SHUTTING DOWN THE UNITED NATIONS WAR CRIMES COMMISSION

ABSTRACT. This article presents the struggle between factions in the executive branch of the US government over post-war relations with Eurasia in general and Germany in particular. It argues that the legal and moral divide between the groups concerned interpretation of war crimes, crimes against humanity, and the limits of national sovereignty. It discusses the discontent of members of the UNWCC over US and UK efforts to close the Commission and how the United Nations dealt with the remaining UNWCC cases and records.

During World War II, there was a deep split in the executive branch of the United States (U.S.) government over post-war relations with Eurasia in general and Germany in particular. This debate was complex, but it has often been summarized as a factional battle between Treasury Secretary Henry Morgenthau Jr. against a group at the Department of State featuring the chief Legal Adviser Green Hackworth and assistant secretaries of state Breckinridge Long.

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1 Henry Morgenthau Jr. (1891–1967) was US Secretary of the Treasury (1934–1945). He was a long-time personal confidant to Franklin Roosevelt and principal sponsor of the ‘Morgenthau Plan’ (1944) for post-war Germany. Morgenthau later became prominent in Jewish-American affairs.

2 Green Hackworth (1883–1973) was the first Legal Adviser to the US Department of State (1931–1946), then the first US judge at the International Court of Justice (1946–1962; president 1955–1958). He was author and editor of Digest of International Law; eventually totalling 15 volumes.

3 Breckinridge Long (1881–1958) was Assistant US Secretary of State during World War II, and widely criticized for highly restrictive immigration policies and opposition to rescue efforts for Jewish refugees. Although both Morgenthau and Long were long-time allies of US President Franklin Roosevelt, Morgenthau regarded Long as anti-Semitic.
Joseph Grew, Robert Murphy, and others, each of whom played a major role in US wartime and post-war political-military affairs. Herbert Pell, the US representative to the United Nations War Crimes Commission (UNWCC) until December 1944, was an enthusiastic ally of the Morgenthau faction.

Broadly speaking, these informal groupings represented poles within the US government that clashed repeatedly over wartime Jewish visas to the US, the Morgenthau Plan for post-war Germany, and Joint Chiefs of Staff order 1067 (JCS 1067), which set policies for the US military occupation zone in defeated Germany. For US President Franklin Roosevelt (FDR) and Morgenthau’s group, the central threats to peace and world economic recovery after 1945 were Germany and other authoritarian, “corporatist” states and ultranationalist movements. For the Department of State group, the central threat was the USSR, along with the post-war satellite states and anti-colonial, nationalist groups that they regarded as Soviet pawns.

4 Joseph Grew (1880–1965) was a prominent, career Foreign Service officer; US Ambassador to Turkey and later to Japan (at time of the 1941 Pearl Harbor attack). He was Undersecretary of State and Acting US Secretary of State (1944–1945).

5 Robert Daniel Murphy (1894–1978) was US chargé d’affaires to the Vichy French government (1941–1942), then chief political adviser to US military European Theater commanders in chief Dwight Eisenhower and Lucius Clay during World War II and the American occupation of Germany. In that post, Murphy was instrumental in US policy concerning de-Nazification and most policy aspects of the economy in occupied Germany. Murphy proved instrumental in reversing JCS1067 occupation policies (see below). He later served as senior Undersecretary of State for Political Affairs throughout the first decades of the Cold War.

6 Herbert Pell (1884–1961) was a former US Congressman, prominent supporter of Franklin Roosevelt, and US minister plenipotentiary to Portugal and Hungary on the eve of World War II. Pell became US representative to the UNWCC (1943–1945), and was later active as a philanthropist. See also the contribution by G. Cox in this volume.

7 Directive to the Commander in Chief of US Occupation Forces [from the US Joint Chiefs of Staff – JCS1067] (April 1945). Department of State Bulletin (21 October 1945), 596–607. This was the official statement of US occupation policy in Germany in effect from 1945 to 1947. It conceived of the US zone in Germany as occupied enemy territory, barred fraternization, set relatively strict de-Nazification and de-cartelization terms, vacated Nazi-era race laws, and barred Nazi propaganda. For a detailed discussion, see E Ziemke, The U.S. Army in the Occupation of Germany 1944–1946 (Washington DC, U.S. Army Center of Military History, 1990), particularly Chapters VIII and XIII.