

Perspectives

The Recently Opened United Nations War Crimes Archives: A Researcher's Comment

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Abstract: Archivists and researchers must be aware of the limitations of records found in a single repository and should know what complementary materials exist in other archives. The United Nations War Crimes Commission records at the United Nations Archives provides an extreme example of the dangers inherent in relying on only one institution's records. The author describes the UNWCC archives, discusses the policy governing access and use, and analyzes the problems of taking the content of the records at face value.

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THE UNITED NATIONS ARCHIVES contains many of the records of the United Nations War Crimes Commission (UNWCC). The collection has been open to scholars, journalists, and other bona fide researchers since November 1987. It consists of 464 boxes of material, now available for study on 35mm microfilm. A guide to the collection is available, as is a list correlating the boxes with the microfilm reels. This valuable collection is peculiar in certain respects. The following opinions from a researcher's perspective may be of interest to archivists, for this is an archives that, if used in isolation, can result in misleading, even damaging and fallacious results. Archivists and researchers at the United Nations (U.N.) and at other repositories with war crimes material ignore these dangers at their own peril.

The Allied powers established the UNWCC in London in October 1943. While the Soviet Union never joined, and South Africa withdrew from membership quite quickly, the commission eventually included delegates representing seventeen nations.¹ By the time it disbanded in March 1948 the commission had examined 37,000 cases, although it had no prosecutorial or arresting authority.

The UNWCC had three major functions: 1) to collect, investigate, and record evidence of war crimes, and where possible, identify the responsible individuals; 2) to report to concerned governments when a *prima facie* case could be made against an accused individual; and 3) to act as a commission of legal experts, advising on tribunals, appropriate rules of evidence, and other related measures.

The commission established committees to carry out its three major functions. Committee I, on Facts and Evidence, examined

the charges filed by the national offices, and recommended listing accused individuals, where appropriate. The commission would usually follow the committee's recommendation. Committee II, concerned with enforcement measures, the detection of accused persons, and the apprehension, trial, and punishment of guilty individuals, influenced the International Military Tribunals for both Germany and the Far East.² Committee III, the Legal Committee, advised the commission on legal questions.

In 1944 the UNWCC established a Research Office, which examined decrees or protocols issued in German-occupied territory in order to determine who was responsible for implementing illegal orders. The Research Office worked with the national war crimes offices of the member states.

The collection at the U.N. Archives consists of minutes, documents, and reports of the commission, its committees, offices, and subcommittees. It includes lists of war criminals, suspects, and witnesses. These lists, which were issued periodically, contain 37,000 names, 8,000 charge files, and related materials. A brief survey of highlights would include:

- Lists of concentration camp personnel;
- Alphabetically arranged card indices consisting of accused war criminals, suspects, and witnesses, containing about 40,000 names;
- Indices to lists of war criminals, suspects, and witnesses, including annotations to certain lists;
- Charges filed by member governments, including UNWCC registration numbers, date of receipt by the commission's secretariat, name of charging government, and decision of Committee I; the charges are arranged by member governments, and numerically within this national designation;

¹See the *History of the United Nations War Crimes Commission and the Development of the Laws of War* (London: 1948).

²The commission also established a Far Eastern Sub-Commission, which met in China.

- Registers of charge files, by country, and by nationality of the accused;
- Various "wanted" lists, including materials concerning identification of suspects;
- War crimes registries and related material concerning Japan and suspects in Far Eastern war crimes cases;
- Detention rosters and trial synopses pertaining to suspected Japanese war criminals;
- Records of trials of German suspects conducted by various Allied powers;
- Commission meeting records, and incomplete minutes for meetings of Committees I-III (the minutes of the crucial Committee I are reasonably complete).

Some documentation never reached the U.N. Archives. In certain cases, the commission itself appears to have destroyed materials, such as files relating to administrative matters, public relations materials, and legal documents relevant to its proceedings in the Far East.

Access to the UNWCC Archives

The United Nations provided storage space for the UNWCC archives after these records arrived in New York in 1949. The U.N. administered the records, while disclaiming responsibility for their content. The records were available to researchers, and to member states "for United Nations purposes." However, researchers had to be "engaged in serious research in the history of the Commission or in related problems in international law or associated fields." They could not investigate specific charge files, examine lists, or study the minutes of the UNWCC and of its committees; nor could researchers peruse related indices and certain other papers. Historians were barred from investigating specific cases, accusations, and personalities. The UNWCC records were effectively closed to all scholars, except for the very few who were interested in the history of the commission, or in legal theory.

