

# LAW, JUSTICE, AND THE HOLOCAUST

UNITED STATES HOLOCAUST MEMORIAL MUSEUM

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## ACKNOWLEDGMENTS


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Cover Photo: Criminal court judges display their loyalty to the Nazi state. Berlin, Germany, October 1936. Ullstein bild/The Granger Collection, NY

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The United States Holocaust Memorial Museum, located in Washington, DC, sponsors onsite and traveling exhibitions, educational outreach, Holocaust commemorations, and new scholarly research. It also strives to make genocide prevention a national and international priority.

Timothy Hursley

# ABOUT THE MUSEUM

The United States Holocaust Memorial Museum is America's national institution for the documentation, study, and interpretation of Holocaust history, and serves as its memorial to the millions of people killed during the Holocaust.

The Holocaust was the state-sponsored, systematic persecution and annihilation of European Jewry by Nazi Germany and its collaborators between 1933 and 1945. Jews were the primary victims—six million were murdered; Roma and Sinti (Gypsies), people with mental and physical disabilities, and Poles were also targeted for destruction or decimation for racial, ethnic, or national reasons. Millions more, including homosexuals, Jehovah's Witnesses, Soviet prisoners of war, and political dissidents, also suffered grievous oppression and death under Nazi Germany.

A living memorial to the Holocaust, the Museum strives to inspire leaders and citizens to confront hatred, prevent genocide, and promote human dignity. Its primary mission is to advance and disseminate knowledge about this unprecedented tragedy, to preserve the memory of those who suffered, and to encourage all people to reflect upon the moral and spiritual questions raised by the events of the Holocaust as well as their own responsibilities as citizens of a democracy.

For more information, visit **ushmm.org.**




German police officers stand with a young couple accused of race defilement. The Jewish man wears a sign that reads: "I am a defiler of the race." Norden, Germany, July 1935. Staatsarchiv Aurich

# INTRODUCTION

Between 1933 and 1945, Germany's government, led by Adolf Hitler and the National Socialist (Nazi) Party, carried out a deliberate, calculated attack on European Jewry. Basing their actions on racist beliefs that Germans were a superior people and on an antisemitic ideology, and using World War II as a primary means to achieve their goals, the Nazis targeted Jews as the main enemy, killing six million Jewish men, women, and children by the time the war ended in 1945. This act of genocide is now known as the Holocaust. As part of their wide-reaching efforts to remove from German territory all those whom they considered racially, biologically, or socially unfit, the Nazis targeted many other groups as well, including Germans with mental and physical disabilities, Roma (also known as Gypsies), Soviet prisoners of war, Poles, homosexuals, and Jehovah's Witnesses. In the course of this state-sponsored tyranny, the Nazis left countless lives shattered and millions dead.

The most significant perpetrators of these crimes are well known: Hitler, Adolf Eichmann, Heinrich Himmler, and Reinhard Heydrich, as well as the SS,[1] among others. But less known are the contributions of "ordinary" people—doctors, lawyers, teachers, civil servants, officers, and other professionals throughout German society—whose individual actions, when taken together, resulted in dire consequences. Put simply, the Holocaust could not have happened without them.

The role of those in the legal profession in general and the actions of judges in particular were critical. Many senior jurists in Nazi Germany had been on the bench throughout the years of the Weimar Republic (1918–1933) and, before that, during the Imperial regime of Kaiser Wilhelm II (1888–1918). Coming from a longstanding authoritarian, conservative, and nationalist tradition, judges believed deeply in reinforcing government authority, ensuring public respect for the law, and guaranteeing that state actions had a legal basis (*Rechtsstaat*[2]). At the same time, they valued judicial independence in the form of protection from arbitrary or punitive removal from the bench and freedom from dictates regarding decision making. Above all, they rendered judgment based on such fundamental Western legal principles as the equality of all citizens, the right of an accused person to a fair trial, and the concept that there could be no crime or penalty without prior law.

In spite of these values, political democracy presented serious challenges to the judiciary. Many judges rejected the legitimacy of the democratic Weimar Republic, since it had come about through revolution, which they considered, by definition, a violation of the law. This attitude had long-term consequences for the republic. Judges routinely imposed harsh verdicts on left-wing defendants, whom they regarded with suspicion as revolutionary agents of various foreign powers, while acting leniently toward right-wing defendants, whose nationalist sentiments typically echoed their own. As a result, in the mid-1920s, supporters of the republic proclaimed a "crisis of trust," demanding the temporary suspension of judicial independence and the removal of reactionary and antidemocratic judges from the bench. Judges regarded these developments with alarm, rejecting proposals for reform as a perversion of justice. Many were convinced that the criticism leveled upon them, which had come from the political left and from parliament, undermined the authority of the state.

When Hitler came to power, he promised to restore judges' authority and shield them from criticism even as he curtailed their independence

1. The SS (Schutzstaffel), also known as the "Black Shirts," served as the elite guard of the Nazi Reich.

2. *Rechtsstaat*, a German term meaning "state of law," is an important concept in continental European legal thinking, deriving from German jurisprudence. In a Rechtsstaat, the exercise of governmental power is constrained by the law to protect citizens from the arbitrary exercise of authority.

and instituted reeducation programs designed to indoctrinate jurists in the ideological goals of the party. The Nazi leadership used a series of legal mechanisms—which, in contrast to the revolutionary overthrow of power in 1918, judges tended to consider legitimate—to gradually assume and consolidate Hitler's power. Then, step by step, and always under the guise of safeguarding the state, the Nazi leadership imposed legislation that fulfilled its ideological goals of rearmament, military expansion, and racial purification. Throughout the 1930s and especially after the Nazi regime began World War II in 1939, the judiciary typically rendered verdicts according to the principles of Nazi ideology and the wishes of the Führer.

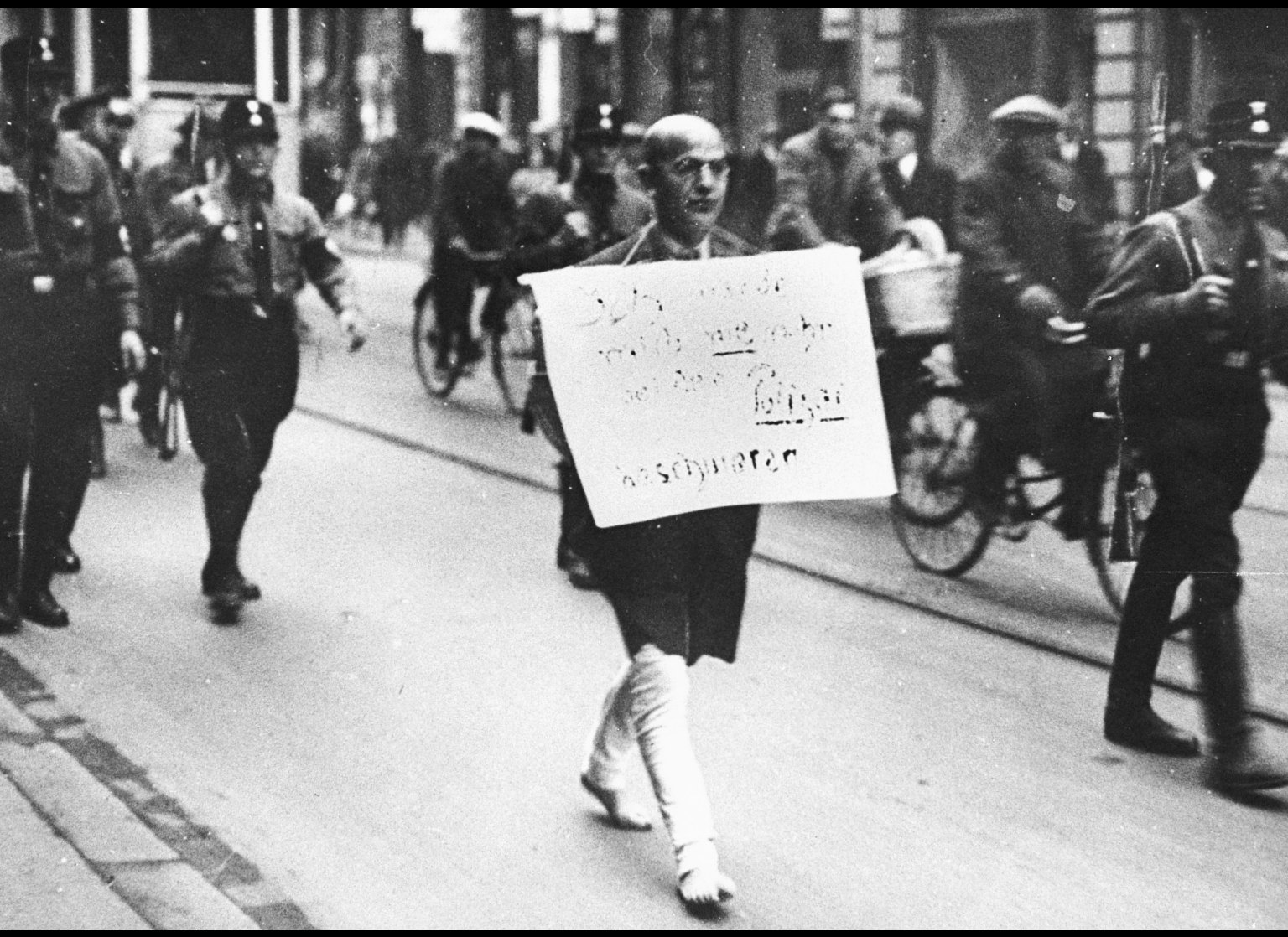
In reality, judges were among those inside Germany who might have effectively challenged Hitler's authority, the legitimacy of the Nazi regime, and the hundreds of laws that restricted political freedoms, civil rights, and guarantees of property and security. And yet the overwhelming majority did not. Instead, over the 12 years of Nazi rule, during which time judges heard countless cases, most not only upheld the law but interpreted it in broad and far-reaching ways that facilitated, rather than hindered, the Nazis' ability to carry out their agenda.

How was this possible? Why did it happen? It seems clear that the Nazi period presented individual judges—as it did so many others—with intense personal and ethical dilemmas. And while it is all too easy to condemn them in retrospect, oversimplifying their circumstances and declaring moral absolutes from a safe historical distance, it is more difficult and, ultimately, more useful to examine critically and objectively the pressures they faced. Moreover, it is neither the outright heroes nor the obvious villains whose stories are the most deeply challenging. Rather, it is through studying the actions of the ambivalent, conflicted, and ordinary individuals that the realities of ethical struggle become accessible.

This booklet contains a series of key decrees, legislative acts, and case law that show the gradual process by which the Nazi leadership, with support or acquiescence from the majority of German people, including judges, moved the nation from a democracy to a dictatorship, and the series of legal steps that left millions vulnerable to the racist and antisemitic ideology of the Nazi state. These legal instruments reveal the positions that judges took and the questions that they faced during the Nazi regime; in so doing, they provide a framework for thoughtful and meaningful debate on the role of the judiciary in society and its responsibilities today.

Opposite: A squad of Nazi storm troopers (SA) parade respected Jewish attorney Dr. Michael Siegel through the streets of Munich, Germany, with a sign around his neck that reads: "I am a Jew but I will never again complain to the police." March 10, 1933.

Bundesarchiv, Koblenz



# PART I:
# DOCUMENTS RELATING TO THE TRANSITION FROM DEMOCRACY TO DICTATORSHIP

# I. Decree of the Reich President for the Protection of the People and the State (Reichstag Fire Decree) February 28, 1933

On February 27, 1933, 24-year-old Dutch militant Marinus van der Lubbe set fire to the German parliament (Reichstag), causing extensive damage to the building that had long been the symbol of German unity. The government falsely portrayed the incident as part of a Communist plot to overthrow the state in response to Adolf Hitler's appointment as Reich Chancellor by President Paul von Hindenburg on January 30, 1933.

On February 4, Hitler's cabinet had restricted the press and authorized the police to ban political meetings and marches. Nazi leaders then exploited the Reichstag fire to gain President von Hindenburg's approval for a more extreme measure called the Decree for the Protection of the People and the State.

Popularly known as the Reichstag Fire Decree, the regulations suspended important provisions of the German constitution, especially those safeguarding individual rights and due process of law. The decree permitted the restriction of the right to assembly, freedom of speech, and freedom of the press, among other rights, and it removed all restraints on police investigations. With the decree in place, the regime was free to arrest and incarcerate political opponents without specific charge, dissolve political organizations, and suppress publications. It also gave the central government the authority to overrule state and local laws and overthrow state and local governments. This law became a permanent feature of the Nazi police state.




