



The Rise of the Nazis Establishing Dictatorship | The Plot to Destroy Democracy from Within (1918-1936)

When do every day social processes become more dangerous? Who is the first to notice? Are we really interested in, and able to, confront evil or do we embrace, assimilate, accommodate, and normalize evil? Why Germany? Why the Nazis? To what degree was support gained through coercion and/or consent?

Hitler was not inevitable. It would be a critical misunderstanding to buy the self-propagated Hitler myth that it was his “will” and genius that brought him to power. Hitler was always rescued by others who underestimated him, but utilized him for their own purposes. Indeed, many were drawn to Nazism and Hitler more for short-term gain than an admiration of Hitler. What are the myths and realities about the Nazi rise to power and how does it challenge our understanding of our civic responsibilities in a democratic society?

Dissatisfaction led to a “hazardous adventure.” - Carl von Ossietzky¹

Antisemitism as Precedent

In the 1510s Germany (the Holy Roman Empire) experienced the Protestant Reformation that would culminate in the devastation and religiously-fueled cruelty of the Thirty Years’ War (1618-1648). Luther was the lightning rod whose inner turmoil, uncertainty, anxiety, and desperate urge to find purity and certainty, led to a violent and antisemitic outburst that struck a chord amongst those facing economic and religious uncertainty. Seeking a personal relationship with Jesus drove his emotional needs for certainty and validation. The more turmoil he felt, the more he projected it onto others, especially non-Christians. “...the Jews, once again, failed to provide the necessary validation to those who had gained certainty.”² Luther declared the Jew the enemy and the “spawn of Satan.”³ Significantly, he shifted religious thinking by writing and preaching that Jews could not be converted. Baptism could no longer be used as Jews, to Luther, were impermeable to its power. The self-fulfilling cycle continued. The more anger Luther felt, the more he blamed Jews for provoking it, and the more violence against them could be justified. He began to argue that the only solution – and one that the coming religious wars would embrace – was for Jews to die. Luther was the only major reformation leader who believed that Jews were irredeemable and his ideas would later be embraced by Nazi eugenicists and race theorists. Luther detested the urban and humanistic cultures of the Renaissance and saw it as a threat to the inherent goodness of isolated German peasants. Capitalism and commercialism were, to him, direct threats to the spiritual nature of individuals and a threat to piety. Facing the encroachment of new and merchant-based economies, artisans and peasants, facing difficulties, embraced Luther’s targeting of the Jews as the cause of social ills and fears. “International Jewry” was already being articulated as the single cause of German economic and agrarian woes and Germans earnestly discussed the “Jewish problem.” This was not the case in places like France where



“Jews not welcome here.”
Nazi Germany, 1930s.

¹ Volker Ullrich, *Hitler: Ascent 1889-1939*, (New York: Knopf, 2016), 234.

² Weiss, John. *Ideology of Death: Why the Holocaust Happened in Germany*. Chicago: Elephant Paperbacks, 1996, 22.

³ Ibid, 23.

Huguenots looked favorably on the Jews both as victims of persecution and as targets of Catholics. Likewise, Calvinists and Puritans held Jews in a much more favorable light than Lutherans.

The Thirty Years' War was an appalling, shocking, and devastating religious war that devastated much of Germany. Its mass atrocities spurred on the Age of Reason and the Enlightenment – intellectual attempts to reign in the violence by subverting religion and placing limits on the actions of the emerging states that came out of the smoldering ruins. Secular, civic ideals would be framed in a world where religious freedom would be the general mantra. The Enlightenment flourished in England, France, and the Netherlands, where commercialism flourished, but was rejected by Germans as an assault on their deeply felt religious piety. France became an implacable enemy with the 1789 revolution that destroyed institutions and did the unthinkable: legislated an end to all civic disabilities leveled at Jews.

German philosophes rejected citizenship for Jews. Secularism, especially enlightened ideas, had little power to counterbalance extremist beliefs. German intellectuals rejected the idea of inalienable rights believing that individual rights were determined by factors such as history, ethnicity and its traditions, and institutions created to represent the needs of those experiences. Undermining tradition was tantamount to undermining morality. Equating peoples and liberating Jews would be an imposition by radical secular forces whose goal it seemed was to undermine traditional piety. Pious Christians could choose between good and evil, and were not simply “blank slates” to be manipulated by radical, superficial, and subversive secularism. The enlightenment represented selfish, commercial, and individual motives that, in their view, was determined to undermine the common good.

Enlightened philosophes in France and England shaped the values and practices of the educated, professional, and business classes as did German intellectuals. Germans, however, would focus on the idealism of the German soul and the rejection of liberalism. Although German philosophes were not generally concerned with Jews and focused more on the German spirit, it did not take long for German academic institutions to take on a decidedly antisemitic tone. Clerics escaped the anti-clericism of Western Europe and retained their role as interpreter of daily life and pious symbols of traditionalism. Intellectuals defended the hierarchical structures of patriarchy, village life. Liberalism was increasingly perceived as un-Christian and the Grimm brothers soon wrote stories that showed the purity of the German soul while villainizing republican cosmopolitanism.

Prussia, initially defeated by Napoleon, grew in influence. As Napoleon's troops and administrators occupied German states and began implementing reforms, Prussia inspired a nationalistic, reactionary movement that galvanized German pride around the idea of the uniqueness of the German spirit and freedom from foreign influence (including language, culture, liberal reforms, free markets, and imports). Youth groups burned books and embraced antisemitism while “storm troopers” and Prussian death's heads hussars fought the occupier. The movement venerated self-sacrifice for a greater good hardened through battle, a rejection of enlightened and commercial values, and removing the invaders who were determined to undermine the German spirit. Fearing Jewish assimilation (inspired by German Jewish patriotism) the King of Prussia tried to prevent the rise of Reform Judaism in 1810.

With the French defeat reactionary nationalists, rooted in xenophobia chauvinism, called for unity and purity. Lacking an overseas empire and the commercial middle class engaged in colonial trade, entrepreneurs prided themselves in working within the established order. Guilds retained some influence and became a bastion of conservatism and antisemitism. Antagonism towards Jews (even though many had fought against the French)

was intensified by the Jewish migrations from Eastern Europe (1816-1848). Antisemitic riots took place in more than 30 German cities, synagogues were burned, and roving bands of thugs, often guild members or small businessmen, beat Jews in the streets.⁴

As revolutions once again swept Europe in 1848 German peasants and artisans rioted due to bad harvests and food shortages enhanced by the relatively feudal nature of the economy. Guildsmen blamed their troubles on Jews. Prussian aristocrats and military leaders used the Conservative party to voice their reactionary, anti-liberal and antisemitic views and gleefully suppressed the Left when the Prussian parliament directed them. As “Jewish liberalism” was being cited as the threat, the Prussian king received the right to rule without parliament if a national emergency was declared. The Fatherland Society was created to prevent parliamentary attempts to tax aristocrats, the leaders of the German artisans and peasants, the soul of the nation. Despite this, liberal progress continued to influence Germany and ironically made the status of Jews more precarious. As opportunity and assimilation grew, nationalists perceived this as a threat. After all, had not French republicanism had been defeated by Prussian aristocrats? German Jews, unwelcome in the countryside, flocked to cities which began to flourish outside of traditional structures. Aristocrats tried to fight back.

In 1876, Otto Glagau, organizer of antisemitic groups created the slogan (later to be used by the Nazis), “Today the social question is essentially the Jewish question. All other explanations of our economic troubles are fraudulent cover-ups.”⁵ German conservative intellectuals stressed the un-Christian nature of liberalism and its apparent sponsor, the liberal Jew.

The 18th and 19th centuries brought additional dislocating trauma through the emergence of the Industrial Revolution. Church authority, less able to shape public opinion or, as in the past, restrain behavior through its ethical teachings, was unable to limit new antisemitic violence that emerged. Churches often embraced nationalism to promote their own place in society and viewed “modernism” as a threat evidenced by the depravities and exploitation of Industrial life. European power grew through industrialization and the era of High Imperialism in the late 19th century which found small European countries conquering and claiming enormous territories overseas. A new ideology emerged to justify the brutalities and benefits of colonial rule.

Wilhelm Marr’s 1879 creation of the term “antisemitism” was focused on the supposed racial, as opposed to religious, characteristics of “the Jews” and the threat to the nation of Jewish assimilation. Antisemites embraced the new pseudo-science of “race” and argued that Jewishness was a threat to German soul. Racial antisemitism sought to prove the superiority of the white “race” while “proving” the inferiority of the Jewish “race.” That racial inferiority was demonstrated “naturally”, they argued, by the fact that Jews had not formed their own nation or state. Instead, they argued, Jews simply lived off foreign cultures and nations like inferior life forms. “Before you vote for anyone, first ask about his blood and worry later about his political opinions.”⁶

Austrian Catholics, fearful of their polyglot empire, were also relatively immune from the counter-attacking forces of liberalism. Pope Pius IX’s 1864 *Syllabus of Errors* condemning liberalism, science, and modernism, resonated in Austria. Still peasant and artisan-based as late as 1890, Austrian Catholics embraced a virulent, peasant-based antisemitism. In the 1880s and 1890s, an artisan movement formed to fight “Jewish liberal

⁴ Weiss, 76.

⁵ Ibid, 84.

⁶ Ibid, 98.

plutocrats”⁷ and called for boycotts against Jewish businesses. Austrian elites were even more willing to use antisemitism as a political weapon than were the Prussians. It was in the streets of Catholic Vienna that Hitler learned his antisemitism. Austrians would later represent a disproportionate number of Nazis, including 14% of the SS and 40% of death camp staffs.⁸

By the 1890s, antisemitism would gain support among the generation that would support the Nazis after World War I. Antisemitism was increasingly used by upper class reactionaries, middle class nationalists, and lower class populists as a weapon against the growing influence of liberal democracy. Religious leaders took leadership roles in promoting racial antisemitism in the academy and in politics. The 1881 German Students’ League was founded by Heinrich von Treitschke who taught “The Jews are our misfortune” to rally anti-immigrant sentiment to those opposed to Jewish migration from the east. Adolf Stoecker, co-founder of the League, created the Christian Social Workers Party that soon used antisemitism to rally a solid base of support. The party promoted a traditional Germany of motherly women and pious guildsmen combatting the sins of modernity.

