2. W. R. Hess, *My Father Rudolf Hess*, pp. 50, 66-67; Ilse Hess, *Rudolf Hess: Prisoner of Peace*, pp. 15, 24.
3. Hess statement to Sir John Simon, June 10, 1941. Quoted in: Ilse Hess, *Rudolf Hess: Prisoner of Peace*, p. 14.
4. Quoted in: W. R. Hess, *My Father Rudolf Hess*, pp. 391-392.
5. Alpheus T. Mason, *Harlan Fiske Stone: Pillar of the Law* (New York: Viking, 1956), p. 716.
6. William O. Douglas, *An Almanac of Liberty* (1954), p. 96. Quoted in: William J. Bosch, *Judgment on Nuremberg* (Chapel Hill, NC: Univ. of North Carolina, 1970), pp. 132-133.
7. Quoted in: H. K. Thompson, Jr. and Henry Strutz, eds., *Dönitz at Nuremberg: A Reappraisal*, (Torrance, Calif.: 1983), p. 196.
8. Report of Robert Jackson, United States Representative to the International Conference on Military Trials, London, 1945 (Washington, DC: US State Dept., 1949), pp. 104-106, 303.; Whitney R. Harris, *Tyranny on Trial: The Evidence at Nuremberg* (Dallas: S.M.U. Press, 1954), pp. 16-17.
9. Jackson letter to Truman, Oct. 12, 1945. Quoted in: Robert E. Conot, *Justice at Nuremberg* (New York: Harper & Row, 1983), p. 68.
10. R. Conot, *Justice at Nuremberg* (New York: Harper & Row, 1983), p. 44.
11. Office of the United States Chief of Counsel for the Prosecution of Axis Criminality, *Nazi Conspiracy and Aggression* (11 vols.), Washington, DC: US Gov't., 1946-1948. (The "red series."), Volume 2, pp. 466, 469, 477-478.
12. R. Conot, *Justice at Nuremberg*, pp. 347-348, 501; W. R. Hess, *My Father Rudolf Hess*, p. 229.
13. See, for example: "Rudolf Hess," *Washington Post* (editorial), August 19, 1987; Letter by Marvin

Hier and Abraham Cooper, *The New York Times*, May 1, 1984.

14. R. Conot, *Justice at Nuremberg*, p. 487; W. R. Hess, *My Father Rudolf Hess*, pp. 235-236.

15. *Sunday Express*, London, April 27, 1969. Quoted in: W. R. Hess, *My Father Rudolf Hess*, pp. 392-393.

16. W. R. Hess, *My Father Rudolf Hess*, pp. 265-266.

17. Eugene K. Bird, *Prisoner # 7: Rudolf Hess*, p. 152 and passim.

18. Winston S. Churchill, *The Grand Alliance* (Boston: Houghton Mifflin, 1950), p. 55.

19. Interview with *Bild am Sonntag*, April 10, 1977. Quoted in: Wolf R. Hess, *My Father Rudolf Hess*, p. 402.

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