President Paul von Hindenburg greets Chancellor Adolf Hitler during state ceremonies. Potsdam, Germany, 1933.
US Holocaust Memorial Museum, courtesy of National Archives and Records Administration, College Park, MD

# Decree of the Reich President for the Protection of the People and the State of February 28, 1933[1]

In virtue of Article 48(2) of the German Constitution, the following is decreed as a defensive measure against communist acts of violence endangering the state:

### Article 1

Sections 114, 115, 117, 118, 123, 124, and 153 of the Constitution of the German Reich are suspended until further notice. Therefore, restrictions on personal liberty, on the right of free expression of opinion, including freedom of the press, on the right of assembly and the right of association, and violations of the privacy of postal, telegraphic, and telephonic communications, warrants for house searches, orders for confiscations, as well as restrictions on property, are also permissible beyond the legal limits otherwise prescribed.

### Article 2

If in a state the measures necessary for the restoration of public security and order are not taken, the Reich Government may temporarily take over the powers of the highest state authority.

### Article 3

According to orders decreed on the basis of Article 2 by the Reich Government, the authorities of states and provinces, if concerned, have to abide thereby.

### Article 4

Whoever provokes, or appeals for, or incites the disobedience of the orders given out by the supreme state authorities or the authorities subject to them for execution of this decree, or orders given by the Reich Government according to Article 2, is punishable—insofar as the deed is not covered by other decrees with more severe punishments—with imprisonment of not less than one month, or with a fine from 150 up to 15,000 reichsmarks.

Whoever endangers human life by violating Article 1 is to be punished by sentence to a penitentiary, under mitigating circumstances, with imprisonment of not less than six months and, when violation causes the death of a person, with death, under mitigating circumstances, with a penitentiary sentence of not less than two years. In addition the sentence may include confiscation of property.

Whoever provokes or incites an act contrary to public welfare is to be punished with a penitentiary sentence, under mitigating circumstances, with imprisonment of not less than three months.

### Article 5

The crimes which under the Criminal Code are punishable with penitentiary for life are to be punished with death: i.e., in Paragraphs 81 (high treason), 229 (poisoning), 306 (arson), 311 (destruction of property), and 324 (general poisoning).

Insofar as a more severe punishment has not been previously provided for, the following are punishable with death, life imprisonment, or imprisonment not to exceed 15 years:

1. Anyone who undertakes to kill the Reich President or a member or a commissioner of the Reich Government or of a state government, or provokes such a killing, or agrees to commit it, or accepts such an offer, or conspires with another for such a murder;

1. Translated from *Reichsgesetzblatt* I, 1933, p. 83.

2. Anyone who under Paragraph 115(2) of the Criminal Code (serious rioting) or under Paragraph 125(2) of the Criminal Code (serious disturbance of the peace) commits the act with arms or cooperates consciously and intentionally with an armed person;

3. Anyone who commits a kidnapping under Paragraph 239 of the Criminal Code with the intention of making use of the kidnapped person as a hostage in the political struggle.

This decree is in force from the day of its announcement.

Berlin, February 28, 1933

The Reich President von Hindenburg
The Reich Chancellor A. Hitler
The Minister of Interior Frick
The Minister of Justice Dr. Gürtner

# II. Arrests without Warrant or Judicial Review: Preventive Police Action in Nazi Germany as of February 28, 1933

The Nazis employed a comprehensive strategy to control all aspects of life under their regime. In tandem with a legislative agenda by which they unilaterally required or prohibited certain public and private behaviors, the Nazi leadership dramatically redefined the role of the police, giving them broad powers—independent of judicial review—to search, arrest, and incarcerate real or perceived state enemies and others they considered criminals.

The Supreme Court failed to challenge or protest the loss of judicial authority at this time. In general, it approved of the Nazi leadership's decisive action against left-wing radicals (e.g., Communists) that seemed to be threatening the government's stability. Further, the Supreme Court had been the court of first instance for treason cases since the Imperial period but, by the 1930s, it was overburdened with such trials and had endured relentless criticism from all sides for the judgments it rendered. The court was ultimately relieved to have responsibility for political crimes removed from its jurisdiction. The security police (not to be confused with paramilitary units such as the SS or the SA,[2] which also imposed public order) was composed of two primary arms: the Secret State Police (Gestapo),



An SA man guards members of the German Communist Party being held in the basement jail of an SA barracks. Berlin, April 1, 1933.
Bundesarchiv, Koblenz

2. The SA (Sturmabteilung, or storm troopers), also known as the "Brown Shirts," were a Nazi paramilitary formation. They served as the street fighters of the Nazi Party before Hitler's rise to power in 1933.

which investigated political opposition, and the Criminal Police (Kripo), which handled all other types of criminal activity. The Gestapo was empowered to use "protective custody" *(Schutzhaft)* to incarcerate indefinitely, without specific charge or trial, persons deemed to be potentially dangerous to the security of the Reich. Protective custody had been introduced in the German general law code before World War I to detain individuals for their own protection or to avert an immediate security threat if there were no other recourse. Now the Gestapo employed protective custody to arrest political opponents and, later, Jews, as well as Jehovah's Witnesses who, because of religious conviction, refused to swear an oath to the Nazi German state or to serve in the armed forces. Individuals detained under protective custody were incarcerated either in prisons or concentration camps; within two months of the Reichstag Fire Decree, the Gestapo had arrested and imprisoned more than 25,000 people in Prussia alone.

The Kripo used a similar strategy called "preventive arrest" *(Vorbeugungshaft)* to seize any individuals determined to be a threat to public order. As the guidelines show, the Kripo was given limitless power for surveillance and was authorized to seize persons on the mere suspicion of criminal activity. As with those held by the Gestapo under protective custody, those held by the Kripo under preventive arrest had no right to appeal or access to a lawyer, and their arrests were not liable to judicial review. They were generally interned directly in a concentration camp for a period determined by the police alone. By the end of 1939, more than 12,000 preventive arrest prisoners were interned in concentration camps in Germany.

## Guidelines for Preventive Police Action against Crime[3]

In the internal distribution of responsibilities of the police, prevention of "political crimes" is assigned to the Secret State Police [Gestapo]. In other cases the criminal police is responsible for the prevention of crime. The criminal police operates according to guidelines in the prevention of crime according to the following principles:

The tools used in the prevention of crime are systematic police surveillance and police preventive arrest.

Systematic police surveillance can be used against those professional criminals who live or have lived, entirely or in part, from the proceeds of their criminal acts and who have been convicted in court and sentenced at least three times to prison, or to jail terms of at least three months, for crimes from which they hoped to profit.

Further, habitual criminals are eligible if they commit crimes out of some criminal drive or tendency and have been sentenced three times to prison, or to jail terms of at least three months, for the same or similar criminal acts. The last criminal act must have been committed less than five years ago. The time the criminal spent in prison or on the run is not counted. New criminal acts that lead to additional convictions suspend this time limit.

All persons who are released from preventive police arrest must be placed under systematic police surveillance.

Finally, systematic police surveillance is to be ordered despite these regulations if it is necessary for the protection of the national community [*Volksgemeinschaft*[4]].

In the application of systematic police surveillance the police can attach conditions such as requiring the subject to stay in or avoid particular places, setting curfews, requiring the subject to report periodically, or forbidding the use of alcohol, or other activities; in fact, restrictions of any kind may be imposed on the subject as part of systematic police surveillance.

Systematic police surveillance lasts as long as is required to fulfill its purpose. At least once every year the police must reexamine whether the surveillance is still required.

### Preventive police arrest can be used against the following:

Professional and habitual criminals who violate the conditions imposed on them during the systematic police surveillance of them or who commit additional criminal acts.

Professional criminals who live or have lived, entirely or in part, from the proceeds of their criminal acts and who have been convicted in court and sentenced at least three times to prison, or to jail terms of at least three months, for crimes from which they hoped to profit.

3. Translated from Werner Best, *Der Deutsche Polizei* (Darmstadt: L.C. Wittich Verlag, 1940), pp. 31–33.

4. *Volksgemeinschaft* (literally, folk community) was a term used by the Nazis for the German people as a whole.

Habitual criminals if they have committed crimes out of some criminal drive or tendency and have been sentenced three times to prison, or to jail terms of at least three months, for the same or similar criminal acts.

Persons who have committed a serious criminal offense and are likely to commit additional crimes and thereby constitute a public danger if they were to be released, or who have indicated a desire or intention of committing a serious criminal act even if the prerequisite of a previous criminal act is not established.

Persons who are not professional or habitual criminals but whose antisocial behavior constitutes a public danger.

Persons who refuse to identify, or falsely identify themselves, if it is concluded that they are trying to hide previous criminal acts or attempting to commit new criminal acts under a new name.

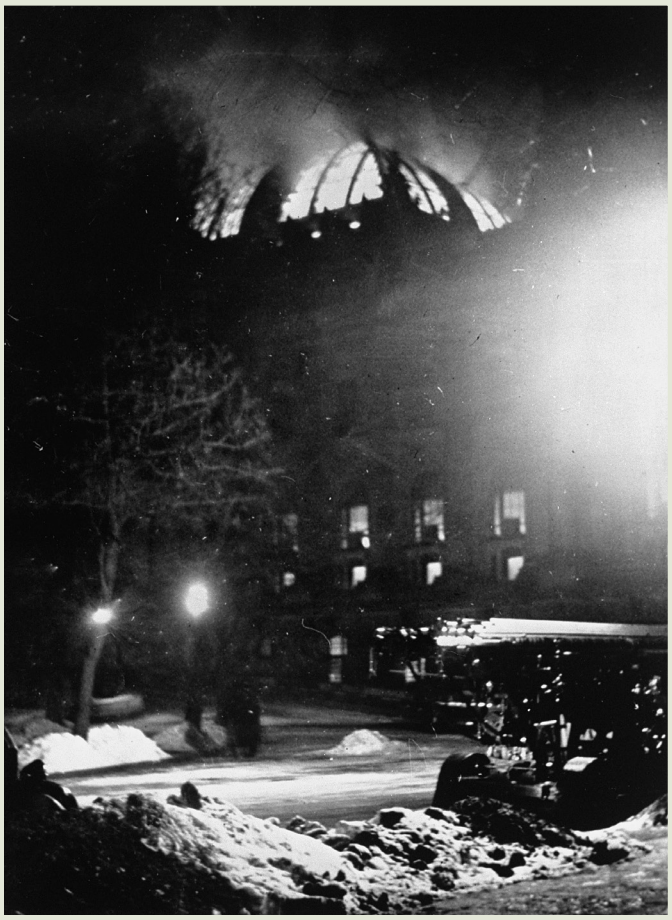
Normally, police preventive arrest is to be used against these persons if it is concluded that the more mild measure of systematic police surveillance will unlikely be successful.

## III. Law to Remedy the Distress of the People and the Reich (The Enabling Act) March 24, 1933

The Law to Remedy the Distress of the People and the Reich, also known as the Enabling Act, became the cornerstone of Hitler's dictatorship by allowing him to enact laws, including ones that violated the Weimar constitution, without approval of either parliament or Reich President von Hindenburg.

Since the passage of this law depended upon a two-thirds majority vote in parliament, Hitler and the Nazi Party ensured the outcome by intimidation and persecution. They prevented all 81 Communists and 26 of the 120 Social Democrats from taking their seats, detaining them in so-called protective custody in Nazi-controlled camps. In addition, they stationed SA and SS members in the chamber to intimidate the remaining representatives and guarantee their compliance. In the end, the law passed with more than the required two-thirds majority, with only Social Democrats voting against it.

The Supreme Court did nothing to challenge the legitimacy of this measure. Instead, it accepted the majority vote, overlooking the absence of the Communist delegates and the Social Democrats who were under arrest. In fact, most judges were convinced of the legitimacy of the process and did not understand why the Nazis proclaimed a "Nazi Revolution." Erich Schultze, one of the first Supreme Court judges to join the Nazi Party, declared that the term "revolution" did not refer to an overthrow of the established order but rather to Hitler's radically different ideas. In the end, German judges—who were among the few who might have challenged Nazi objectives—viewed Hitler's government as legitimate and continued to regard themselves as state servants who owed him their allegiance and support.



The German Parliament (Reichstag) in flames in Berlin, Germany, on the night of February 27, 1933

US Holocaust Memorial Museum, courtesy of National Archives and Records Administration, College Park, MD

## Law to Remedy the Distress of the People and the Reich of March 24, 1933[5]

The Reichstag has enacted the following law, which has the agreement of the Reichsrat and meets the requirements for a constitutional amendment, which is hereby announced:

**Article I**
In addition to the procedure prescribed by the Constitution, laws of the Reich may also be enacted by the Reich Government. This includes laws as referred to by Articles 85, Sentence 2, and Article 87 of the Constitution.

**Article 2**
Laws enacted by the Reich Government may deviate from the Constitution as long as they do not affect the institutions of the Reichstag and the Reichsrat. The rights of the President remain undisturbed.