German leaders continued to build the military and invoked traditional German spirituality and sacrifice when questioned about their exemption from taxes or the benefits they gained from tariffs and subsidies. Social tensions, growing with the industrial revolution and strengthening liberal democracy, made aristocratic leaders to utilize antisemitism to deflect anger and outrage. Chancellor Bismarck, for example, stated, “We Germans fear only God...unfortunately we now fear the Jews as well.”⁹ Racism enabled the German elite to reduce social and moral complexities to racial behavior.

By 1914, the army, aristocrats, bureaucrats, and business giants feared the growing power of democratic parties in Germany. Not only did they ratchet up antisemitism in an attempt to target the Left, they agitated for a suspension of parliamentary politics. As social, economic, and political tensions grew, they pushed Germany into the First World War in an attempt, as the Kaiser stated, to bring peace to the fortress. Sacrifice and the shedding of blood would unify the nation. Elites had embraced and promoted war in a bid to unite the country that was divided regionally, religiously, and socially. Their war aims promoted extreme, expansionist, militant, antisemitic, racist, social-Darwinistic, nationalism. Field Marshal Hindenburg saw the war as a positive test, a Darwinian struggle, among white Europeans.¹⁰ What became possible – imagining and accommodating to mass killing for example – was due to the experiences of the trenches. These were also the foundations of Nazism.

By the middle of World War I, the military had seized the reins of power and by 1916 the German General Staff ordered a census of all Jewish soldiers in the army to determine how many actually served on the front line – only to discover a very high percentage. The Treaty of Brest-Litovsk that German generals imposed on Russia included the seizure of Russian population, land, heavy industry and coal mines, and utilized Jewish slave labor. The Nazi cry for *Lebensraum* (racial living space) can be traced to World War I objectives. After the German army was disbanded in 1918, many young officers and soldiers gravitated to the Nazi movement. The *Freikorps*,

⁷ Weiss, 165.

⁸ Ibid, 173.

⁹ Ibid, 95.

¹⁰ Isabel V. Hull, *Absolute Destruction: Military Culture and the Practices of War in Imperial Germany*, (Ithaca: Cornell University, 2005), provides an excellent assessment of the development of German military culture rooted in violence, racism, and unchecked by political authority.

paramilitary militias fighting to maintain German control over territories in the east, was supported by the army and in general, the German population.

Why did democracy fail in Weimar Germany? (1918-1932)

Germany became a state in 1871. It was a cobbling together peoples of different religious, cultural, and regional groups. On a social level, identities and associations were reinforced by class differences. All of these tensions were reinforced by the industrial revolution. German elites saw World War I as a way to bind the nation together through shared sacrifice.

The defeat in World War I brought trauma, loss, despair, frustration, anger, confusion, and economic insecurity that would pit people against each other once again. On November 9, 1919, German democracy born out of defeat. The Kaiser Reich became the Weimar Republic. 3/4ths of Germans voted for the Weimar coalition government (no party able to receive a majority) of Social Democrats, Catholic Centre Party, and German Democratic Party. The political climate was poisonous with fractious groups unable to compromise. About ¼ of the politicians were hostile to democracy and many were looking for a strong leader to save them. The elites (aristocrats, bankers, military...) were coming under increasing pressure and criticism as they seemed unable to rule. The 1919 Spartacist (Communist) Uprising sent shock waves through conservative society. Ruthlessly put down, it was clear that the war had crept home and was now being waged between increasingly polarized political groups. There was confusion, paralysis, dysfunction, and especially, disunity.



One could argue that a perfect storm of opportunity, attitudes, and a variety other forces (ever-present in the human experience) coalesced in the 1930s. It is also true that Nazism, however distasteful at first, was built upon German traditional values. The German Army and its leadership played a key role in shifting blame for its defeat to other elements in society and utilized antisemitism to explain away the chaos and destruction that they had brought to Germany. Additionally, a new myth of the front-line soldier, propagated by nationalist groups, was embraced by those with radicalized views as well as those who had been too young to serve. The myth projected German manhood as hardened, violent, dispassionate, cold-blooded comrades who found emotional distance from their victims in order to soldier on at the front. Young men like Heinrich Himmler (future leader of the SS) who saw themselves as failures for not serving in the war found the myth enchanting. As Himmler later shaped the SS he did so embracing the idea that compassion for the enemy was contemptible and that murdering opponents was noble, requiring the best of society, not the worst, to accomplish.¹¹ German nationalism was long rooted in ideas of race and an anti-Western, chauvinistic rejection of the enlightened ideals of 1789.

German Politics and Growing Resentment Toward Elites

The President of the Weimar Republic was elected by popular suffrage for a seven-year term. The President could rule in times of crisis by using Article 48 to suspend the legislature and rule through emergency decree. The president appointed the chancellor as head of government to run the legislature. The *Reischwehr* (German Army) swore their loyalty oath to the president and not to the constitution. From 1919-1932 there were 21 different coalition governments. Despite this, President Ebert settled things and gave the Republic a foundation. His death

¹¹ Dan McMillan, *How This Could Happen: Explaining the Holocaust*, (New York: Basic Books, 2014), 71-72.

in 1925 hit Germans hard. His successor, President Hindenburg, was closely tied to German conservatism and nationalism. From 1928-1932 there were four chancellors who often ruled through emergency decree. President Hindenburg's use of Article 48 undermined the ability to create democratic traditions and structures and tended to further isolate opposing political groups. It also fostered a sense of confusion, paralysis, dysfunction, and disunity that led to a growing resentment toward German elites – specifically political leaders.

“Hitler is not an individual at all. He is a condition.” - Thomas Heine, May 1923

Adolf Hitler was a product of the trenches. Before the war, Hitler was generally an arrogant loner who isolated himself and read books. He did not read to test his beliefs, but to confirm them. It was after the war that he discovered and honed his paranoid antisemitism. The difficulty with understanding Hitler is that he carefully crafted a public image (reinforced in the myth-creating *Mein Kampf*) which told the fictional story of the small town boy who was lost (to the Volk) by poverty and the moral corruption of outside forces and became a servant of the people who only entered politics reluctantly while sacrificing his private, personal life. He enjoyed crafting the persona of the struggling artist driven into politics against his will and painted his triumphs as testament to the triumph of his will and prophecy. Little of this was true.¹²

Hitler was indeed obsessed with his image. He was a massively insecure person with an inferiority complex. From his early, lazy days from a rather comfortable middle-class family, he resented others who seemed to be better at school – as they, unlike him, applied themselves. He resented teachers and those whose credentials and experiences seemed to belittle his overdeveloped sense of self (probably including his father). He was a narcissist who constantly talked about himself. He would rage at the slightest provocation and his prodigious memory ensured that he would never forget or forgive a perceived slight. He was generally repulsive (sweating profusely, spitting as he spoke, drooling...) and was prone to mood swings vacillating between euphoria, depression, frantic energy, lethargy, apathy and idleness. He was often slow to make up his mind, but once he did, he energetically fixated on it. He was devoid of empathy and sought to keep people at a distance. There were also aspects of self-destructive and homicidal tendencies. Having said this, he had fascinating blue eyes and could turn on the charm when required. He had the ability to tell people what they wanted to hear in disarming ways. He was always afraid that he would die early and always feared assassination. He was an “all or nothing” gambler who was incapable of compromise. At times he would love to hear himself speak and would ramble on for hours in close company. This perhaps served his needs for social dominance, fed his overblown sense of self, and ensured that he would not be alone – something he greatly feared. His great talents were public speaking and acting. He indeed had tremendous ability and learned to easily slip in and out of roles for tactical gain. This talent was a primary reason why so many kept underestimating him.



Hitler discovered his talents in post-World War I Bavaria. He spoke with a Bavarian accent and tailored his speeches to the audience. In many ways, the audience made Hitler. Their energy helped him overcome his insecurities and reaffirmed his overblown sense of self. As an actor he learned to speak for the postwar “little guy” in a manner like a “cleansing thunderstorm.”¹³ His performance topics were limited, but consistent. He always began talking about his fabricated life story and how only he could solve Germany's problems. He never

¹² Ullrich, *Hitler: Ascent*, gives an excellent appraisal of who Hitler really was while deconstructing the public image and myth-making.

¹³ Ulrich, 96.

shied away from his antisemitism, his goals for the Jews, and his ideas of “race and space.” He portrayed the world as a dark place in decline and decay. As a mouthpiece for cultural pessimism he portrayed himself as a leader who could save them. He liked to use sarcasm and irony and often compared himself to Jesus. He spoke of a Jewish conspiracy operating behind the scenes and the need to replace democratic traditions with powerful authority to create a homogeneous, unified ethnic community. One of his inspirations

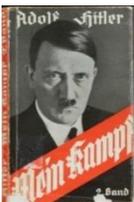
Radical Solutions Amid Fear and Confusion

Hitler was able to exploit fears, crystallize the image of an enemy, and justify the need to target it. In Weimar Germany, the Communists (to hone in on one particular group) were generally feared by conservative and middle-class Germans. Right-wing political movements exploited this fear by positioning themselves as a bulwark against communism, defenders of national culture, and the last for national survival. Across Europe democracies were being replaced by dictatorships in Italy, Poland, Latvia, Estonia, Lithuania, Hungary, Romania, Bulgaria, Portugal, Yugoslavia, Austria, and Spain. Consistently the authoritarian right shared antisemitism and the desire to destroy civil liberties. Having said this, there was nothing inevitable about Germany becoming a dictatorship.

From Obscurity to Irrelevance - To Slight Relevance - Back to Irrelevance.

Hitler was kept in the mix not by his own abilities, but by being rescued by those who underestimated him and sought to manipulate him. On June 21, 1921, Hitler resigned from the NSDAP (Nationalist Socialist German Workers’ or Nazi Party) after refusing to approve a merger with other nationalist parties. Anton Drexler, founder of the German Workers’ Party (DAP) and now party chief of what Hitler had morphed into the NSDAP brought Hitler back into the party by offering Hitler his party chairmanship. Drexler, perhaps rightly, feared that the fledgling party could not survive, let alone grow, without its top speaker. In January 1922, Hitler was thrown in jail for three months for inciting public violence. Upon his release, powerful patrons begin to help him, especially the influential conservative press mogul Alfred Hugenberg whose fortune came from war profiteering. In July 1922, the Nazis assassinated German Foreign Minister Walter Rathenau. By this time, the Nazis and their immediate allies have killed 344 political opponents. This was a terrorist organization.