The uproar over Kurt Waldheim's war-time past played a crucial role in bringing about greater access to the UNWCC records.³ The Waldheim affair greatly embarrassed the United Nations. Worse still, Israeli, Austrian, and American representatives to the world body had now gained access to the secret Waldheim file. In a bizarre twist worthy of an unbelievable spy novel, it turned out that the UNWCC had in 1948 listed a future Secretary-General of the U.N. as a mass murderer!

Put another way, while Waldheim looked out at the New York skyline from his palatial office atop the U.N. building on Manhattan's East Side, a file on him at the world organization's archives, resting but a few blocks away, accused Waldheim of ordering illegal executions in Yugoslavia in November 1944. The ensuing publicity created an uproar. When it momentarily subsided, outrage replaced shock. Had Waldheim and the U.N. conspired to keep researchers out of the UNWCC files, in order to protect him and others like him? Was the U.N. using phrases like "confidentiality," "raw files," and "for U.N. purposes only," as shields for suspected war criminals?

Those interested in the fortunes of the world body realized that the policy regarding access to UNWCC records would have to change. The U.N. became increasingly unpopular in the United States after Waldheim took over early in 1972. Many Americans and American politicians perceived it to be the anti-American stronghold of Third World dictatorships and Communist enemies, a body committed more to the destruction of Israel than to the cause of world peace. However unfairly, the Waldheim UNWCC file became a symbol of everything that had gone wrong at Dag Hammarskjöld Plaza since Waldheim's election

³For a selection of press accounts dealing with the access controversy, see the *New York Times*, 20 March 1987, 3; *ibid.*, 9 December 1987, 4; and various Associated Press dispatches, 22 November 1987.

to the post of Secretary-General. In the eyes of articulate Jewish groups, anti-Zionism was working in alliance with war criminals in order to shield murderers from justice. Given the fact that the United States makes major financial and logistic contributions to the work of the U.N., Secretary-General Xavier Perez de Cuellar, who succeeded Waldheim in 1982, realized that the organization was in trouble.

The renewed public outcry, which affected the governments of the member nations of the defunct UNWCC, brought about a change in access policy. The U.N. decided that the former members of the UNWCC could decide to grant broader access to researchers, if they so desired. Groups and individuals, including the author, now lobbied the Permanent Representatives (ambassadors) of their respective countries, requesting that the rules be changed. Like others, I used interviews with the press and media appearances as vehicles for putting pressure upon the U.S. Permanent Representative, General Vernon Walters, and his legal advisors. The access rules were changed thanks to the efforts of the media, researchers, Jewish groups, the office of the Permanent Representative, and the U.S. State Department. The new rules were established in concert by the U.N. Secretariat, the relevant U.N. members, and the staff of the U.N. Archives. They are, however, in the literal sense, strictly U.N. regulations. Legitimate researchers interested in both the commission and specific accused war criminals can now—in theory—examine the UNWCC records. The lists, indices, files, charge cards, and minutes are available on microfilm for examination.

Researchers must formally apply for access to these records. Listed on the Archive's application form are several rules governing access. Researchers must be as specific as possible in describing the nature of their research. Applicants must obtain a letter of introduction from their employers,

or from a relevant professional association. The applicant must sign a waiver acknowledging that the records may include unsubstantiated information and hearsay evidence. He or she agrees to state this fact in any publications resulting from research in these collections. In the event of legal action, the researcher accepts full responsibility, agreeing that the governments concerned and the United Nations are to be held harmless. The U.N. will be indemnified by the researcher, in the case of successful legal action against it. The signed application provides that the researcher agrees to observe all conditions described in the appended list of rules.

These legal restrictions are totally out of place in a professional archives. A writer is indeed liable for his statements, but is rarely, if ever, required to sign a waiver of the above type. An archives is a repository to be used by researchers for the publication of information of interest to a segment of the reading public. Managers of archives should not engage in preemptive legal strikes, which are a form of intimidation. It is not the job of the archivist to place legal interpretations upon the nature, or the possible use of, accessioned materials open to researchers. The applicant who does not know that his documents may contain unsubstantiated allegations will embarrass himself, not, in this case, the U.N.