**Article 3**
Laws enacted by the Reich Government shall be issued by the Chancellor and announced in the *Reichsgesetzblatt*. They shall take effect on the day following the announcement, unless they prescribe a different date. Articles 68 to 77 of the Constitution do not apply to laws enacted by the Reich Government.

**Article 4**
Reich treaties with foreign states that affect matters of Reich legislation shall not require the approval of the bodies concerned with legislation. The Reich Government shall issue the regulations required for the execution of such treaties.

**Article 5**
This law takes effect with the day of its proclamation. It loses force on April 1, 1937, or if the present Reich Government is replaced by another.

Berlin, March 24, 1933

The Reich President von Hindenburg
Reich Chancellor Adolf Hitler
Reich Minister of the Interior Frick
Reich Minister of Foreign Affairs Freiherr von Neurath
Reich Minister of Finance Graf Schwerin von Krosigk

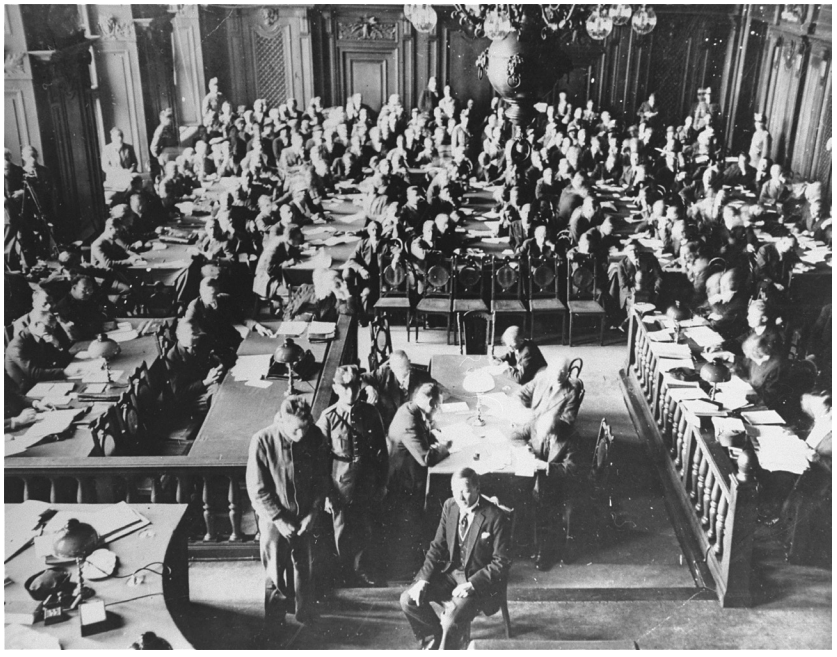


5. Translated from *Reichsgesetzblatt* I, 1933, p. 141.

# IV. Law for the Imposition and Implementation of the Death Penalty (Lex van der Lubbe) March 29, 1933

The Nazi state enacted the Law for the Imposition and Implementation of the Death Penalty on March 29, 1933, just a month after the Reichstag fire. Its first stipulation made a key article of the Reichstag Fire Decree—that which changed the punishment for certain crimes such as arson and high treason from life in prison to the death penalty—retroactive to the beginning of Hitler's assumption of power, thus violating the ex post facto rule of law and ensuring that those who were accused of setting fire to the Reichstag would be executed if convicted. The second article allowed the execution itself to be carried out by hanging, considered a harsh and shameful mode of execution, in place of beheading.

In fact, Hitler pressed for this law, also known as Lex van der Lubbe, for purely political reasons. He insisted upon the death penalty to underscore the legitimacy of the regime's claim that the fire had been an act of rebellion against the state. This was all the more important since Hitler had used the fire to declare a state of emergency. This in turn allowed him to abolish many longstanding constitutional guarantees. Working backward, the execution of the alleged perpetrators of the Reichstag arson would justify to the public the extreme measures that the Nazi regime had put into place. The Supreme Court's decision in the case reveals the ambivalence and complexity of its role in the new Nazi regime. On the one hand, the court found Marinus van der Lubbe guilty and permitted his hanging, accepting the unilateral changes to the constitution that Hitler's government had enacted. On the other hand, it found van der Lubbe's codefendants not guilty of the crime of arson, rejecting the notion of "political necessity" as an overriding factor in deciding the verdict. In this regard, the court declared that it would not be used to stage politically important show trials. An outraged Hitler removed jurisdiction for political crimes from the Supreme Court and established the so-called People's Court (Volksgericht) in Berlin instead, appointing Nazi judges to the bench to ensure the outcome of such cases in the future.



Marinus van der Lubbe (lower left) stands before the Supreme Court at the opening of the proceedings of the Reichstag Fire trial in Leipzig, Germany, on September 21, 1933.

US Holocaust Memorial Museum, courtesy of National Archives and Records Administration, College Park, MD

## Law for the Imposition and Implementation of the Death Penalty of March 29, 1933[6]

The Reich Government has decided the following law that is hereby proclaimed:

**Article I**
Section 5 of the Decree of the Reich President for the Protection of the People and the State of February 28, 1933 (*RGBL* I, page 83) applies also to acts committed between January 31 and February 28, 1933.

**Article 2**
If someone should be sentenced to death due to conviction of a crime against public security, the Reich or state authority responsible for carrying out the sentence can order the sentence carried out by hanging.

Article 2 is a revision of Section 13 of the Criminal Code for the German Reich of May 15, 1871 (*RGBL* I, page 127), which determined that the death penalty is to be carried out through beheading.

Reich Chancellor Adolf Hitler
For the Reich Minister of Justice, Deputy Reich Chancellor v. Papen



6. Translated from *Reichsgesetzblatt* I, 1933, Nr. 28, p. 151.

# V. Law against the Founding of New Parties July 14, 1933

In another pivotal step in the transformation of German society from a democracy to a dictatorship, the Nazi leadership passed the Law against the Founding of New Parties. With this law, all other political entities were disbanded or dissolved. As a consequence, some activists fled abroad while others prepared to work within an illegal party framework. Some parties went underground and some simply dissolved from intimidation and pressure. Germany became a one-party dictatorship led by National Socialists, whom the law made the only legitimate political party in the country.



A policeman looks through publications in a storeroom during the forced closing of the German Communist Party headquarters (Karl-Liebknecht House) in Berlin, Germany, 1933.

US Holocaust Memorial Museum, courtesy of National Archives and Records Administration, College Park, MD

## Law against the Founding of New Parties of July 14, 1933[7]

The Reich Government has decided on the following law and hereby proclaims it:

**Article 1**
The National Socialist German Workers Party is the only political party in Germany.

**Article 2**
The maintenance of the organizational cohesion of another political party or the founding of a new political party is punishable with prison of up to three years, or with jail from six months to three years, insofar as the act is not punishable with a higher penalty under other provisions of the law.

Berlin, July 14, 1933

Reich Chancellor Adolf Hitler
Reich Minister of the Interior Frick
Reich Minister of Justice Dr. Gürtner



7. Translated from *Reichsgesetzblatt* I, 1933, p. 479.

# VI. Oaths of Loyalty for All State Officials
## August 20, 1934

Following the death of President von Hindenburg in August 1934, Hitler assumed power as Reich Chancellor and Führer. Shortly thereafter, the longstanding oath taken by state officials was changed so that they no longer swore loyalty to the German constitution but rather to Hitler as head of state. Although in retrospect this change seems to indicate another step in Hitler's consolidation of power, at the time many would have understood it differently. By replacing "Constitution" with "Hitler," the oath was meant to convey that Hitler's will was the same as that of the nation and the people and that his will could not, by definition, contradict the imperative to "observe the law and conscientiously fulfill the duties" of office. In this way, the oath appeared to equate Hitler's authority with the constitution and to ensure that it would be limited by the primacy of law and duty in public office.



German judges take the oath of service to the Nazi state in the presence of Hitler in the State Opera House. Berlin, Germany, date uncertain. Corbis

## Oaths of Loyalty for All State Officials

**As of August 14, 1919:**
"I swear loyalty to the Constitution, obedience to the law, and conscientious fulfillment of the duties of my office, so help me God." [8]

**As of August 20, 1934:**
"I swear I will be true and obedient to the Führer of the German Reich and people, Adolf Hitler, observe the law, and conscientiously fulfill the duties of my office, so help me God." [9]

Opposite: A woman who is concealing her face sits on a park bench marked "Only for Jews." Austria, ca. March 1938.
US Holocaust Memorial Museum, courtesy of Wiener Library Institute of Contemporary History

8. Translated from *Reichsgesetzblatt* I, 1919, pp. 1419–20.
9. Translated from *Reichsgesetzblatt* I, 1934, p. 785.




# PART II:
# SELECTED DOCUMENTS SHOWING KEY LEGAL MECHANISMS USED TO IMPLEMENT THE NAZI AGENDA

# I. Antisemitic Legislation 1933–39

Antisemitism and the persecution of Jews were central tenets of Nazi ideology. In their 25-point party program published in 1920, Nazi Party members publicly declared their intention to segregate Jews from "Aryan" society and to abrogate their political, legal, and civil rights.

Nazi leaders began to make good on their pledge to persecute German Jews soon after their assumption of power. During the first six years of Hitler's dictatorship, from 1933 until the outbreak of war in 1939, Jews felt the effects of more than 400 decrees and regulations that restricted all aspects of their public and private lives. Many of these were national laws that had been issued by the German administration and affected all Jews. But state, regional, and municipal officials, acting on their own initiatives, also promulgated a barrage of exclusionary decrees in their own communities. Thus, hundreds of individuals in all levels of government throughout the country were involved in the persecution of Jews as they conceived, discussed, drafted, adopted, enforced, and supported anti-Jewish legislation. No corner of Germany was left untouched.

The first major law to curtail the rights of Jewish citizens was the Law for the Restoration of the Professional Civil Service of April 7, 1933, which excluded Jews and the "politically unreliable" from civil service. The new law was the German authorities' first formulation of the so-called Aryan Paragraph, a regulation used to exclude Jews (and often, by extension, other "non-Aryans") from organizations, professions, and other aspects of public life. This would become the foundation of the Nuremberg Race Laws of 1935, which defined Jews not by religious belief but by ancestral lineage and which formalized their segregation from the so-called Aryan population.

In April 1933, German law restricted the number of Jewish students at German schools and universities. In the same month, further legislation sharply curtailed "Jewish activity" in the medical and legal professions. Subsequent decrees restricted reimbursement of Jewish doctors from public (state) health insurance funds. The city of Berlin forbade Jewish lawyers and notaries to work on legal matters, the mayor of Munich forbade Jewish doctors from treating non-Jewish patients, and the Bavarian interior ministry denied admission of Jewish students to medical school.

At the national level, the Nazi government revoked the licenses of Jewish tax consultants, imposed a 1.5 percent quota on the admission of "non-Aryans" to public schools and universities, fired Jewish civilian workers from the army, and in early 1934, forbade Jewish actors to perform on the stage or screen. Local governments also issued regulations that affected other spheres of Jewish life: in Saxony, Jews could no longer slaughter animals according to ritual purity requirements, effectively preventing them from obeying Jewish dietary laws.

Government agencies at all levels aimed to exclude Jews from the economic sphere of Germany by preventing them from earning a living. Jews were required to register their domestic and foreign property and assets, a prelude to the gradual expropriation of their material wealth by the state. Likewise, German authorities intended to "Aryanize" all Jewish-owned businesses, a process involving the dismissal of Jewish workers and managers as well as the transfer of companies and enterprises to non-Jewish Germans, who bought them at prices officially fixed well below market value. By the spring of 1939, such efforts had succeeded in transferring most Jewish-owned businesses in Germany into "Aryan" hands.

The Nuremberg Race Laws formed the cornerstone of Nazi racial policy. Their introduction in September 1935 heralded a new wave of antisemitic legislation that brought about immediate and concrete segregation. German court judges could not cite legal commentaries or opinions written by Jewish authors, Jewish officers were expelled from the army, and Jewish university students were not allowed to sit for doctoral exams.

In 1937 and 1938, German authorities again stepped up legislative persecution of German Jews. They set out to impoverish Jews and remove them from the German economy by requiring them to register their property and preventing them from earning a living. The Nazis forbade Jewish doctors to treat non-Jews and they revoked the licenses of Jewish lawyers. In August 1938, German authorities decreed that by January 1, 1939, Jewish men and women bearing first names of "non-Jewish" origin had to add "Israel" and "Sara," respectively, to their given names. All Jews were obliged to carry identity cards that indicated their Jewish heritage, and, in the autumn of 1938, all Jewish passports were stamped with an identifying letter "J."