In 1923, Weimar Germany was under the pressure from the obligations of the Versailles Treaty, economic stagnation and depression, and regional factionalism: Bavarian politicians were seeking a break from Berlin. French and Belgian troops occupied the Ruhr Valley when Germany could not meet its reparation obligations and the German government ordered passive resistance to the occupiers. The general strike devastated the German economy as the government created an inflationary cycle by printing money to pay workers in dormant factories. To Hitler, the conditions were ripe for a seizure of power in Bavaria. The NSDAP could boast a membership of 55,000. Unfortunately for Hitler, the opportunity seemed to be ebbing away. On September 20, 1923, the German government ended passive resistance. The new central bank revalued the *reichsmark* in mid-October and the Weimar government began to successfully tackle the currency crisis. With pressure building, Hitler decided to gamble, seize Bavaria, and then march on Berlin. His hastily conceived “Beer Hall Putsch” included plans for concentration camps for Jews. The putsch failed in a thirty second volley from the police and military and Hitler was jailed for treason. In addition to the hasty planning, historians have suggested it was Hitler’s decision to detach his private militia, the forerunner to the SS (*Strasstrupp Hitler*), on a vindictive mission to trash and pillage the offices of the *Munich*



Post newspaper that continually reported on the threat of Hitler. In prison Hitler wrote *Mein Kampf* (My Struggle). There was little originality in his book and to articulate his world views he utilized works like U.S. eugenicist Madison Grant's *The Passing of the Great Race* and Henry Ford's pamphlet (written with the help of a Prussian ex-pat), "The International Jew: The World's Foremost Problem."¹⁴

In 1924, the Dawes Plan tied German reparations payments to the state of the German economy and alleviated the currency crisis. Germany joined League of Nations and began its reintegration into European politics. Hitler continued to try to ingratiate himself with Munich's leaders as he spoke of the humiliation of being under control of western "financiers." The *Munich Post* kept digging into his background and into that of the party, mocking him mercilessly, exposing internal party problems, discovering the Nazi death squad ("cell G") that murdered political opponents, and in 1931 published a Nazi document planning a "final solution" for the Jews of Munich.¹⁵ In spite of these reports the Bavarian government, thinking things had calmed down, lifted the ban on the NSDAP. "The beast is tamed. Now we can loosen the shackles" said Heinrich Held the BVP chair. Despite "cell G" (which Hitler made sure could not be traced to him), Hitler was tolerated. Why? Hitler masterfully used the tactics of bluff and as an actor, gave differing and confusing impressions: the buffoonish Chaplin-like character, the "sleeping serpent," or the trustworthy leader. He lied until he got what he wanted. Unable to figure out what to do with him and pretended this was acceptable. They not only underestimated him, but critically, they normalized him. Once Hitler was released from jail he was banned from public speaking after his first incendiary speech.

Working Within the System to Destroy the System

In May 1924, the Nazi Party performed poorly securing 6.5% of the national vote and receiving 32 out of 472 seats in the Reichstag. By December 1924, due in part to the ban on Hitler speaking publicly, the Nazis were reduced to 3% of the vote and only 14 out of 493 seats in the Reichstag. The ban on Hitler was relaxed in 1928 and the May 1928 elections showed the Nazis with only 2.6% of the vote. This seemed to be a disaster, but the NSDAP noticed a slight growth in its popularity in rural areas and began to shift their attention there.¹⁶ As the economy began to decline in 1928 and 1929 the Nazis began to see some positive results. They did especially well in German student parliamentary elections – especially in rural areas. In December 1929, the Nazis began to do well in state elections. In Thuringia, for example, they received 11.3% of the vote in the Lantag elections which suddenly put them in the position of coalition government partners. In negotiating the coalition, the Nazis were allowed to appoint Wilhelm Frick as Interior Minister (Police). Frick proceeded to replace SPD (Social Democrat) leaders with Nazis, mandated prayer in schools, and gave the University of Jena a chair in racial sciences. This demonstrated how the Nazis could work within the government to secure power. Even though the Nazis were well organized and respected in the countryside and were doing well in Lantag elections, they were still no closer to power in Berlin. German democracy, however, was in its last gasps and had ceased to function by 1930. None of the chancellors from 1929-1933 held a parliamentary majority.

¹⁴ Published in 1920 and likely influenced by White Russians who had fled the Russian Civil War.

¹⁵ Ullrich, 154.

¹⁶ William Sheridan Allen, *The Nazi Seizure of Power: The Experience of a Single German Town 1922-1945*, (New York: Franklin Watts, 1984), is an excellent study of how the Nazi Party organized and manipulated local populations.

Meanwhile, the self-created myth that Hitler had sacrificed his private life in selfless service unraveled with the suicide of his 23-year-old half niece Geli Raubal on September 1, 1931. Hitler's relationship with his niece is still unclear. He demonstrated a smothering attention to her, taking away her freedom and dismissing his chauffeur who had fallen in love with her. Clearly, Hitler's overbearing restrictions drove her to commit suicide and Hitler was devastated. His devastation (one of the times he completely lost control of himself) apparently did not last for very long as he was soon taking up with the young Eva Braun who was 20.

With his popularity growing, Hitler decided to run for president in March 1932. He had renounced his Austrian citizenship after the Beer Hall Putsch fearing he would be deported and now hastily obtained German citizenship by naturalization so that he could run. President Hindenburg received 49.6% of the vote to Hitler's 30.1%, but failing to win a majority, the two candidates went into a run-off election. In April 1932, Hindenburg won 53% and gave Hitler yet another defeat. However, the Nazis had become the single largest party in the Reichstag which gave them the ability to paralyze the government. In the fall of 1932, the Nazis made significant gains in state elections in Thuringia, Prussia, and Bavaria as unemployment soared.

Political Intrigue, Individual Initiative and Coming to Power

Once again, Hitler was rescued from failure by individuals who underestimated him. President Hindenburg was dissatisfied with Chancellor Brüning and they had a falling out. Hindenburg was upset that he had beaten Hitler through a coalition of the SPD (moderate Social Democrats) and the Catholic Center Party. He resented Hitler's support amongst the nationalist parties that he had coveted and championed. He also turned on Brüning's deflationary austerity program and acceptance of mass unemployment in favor of ending reparations.

Kurt von Schleicher was a Major General in charge of an office in the *Reichswehr*, a friend of Hindenburg, and a ruthless political schemer. He wanted to modernize the army and cut social spending. Schleicher wanted to destroy democracy and create a Presidential state, not with a putsch (offending German attachment to legality), but through a step-by-step process within the letter of the law. He believed that the Army had a crucial social function of unifying society and worried that an entire generation would have no military training and saw Hitler and the Nazis as a group he could exploit. In 1930, thinking the SA ("Brownshirts") could fill the void he befriended Ernst Röhm who had recently returned from Bolivia and had been named SA chief of staff by Hitler. Schleicher gave the SA access to army depots and arsenals. The two agreed that in event of war with Poland or a Communist putsch, the SA would come under command of the *Reichswehr*. Thus, the SA, Schleicher believed, could eventually be "tamed." This despite the Boxheim documents of November 1931 that revealed Nazi plans to use ruthless force once they seized power in the face of an alleged communist uprising. In September 1931, three weeks after Geli's suicide, Schleicher arranged a meeting between Hindenburg and Hitler offering Hitler as a vehicle to unify a right-wing coalition. Hitler is suddenly a player in high level political machinations. Hitler believed that he would soon be next chancellor. Hindenburg, unimpressed by Hitler, felt he could offer him the job of postmaster.



Schleicher

Chancellor Brüning was working against Schleicher's goals. Brüning convinced Hindenburg to ban the SA and street violence dropped dramatically. However, President Hindenburg continued to resent taking action against nationalist groups. Sensing an opportunity, Schleicher secretly met with Hitler on May 8, 1932. If Hitler

supported him, Schleicher would convince Hindenburg to dismiss Brüning, create a new government, and lift the ban on the SA and SS. Hitler agreed.



Franz
von Papen

In May 1932, Schleicher convinced Hindenburg to ask for Brüning's resignation. Franz von Papen, a relatively unknown politician and envisioned as a puppet for Schleicher, was named chancellor. Schleicher selected Papen's entire cabinet and believed he was in control of the government. Papen, honoring Schleicher's promise to Hitler, lifted the April ban on the SA and SS. Schleicher hoped the surge in SA violence would destabilize the democracy and lead to a Presidential state by decree. In the July 1932 elections (84% of registered voters cast their ballots) the Nazis became the largest party getting 37.4% of the vote (60% were middle class) and more than half of the deputies in the Reichstag were publicly committed to ending parliamentary democracy. On July 30, 1932, Papen invoked emergency legislation to take over Prussia (2/3rds of Germany). Hermann Göring was named Reich commissar for Prussian Ministry of the Interior and now had control of the Prussian police. Göring was brutal Nazi enforcer: "There can only be one victor: either Marxism or the German Volk!"¹⁷ He issued "shoot-to-kill" orders against Communists. Hitler was now speaking to large and adoring crowds. The SA immediately went to work settling scores. Despite these successes, many Nazis began to believe that the Party had peaked and was losing momentum. Without an outright parliamentary majority and sensing the pressures within the party, and knowing anti-Weimar power brokers needed him, Hitler, the gambler, decided to act.

On August 5, 1932, Hitler reneged on the agreement with Schleicher to support Papen and gave a list of demands to Schleicher. Hitler demanded: To be named chancellor; the passing of an enabling act to give him legislative power; three cabinet posts for Nazis; the creation of a propaganda ministry; and control of Ministry of Interior. Schleicher would be named head of Ministry of Defense. The SA began massing in Berlin in anticipation of Hitler's victory. Schleicher was willing to accept, but when he approached Hindenburg, the president refused to name Hitler chancellor. Hindenburg disliked the "Bohemian corporal" and refused to offer him the chancellorship knowing that Hitler could not compromise with a conservative coalition that would give him a majority in the Reichstag. Schleicher instead offered Hitler the vice-chancellorship and on August 13, Hitler flew into a shocking rage, refused Schleicher's offer and threatened a brutal unleashing of the SA across Germany. Hindenburg, appalled by Hitler's behavior, gave Hitler a tongue-lashing. Hitler now saw Schleicher as his chief enemy.