In order to gain access, the applicant must gain the support of his or her government. For the American researcher, this means obtaining a letter from the Department of State, Office of the Historian. The Department has been cooperative, and acts promptly. Its letter is forwarded to the office of the U.S. Permanent Representative, who then requests that the Secretary-General permit the applicant to obtain access to the UNWCC records.

The applicant may be required to pay user fees. Researchers are not permitted to make copies of the microfilmed documents. Some researchers claim that the

physical facilities at the U.N. Archives are of substandard quality; others, including myself, find them to be adequate. I have found the staff to be knowledgeable and helpful. Here again, the timidity of the U.N. comes in to play. The prohibition against mechanical reproduction of documents (by microfilm printers) is most unusual in this day and age. Since many of the accusations (with names and data) are available in other archives from Washington to Belgrade, these restrictions become a form of petty harassment, unworthy of the United Nations. Nor can the researcher purchase microfilm reels, even if the selected publication comports with the detailed research theme provided to the U.N. Archives by the individual as part of his or her application. This too is almost without parallel, at least to my knowledge. Microfilm publication is a thriving industry, and such productions help the researcher, and make for more accurate research and citation. More liberal rules on photoduplication would thus help prevent misuse of the collection, which the U.N. claims to fear.

Nature of Prosecutorial Records

The policies that govern access and use may be aggravating to users, but of more importance is the fundamental character of the UNWCC records. Assembled at a time when memories were fresh and many witnesses still lived, the UNWCC records can be of great importance to researchers of the Holocaust and other important subjects related to the Second World War. They should, however, never be used in isolation. Researchers of any subject should be alert to the danger of relying exclusively on information from a single source or perspective, but in the case of the UNWCC, failure to venture forth to other, related sources can produce results that are catastrophic in personal, legal, and historical terms.

These records thus place an unusual bur-

den on researchers and archivists. Material assembled for prosecutorial purposes must be treated with extreme caution, laced with skepticism. Cold War politics and intelligence matters affected the decisions of member governments of the UNWCC. Occasional bouts of incompetence, the press of time, and sheer human error mar the records of the UNWCC. The following example illustrates this point.

I became acquainted with this collection while researching a book on Dr. Kurt Waldheim. The UNWCC file on Waldheim, released in 1986, accuses him of murder. I became suspicious of this document in connection with research I was carrying on in the National Archives. I flew to Belgrade, Yugoslavia, where I obtained the Arhiv Jugoslavije's (State Archives) war crimes file on Dr. Waldheim. It became clear to me that politics had played a role in the Yugoslav decision to construct the 1948 case against Waldheim. Only by a careful comparison between the Waldheim file in the records of the Yugoslav State Commission on War Crimes, and that submitted to Committee I of the UNWCC, could I determine that the case was weak, possibly even fraudulent.⁴ In other words, the researcher *must* compare the allegations contained in UNWCC materials to documents stored in the archives of member nations, wherever possible. Partial records of member states can be consulted in the United States, Great Britain, the Netherlands, Yugoslavia, and possibly other nations.

This caveat places a special responsibility upon the archivist, both at the U.N., and in various national archives. Archivists should be in a position to warn the researcher about the need for "parallel" inquiries, as described above. It would be useful to organize a conference among archivists from the National Archives, the

⁴See Robert E. Herzstein, *Waldheim: The Missing Years* (New York: 1988), chapters 13-14.

Public Records Office, the United Nations, and other repositories that house war crimes materials. Such a conference, attended by interested researchers, could produce case studies illustrating how to use a collection which contains partial, unsubstantiated, or even false data. The latter point is important, because falsified information may have great historic value. Who created a false war crimes accusation, and why? Research may thus throw light upon the motives of the UNWCC members, their goals, their legal principles (or lack of scruples), and

indeed, upon the entire ideological and secret-intelligence aspects of the Cold War. Further, such a conference, if it brought together researchers and archivists from Western and Communist countries, could produce new information about the collapse of the wartime Grand Alliance, and the onset of tensions engendered by the new, bipolar world.

In the coming years the newly accessible United Nations War Crimes Commission archives will test the mettle of both archivists and researchers.