Signs like this one reading "Jews are not wanted here" were commonplace in Nazi Germany. 1935.
US Holocaust Memorial Museum

Following the *Kristallnacht* pogrom (commonly known as "The Night of Broken Glass") on November 9–10, 1938, Nazi legislation barred Jews from all public schools and universities, as well as from cinemas, theaters, and sports facilities. In many cities, Jews were forbidden to enter designated "Aryan" zones. The government required Jews to identify themselves in ways that would permanently separate them from the rest of the population. As the Nazi leaders quickened preparations for their European war of conquest, the antisemitic legislation they enacted in Germany and Austria paved the way for more radical persecution of Jews.

The following list shows 29 of the more than 400 legal restrictions imposed upon Jews and other groups during the first six years of the Nazi regime.

## 1933

**MARCH 31**—Decree of the Berlin City Commissioner for Health suspends Jewish doctors from the city's social welfare services.

**APRIL 7**—The Law for the Restoration of the Professional Civil Service removes Jews from government service.

**APRIL 7**—The Law on the Admission to the Legal Profession forbids the admission of Jews to the bar.

**APRIL 25**—The Law against Overcrowding in Schools and Universities limits the number of Jewish students in public schools.

**JULY 14**—The Denaturalization Law revokes the citizenship of naturalized Jews and "undesirables."

**OCTOBER 4**—The Law on Editors bans Jews from editorial posts.

## 1935

**MAY 21**—The Army Law expels Jewish officers from the army.

**SEPTEMBER 15**—The Nuremberg Race Laws exclude German Jews from Reich citizenship and prohibit them from marrying or having sexual relations with persons of "German or German-related blood."

## 1936

**JANUARY 11**—The Executive Order on the Reich Tax Law forbids Jews to serve as tax consultants.

**APRIL 3**—The Reich Veterinarians Law expels Jews from the profession.

**OCTOBER 15**—The Reich Ministry of Education bans Jewish teachers from public schools.

## 1937

**APRIL 9**—The Mayor of Berlin orders public schools not to admit Jewish children until further notice.

## 1938

**JANUARY 5**—The Law on the Alteration of Family and Personal Names forbids Jews from changing their names.

**FEBRUARY 5**—The Law on the Profession of Auctioneer excludes Jews from the profession.




German law introduced in the fall of 1941 required Jews in Germany to wear a "Jewish badge," a yellow star of David with the word "Jew" (*Jude*) on their outer garments at all times. The badge seen here belonged to Fritz Glueckstein who wore it in Berlin, Germany, circa 1942–45.

US Holocaust Memorial Museum, gift of Fritz Glueckstein

**MARCH 18**—The Gun Law bans Jewish gun merchants.

**APRIL 22**—The Decree against the Camouflage of Jewish Firms forbids changing the names of Jewish-owned businesses.

**APRIL 26**—The Order for the Disclosure of Jewish Assets requires Jews to report all property in excess of 5,000 reichsmarks.

**JULY 11**—The Reich Ministry of the Interior bans Jews from health spas.

**AUGUST 17**—The Executive Order on the Law on the Alteration of Family and Personal Names requires Jews bearing first names of "non-Jewish" origin to adopt an additional name: "Israel" for men and "Sara" for women.

**OCTOBER 3**—The Decree on the Confiscation of Jewish Property regulates the transfer of assets from Jews to non-Jews in Germany.

**OCTOBER 5**—The Reich Ministry of the Interior invalidates all German passports held by Jews. Jews must surrender their old passports, which will become valid only after the letter "J" has been stamped on them.

**NOVEMBER 12**—The Decree on the Exclusion of Jews from German Economic Life closes all Jewish-owned businesses.

**NOVEMBER 15**—The Reich Ministry of Education expels all Jewish children from public schools.

**NOVEMBER 28**—The Reich Ministry of the Interior restricts the freedom of movement of Jews.

**NOVEMBER 29**—The Reich Ministry of the Interior forbids Jews to keep carrier pigeons.

**DECEMBER 14**—The Executive Order on the Law on the Organization of National Work cancels all state contracts held with Jewish-owned firms.




This sign, which reads "Jews are forbidden to use public phone booths," was posted on a public telephone booth. Munich, Germany, 1942.
US Holocaust Memorial Museum

**DECEMBER 21**—The Law on Midwives bans all Jews from the profession.

## 1939

**FEBRUARY 21**—The Decree concerning the Surrender of Precious Metals and Stones in Jewish Ownership requires Jews to turn in gold, silver, diamonds, and other valuables to the state without compensation.

**AUGUST 1**—The President of the German Lottery forbids the sale of lottery tickets to Jews.

## II. Nuremberg Race Laws (Reich Citizenship Law and Law for the Protection of German Blood and German Honor) September 15, 1935

At their annual rally held in Nuremberg in September 1935, Nazi Party leaders announced new laws that institutionalized many of the racial theories underpinning Nazi ideology. The so-called Nuremberg Race Laws were the cornerstone of the legalized persecution of Jews in Germany, excluding them from Reich citizenship and prohibiting them from marrying or having sexual relations with persons of "German or German-related blood." Ancillary ordinances to these laws deprived German Jews of most political entitlements, including the right to vote or hold public office.

The Nuremberg Race Laws represented a major shift from traditional antisemitism, which defined Jews by religious belief, to a conception of Jews as members of a race, defined by blood and by lineage. For this reason, the Nuremberg Race Laws did not identify a "Jew" as someone with particular religious convictions but, instead, as someone with three or four Jewish grandparents. Many Germans who had not practiced Judaism or who had not done so for years found themselves caught in the grip of Nazi terror. Even people with Jewish grandparents who had converted to Christianity could be defined as Jews.



Wilhelm Stuckart, Nazi politician and state secretary in the Ministry of the Interior, drafted the Nuremberg Race Laws in 1935. US Holocaust Memorial Museum, courtesy of Ullstein Bild

## Reich Citizenship Law of September 15, 1935[1]

The Reichstag has unanimously enacted the following law, which is promulgated herewith:

**Article 1**

1. A subject of the state is a person who enjoys the protection of the German Reich and who in consequence has specific obligations toward it.
2. The status of subject of the state is acquired in accordance with the provisions of the Reich and the Reich Citizenship Law.

**Article 2**

1. A Reich citizen is a subject of the state who is of German or related blood, and proves by his conduct that he is willing and fit to faithfully serve the German people and Reich.
2. Reich citizenship is acquired through the granting of a Reich citizenship certificate.
3. The Reich citizen is the sole bearer of full political rights in accordance with the law.

**Article 3**

The Reich Minister of the Interior, in coordination with the Deputy of the Führer, will issue the legal and administrative orders required to implement and complete this law.

Nuremberg, September 15, 1935
At the Reich Party Congress of Freedom

The Führer and Reich Chancellor
[signed] Adolf Hitler

The Reich Minister of the Interior
[signed] Frick

## Law for the Protection of German Blood and German Honor of September 15, 1935[2]

Moved by the understanding that purity of German blood is the essential condition for the continued existence of the German people, and inspired by the inflexible determination to ensure the existence of the German nation for all time, the Reichstag has unanimously adopted the following law, which is promulgated herewith:

**Article 1**

1. Marriages between Jews and subjects of the state of German or related blood are forbidden. Marriages nevertheless concluded are invalid, even if concluded abroad to circumvent this law.
2. Annulment proceedings can be initiated only by the state prosecutor.

**Article 2**

Extramarital relations between Jews and subjects of the state of German or related blood are forbidden.

1. Translated from *Reichsgesetzblatt* I, 1935, p. 1146.
2. Translated from *Reichsgesetzblatt* I, 1935, pp. 1146–47.

**Article 3**
Jews may not employ in their households female subjects of the state of German or related blood who are under 45 years old.

**Article 4**
1. Jews are forbidden to fly the Reich or national flag or display Reich colors.
2. They are, on the other hand, permitted to display the Jewish colors. The exercise of this right is protected by the state.

**Article 5**
1. Any person who violates the prohibition under Article 1 will be punished with a prison sentence.
2. A male who violates the prohibition under Article 2 will be punished with a jail term or a prison sentence.
3. Any person violating the provisions under Articles 3 or 4 will be punished with a jail term of up to one year and a fine, or with one or the other of these penalties.

**Article 6**
The Reich Minister of the Interior, in coordination with the Deputy of the Führer and the Reich Minister of Justice, will issue the legal and administrative regulations required to implement and complete this law.

**Article 7**
The law takes effect on the day following promulgation, except for Article 3, which goes into force on January 1, 1936.

Nuremberg, September 15, 1935
At the Reich Party Congress of Freedom

The Führer and Reich Chancellor
[signed] Adolf Hitler

The Reich Minster of the Interior
[signed] Frick

The Reich Minister of Justice
[signed] Dr. Gürtner

The Deputy of the Führer
[signed] R. Hess

# Reichsbürgergesetz.

## Vom 15. September 1935.

Der Reichstag hat einstimmig das folgende Gesetz beschlossen, das hiermit verkündet wird:

§ 1

(1) Staatsangehöriger ist, wer dem Schutzverband des Deutschen Reiches angehört und ihm dafür besonders verpflichtet ist.

(2) Die Staatsangehörigkeit wird nach den Vorschriften des Reichs- und Staatsangehörigkeitsgesetzes erworben.

§ 2

(1) Reichsbürger ist nur der Staatsangehörige deutschen oder artverwandten Blutes, der durch sein Verhalten beweist, daß er gewillt und geeignet ist, in Treue dem Deutschen Volk und Reich zu dienen.

(2) Das Reichsbürgerrecht wird durch Verleihung des Reichsbürgerbriefes erworben.

(3) Der Reichsbürger ist der alleinige Träger der vollen politischen Rechte nach Maßgabe der Gesetze.

§ 3

Der Reichsminister des Innern erläßt im Einvernehmen mit dem Stellvertreter des Führers die zur Durchführung und Ergänzung des Gesetzes erforderlichen Rechts- und Verwaltungsvorschriften.

Nürnberg, den 15. September 1935,
am Reichsparteitag der Freiheit.

Der Führer und Reichskanzler
Adolf Hitler

Der Reichsminister des Innern
Frick

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# Gesetz zum Schutze des deutschen Blutes und der deutschen Ehre.

## Vom 15. September 1935.

Durchdrungen von der Erkenntnis, daß die Reinheit des deutschen Blutes die Voraussetzung für den Fortbestand des Deutschen Volkes ist, und beseelt von dem unbeugsamen Willen, die Deutsche Nation für alle Zukunft zu sichern, hat der Reichstag einstimmig das folgende Gesetz beschlossen, das hiermit verkündet wird:

§ 1

(1) Eheschließungen zwischen Juden und Staatsangehörigen deutschen oder artverwandten Blutes sind verboten. Trotzdem geschlossene Ehen sind nichtig, auch wenn sie zur Umgehung dieses Gesetzes im Ausland geschlossen sind.

AREA 12 GERMANY JEWS, PERSECUTION OF
1935. THE BASIC "NUERNBERGER GESETZE"
(LAWS AGAINST THE JEWS). OSS 736583

Reich Citizenship Law of September 15, 1935. US Holocaust Memorial Museum, courtesy of National Archives and Records Administration, College Park, MD

# III. Supreme Court Decision on the Nuremberg Race Laws December 9, 1936

For the Nazis, the principle of the inequality of the races—and its legislative enactment in the form of the Nuremberg Race Laws and the decrees based upon them—applied to all areas of civil and criminal law. At the same time, they left it to the courts to provide practical guidelines for their implementation. It thus became the province of the Supreme Court to render final judgment on the interpretation of the law, since, as the highest appellate court in Germany, its decisions superseded those made by the lower courts. Indeed, the court eased the difficulties inherent in implementing anti-Jewish policies across a broad spectrum of cases from divorce to criminal race defilement. The court's acceptance and application of the race laws served an important propaganda purpose as well by explicitly conferring legitimacy on racial discrimination and persecution.



Erwin Bumke (July 7, 1874–April 20, 1945) was Germany's chief justice from 1929 until his death in 1945. Bumke faithfully served three regimes: the Imperial Monarchy (through 1918), the Weimar Republic (1918–33), and the Nazi dictatorship (1933–45). Bumke advocated an expansion of judicial authority to better serve the interests of justice in the rapidly changing cultural and social circumstances in the country. Seen here in Germany on June 27, 1944.

US Holocaust Memorial Museum, courtesy of Nederlands Instituut voor Oorlogsdocumentatie

In November 1936, Erwin Bumke, president of the Supreme Court, indicated at a meeting of justice officials called to discuss the Nuremberg Race Laws that the court could accept the broadest interpretation of those laws put forth by Ministry of Justice State Secretary Dr. Roland Freisler. As Freisler put the matter, "The law... is a regulation that establishes the very foundation of the German people, which we do not seek to narrow but to broaden for the protection of our race."