On September 12, Schleicher and Papen convinced Hindenburg (horrified by a potential Hitler chancellorship) to suspend Parliament and rule by decree. Göring, voted in as President of Reichstag in August, makes his move as Hitler's "fixer." Fearing this would undermine Hitler's chances, he ignored Papen's delivery of Hindenburg's order. Instead, Göring calls for a vote of no-confidence in Papen - which passes 512 to 42. Humiliated, Papen followed the constitution and called for elections in November. At this most critical moment Hitler suddenly disappeared from the stage.

In August, Hitler's private life once again interfered with his ambition. His new mistress Eva Braun had shot herself in neck, perhaps in an attempt to get more attention from him. Hitler, still smarting from the suicide of his niece, pledged to look after her. Meanwhile the Nazis went along with a Communist wildcat strike of the transport workers in Berlin, alienating middle class voters. The November 1932 election results were a disaster

¹⁷ Peter Fritzsche, *The First Hundred Days: When Germans Embraced the Third Reich* (New York: Basic Books, 2020), 120.

for the Nazis. The Nazis lost 2 million votes (33.1%) down from 13.7 million of July (37.4%) and saw their 230 seats in the Reichstag reduced to 196. July's middle-class protest vote had disappeared. On December 1, 1932, Schleicher replaced Papen as chancellor and it appeared that the Nazis were in full decline.

Ironically, Schleicher may have offered the last hope as he wanted to ban both the Communist and Nazi parties, end subsidies to large landowners, seize millions of acres from bankrupt estates and resettle the landless poor. Again, the privileged German elites drove Germany towards destruction and condemned Schleicher as the "Red General." German industrialists feared Hitler would be another Schleicher and backed Papen instead. Trying to hold on, the Nazis poured resources into the December 4 Thuringian elections and suffered 40% losses (compared to July 1932). The NSDAP began to unravel. It was almost bankrupt and was divided (60 of 196 Nazi seats loyal to left-wing branch of Gregor Strasser). Making matters worse, the economy began to revive to the great benefit of other political parties. Hitler confessed to Brüning that he was on the verge of giving up.

"Herr Hitler was a defeated man when he was given victory." - Leopold Schwarzschild, Feb. 1933



Gregor
Strasser

December 1932 was the turning point for Hitler. It should have been his demise. On December 5, 1932, Gregor Strasser called for the NSDAP to drop Hitler's stubborn demand to become chancellor and instead urged the party to back Schleicher. An agreement with chancellor von Schleicher would have barred Hitler from rising to power. Strasser was trying to salvage what he could and was directly challenging Hitler's authority blaming him for the catastrophic results of the November elections. Once again, Hitler was rescued by his acting and oratorical skills. On December 8 his emotional speech won over the party, forced Strasser to resign, and Hitler assumed Strasser's role as party organizer. Hitler even threatened suicide if the party did not unify behind him. Rumors began to circulate that Chancellor Schleicher was planning a coup. Papen, still carrying great influence over President Hindenburg and his camp, moved to remove Schleicher. Papen was secretly ordered by Hindenburg to enter into negotiations with Hitler to create a coalition government with right-wing nationalist parties to replace Schleicher. Hindenburg became part of the conspiracy to create a new government of "national concentration" with Papen and Hitler sharing power. This arrangement was similar to the plan of autumn 1932 that Hitler had rejected.

Meanwhile, Hitler focused all Nazi resources on the Lantag elections in the small, rural region of Lippe-Detmold to show that the party was once again viable and had recovered from the crisis in autumn. On January 15, 1933, the NSDAP received 39.5% of the vote (6,000 more than November, but 3,500 fewer than the high-water mark of July 1932). Despite the loss, Hitler was euphoric and presented this as a tremendous victory. Hitler's position within the party was reinforced and arguing that he could still attract new voters, he now had some leverage in the negotiations with Papen. Hitler kept pressing for the chancellorship and strengthened his hand even more when he overawed Hindenburg's son Oskar in a private meeting. Papen finally gave in and went to Hindenburg to propose a Hitler government with Papen as vice-chancellor. On January 23, Hindenburg rejected the idea. Frick and Göring continued the negotiations as Hitler temporarily withdrew.

Schleicher's chancellorship was in trouble. Rumors of the pending coup and suspension of elections led to a crisis in the Reichstag when the Social Democrats and the Centre Party (the two largest democratic parties) protested. Behind the scenes negotiations with right-wing parties to accept Hitler as leader were breaking down. Only Papen's intervention kept the negotiations going. Papen was finally able to overcome Hindenburg's resistance to the idea of a Hitler chancellorship. He argued that Hitler was compromising by agreeing to share

power rather than asking for total power and was only asking for two positions for the NSDAP in the new government. Of course, this was another of Hitler's gambles. He rightly calculated that these two cabinet positions (Reich interior minister and Prussian state commissioner) would allow him to consolidate power as they had done in Thuringia in 1930. Hindenburg was impressed that most of the conservative ministers whom he favored would remain in their positions. On January 29, the final deal was done with Papen accepting Frick as interior minister. However, Hitler had to swallow "with barely concealed resentment"¹⁸ Hindenburg's appointment of Papen and not himself as Reich commissioner of Prussia. As compensation, Göring was to be named Prussian interior minister and Deputy Reich commissioner. Hitler also demanded, if he was to agree to this new arrangement, that fresh elections would be called after his appointment and that a subsequent enabling act be passed (as he had proposed in November 1932). A final key role was played by aristocratic landlords who urged Hindenburg to appoint Hitler believing they had enough checks in place. Across Germany Christmas was a happy time basking in a moment of relief that there may be political peace and that Hitler had not been given power.

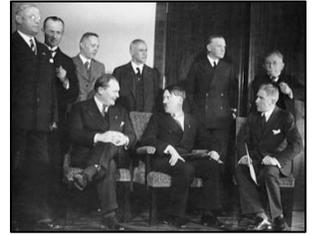
Meanwhile, Schleicher tried to get details on the now emerging secret negotiations with Hitler. It was then widely speculated that a Papen/Hugenberg coalition government would replace his. Schleicher tried to intimidate the Nazis by hinting that the *Reichswehr* was considering a coup to depose Hindenburg and have his son Oskar arrested. Hitler ordered the Berlin SA put on high alert for a potential showdown with the army. They had remained strong and had been activated by Hitler after Christmas. Soon it was discovered that the coup was only a rumor, but in the end it had served to hasten Hindenburg's decision. Industrialists, landowners, bankers, and the army, sided with Papen in ousting Schleicher. Schleicher, keen on keeping Papen out, supported a Hitler chancellorship. Even so, a Hitler chancellorship was still not inevitable. Papen was to report to Hindenburg on the make-up of the new cabinet at 11 am on January 30, 1933. Negotiations stalled as Hugenberg continued to oppose Hitler. Hugenberg's Conservative party had been consistently losing votes to the Nazis. At 11:45, as the group of conspirators walked up the stairs to Hindenburg's office, Hugenberg changed his mind and supported Hitler as chancellor. In the end, Hindenburg, fully in charge of his faculties, removed Schleicher and was convinced that a Hitler government, with Papen as vice-chancellor, was the acceptable way forward.

There was nothing inevitable about Hitler being named chancellor and the negotiations almost fell apart at the end. There were many factors that contributed to Hitler's coming to power and foremost among them were the shortcomings of the Weimar constitution with its emergency decree article that was an invitation to Hindenburg to abuse his power. This was primarily a result of the failure to break decidedly enough with the legacy of the Kaiser Reich. Individual decisions, such as Hindenburg's unnecessary dismissal of Brüning and the inability for political parties to compromise, also played a key role. Had Brüning remained in power, Papen would not have been able to undermine the democracy and new elections would have been called in the fall of 1934 at which point the German economy would have been in full recovery. Had Hindenburg granted Schleicher's request to dissolve parliament, postpone elections for sixty days, rejected a vote of no confidence that would have followed and essentially set up military rule, Hitler would have been cornered. He would never have risked a pitched battle between the SA and Reichswehr. In the end, it was a conspiracy of historical trends, experiences,

¹⁸ Ullrich, 366.

individual choices, and Hitler's ability to articulate and manipulate the fears of those around him that turned the German state over to the Nazis.

On January 30, 1933, Hitler was named chancellor and Papen named his vice-chancellor. Even though Hitler's papers had publicly attacked conservative leaders in his bid to seize control over them, Hitler, ever the actor, now went out of his way to apologize with tears in his eyes, claiming that he had never ordered his papers to write those terrible things. Most of the players involved in the backdoor plot believed that they had achieved their goals and thought they had Hitler boxed in. They would ably assist Hitler in destroying the Left, democracy, and they also supported his policies towards Jews. The first discussion of the cabinet was how to create an Enabling Law to circumvent the Reichstag. On February 2, 1933, they adopted an emergency decree for "the protection of the German people" (drafted during Papen's chancellorship) giving police enormous power. Two days later, they adopted an emergency decree to arrest striking workers.



1914 or 1918?

Hitler and the Nazis worked to romanticize the "unity" of 1914 as opposed to the chaos and trauma of 1918. This was the main ideological formulation that attracted many Germans. Focusing on German suffering and of being attacked from within and without by those seeking to block unity and national regeneration the Nazis portrayed an embattled Germany that only Nazism could fight against. Continuing violence (esp. SA and police) became normal, routine, a spectacle, that reinforced the Nazi message of a nation (*volk*) under siege. Targeting enemies with and bold "iron fist," without compassion, created "in" and "out" groupings. The average German calculus: Do I choose to be friend or foe? Whining or heroic? (Hitler often depicted enemies as appearing feminine and powerless). Germans seemed to accept the violence as the cost of unifying of the nation. Many felt a spiritual renewal and uplift even though they did not approve of all government actions. Individual happiness was tied more and more to national success. German protestants, who felt "besieged" by the immorality of Weimar saw religious resurrection from their own "suffering" and sacrifice. According to Peter Fritzsche, there was opportunism, conformity, fear, but also patriotic fervor and excitement, enthusiasm, racism, and growing love and admiration for Hitler. The German Left could never unify against this myth and continued to fight each other.