On December 9, 1936, the Supreme Court was given the opportunity to interpret the Nuremberg Race Laws when the Reich prosecutor requested that the court clarify precisely what was meant by "sexual relations" as it appeared in the law. While the court had previously interpreted the term to mean sexual intercourse or related acts, its landmark ruling broadened the meaning of "sexual intercourse" to include any natural or unnatural sexual act between members of the opposite sex in which sexual urges are in any way gratified. The court justified its ruling on the grounds that there would otherwise be almost insurmountable barriers to prosecution since sexual intercourse as

such tended to take place among consenting adults and in private. Further, the court stated that since the law was intended to protect not only German blood but also German honor, an expansion of the definition of "sexual relations" was required. As a result, the court found that any act that satisfied a sexual urge violated the law; that the crime was established even if the sexual act occurred outside Germany; that intent was irrelevant in determining penalties; that a verbal proposition for sex violated the law; and, finally, that the crime did not require bodily contact.

In this ruling and in many that followed, the Supreme Court infused its decisions with Nazi ideology and expanded already outrageous laws that extended rather than limited the reach of Nazi authority. In so doing, the court bolstered the legal framework upon which the Nazi persecution of Jews was based and played a pivotal role in allowing the Holocaust to happen.

## In the Name of the German People[3]

The Great Senate for Criminal Cases of the Supreme Court in its session of December 9, 1936, in which the following participated:

The President of the Supreme Court Dr. Bumke as presiding judge
The Vice President of the Supreme Court Bruner
Senate President Dr. Witt
Justices Schmitz, Dr. Tittel, Niethammer, Raestrup, Vogt, Dr. Hoffmann, Dr. Schultze

in the appeal of the State's Attorney under Article 137, Subsection 2, of the Court Organization Act has decided the following:

The term "sexual relations" in the context of the Blood Protection Laws does not include every kind of illicit sexual action [*Unzucht*], but is also not restricted to sexual intercourse alone. It includes the entire range of natural and unnatural sexual relations that, in addition to sexual intercourse, includes all other sexual activities with a member of the opposite sex that according to the nature of the activities are intended to serve as a substitute for sexual intercourse in satisfying the sexual needs of a partner.

**Grounds**
The question of law, which is to be decided by the Great Senate under Article 137, Subsection 2, of the Court Organization Act upon the appeal of the State's Attorney for the First Criminal Senate [of the Supreme Court] in two pending cases, is posed as follows:

Whether the term "sexual relations" in the context of Article 11 of the first Ordinance for the Implementation of the Law for the Protection of German Blood and German Honor of November 14, 1935 (*Reichsgesetzblatt* I, page 1334) is to be understood as referring only to intercourse, acts similar to intercourse, or all illicit sexual acts.

The requirement of Article 2 of the Law for the Protection of German Blood and German Honor, which forbids extramarital relations between Jews and citizens of German or related blood, is elaborated upon in Article 11 of the first Ordinance for the Implementation of the Law to the extent that extramarital relations as defined here means only sexual relations. What is to be understood by the term "sexual relations" is left for the courts to decide.

"Sexual relations" is not to be made equivalent to all illicit sexual acts. If the legislator had intended to encompass all illicit sexual acts in the prohibition then he would have chosen to include in the wording of the law the word *Unzucht* [illicit sexual acts], which has long had clear and specific definition in jurisprudence. The term *Unzucht* encompasses much broader, and even one-sided, acts of a sexual nature that by no means could be labeled "sexual relations."

Additionally one has to look at the law as a whole in the interpretation of Article 2. The proscription against marriage (Article 1) and the proscription against employment (Article 3) clearly show that the intent of the legislator is to secure the maintenance of the purity of German blood through general proscriptions independent of the special circumstances involved in individual cases. The proscription against marriage is true even in those cases where both parties have ruled out the possibility of children resulting from the union; the proscription against employment is true even if in individual cases the



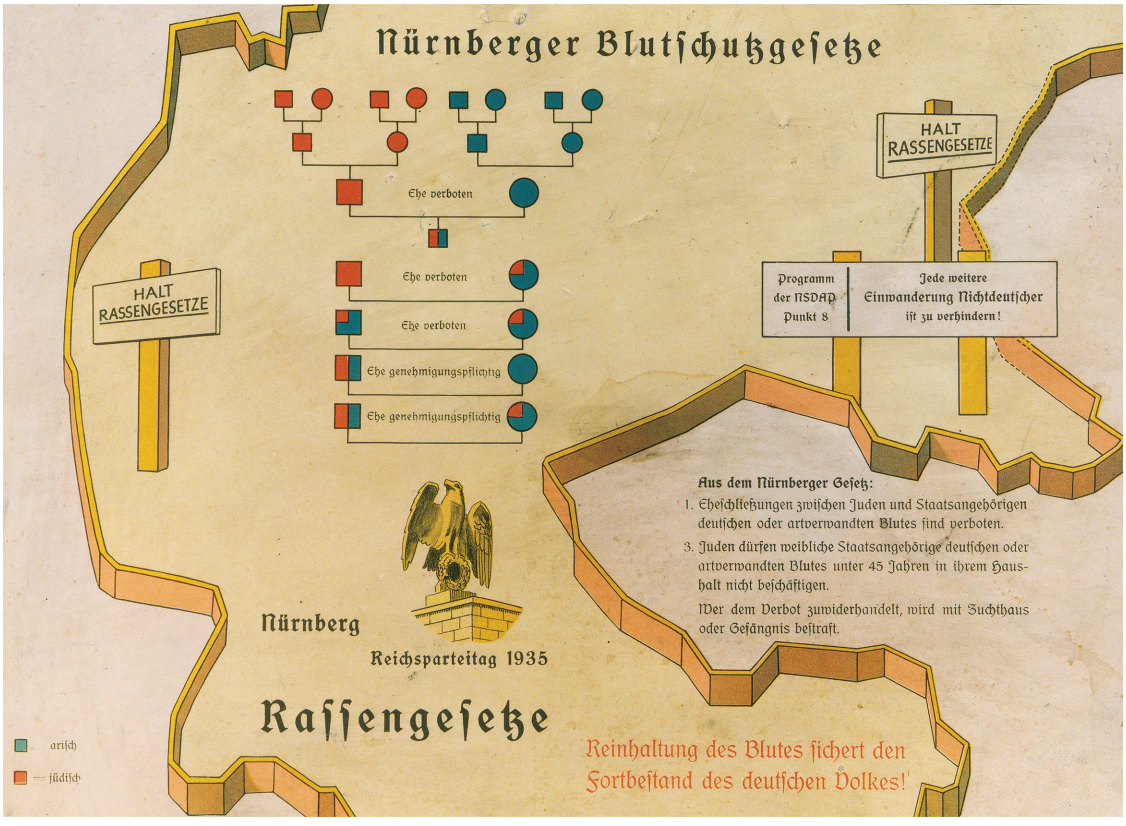
3. Translated from Bundesarchiv Koblenz, Record Group R22, File 50.

Jewish member of a household, either because of age or illness, cannot be expected to make sexual advances. The comparison with these provisions leads to the conclusion that the provisions of Article 2 are valid not only in those cases involving extramarital sexual relations which result in pregnancy or which could have resulted in pregnancy.

Other difficulties argue against such a narrow definition equating "sexual relations" with "intercourse." Such a definition would pose nearly insurmountable difficulties for the courts in obtaining evidence and force the discussion of the most delicate questions.

A wider interpretation is also required here because the provisions of the law serve not only to protect German blood but also to protect German honor. This requires that intercourse and such sexual activities —both actions and tolerations—between Jews and citizens of German or related blood that serve to satisfy the sexual urges of one party in a way other than through completion of intercourse be proscribed.

[Signed] Bumke Bruner Witt Schmitz Tittel
Niethammer Raestrup Vogt Hoffmann Schultze




Map depicting central Germany and the degrees of forbidden marriage between Aryans and non-Aryans. Circa 1935.
US Holocaust Memorial Museum, courtesy of Hans Pauli

# IV. Decree against Public Enemies (Folk Pest Law) September 5, 1939

The Decree against Public Enemies (Volksschädlingsverordnung; literally, "Folk Pest Law"), enacted just four days after Germany invaded Poland and began World War II, was an elastic clause that dramatically expanded the possibilities for criminal prosecution in Nazi Germany. Under the terms of the law, a crime against person or property, or against the community or public security, could carry a death sentence if the accused was charged with exploiting the special conditions of war—such as blackouts or a lack of police supervision—to carry it out. Further, according to the fourth paragraph of the law, death could be imposed "in accordance with the requirements of sound popular judgment [*gesundes Volksempfinden*] or the need to especially repudiate the criminal act."

In the Nazi approach to law, offenses and legal determinations were deliberately defined in the vaguest possible terms. This enabled judges to retain the pretense of judicial independence while issuing verdicts that met the desires of the Nazi authorities. In practical terms, the Decree against Public Enemies paved the way for judges to impose the death penalty more freely, even for crimes that would otherwise have carried a lesser sentence. Hitler and the Nazi Party used the advent of war—and the claim of rising criminality and "defeatist provocateurs"—to reject lenient sentences and to demand a far more frequent application of the death penalty.

It is worth noting that *Volksschädlinge*, the key term in the law's title, is translated as "folk pests" or "vermin." As such, the law equates those exploiting the special conditions of war to carry out crimes with the type of agricultural pests that are destructive and generally outside the sphere of moral responsibility. Just as a gardener attacks the bugs and vermin that threaten his plants, so too, the Nazis believed, the national community had to eliminate those who compromised the health and well-being of the body politic.

The Decree against Public Enemies was perhaps the most frequently used legal basis for the approximately 15,000 death sentences handed down by the courts between 1941 and 1945.

## Decree against Public Enemies of September 5, 1939[4]

The Ministerial Council for the Defense of the Reich decrees with the force of law:

**I. Plunder in Evacuated Areas**

1. Who plunders in evacuated areas or in voluntarily evacuated buildings or rooms will be punished with death.
2. The decision will be made, insofar as the Summary Military Courts do not have jurisdiction, by the Special Courts.
3. The death penalty can be carried out by hanging.

**2. Crimes during Air Raids**

Who commits a crime against the body, life, or property of a person using measures enacted in the defense against air raids in furtherance of the crime will be punished with penitentiary up to 15 years or with life in penitentiary and, in especially grievous cases, with death.

**3. Crimes Endangering the Community**

Who commits arson or other crimes endangering the community and thereby damages the ability of the German people to engage in national defense will be punished with death.

**4. Use of Conditions of War as Grounds to Increase Criminal Penalties**

Anyone who commits a crime using the special circumstances induced by the condition of war will be punished, overstepping the normal legal penalties, with penitentiary of up to 15 years, with life in prison, or with death in accordance with the requirements of sound popular judgment [*gesundes Volksempfinden*] or the need to especially repudiate the criminal act.

**5. Simplification of the Procedure Used in the Special Court**

In all proceedings before the Special Court the sentence must be carried out immediately, without respect to the usual time limits, in cases where the perpetrator was caught in the act or where guilt is otherwise readily apparent.

**6. Areas of Jurisdiction**

The provisions of this ordinance apply in the Protectorate of Bohemia and Moravia and also to persons who do not hold German citizenship.

**7. Final Provisions**

The Reich Minister of Justice will decree all the legal and administrative measures required for the implementation of this ordinance.

Berlin, September 5, 1939
Chairman of the Ministerial Council for Reich Defense Göring, General Field Marshal
General Commissioner for the Administration of the Reich Frick
Reich Minister and Chief of the Reich Chancellery Dr. Lammers

4. Translated from *Reichsgesetzblatt* I, 1939, p. 1679.

# V. Katzenberger Case March 13, 1942

Leo Katzenberger was a prominent Jewish businessman in Nuremberg who owned a wholesale shoe business and a number of stores throughout southern Germany and who was a leading figure in the Nuremberg Jewish community. Beginning in 1932, he rented an apartment and a small storefront in his building at S-graben to Irene Seiler, the daughter of a non-Jewish friend. Although his business was "Aryanized" in 1938, he was still considered well-off and continued to own his building and rent space to Seiler.

In the spring of 1941, Katzenberger, who was 76, and Seiler, who was 30, were accused of having a sexual affair and arrested on charges of race defilement (Rassenschande). Under interrogation they steadfastly denied that there was any sexual element to their relationship and asserted that it was merely a longstanding friendship in which Katzenberger helped Seiler as a father would help a daughter. The judge who initially investigated the case was unable to find sufficient evidence that sexual intercourse between Katzenberger and Seiler had occurred and delayed bringing the case to trial until further investigation. Then, in March 1942, following a sworn statement by Irene Seiler in which she also denied the charges, the case was brought before the Nuremberg Special Court and presided over by the notorious Nazi judge Dr. Oswald Rothaug.

There was great public interest in the proceedings, and the court was crowded both days. In what was a deliberately orchestrated show trial, Rothaug referred to Katzenberger several times as a "syphilitic Jew" and an "agent of world Jewry." There was no question of the outcome. The court convicted Katzenberger of race defilement and imposed the death penalty by applying not just the Law for the Protection of German Blood and German Honor, but also the Decree against Public Enemies (also called the Folk Pest Law) of 1939. The latter law—which permitted the death penalty if the accused exploited wartime conditions to further his or her crime—was used against Katzenberger on the grounds that he secretly visited Seiler "after dark."

The written findings of the case reveal a series of inconsistencies and perversions allowed under the Nazi system of justice. The accused were arrested on the basis of rumors and innuendo; their sworn statements were twisted and used against them to further the aims of the prosecution; and the verdict was written to meet a predetermined outcome of guilt. It was a public demonstration designed to inflame antisemitic feeling and justify the extraordinary measures put in place to persecute Jews and other so-called enemies of the regime.

Irene Seiler was found guilty of perjury and sentenced to two years of hard labor. Leo Katzenberger was found guilty of race defilement; he was beheaded on June 2, 1942, at Stadelheim Prison in Munich.

## Decision of the Nuremberg Special Court of March 13, 1942, in the Katzenberger Race Defilement Case [5]

**Verdict:**
In the Name of the German People

The Special Court for the district of the Court of Appeals in Nuremberg at the District Court Nuremberg-Fürth pronounced its verdict in the proceedings against Lehmann Israel Katzenberger, commonly called Leo, merchant and head of the Jewish religious community in Nuremberg, and Irene Seiler, née Scheffler, owner of a photographic shop in Nuremberg. At present, both are being held on charges of racial pollution and perjury. They were tried in a public session on March 13, 1942, in the presence of:

The President—Dr. Rothaug, Senior Judge of the District Court;
Associate Judges—Dr. Ferber and Dr. Hoffmann, Judges of the District Court;
Public Prosecutor for the Special Court—Markl; and
Official Registrar—Raisin, clerk.

Lehmann Israel Katzenberger, commonly called Leo, Jewish by race and religion, born November 25, 1873, at Massbach, married, merchant in Nuremberg; and Irene Seiler, née Scheffler, born April 26, 1910, at Guben, married, owner of a photographic shop in Nuremberg, both at present in arrest pending trial have been found guilty and sentenced as follows:

Lehmann Israel Katzenberger for the offense of racial pollution as defined under Article 2, legally identical with an offense under Article 4 of the Decree against Public Enemies, is hereby sentenced to death and to loss of his civil rights for life according to Sections 32–34 of the Criminal (Penal) Code.

Irene Seiler for the offense of committing perjury while a witness is hereby sentenced to two years of hard labor and to loss of her civil rights for the duration of that time.

The three months the defendant Seiler spent in arrest pending trial will be taken into consideration in her sentence.

Costs will be charged to the defendants.

**Findings**
**I.**

**I. The defendant Katzenberger is fully Jewish and a German national; he is a member of the Jewish religious community.**

As far as his descent is concerned, extracts from the birth registers of the Jewish community at Massbach show that the defendant was born on November 25, 1873, as the son of Louis David Katzenberger, merchant, and his wife, Helene née Adelberg. The defendant's father, born on June 30, 1838, at Massbach, was, according to an extract from the Jewish registers at Thundorf, the legitimate son of David Katzenberger, weaver, and his wife, Karoline [née] Lippig. The defendant's mother, Lena Adelberg,

5. Translated from Documentation of the State Superior Court Nuremberg: The Destruction of Leo Katzenberger by the Special Court Nuremberg.

born on June 14, 1847, at Aschbach, was, according to extracts from the birth register of the Jewish religious community of Aschbach, the legitimate daughter of Lehmann Adelberg, merchant, and his wife, [Bela-] Lea [née Seemann]. According to the Thundorf register, the defendant's parents were married on December 3, 1867, by the district rabbi in Schweinfurt. The defendant's grandparents on his father's side were married, according to extracts from the Thundorf register, on April 3, 1832; those on his mother's side were married, according to an extract from the register of marriages of the Jewish religious community of Aschbach, on August 14, 1836.

Concerning the marriage of the maternal grandparents, the extracts from the register of marriages of the Jewish religious community at Aschbach show that Bela-Lea [née] Seemann, born at Aschbach in 1809, was a member of the Jewish religious community. Otherwise the documents mentioned give no further information so far as confessional affiliations are concerned that parents or grandparents were of Jewish faith.

The defendant himself has stated that he is certain that all four grandparents were members of the Jewish faith. He knew his grandmothers when they were alive, and both grandfathers were buried in Jewish cemeteries. Both his parents belonged to the Jewish religious community, as he does himself.

The court sees no reason to doubt the correctness of these statements, which are fully corroborated by the available extracts from exclusively Jewish registers. Should it be true that all four grandparents belonged to the Jewish faith, the grandparents would be regarded as fully Jewish according to the Regulation to Facilitate the Producing of Evidence in Section 5, Paragraph 1, together with Section 2, Paragraph 2, Page 2 of the Ordinance to the Reich Civil Code of November 14, 1935, *Reichsgesetzblatt*, Page 1333. The defendant therefore is fully Jewish in the sense of the Law for the Protection of German Blood and German Honor. His own admissions show that he himself shared that view.

The defendant Katzenberger came to Nuremberg in 1912. Together with his brothers, David and Max, he ran a shoe shop until November 1938. The defendant married in 1906, and there are two children, ages 30 and 34.

Up to 1938 the defendant and his brothers, David and Max, owned the property of S-graben in Nuremberg. There were offices and storerooms in the rear building, whereas the main building facing the street was an apartment house with several apartments.

The codefendant Irene Seiler arrived in 1932 to take a flat in S-graben, and the defendant Katzenberger has been acquainted with her since that date.

**2. Irene Seiler, née Scheffler, is a German citizen of German blood.**

Her descent is proved by documents relating to all four grandparents. She herself, her parents, and all her grandparents belong to the Protestant Lutheran faith. This finding of the religious background is based on available birth and marriage certificates of the Scheffler family that were made part of the trial. As far as descent is concerned, therefore, there can be no doubt about Irene Seiler, née Scheffler, being of German blood.

The defendant Katzenberger was fully cognizant of the fact that Irene Seiler was of German blood and of German nationality.

On July 29, 1939, Irene Scheffler married Johann Seiler, a commercial agent. There have been no children so far.

In her native city, Guben, the defendant attended secondary school and high school up to *Unterprima* [eighth grade], and after that, for one year, she attended the Leipzig State Academy of Art and Book Craft.

She went to Nuremberg in 1932 where she worked in the photographic laboratory of her sister Hertha, which the latter had managed since 1928 as a tenant of S-graben. On January 1, 1938, she took over her sister's business at her own expense. On February 24, 1938, she passed her professional examination.

**3. The defendant Katzenberger is charged with having had continual extramarital sexual intercourse with Irene Seiler, née Scheffler, a German national of German blood.**

He is said to have visited Seiler frequently in her apartment at S-graben up to March 1940, while Seiler visited him frequently, up to autumn 1938, in his offices in the rear of the building. Seiler, who is alleged to have gotten herself in a dependent position by accepting gifts of money from the defendant Katzenberger and by being allowed to delay in paying her rent, was sexually amenable to Katzenberger. Thus, their acquaintance is said to have become of a sexual nature, and, in particular, sexual intercourse occurred. They are both said to have exchanged kisses, sometimes in Seiler's flat and sometimes in Katzenberger's offices. Seiler is alleged to have often sat on Katzenberger's lap. On these occasions, Katzenberger, in order to achieve sexual satisfaction, is said to have caressed and patted Seiler on her thighs through her clothes, clinging closely to Seiler and resting his head on her bosom.

The defendant Katzenberger is charged with having taken advantage of wartime conditions to commit this act of racial pollution. Lack of supervision was in his favor, especially as he is said to have visited Seiler during the blackout periods. Moreover, Seiler's husband had been called up, and consequently Katzenberger did not need to fear surprise appearances of her husband.

On the occasion of her interrogation by the investigating judge of the local Nuremberg Court on July 9, 1941, the defendant Irene Seiler is charged with having made deliberately untrue statements and affirmed under oath that this contact was without sexual motives and that she believed that to apply to Katzenberger as well. It is therefore alleged that Irene Seiler has become guilty of perjury.

**The defendants have said the following in their defense:**

*According to the defendant Irene Seiler:*
When she arrived in the photographic laboratory of her sister in Nuremberg in 1932, she was thrown completely on her own resources. Her sister returned to Guben, where she opened a studio as a photographer. Her father had recommended her to the landlord, the defendant Katzenberger, asking him to look after her and to assist her with advice and support. This was how she became closely acquainted with the Jew Katzenberger.

As time went on, Katzenberger did indeed become her adviser, helping her, in particular, with her financial difficulties. Delighted by the friendship and kindness shown her by Katzenberger, she came to regard him gradually as nothing but a fatherly friend, and it never occurred to her to look upon him as a Jew. It was true that she called regularly in the storerooms of the rear of the house. She did so after office hours, because it was easier then to pick out shoes. It also happened that during these visits, and during those paid by Katzenberger to her flat, she kissed Katzenberger now and then and allowed him to kiss her. On these occasions she frequently would sit on Katzenberger's lap, which was quite natural to her,



# Rassenschande

Seit dem Jahre 1923 klärt Julius Streicher die Oeffentlichkeit über die Rassenschande auf. Im Jahre 1935 ließ der Führer die Rassenschande zum kriminellen Verbrechen erklären und mit Zuchthaus bestrafen. Trotzdem werden in Deutschland tausende von Rasseverbrechen durch Juden begangen.

## Was ist Rassenschande?

**Warum** erließ der Führer die Nürnberger Gesetze?

**Warum** betreibt der Jude die Rassenschande an der deutschen Frau planmäßig und massenhaft?

**Was** sind die Folgen der Rassenschande für die deutsche Frau und das deutsche Mädchen?

**Was** sind die Folgen der Rassenschande für das deutsche Volk?

Die neue

**Stürmer-Sondernummer**

and she had no ulterior motive. In no way should sexual motives be regarded as the cause of her actions. She always believed that Katzenberger's feelings for her were purely those of a concerned father.

Based on this view, Seiler made the statement to the investigating judge on July 9, 1941, and affirmed under oath that, when exchanging those caresses, neither she nor Katzenberger did so because of any erotic emotions.

*According to the defendant Katzenberger:*
He denies having committed an offense. It is his defense claim that his relationship with Mrs. Seiler was of a purely friendly nature. The Scheffler family in Guben had likewise looked upon his relationship with Mrs. Seiler only from this point of view. He continued his association with Mrs. Seiler after 1933, 1935, 1938, and beyond; which might be illegal according to the Nazi Party but the fact that the relationship continued only signified his good intentions.

Moreover, their meetings became less frequent after the action against Jews in 1938 [*Kristallnacht*]. After Mrs. Seiler got married in 1939, the husband often came in unexpectedly when he, Katzenberger, was with Mrs. Seiler in her flat. Never, however, did the husband surprise them in an ambiguous situation. In January or February 1940, at the request of the husband, Katzenberger went to the Seilers' apartment twice to help them fill in their tax declarations. The last talk he ever had in the Seiler apartment took place in March 1940. On that occasion Mrs. Seiler suggested to him that he discontinue his visits because of the representations made to her by the Nazi Party, and she gave him a farewell kiss in the presence of her husband.

He never had any amorous intentions toward Mrs. Seiler and therefore could not have taken advantage of wartime conditions and the blackout periods.

**II.**
**The court has evaluated the excuses of defendant Katzenberger and the attempts of defendant Seiler to present her admissions as harmless as follows:**

In 1932, when the defendant Seiler came to settle in Nuremberg, she was 22 years old, a fully grown and sexually mature young woman. According to her own statements, which are in this respect at least credible, she was not above engaging in sexual activities with her friends.

In Nuremberg, when she took over her sister's photography laboratory at S-graben, she entered the immediate sphere of the defendant Katzenberger. During their acquaintance, she gradually, over a period of almost ten years, became willing to exchange caresses and, according to the confessions of both defendants, situations arose that in no way could be regarded as the results of only fatherly affection. When she met Katzenberger in his offices in the rear building or in her flat, she often sat on his lap and, without a doubt, kissed his lips and cheeks. On these occasions Katzenberger, as he admitted himself, responded to these caresses by returning the kisses, putting his head on her bosom, and patting her thighs through her clothes.