The Power of Radio



Again, Hitler benefitted by lucky timing. German cities were just finishing getting electrified. Recent technological improvements, including the ability to tune into stations and speakers, made the radio accessible. Weimar guidelines prohibited political speeches, but allowed government ministers to speak. The Nazis were therefore able to dominate the airwaves and speak for/to the nation. The Nazi worldview became the "world in view." German families could now find daily distraction and imagine another world (2/3rds listened to foreign broadcasts) There was a new sense of normalcy, of integration, of sharing a collective experience. Many were hearing Hitler for the first time and now, perhaps of psychological importance, in their homes. Radio began to shape and validate reality. There was also drama. Scheduled programming was interrupted for events like Hitler speeches or a choreographed SA funeral. As Fritzsche argues, without a radio one was an outsider not participating in the national revival. The Nazi message

of crisis and fear (with religious overtones) to be on defense against attack of the “November criminals” prepared Germans for battle. It is important to contrast Hitler’s use of radio with President Franklin Roosevelt:

[Roosevelt] restored confidence in the capacity of American institutions and the improvement of business conditions. For all the legislative initiatives of the first hundred days, he did not dismantle government, or destroy political enemies, or attack a corrupt “system.” The administration propped up rather than tore down, providing a “new deal” rather than a “national revolution.” ... He recommended “the opportunity of a little quiet” so that everyone could “examine and assimilate” the crowding events of the hundred days.¹⁹

The Reichstag Fire



Hitler’s greatest fear was that Hindenburg could replace him at any time. The greatest unifier of conservatives and nationalists was the fear of the Left. Hitler’s consolidation of power began in this context. On February 27, 1933, the Reichstag was set ablaze (Germans were transfixed by the radio coverage). Hitler was enraged and perhaps saw it as a personal attack by the Left. Göring rushed over and convinced Hitler to let him team up with SA to destroy the Left. Hitler spewed, “Now there’s no mercy...every communist functionary will be shot where he’s found. The Communist members of the Reichstag must be hanged this very night!”²⁰ Police hesitate. Göring began arrests that night and “wild” concentration camps emerged. In the coming weeks, the Nazis gave guided tours of the ruins to reinforce the Communist threat and reinforced their role as “iron fist” protectors. The specter of Communist terrorism created public consent.²¹



A Stormtrooper with accused Communists

On February 28, Hitler blamed the Communists for the fire and urged a ready and willing Hindenburg to use Article 48 to suspend civil liberties and restore “law and order.” The “Decree for the Protection of Volk and State.” (“Reichstag Fire Decree”) enabled Hitler to suspend the constitution and curtail: personal freedoms; freedom of opinion; freedom of press; and the freedom to organize and assemble. It allowed the central government to overrule state and local laws and overthrow state and local govts. It dramatically increased state and police intervention in private life: censoring mail, listening to phones, searches without warrant. President Hindenburg approved a new legal category “protective custody” (*Schutzhaft*) for political dissenters. All criticism of the government was outlawed and political ‘gossip’ was now seen as dangerous. Hitler exploited the opportunity and used legislative loopholes to destroy democracy from within and did so under the guise of legality.

Hitler quickly utilized the police (under the control of Frick and Göring) to arrest (over the coming months) political opponents and ideological threats; vagrants and beggars; the handicapped; homosexuals; “gypsies” (Roma/Sinti); and Jehovah’s witnesses. As early as 1932, Frick threatened his opponents in the Reichstag with

¹⁹ Fritzsche, 344-345.

²⁰ Robert Gellately, *Hitler’s True Believers: How Ordinary People Became Nazis* (New York: Oxford University Press, 2020), 146.

²¹ Fritzsche, 125.

these words: "Don't worry; when we are in power we shall put all of you guys in concentration camps."²² Within months, the police arrested more than 20,000 people in Prussia; 40,000 political opponents fled to neighboring countries; and more than 45,000 are taken to concentration camps (80,000 total by end of the year). Special courts were also introduced to speed up the process and avoid entanglements and delays. Showing sympathy to Jews was also understood as a symptom of political opposition. The harsh, militaristic treatment of the new concentration ("rehabilitation") camps reflected the conservative militarism embraced by Hindenburg and those in power as well as their perceived crisis of masculinity brought on by Weimer. This was a rejection of feminism; the liberated atmosphere of big cities; public campaigning for gay rights; and Weimar's insistence on rights of the individual; and a clear signal as to the intentions of the regime. In many ways, this was a publicly embraced backlash to liberal gains of the past decade. Göring feed fake news stories about Communist plots and secret arms caches to frighten people and put the nation on a war footing to feed the 1918 narrative.

By March 5, 1933, Hitler anticipated winning a large majority in the Reichstag elections that would allow him to finally destroy the democracy. He had brutalized the opposition, created an atmosphere of fear, and effectively utilized the powers of the government. Once again, the results were mixed. The Nazis won more votes, but did not win a majority (43.9%). But it was clear that two-thirds of the votes were cast for parties that were anti Weimar. The Right had won twenty million votes and the Left had won twelve million. The key for moving forward would be the political center and especially the Catholic Centre Party (from which two of the last three chancellors had come). How to win them over and at the same time, how could the Left be silenced? SA violence and terror erupts. People who "looked Jewish" were attacked and tortured (including foreigners). SA torture chambers were meant to cause suffering, not death. The target groups shift to Social Democrats and the Catholic Centre Party. Formerly "red" working class neighborhoods were intimidated. After March 5, the Social Democrats received a flurry of resignations. Within a week or two, both the Social Democrats and Communists ceased to exist at the local level. By May, the 48% that had not voted Nazi in March had disappeared. Town halls and political opponents' HQ were occupied. Growing crowds appear and either looked on, sometimes applauded, or even helped the SA fight the "November criminals." The Nazis were claiming more and more public space. On March 8, 1933, Communist seats in Reichstag were annulled (without formally outlawing the Communist party). From March 9-11, 1933, following up on the Reichstag Fire Decree, provisional Reich commissars were installed throughout German states.

Manipulating the Legal Process

On March 21, 1933, Hitler utilized the celebrations in Potsdam for the inauguration of the newly elected Reichstag to unify the political right. Goebbels masterfully manipulated the days' ceremonies to reinforce the idea of reconciliation and the new bonds between the Nazis, the Prussians, and the military. Hitler played the role of the dutiful servant of the great president Hindenburg to perfection (although very uncomfortable in the suit he had to wear). His charm and continual deference truly began to affect Hindenburg. "The main thing," Hitler said privately, "is to win over the old man completely."²³ On the same day, the Nazis proposed a "special

²² United States. Office of Chief of Counsel for the Prosecution of Axis Criminality, U.S. Government Printing Office, 1946 - World War, 1939-1945, 662.

²³ Ullrich, 435.

courts” ordinance to fight negative attacks on Hitler or party members. Nazi media also reported the opening of two new concentration camps an SS one Dachau (Bavaria) and an SA one in Oranienburg (Prussia).

On March 23, Hitler moved to pass an enabling act which would extend the emergency powers of February for



four years. The parliament convened at the Kroll Opera House across from the burned out Reichstag. A large swastika flag dominated the hall and the isles and exits were packed with SA thugs who also surrounded the building. Hitler spoke for two and a half hours wearing his brownshirt uniform (signaling the war/defense of the country that he would wage). He proposed the “Law to Remove the Distress of the German People and

the State” that would transfer legislative authority from the parliament and to the Reich government. It required a two-thirds majority and 66% of deputies to be present. In that many ministers had been intimidated and were not present (including at least 26 SPD in hiding for their lives), Göring, as President of the Reichstag, created a new procedure deeming any absent members as “present” to ensure the “constitutionality” of the vote. Otto Weis, head of the SPD, bravely spoke out against the bill. The Nazis were still 31 votes short and negotiations focused in on the German Center Party (Catholic). Hitler promised them that he would only use the new powers in emergencies and promised the Catholic Church that SA attacks would cease and that they could operate without any interference. Hitler enjoyed lying to those willing to believe him. This false guarantee was reinforced with the Concordat with Pope Pius XI in July 1933. The Catholic Centre Party gave the Nazis the required votes and in the enabling act was passed with 441 deputies voting in favor with 94 nay votes. The act would be renewed three times in the coming years and was the pseudo-legal foundation for Hitler. Hitler then shuts down the *Munich Post* which had led a decade-long fight against normalizing him.

The courts, not for the first or last time, shaped and helped Hitler to consolidate his power. Justice Franz Schlegelberger, State Secretary in Ministry of Justice, had been an opponent of the Reichstag Fire Decree arguing that it was unconstitutional to retroactively impose the death penalty for arson. He was not so concerned with the decree as much as he was concerned that it was retroactive, and thus, in his mind, illegal. Schlegelberger was attracted to an authoritarian legal order that could maintain social order. He gravitated towards Hitler and believed that individualism undermined the state’s ability to keep order. He would not challenge decisive actions by Hitler (seen by him as decisive leadership) if they followed legal forms. Thus, in ruling about the legality of the Enabling Act, he embraced the pseudo-legality of the manipulation of the vote and ruled that with the elimination of parliamentary oversight of legislation, the government could now act “with boldness, quickness [and] richness.”²⁴



Hitler now moved to placate his most ardent followers in the SA. German radio and newspapers prepared the Germans for a week. The day after a large counter-boycott rally was held in New York’s Madison Square Garden, Hitler announced a retaliatory boycott targeted Jewish businesses and professions on April 1, 1933. The boycott was framed and justified as an act of revenge and reprisal against the biased foreign press that had published atrocity stories of German and foreign Jews that were allegedly circulating in the international press to damage Nazi Germany's reputation. It was a blatant gesture to his base which included guildsmen, artisans, small businessmen, and shop clerks. The boycott lasted

²⁴ Eli Nathans, “Legal Order as Motive and Mask: Franz Schlegelberger and the Nazi Administration of Justice,” *Law and History Review*, Vol. 18 no. 2, (Summer 2000).

officially for only one day as there was a robust international backlash as well as a general lack of enthusiasm amongst the German people. In hindsight, the New York rally had galvanized a sense of German self-defense. Self-defense of course should have been in resisting the Nazis who were throwing monkey wrenches into the economy. Instead, they were beginning to buy into the Nazi world view. Crowds did come out, but few resisted. Many wanted to see the spectacle or perhaps participate. It was an opportunity to demonstrate ones Germanness. Targeting Jews was not necessarily as important as emphasizing one's own distance from them. Hitler quickly realized that he (and Goebbels) had acted without legal cover, but had shored up the trust of his base by "defending" them.

One week later, on April 7, Hitler declared the "Law for the Restoration of the Professional Civil Service." "Civil servants whose former political activity affords no guarantee that they will act in the interest of the national state at all times and without reservation can be dismissed from service." "Civil servants of non-Aryan descent" were to be retired. World War I veterans or whose close relatives had fallen (half of German Jews) were exempt. Once again, "legality" was used to justify and enable Nazi targeting. Another law also ended the sovereignty of the German states. Of course, the difficulty (never resolved in Nazi Germany) was the target group of "non-Aryans." Most people knew that meant "Jews," but the courts needed something more. On April 11, a supplemental law made the first muddled legal attempt to define a "non-Aryan" as someone with a non-Aryan parent or grandparents. Nazi racial ideology was running into the difficult scientific reality that there is no such thing as race – other than the human one. Regardless, individuals now removed Jews under the auspices of the law.

Concentration Camps (KL)

The concentration camp system that would quickly emerge were not the sole undertaking of the SS. At first, they originated from below as it was unclear who had authority to arrest under the "protective custody" decree. Often, "wild" paramilitary camps started in SA beating cellars. This was a continuation of the brutal war against the Left combining euphoria of power with paranoia. Antisemitism enflamed actions and personal vendettas played a role. It was Himmler who would eventually galvanize the potential of the KL system.

Himmler was appointed head of SS in 1929 and as chief of Bavarian police he was a relatively unknown, insecure antisemite, and an ambitious, dull micromanager. He convinced Hitler that he needed a bodyguard and followed Göring's lead - instituting "protective custody" camps where people could be "rehabilitated". March 11, 1933, SS political guards replaced Bavarian state police in an abandoned munitions factory and makeshift camp in Dachau that would be established as an SS camp on March 22, 1933. The goal would be to take regular, brutal "revenge" on selected members—usually Jewish—of the camp's mixed collection of Social Democrats, communists, professors, lawyers, and ordinary criminals. Himmler positioned Dachau as a camp to "help" local officials deal with burden of political prisoners. On March 12, 1933, the Bavarian state solicitor's office received a report of four deaths among the prison population. Any death in State custody (other than from natural causes) had to be investigated. The legal system was about to confront the first Dachau murders.

Dachau Commandant Hilmar Wäckerle had immediately pushed the boundaries on capital punishment, disguised murders as suicide while guards pushed others closer to death. In April, Josef Hartinger, Bavarian Deputy State Prosecutor together with his medical examiner colleague, Moritz Flamm investigated the shooting of four inmates who were "shot trying to escape" in March. Hartinger quickly realized that the inmates were

Jews and all had been murdered. He compiled a forensic dossier of charges against Wäckerle, Werner Nürnbergk the camp doctor, and Josef Mutzbauer, the camp's chief administrator. In June 1933, Hartinger presented the case to his superior, Bavarian State Prosecutor, Karl Wintersberger. Initially supportive of the investigation, Wintersberger was reluctant to submit the resulting indictment to the Justice Ministry, increasingly under the influence of the SS. He signed the indictment after first notifying Himmler as a courtesy. Himmler realized that his plan to use Dachau as a model camp to expand into an empire of camps was at risk as the SS had no right to kill under German law. When Hartinger's file got to the Minister of Justice, he conceded that what happened in Dachau is illegal. Himmler stops the Dachau killings in June and July and Wäckerle is transferred. Hartinger assumed that he had scored a victory and that the law had won.

Himmler was not to be deterred. Himmler went to Hitler and utilizing his status as a loyal follower, he exploited Hitler's hatred of legal constraints and norms and received Hitler's promise that no SS would end up in jail. The Hartinger file disappeared into a desk drawer. (It was discovered after the war and used as evidence at the Nuremberg trials.) In June 1933, Himmler appointed Theodore Eicke as Dachau's new commandant after 'rescuing' him from a mental institution – securing his devotion. Eicke was spoiling for fights, was vindictive and overbearing, and the perfect man to rescue the Dachau project. Eicke transformed and built Dachau into a "model camp" and would develop KLs into permanent sites of systemic terror. Civilian directors were replaced and massacres began as macabre theater. Forced labor was established and the camp developed outside of the control of the Bavarian authorities. The legal system had not been an effective check to individual ambition. By the beginning of 1934, a total of 2,250 prosecutions against Nazi stormtroopers and 420 against SS men had, like Hartinger's, been broken off under pressure from the Nazi authorities. The legal effort to stop Nazi violence proved futile.

As Himmler's power grew, Göring created the "Bureau of Research" to, amongst other things, spy on Himmler. It was turned into the Gestapo and developed from the Prussian Secret Police that was investigating political opposition. The Gestapo combined the various security police agencies of Prussia into one organization. The Gestapo used "protective custody" to incarcerate indefinitely, without specific charge, lawyers, or trial, for up to three months, anyone seen as a threat to the security of the Reich. Those held by the Gestapo had no access to a lawyer, and no right to appeal or judicial review. On November 30, 1933, the independence of Gestapo was formalized. Himmler became anxious to get control of the Gestapo as a means of coordinating all German police forces.

How did the German public respond to the KL camps? "Protective custody" and the stories of terror was well known. News of brutality was more common in urban areas – due to the different professionals involved and the locations of KL. Many Germans saw this as an effective crackdown on the Left, but worried about growing violence. Conscious of the need for effective public relations, the Nazis acted both proactively and retroactively to defend and define the KL system. Public funerals for those who had died were halted. Press conferences (with staged visits to the camps) emphasized the threat of the Left as testimonies of "satisfied" prisoners were released. The Camps were at first depicted as "reform and education" camps, but local resentment grew when Dachau's labor and construction projects became internalized and not part of the local economy. Much of the public relations campaign was directed at the Nazi base, but uncomfortable rumors persisted (Dachau) with the news of "suicide" or "shot while trying to escape". Soon, residents of Dachau warned to stay away and the radio

threatened punishment for spreading rumors. On March 21, 1933, the Decree Against Malicious Attacks had criminalized statements harmful to the regime.

Gleichschaltung

Hitler's followers dismantled democracy in a relatively short time. They circumvented and subverted the law; vilified and destroyed political opposition; eroded belief in facts and free press ("fake news"); elections; institutions; an independent judiciary; while feeding the populist right who are antidemocratic. Hitler marginalized the Cabinet (which within a few years would stop meeting) and instead relied on a clique of followers who were basically his cheerleaders. The civil service did not resist his initiatives (although the courts did). In May, Hitler ordered the destruction of the labor unions. On June 22, 1933, Frick declared Social Democrats enemies of the state and denied them their seats in Reichstag. On July 5, 1933, the Catholic Center party dissolved itself confident about the new Concordat to be signed on July 20, 1933.

By July 1933, Hitler had succeeded in "ordering" or "realigning" German society. Almost all aspects of political, social, and associated life at every level were Nazified and "coordinated" from the nation to the village. There had been purges, dismissals, brutality, intimidation, extortion, coercion, violence, and humiliation, but by-and-large society quickly Nazified itself. This forced conformity meant that Germans had to accommodate or adjust to the new "normal." By May 1, 1.6 million had joined the Nazi party. Big Business was now brought on board (they had generally been reluctant to back Hitler) with the smashing of the unions and promises of military contracts. Large scale rearmament would be paid for with a dummy company financed on credit. This should have been disastrous, but was bailed out by successful conquest at the beginning of the war. Antisemitism was always present and accepted. In September 1933, a Hereditary Farm Law sent the message to farmers that only "real" Germans could own land.

Roma/Sinti (from USHMM)

Even though "Gypsies" (Roma/Sinti) enjoyed full and equal rights of citizenship under Article 109 of the Weimar Constitution, they were subject to special, discriminatory laws. A Bavarian law of July 16, 1926, outlined measures for "Combatting Gypsies, Vagabonds, and the Work Shy" and required the systematic registration of all Sinti and Roma. The law prohibited Gypsies from "roam[ing] about or camp[ing] in bands," and those "[Gypsies] unable to prove regular employment" risked being sent to forced labor for up to two years. This law became the national norm in 1929. When Hitler took power in 1933, anti-Gypsy laws remained in effect. Soon the regime introduced other laws affecting Germany's Sinti and Roma, as the Nazis immediately began to implement their vision of a new Germany, one that placed "Aryans" at the top of the hierarchy of races and ranked Jews, Gypsies, and blacks as racial inferiors. Under the July 1933 "Law for the Prevention of Offspring with Hereditary Defects," physicians sterilized against their will an unknown number of Gypsies, part-Gypsies, and Gypsies in mixed marriages. Similarly, under the "Law against Dangerous Habitual Criminals" of November 1933, the police arrested many Gypsies along with others the Nazis viewed as "asocials"—prostitutes, beggars, chronic alcoholics, and homeless vagrants—and imprisoned them in concentration camps.

"Working Towards the Führer"

It was the high level of cooperation from the public that made Nazi control possible. There were relatively few police per capita and people quickly learned that all they needed to do was to obey the law, try to stay out of

trouble, and promote their own interests. Werner Willikens, Prussian Agricultural Ministry summed it up best by saying, "...it is the duty of every single person to attempt, in the spirit of the leader, to work towards him... which would lead to enjoying "the finest reward" of "suddenly attaining the legal confirmation of his work."²⁵ People felt empowered to promote their self-interests by aligning their interests with Hitler. This could create problems for the regime.

The "Night of the Long Knives"

By the late winter and spring of 1934, the slowing pace of the Nazi revolution threatened to split the Nazi-Nationalist coalition. In 1934, the SA grew increasingly dissatisfied. They now numbered three million and dwarfed the *Reichswehr* (limited to 100,000 men by the Versailles Treaty). The SA had expected to be given a free hand in dispatching their enemies, but Hitler's chancellorship seemed to be timidly (certainly a matter of perspective!) working within the legal structure and thereby ending the momentum and enthusiasm for the revolution. Additionally, the public was growing weary of price hikes, stagnant wages, and fewer commodities. Still, Hitler seemed to be the "teflon" chancellor and all failures were projected towards his cronies. Under this growing pressure, the SA were acting out – believing (not incorrectly) that they were doing Hitler's will. Individual actions against Jews had begun to overwhelm the police who were charged with keeping public order. Attorneys and judges reported escalating violence and abuse of the police to the Reich Ministry of Justice. As Ernst Röhm (given a cabinet position by his friend Hitler) was calling for his SA to become the new radical "peoples' army" for all Germany to replace the *Reichswehr*, the SA were quickly becoming a problem. The Army demanded the elimination of the SA as a condition for allowing the Nazis to remain in power. Other ambitious Nazis saw an opportunity.