Katzenberger's portrayal of the exchange of caresses—as the expression of fatherly feelings—and that of Seiler—as the tender caress to a child arising from the immediate situation—defy common sense. The

Opposite: Nazi propaganda poster indicating the dangers of "race defilement" published by Julius Streicher in ***Der Stürmer,*** a radical antisemitic Nazi weekly newspaper. The poster asks, "Why do Jews systematically and in massive numbers commit race crimes against German women?" and asserts "...thousands of race crimes continue to be committed in Germany by Jews." Nuremberg, Germany, circa 1935. US Holocaust Memorial Museum, courtesy of Deutsches Historisches Museum GmbH

subterfuge used by the defendant in this respect is, in the view of the court, simply a crude attempt to disguise his actions, which have a strong sexual bias, as fatherly affection free of sexual lust. In view of the character of the two defendants and on the basis of the evidence submitted, the court is firmly convinced that sexual motives were the primary cause for the caresses exchanged by the two defendants.

Seiler was usually in financial difficulties. Katzenberger took the opportunity and availed himself of this fact to make her frequent gifts of money and repeatedly gave her sums from one to ten reichsmarks. In his capacity as administrator of the property on which Seiler lived and which was owned by the firm in which he was a partner, Katzenberger often allowed her long delays in paying her rental debts. He often gave Seiler cigarettes, flowers, and shoes.

The defendant Seiler admits that she was anxious to remain in Katzenberger's favor. They addressed each other in the second-person singular.

According to the facts established in the trial, the two defendants gave the impression to those in their immediate surroundings and, in particular, to the community of the house of S-graben that they were having an intimate love affair.

The witnesses Paul and Babette Kleylein, Johann Maesel, Johann Heilmann, and Georg Leibner frequently observed that Katzenberger and Seiler waved to each other when Seiler saw Katzenberger in his offices through one of the rear windows of her flat. The witnesses' attention was drawn particularly to the frequent visits paid by Seiler to Katzenberger's offices after business hours and on Sundays, as well as to the length of these visits. Everyone in the house eventually came to know that Seiler repeatedly asked Katzenberger for money, and they all became convinced that Katzenberger, as the Jewish creditor, sexually exploited the dire financial situation of the German-blooded woman Seiler. The witness Johann Heilmann, in a conversation with the witness Paul Kleylein, expressed his opinion of the matter to the effect that the Jew was getting a good return for the money he gave Seiler.

Nor did the two defendants themselves regard these mutual calls and exchanges of caresses as being merely casual happenings of daily life, beyond reproach. According to statements made by the witnesses Babette and Paul Kleylein, they observed Katzenberger showing definite signs of fright when he saw that they had discovered his visits to Seiler's flat as late as 1940. The witnesses also observed that during the later period Katzenberger sneaked into Seiler's flat rather than walking in openly.

In August 1940 defendant Seiler accepted [the accusation] when she addressed Oestreicher in the air raid shelter, in the presence of the other residents of the house, and he answered, "You Jewish hussy, I'll get you good!" Seiler did not do anything to defend herself against this reproach, and all she did was to tell Katzenberger of this incident shortly after it had happened. Seiler has been unable to give an even remotely credible explanation for why she showed this remarkable restraint in the face of so strong an expression of suspicion. Although she simply pointed out that her father, who is over 70, had advised her not to take any steps against Oestreicher, this is not a plausible explanation for the restraint she showed.

According to the testimony of the witness, Assistant Inspector of the Criminal Police Hans Zeuschel, it is also untrue that both defendants portrayed the existence of their sexual situation as harmless from the start. The fact that Seiler admitted the caresses she bestowed on Katzenberger only after having been earnestly admonished, and the additional fact that Katzenberger, when interrogated by the police, confessed only when Seiler's statements were being shown to him, forces the conclusion that they both deemed it advisable to keep secret the actions for which they have been put on trial. This being so, the court is convinced that the two defendants made these statements with the opportunistic intention of minimizing and rendering harmless the situation that has been established by witnesses' testimony.

Seiler has also admitted that she did not tell her husband about the caresses exchanged with Katzenberger prior to her marriage—all she told him was that in the past Katzenberger had helped her a good deal. After getting married in July 1939 she gave Katzenberger a "friendly kiss" on the cheek in the presence of her husband on only one occasion; otherwise they avoided kissing each other when the husband was present.

In view of the behavior of the defendants toward each other, as repeatedly described, the court has become convinced that the relations between Seiler and Katzenberger, which extended over a period of ten years, were of a purely sexual nature. This is the only possible explanation of the intimacy of their acquaintance. As there were a large number of circumstances favoring seduction, there can be no doubt that the defendant Katzenberger maintained a continuous sexual intercourse relationship with Seiler. The court considers as untrue Katzenberger's statement to the contrary that Seiler did not interest him sexually; and further, the court considers the statements made by the defendant Seiler in support of Katzenberger's defense as incompatible with all practical experience. They were obviously made with the purpose of saving Katzenberger from his punishment.

The court is therefore convinced that Katzenberger, after the Nuremberg Laws had come into effect, had repeated sexual intercourse with Seiler up to March 1940. It is not possible to say on what days and how often this took place.

Under the provisions of the Nuremberg Law for the Protection of German Blood and German Honor, extramarital sexual relations are to be understood as—in addition to intercourse—any act with a member of the opposite sex that satisfies the sexual urges of at least one of the partners engaging in that act. The conduct to which the defendants admitted and which in the case of Katzenberger consisted of his drawing Seiler close to him, kissing her, and patting and caressing her thighs over her clothes, makes it clear that in a crude manner Katzenberger did to Seiler what is popularly called "*Abschmieren*" [petting]. It is obvious that such actions are motivated only by sexual impulses. Even if the Jew had only done these so-called *Ersatzhandlungen* [sexual acts in lieu of actual intercourse] to Seiler, it would have been sufficient to charge him with race defilement in the full sense of the law.

The court, however, is convinced over and above this that Katzenberger, who admits that he is still capable of having sexual intercourse, had intercourse with Seiler throughout the duration of their affair. According to general experiences it is impossible to assume that in the ten years of his meetings with Seiler, which often lasted up to an hour, Katzenberger would have been satisfied with the "Ersatzhandlungen," which nevertheless in themselves warranted the application of the law.

**III.**

Thus, the defendant Katzenberger has been convicted of having had, as a Jew, extramarital sexual intercourse with a German citizen of German blood after the Law for the Protection of German Blood and German Honor came into force, which, according to Section 7 of the law, means after September 17, 1935.

He acted on the basis of a comprehensive plan designed from the very beginning to include repeated violations of the law. He is therefore guilty of a continuous crime of racial pollution according to Articles 2 and 5, Paragraph 2, of the Law for the Protection of German Blood and German Honor of September 15, 1935.

A legal analysis of the established facts shows that in his polluting activities, the defendant Katzenberger, moreover, generally exploited the exceptional conditions arising from wartime circumstances. Men

have largely vanished from towns and villages because they have been called up [for military service] or are doing other work for the armed forces that prevents them from remaining at home and maintaining order. It was these general conditions and wartime changes that the defendant exploited. As he continued his visits to Seiler through the spring of 1940, the defendant took into account the complete lack of any kind of measures that might have revealed his activities. Even the induction of Seiler's husband into the armed forces and the thereby altered circumstances of the household only facilitated his nefarious activities.

Looked at from this point of view, Katzenberger's conduct is particularly contemptible. Together with his offense of racial pollution he is also guilty of an offense under Article 4 of the Decree against Public Enemies. It should be noted here that the national community is in need of increased legal protection from all crimes attempting to destroy or undermine its inner solidarity.

On several occasions since the outbreak of war, the defendant Katzenberger sneaked into Seiler's flat after dark. In these cases, the defendant acted by exploiting the measures taken for protection during air raids and by taking advantage of the blackouts. His chances were further improved by the absence of the bright street lighting that exists in the street along S-graben in peacetime. In each case, he exploited



Irene Seiler testifies against the judge who convicted her of perjury in the Katzenberger race defilement case during the trial of leading Nazi jurists before an American military tribunal in Nuremberg, Germany, March 26, 1947.

US Holocaust Memorial Museum, courtesy of National Archives and Records Administration, College Park, MD

this fact, being fully aware of its significance, and thus during his excursions he instinctively escaped observation by people in the street.

The visits Katzenberger paid to Seiler under the cover of the blackouts served, at the very least, to keep relations going. It does not matter what they did during these visits—whether sexual relations occurred or, as Katzenberger claimed, that they only conversed with the husband present. The motion to have the husband called as a witness was therefore overruled.

The court holds the view that the defendant's actions were deliberately performed as part of a consistent plan and amount to a crime against the body according to Article 2 of the Decree against Public Enemies. The law of September 15, 1935, was promulgated to protect German blood and German honor. The Jew's racial pollution amounts to a grave attack on the purity of German blood, the object of the attack being the body of a German woman. The public's requirement for protection permits—as far as it concerns the party participating in race defilement but not liable for prosecution—no action to be taken. It is clear from statements made by the witness Zeuschel to whom the defendant [Seiler] repeatedly and consistently admitted the fact that racial pollution occurred. At least up to 1939–1940, she was in the habit of sitting on the Jew's lap and exchanging caresses as described above. Thus, the defendant [Katzenberger] also committed an offense under Article 2 of the Decree against Public Enemies. The personal character of the defendant likewise stamps him as a public enemy. His practice of racial pollution grew by his exploitation of wartime conditions over many years into an attitude inimical to the nation, constituting an attack on the security of the national community during an emergency.

This was why the defendant Katzenberger had to be sentenced, both on a crime of racial pollution and on an offense under Articles 2 and 4 of the Decree against Public Enemies, the two charges being taken in conjunction according to Paragraph 73 of the Penal Code.

In the view of the court, the defendant Seiler realized that the contact that Katzenberger continuously had with her was of a sexual nature. The court has no doubt that Seiler actually had sexual intercourse with Katzenberger. Accordingly, the oath given by her as a witness was, to her knowledge and intention, a false one, and she became guilty of perjury under Paragraphs 154 and 153 of the Penal Code.

**IV.**
**In passing sentence the court was guided by the following considerations:**

The political form of life of the German people under National Socialism is based on the community. One fundamental factor of the life of the national community is the racial problem. If a Jew commits racial pollution with a German woman, this amounts to polluting the German race and, by polluting a German woman, to a grave attack on the purity of German blood. The need for protection is particularly strong.

Katzenberger practiced pollution for years. He was well acquainted with the point of view taken by patriotic German men and women as regards racial problems and he knew that his conduct was a slap in the face to the patriotic feelings of the German people. Neither the National Socialist Revolution of 1933 nor the passing of the Law for the Protection of German Blood and German Honor in 1935, neither the action against the Jews in 1938 nor the outbreak of war in 1939, made him abandon his activities.

As the only feasible answer to the frivolous conduct of the defendant, the court therefore deems it necessary to pronounce the death sentence as the heaviest punishment provided by Article 4 of the Decree against Public Enemies. His case must be judged with special severity, as he had to be sentenced

in connection with the offense of committing racial pollution, under Article 2 of the Decree against Public Enemies, and even the more so if taking into consideration the defendant's personality and the accumulative nature of his deeds. This is why the defendant is eligible for the death penalty, which the law provides as the only punishment in such cases. Dr. Bauer, the medical expert, describes the defendant as fully responsible.

Accordingly, the court has pronounced the death sentence. It was also considered necessary to deprive him of his civil rights for life, as specified in Paragraphs 32–34 of the Penal Code.

When imposing punishment on the defendant Seiler, her personal character was the first matter to be considered. For many years, Seiler indulged in this contemptible love affair with the Jew Katzenberger. The national regeneration of the German people in 1933 was altogether immaterial to her in her practices, nor was she in the least influenced when the Law for the Protection of German Blood and German Honor was promulgated in September 1935. It was, therefore, nothing but an act of frivolous provocation on her part to apply for membership—which she subsequently obtained—to the Nazi Party in 1937.

When by initiating legal proceedings against Katzenberger the German people were to be given satisfaction for the Jew's polluting activities, the defendant Seiler did not pay the slightest heed to the concerns of state authority or to those of the people and decided to protect the Jew.

Taking this overall situation into consideration, the court determined that the defendant deserved a sentence of four years of hard labor.

An extenuating circumstance was that the defendant, finding herself in an embarrassing situation, lied under oath, as she knew. Had she spoken the truth she could have been prosecuted for [the harsher charge of] adultery and aiding and abetting Katzenberger's violation of the Nuremberg Laws. The court therefore reduced the sentence by half despite her guilt, and imposed two years of hard labor as the appropriate sentence. (Paragraph 157, Section 1, No. 1, of the Penal Code.)

On account of her lack of honor, she had to be deprived of her civil rights, too. This has been decided upon for a duration of two years, taking into consideration the time spent in arrest pending trial. (Paragraph 60 of the Penal Code. Costs: Paragraph 465, Code of Criminal Procedure.)