Göring saw his chance to get rid of a rival and become Hitler's #2 man. He ordered his "Research Bureau" to go after Röhm. In April 1934, Göring gave Himmler control of the Gestapo in exchange for his help in taking down Röhm. Himmler and Heydrich (SS) conspired with Göring to persuade Hitler to eliminate Röhm by planting rumors and evidence that Röhm was planning to overthrow the regime. Himmler also wanted the SS to be the only paramilitary organization. Industrialists, who the Nazis were courting, were unhappy with Röhm's socialistic views on the economy. Many people in the party also disapproved of the fact that Röhm and many other leaders of the SA were homosexuals. Hitler's conservative coalition partners, including Vice-Chancellor von Papen, issued a warning: If the "revolutionary elements" of the Nazi regime were not brought under control, the Army leaders threatened to overthrow Hitler and place the country under martial law. Meanwhile, trouble was brewing for Hitler from another, unanticipated source. A resistance cell in Papen's office was plotting to kill or remove Hitler. On June 16, 1934, Papen delivered a speech at Marburg University that had been prepared by the cell. Encouraged by Hindenburg and in support of old nationalist-militarist group that was being pushed aside, Papen called for an end to rule by terror, stopping the SA, and restoring some civil liberties. There was thunderous applause in the hall and a sudden, growing public support for Papen to become the next President. Confident and emboldened, Papen delayed seeing Hindenburg. It may have been the last chance to have brought Hitler down.

On June 21, 1934, Hitler got to Hindenburg first and met with him to see if Hindenburg was capable of ousting him. Hindenburg, physically and mentally failing, gave Hitler an ultimatum: get rid of the SA or martial law would

²⁵ Ian Kershaw, *Hitler: 1889-1936 Hubris*, (London: W.W. Norton and Co.), 527.

be declared. Himmler seized the moment and presented “evidence” that Röhm and Schleicher were part of a conservative coup. Hitler hesitated. On June 28, 1934, Hitler ordered Röhm to assemble the top SA leaders at a Bavarian spa in Bad Wiessee. On June 29, 1934, Göring and Himmler approached Hitler at a wedding and “revealed” that Papen and Hindenburg were uniting and Röhm was leading a coup. It is unclear whether Hitler believed them. Hitler was indecisive and as he often did, he prevaricated and delayed, until he didn’t. Partly to forestall the formation of a viable nationalist opposition, but primarily to maintain the professional army, which he had incorporated into his planning for rearmament and military expansion, Hitler decided to fly by night to Röhm’s hotel and eliminate the top SA leadership. Göring and Himmler returned to Berlin to await orders. Once Hitler made his decision, the orders went out quickly.



David Low, *The Evening Standard* (July 3, 1934)

On June 30, 1934, Hitler tasked Himmler to carry out “Operation Hummingbird” to annihilate the SA leadership. Logistical support was provided by the army. The architects of the purge were Hitler, Göring, Goebbels, Himmler, Heydrich, and Rudolph Hess. Hitler was present when Röhm was arrested and many of his officers were slaughtered. SS units, commanded by Dachau concentration camp commandant Theodor Eicke, transported SA leaders to Munich's Stadelheim prison where SS men

shot most of them. Hitler remained indecisive about Röhm's fate until July 1. On that day, at the Nazi dictator's expressed order, Eicke shot Röhm in his cell in Stadelheim. Röhm reportedly died with the words “Heil Hitler” on his lips. Old scores were also settled. Former chancellor Kurt von Schleicher was shot in his Berlin apartment with his wife. No army leader showed up at his funeral. Gregor Strasser was killed along with up to 200 others. The police took more than 1,100 persons into protective custody, including many SA officers. The SS also targeted von Papen, killing two of his aides (Edgar Jung and Herbert von Bose), but Papen barely managed to escape. Papen, in great hypocritical form declared the purge a great action in a “manly and human sense.”²⁶

The next day, Otto Dietrich, Press Chief of the NSDAP, “gave a blood-curdling account of the slaughter to the press. He described Hitler's sense of shock at the moral degeneracy of his oldest comrades.”²⁷ Even President Hindenburg was impressed by Hitler’s decisiveness. It was clear that no opposition to Hitler would be tolerated. Although Hitler had no issue with homosexuality it served his purpose to now link homosexuality with subversion, even treason. Hitler told the Munich crowd that “undisciplined and disobedient characters and asocial or diseased elements” would be annihilated.

Was Hitler now a lawless, homicidal leader in the eyes of the German people? On July 3, the Reich Cabinet issued a law, legalizing the murders after the fact, as an emergency action taken to save the nation. Hitler addressed the Reichstag on July 13, 1934, explaining that, as the supreme ruler of Germany, he had exercised his power against individuals who threatened the existence of the German nation. Some judges accepted the purge as a “legitimate” response to the danger of an “imminent revolt” by the SA. Schlegelberger, having already approved the Enabling Act now accepted the idea of retroactive sanctioning of the killings as it “was absolutely justifiable, because revolt meant a state of emergency.” Murder was now seen as acceptable act of state to protect the nation.

²⁶ Ulrich, 470.

²⁷ Louis L. Snyder, *Encyclopedia of the Third Reich*, (New York: McGraw-Hill, 1976),

Hitler's conduct and constant, shameless lying should have made him a pariah. Instead, the more people saw him playing the fool the more he kept people off balance. The more outrageous he got and the more shocking and confusing his behavior became, the more people were confused and unable to take a stand against him. Those who kept underestimating him and made alliances with him or gave him power kept hoping and perhaps believed that he would become tamed and normalized. He seemed so ridiculous that no one had to take him seriously. Until they did.

The purge cemented the Army's alliance with Hitler and the SS was rewarded by being declared an independent organization on July 20, 1934. SS chief Heinrich Himmler now had control of the Gestapo and had direct access to Hitler. Himmler used the status he achieved in the Röhm purge and called for a permanent state of emergency to fight the enemy (communists et. al.) with police and SS terror. In August 1934, there were only 2,394 inmates and many camps were closed. During the second half of 1934, the SS assumed control of a centralized concentration camp system. On December 10, 1934, Eicke became the Inspector of Concentration Camps (IKL) and was also in charge of all guards. He reported directly to Himmler. On December 14, 1934, Himmler elevated camp guards to status of separate force ("political warriors") and Eicke also became "Inspector of SS Troops." In October 1935, German police forces were unified under Himmler. Göring turned his attention to the economy and rearmament. By 1936-1937, Himmler would complete the consolidation of all German police forces under SS control and remove the police from any form of legal or judicial oversight.

SS guards were groomed in Dachau as "political soldiers" whose "battleground" was the camp. The concentration camp was the only place in the SS where a modest education did not matter. With a taste for violence one could quickly rise through the ranks. Camp SS men had to continually assert their status and stand out by showing brutality. Rudolph Höss (later commandant of Auschwitz) started as a Dachau sentry. Brutal and sparse conditions for the guards and competing viciousness devolved guards into rival groups, conflicting over daily routines in isolated SS settlements, often brawling with locals.

On August 2, 1934, President Hindenburg died and Hitler moved to combine the offices of president and chancellor. The Army chose not to oppose this unprecedented act. On August 19, 1934 about 95 percent of registered voters went to the polls and gave Hitler 38 million votes of approval (90 percent of the vote). Thus Hitler claimed that he was the leader of the German nation by direct will of the people. The Army now pledged allegiance directly to Hitler.

Directing the Virulent Antisemitism

Individual actions against Jews accelerated in 1934-35 as local militants/SA were upset by the "foot dragging" of the regime. After the "Long Knives" purge the Nazi regime was hesitant to respond and saw these actions as an outlet/distraction for the SA. By the summer of 1935, SA violence had reached pogrom-like levels. In Berlin, ice cream parlors run by Jews were at the center of the race riots. Local party functionaries harassed Jews charging them with having relations with non-Jews and pushed for stricter anti-Jewish laws. Jews were not passive and about a quarter of the German Jewish population left. Others often stayed behind hoping to guide their beloved country through difficult times. As some parts of Germany were more antisemitic than others, where you lived mattered. Nazi anti-Jewish policy was yet to be coordinated on a national level and Jews had to face – or not face – individual actions on a local level. About 10,000 Jews who fled the country actually

returned in 1935 having faced harsher treatment in places like France. By 1935, German Jews were less than .4% of the population with one-third living in Berlin.

Nazi Foreign and Domestic Policy

Hitler was anxious to gear Germany up for war. To him the future conflict would be, in the words of Doris Bergen, a war for “race and space.”²⁸ The Aryan race would expand and conquer the necessary living space and foodstuffs for survival. The very expansion would be a social-Darwinian test of racial survival. On March 16, 1935 Hitler began to test the boundaries of the Versailles Treaty and introduced compulsory military service and announced of the expansion of the

German army to more than 500,000 men. There was little negative reaction either from Europe or within Germany.

But all was not well. More complaints were coming in from German citizens whose businesses were being affected by SA actions against Jews (“No more Jews vacationing here...”) and the violence and public humiliations were becoming embarrassing to the regime. This was a real problem with the approach of the summer Olympics which the Nazis had targeted as a way to promote racial ideology and unify the German people. Knowing that the world was coming to Berlin, Interior Minister Frick ordered the state to intervene and stop actions against Jews. Hitler did not want international criticism of his government to result in the transfer of the Games to another country. Such a loss would have been a serious blow to German prestige. Hitler was not de-escalating his campaign against Jews, but was making a pragmatic tactical retreat.



A conference of ministers was held on August 20, 1935 to discuss the economic effects of party actions against Jews. Adolf Wagner, the party representative at the conference, argued that such actions would cease, once the government decided on a firm policy against the Jews. Dr. Schacht, the Economics Minister, criticized arbitrary behavior (theft and intimidation) by party members as this inhibited his policy of rebuilding Germany's economy. Göring, head of the 4-year plan, was upset that local officials were plundering Jews – he wanted to do that for the war effort.

It was becoming clear that the Nazis needed to create new laws to stabilize the situation. A new phase began, in part due to the Olympics, but also to respond to economic concerns and to silence the radicals. The “Jewish problem,” always a focus, had not received the proper attention by Hitler as he had focused on foreign policy, continued consolidation of power, and the building of the military. Now public pressure was pushing the regime to refocus on Jewish policy and Hitler enthusiastically embraced the responsibility.

The Nuremberg Laws

Hitler was prone to Improvisation. Each September the party had its annual rally in Nuremberg. Hitler's speech was the high point on the Nazi social calendar. Hitler announced that in 1935 he was going to speak on foreign policy. Two days before the rally he changed his mind. He suddenly realized that something more was needed than his planned announcement that non-Aryans would no longer be allowed to fly the Nazi flag. Sensing an

²⁸ Doris Bergen, *War and Genocide* (Lanham: Rowman and Littlefield, 2009), vii.

opportunity, he tasked two lawyers from the Interior Ministry to draw up new anti-Jewish legislation immediately. Four drafts were hastily written (on the back of menu cards) by two men who ended up writing the centerpiece and legal precedent for Nazi anti-Jewish legislation.

The Nuremberg Laws

Just before the convening of the Nazi party rally in Nuremberg on September 15, 1935, Nazi researchers, who had been extensively studying Jim Crow, and U.S. race laws – including eugenics and immigration statutes - discovered that both North Carolina and Texas had an “association clause” in their anti-miscegenation marriage laws to help distinguish people of questionable race. This was a final piece that allowed Hitler to announce the Nuremberg Laws. The “Law for the Protection of German Blood and German Honor” forbade marriages and extramarital intercourse between Jews and Germans and the employment of German females under 45 in Jewish households. This law was directly linked to American legal precedents. The “Reich Citizenship Law” declared that only those of German or related blood were eligible to be Reich citizens; the remainder were classed as state subjects, without citizenship rights.

Interestingly, when the Nuremberg Laws were issued The New York Times focused on the resolution of the German flag debate with the headline, “Reich Adopts Swastika.” The Nazis claimed that the laws were in protest of New York Jewish lower court judge Louis Brodsky (it was very difficult for Jews to have upper level jobs in the judiciary) who had denounced the Nazis and declared that American values could not tolerate Nazism. The Nazis presented the law as a response to Jews, not the United States. Secretary of State Cordell Hull actually issued a formal apology to Nazi Germany for Brodsky’s actions. For the Nazis, they had jumped a huge hurdle by taking over singular leadership in Germany by undermining their conservative opposition and gaining the de facto endorsement of the United States. Eight days after Hitler declared the Nuremberg Laws a delegation of forty-five Nazi lawyers (including seven women) arrived in New York city on a study tour. Things did not go smoothly as New York was a hotbed of anti-Nazi activity.

As part of the Nazi educational efforts about its new race laws it is interesting to note that Johann von Leers, who was deeply involved in the early stages of drafting the Nuremberg Laws, dedicated twenty-three pages to American race law in *Blood and Race: A Tour Through the History of Peoples* (1936). He included reviews of the 14th Amendment, immigration and naturalization laws, and anti-miscegenation laws to convince the public of the progress Germans were making.

As the American press reported on growing Nazi barbarism regarding race law and sterilization American eugenicists began to split. All believed that you could distinguish between inferior and superior elements of society, but disagreed as to the cause. Racial anthropologists continued to support and study Nazi initiatives while scientific and political groups became more skeptical. Like their European colleagues before them, many prominent American eugenicists began to question the “scientific basis” for discriminating against Blacks and Jews. Ironically, the more racial laws that the Nazis passed, the more white American intellectuals began to shift their views on Jim Crow. In December 1938, the American Anthropologist Association unanimously denounced racism. The American encounter with the threat of Nazism began before the war and was reinforced with the liberation of the camps. The Nuremberg Laws, as they came to be known, that Hitler announced at the party rally on September 15, 1935 institutionalized many of the racial theories prevalent in Nazi ideology and which had been studied and justified by American eugenics policy. There were two laws: The “Reich Citizens Law”

Introduced the idea of a higher citizenship based on race. Jews would become second-class citizens (a concept informed by American race law and “Jim Crow”), but would still retain their passports (easing their exodus). The “Law for the Protection of German Blood and Honor” forbade marriage or sexual intercourse between Aryans and Jews (again, based on U.S. anti- miscegenation laws). And yes, Jews could also no longer fly the German flag. This was the first time Jews were “legally” persecuted not for their religious beliefs, but by a so-called racial identity. “Racial infamy,” as this became known, was later made a criminal offense when new marriage requirements from the “Law for the Protection of the Hereditary Health of the German People” were implemented on October 18, 1935. The law required all prospective marriage partners to obtain from the public health authorities a certificate of fitness to marry. Such certificates are refused to those suffering from “hereditary illnesses” and contagious diseases and those attempting to marry in violation of the Nuremberg Laws.

On November 14, 1935, the Nuremberg Laws were extended to other groups in the first supplemental decree that now applied the law to prohibiting marriage or sexual relations between people who could produce “racially suspect” offspring. A week later, the minister of the interior interpreted this to mean relations between “those of German or related blood” and Roma (Gypsies), “Negroes,” as “racially distinctive” minorities with “alien blood.” As such, their marriage to “Aryans” was prohibited. Like Jews, “Gypsies” were also deprived of their civil rights.

Who is a Jew?

Genocide is a process. What is important is not simply membership in a group, but membership in the target group as defined by the would-be perpetrator. You were a “Jew” if the Nazis defined you as such regardless of whether someone identified himself or herself as a Jew or belonged to the Jewish religious community. For Hitler Jews were not simply people with particular religious beliefs, but a race with a particularly dangerous “spirit” often articulated as the values of the Enlightenment. The Nuremberg Laws defined a “Jew” as anyone who had three or four Jewish grandparents. Many Germans who had not practiced Judaism for years found themselves caught in the grip of Nazi terror. Even people with Jewish grandparents who had converted to Christianity were now defined as Jews. Thousands of people who had converted from Judaism to another religion, among them even Roman Catholic priests and nuns and Protestant ministers whose grandparents were Jewish were now considered “Jews.” Becoming a genealogist was now a potentially lucrative career choice. People now had to define their “racial” lineage and those who discovered something inconvenient might be able to pay off a genealogist to adjust the record. Churches gave up their baptismal records to the regime to help the process along.

Some Jews and bureaucrats saw the Nuremberg Laws as the endpoint of Hitler’s antisemitism, something they could live with. Others saw precedent for future actions and many were motivated to “work towards the Führer’s” clear goal to rid Germany of its Jews. Of course, a central problem was the legal implications of the new definition of “Jew.” As was typical in Nazi Germany, Hitler would decide and then let his underlings, in a social-Darwinian struggle, figure out the details and implementation. The Foreign Office, Interior Ministry, party officials, and others began to debate the legal definition of “Jew.” Confusion and competition reigned. It was now that the SS under Himmler began to assert themselves in Nazi racial policy.

The Olympics

From February 6-16, 1936, Germany hosted the winter Olympics at Garmisch-Partenkirchen in Bavaria with great success. This was very much a trial run of the more important summer games coming to Berlin later that year. Hitler ordered anti-Jewish signs temporarily removed from public view. Still, Nazi deceptions were not wholly successful. Western journalists observed and reported troop maneuvers.

Fresh off the public relations success of the winter Olympics Hitler took his first gamble and occupied the Rhineland on March 7, 1936. The French were willing to mobilize for war, but no other European power saw the urgency and the French backed down, rather than stand alone. This was a critical moment as the German army was not ready for war. Peaceful reoccupation of the Rhineland energized many Germans both at home and in the military and began to create the dangerous myth that Hitler was a man of peace, not war. Hitler's gamble, which could have been disastrous, had paid off. On March 29, 98.8% of the 99% of the registered voters in nationwide referendum approved. On June 17, 1936, Hitler decreed the unification of all police forces in the Reich and named Himmler as Chief of German Police.

There was a significant movement within the United States to boycott the Berlin summer games. This was overcome as key Olympic and AAU officials supported Hitler. As the games approached various anti-Jewish signs taken down and anti-Jewish actions were moderated. German Jewish athletes were not allowed to participate in the games. The Berlin Olympics were another public relations coup and deepened the foundation of admiration for Hitler at home and abroad while successfully promoting Nazi racial ideology.



In 1937 and 1938, the Nazi government set out to impoverish Jews by requiring them to register their property and then by "Aryanizing" Jewish businesses. This meant that Jewish workers and managers were dismissed, and the ownership of most Jewish businesses were taken over by non-Jewish Germans who bought them at bargain prices fixed by Nazis. Jewish doctors were forbidden to treat non-Jews, and Jewish lawyers were not permitted to practice law.

Towards War

The Nazis focused on fighting a war of "race and space."²⁹ As Nazi rearmament profited heavy industry, resentment grew among Hitler's base. To appease them, Hitler subsidized farmers. Attacking Jewish businesses also hurt German workers and by 1937, arms production had run its course as a stimulant to the economy. Rearmament relied on deficit spending and imports. This was not sustainable and the economics minister Schacht resigned. Hermann Göring replaced him and created the Four-Year Plan to prepare for war. By 1938, 74% of the budget was being spent on the military.³⁰ Indebtedness grew in the countryside and young people abandoned the farms to find work in the cities. The Nazis feared this trend believing that urban life corrupted the moral soul of the German. As always, there remained a labor shortage. As the economy began to fail, these social pressures, combined with Hitler's objectives of *lebensraum* and race war, pushed the Nazi leadership to war. Even though the generals recommended a delay, Hitler knew that time was not on his side. German technology had produced weaponry that might soon be outclassed and could not be easily replaced or upgraded. Stalin's forced

²⁹ Bergen, Doris.

³⁰ Weiss, 321.

industrialization of the Soviet Union would only increase its military strength and his base, facing low wages and debt outside of the military industries, needed its reward. There were no more scapegoats left. War could not be postponed. Conquest would sustain the German economy, end disparities, grab vital resources (much of the early German military equipment, including armored formations, would come from captured material), enslave a labor force, reward the army, give cover for Nazi demographic and eugenic experimentation, and destroy the “Jewish threat.” 1938 would prove to be the crucial year as Hitler overcame the last obstacles, consolidated his power, attacked Germany’s Jewish community with coordinated and determined action, and planned for the coming war. In 1939, Göring succinctly stated, “The war provides us with the possibilities not available in peace.”³¹

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³¹ Ibid. 319.