Certified:
[Signed]
DR. ROTHAUG DR. FERBER DR. HOFFMANN

Nuremberg, March 23, 1942
The Registrar of the Office of the Special Court for the district of the Nuremberg
Court of Appeals with the District Court Nuremberg-Fürth
[Stamp]

District Court
Nuremberg-Fürth

[Illegible signature]
Justice Inspector

# VI. First Letter to All Judges (Guidelines for Sentencing) October 1, 1942

On August 20, 1942, Hitler appointed Otto Thierack, a vehement Nazi, as Reich Minister of Justice, heralding the end of an independent judiciary in Germany. Given free reign by Hitler, Thierack demanded ever more extreme legal measures against Jews and others, increasing the pressure on German judges to render their verdicts according to Nazi principles and ideology. At Theirack's urging and with the compliance of many individuals throughout the legal profession, the Nazi court system became more and more a state vehicle for injustice and persecution from 1942 until the end of the war in 1945.

On October 1, less than six weeks after his appointment, Thierack issued the first in a series of so-called Letters to All Judges, which served as official guidelines to be used in sentencing. Dealing with such varied cases as divorce, legal determination of Jewish descent, treatment of antisocial elements, refusal to give the Nazi salute, and looting, these letters presented the state's position on political questions and on the legal interpretation of Nazi laws. In practice, Thierack's letters pressured judges, who were under public threat of removal from office, to choose the path of least resistance and decide a



Roland Freisler, Nazi jurist and president of the People's Court, pronounces a judgment of the court. Berlin, Germany, August 1944.

US Holocaust Memorial Museum

case according to the examples set out in them, although no judge was ever removed from office for the explicit reason of having failed to do so.

The letters were classified as state secrets because the Security Service (Sicherheitsdienst, or SD) of the SS was convinced that the public would protest the intensification of state control over the judicial system. In a report on May 30, 1943, the SD declared, "The people want an independent judge. The administration of justice and the state would lose all legitimacy if the people believed judges had to decide in a particular way."

Thierack's first letter addressed the use of the death penalty for persons convicted under the Decree against Public Enemies (Volksschädlingsverordnung) of September 5, 1939. Under that law's terms, a person could be sentenced to death—regardless of the severity of the accusation—if he or she was found to have exploited the wartime circumstances to commit the crime in question and, additionally, if judges determined that "sound popular judgment" required them to sentence the person to death. Thierack's letter states in no uncertain terms that it was the desire and expectation of the Ministry of Justice that judges would uniformly apply the death penalty in such cases. As Thierack wrote, "Those in the administration of justice must recognize that it is their job to destroy traitors and saboteurs on the home front.… The home front is responsible for maintaining peace, quiet, and order as support for the war front. This heavy responsibility falls especially to German judges. Every punishment is fundamentally more important in war than in peace."

## Letter to All Judges—Announcement of the Reich Minister of Justice—No. 1[6]

Pests (*Volksschädlinge*), especially blackout criminals
Judgments of various courts from the years 1941–1942

1. Shortly after his hiring in the winter of 1941–1942, a 19-year-old worker who was employed on the Reich railway since 1941 exploited the blackout and stole from the baggage car of a long-distance train, from parked mail carts, and from packages. In total, he was involved in 21 cases [of theft]. The Special Court sentenced him as a "pest" to four years in prison.

2. At the end of 1941, a 34-year-old metalworker tried to commit a purse-snatching during a blackout. In a darkened street, he attacked a woman, ripping her purse from her arm. He was chased down and arrested. The culprit had been previously convicted six times for, among other things, larceny, physical assault, and manslaughter. He was convicted for physical assault in 1931 because he and a Communist beat up a National Socialist with a gatepost. The Special Court classified the crime as larceny rather than mugging because the woman carried her handbag so loosely that the robber didn't have to use violence to take it. The court, however, did declare him a "pest" because he posed a serious threat to the community. However, the punishment was only two years in prison.

3. In early 1941, a repeat offender, a "work-shy" 29-year-old worker, tried to steal a handbag during a blackout. He had just been released from the hospital, where he had been faking an illness, and wanted to get some money. He pursued two women on a dark street and grabbed for a handbag as he passed them. He couldn't tear it away, however, because it was tightly held. A few men came rushing when they heard a cry for help and they captured the accused. The Special Court sentenced him to death for attempted robbery as a "pest." The court indicated at sentencing that those walking on darkened streets require special protection in order to safeguard people's feeling of public safety.

4. At the start of 1941, an 18-year-old culprit, W., who had previously led a faultless life, exploited the blackout to commit sexual assault on the wife of a soldier at the front. After visiting a bar and returning home around midnight, he and his 19-year-old girlfriend, P., spoke with a young woman who was just returning from work. She explained to the youths that she had to leave because her husband was away at the front and that she wanted to go home. A man standing close by observed W. beat the victim repeatedly in the face without reason. He then pushed the woman into a park, beating her and then raping her on a bench. He quelled her efforts at resistance by telling her he had a pistol. During the incident, P. was nowhere to be found. The Special Court sentenced W. to death for sexual assault as a "folk vermin" (*Volksschädling*). P. received a five-year prison sentence as an accomplice.



Otto Thierack (April 19, 1889–November 22, 1946) was a Nazi jurist who served as Reich Minister of Justice from 1942 until 1945. Seen here in Berlin, Germany, August 24, 1942. US Holocaust Memorial Museum, courtesy of Scherl Bilderdienst

6. Translated from Letter to All Judges—Announcement of the Reich Minister of Justice—No. 1—in Heinz Boberach, ed., *Richterbriefe: Dokumente zur Beeinflussung der deutschen rechtsprechung 1942–44* (Boppard am Rhein: Harold Boldt Verlag, 1975), pp. 7–9.

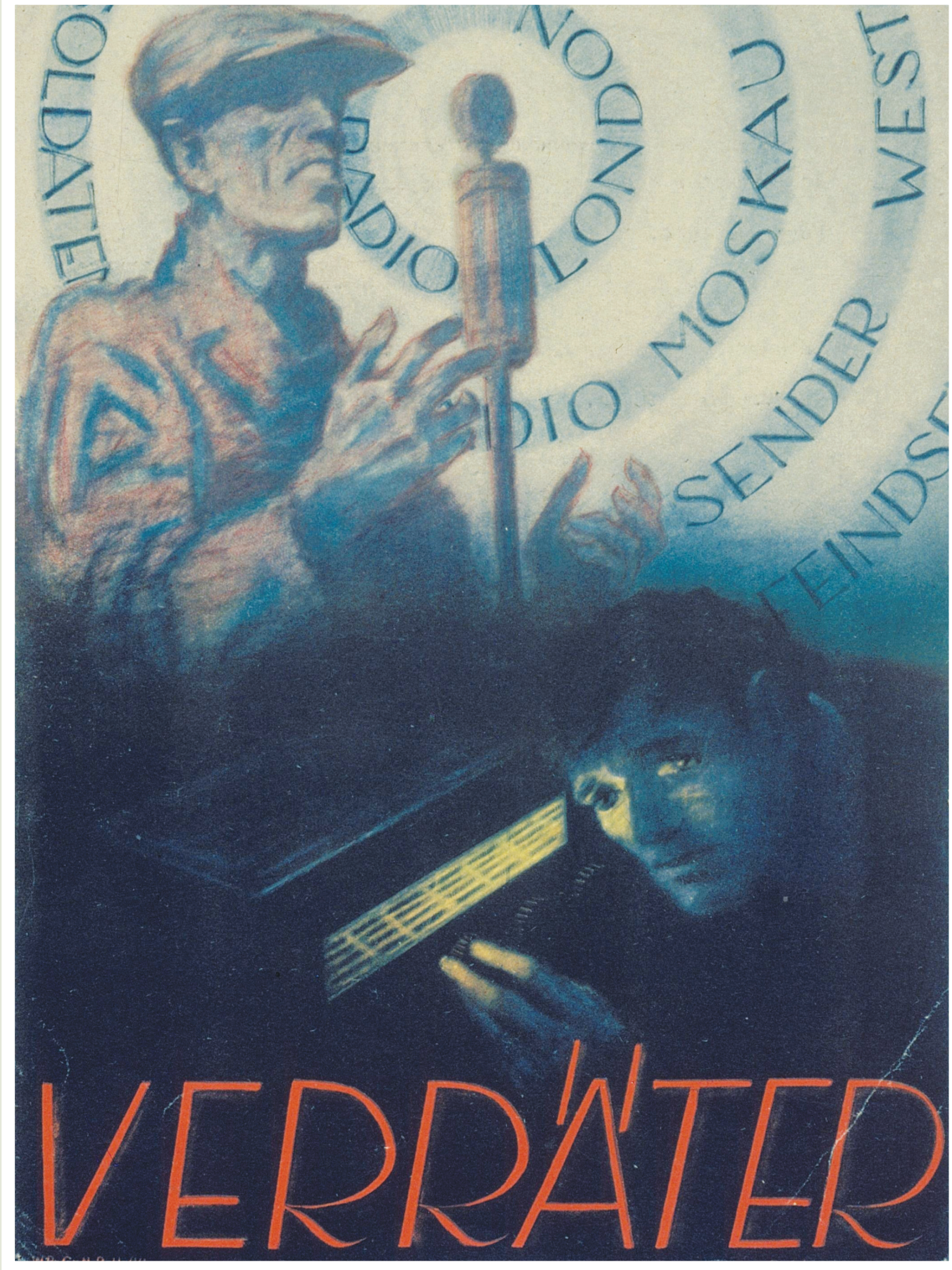
## Official Position of the Reich Minister of Justice[7]

At a time when the best of our people are risking their lives at the front and when the home front is tirelessly working for victory, there can be no place for criminals who destroy the will of the community. Those in the administration of justice must recognize that it is their job to destroy traitors and saboteurs on the home front. The law allows plenty of leeway in this regard. The home front is responsible for maintaining peace, quiet, and order as support for the war front. This heavy responsibility falls especially to German judges. Every punishment is fundamentally more important in war than in peace. This special fight is targeted especially against those designated by law as "pests." Should a judge decide after conscientious examination of the criminal act and of the perpetrator's personality that a criminal is a "pest," then the seriousness of this determination must also be firmly expressed in the harshness of the verdict. It is a matter of course that a plunderer, who reaches for the possessions of another after a terror attack [bombing] by the enemy, deserves only death. But every other culprit who commits his crimes by exploiting the circumstances of war also sides with the enemy. His disloyal character and his declaration of war [on the German people] therefore deserve the harshest punishments. This should especially be applied to criminals who cowardly commit their crimes during blackouts. "I don't want," the Führer said, "a German woman to return from her place of work afraid and on the lookout so that no harm is done to her by good-for-nothings and criminals. After all, a soldier should expect that his family, his wife, and relatives are safe at home."

The majority of German judges have recognized the immediate needs of the moment. The death sentence that the Special Court handed out to the 18-year-old assailant of the defenseless soldier's wife, and to the "work-shy" purse-snatcher, placed the protection of the people above all other interests. There are, however, still cases in which the personal circumstances of the culprits are placed above the interests of the necessary protection of the community. This is shown in the comparison of the judgments listed above. The cunning, nighttime handbag robbery perpetrated by a culprit with prior convictions and the 21 thefts committed by the 19-year-old worker were wrongly punished with four years in prison. The decisive factor [in sentencing] is not whether stealing the handbag was legally theft or robbery (which, by the way, does not depend upon whether the bag was carried tightly or loosely); it is not whether the sex offender caused a specific damage with his offense. That he cowardly and cunningly attacked a defenseless woman, and endangered the security of the darkened streets, makes him a traitor. The protection of the community, above all, requires that punishment in such cases serve as deterrence. Prevention here is always better than reparation. Every sentence given a "pest" that is too lenient sooner or later damages the community and carries in itself the danger of an epidemic of similar crimes and the gradual undermining of the military front lines. It is always better for the judge to quell such epidemics early than to stand helpless later against an infected majority. In the fourth year of his prison sentence the criminal should not get the impression that the community's fight against him is waning. On the contrary, he must always feel that German judges are fighting just as hard on the home front as the soldiers are with the foreign enemy on the military front.



7. Ibid., pp. 9–10.




This poster is captioned "Traitor" and depicts a German citizen listening to foreign radio broadcasts, 1944. Bundesarchiv, Koblenz

# VII. Jurists' Trial Verdict (US v. Josef Alstötter, et al.)
## December 4, 1947

From 1946 through 1949, under the aegis of the International Military Tribunal, American occupying authorities carried out a series of 12 subsequent trials in Nuremberg against surviving members of the military, political, economic, medical, and juridical leadership cadres of Nazi Germany. In the case of the *US v. Josef Altstötter, et al.*, an American military tribunal tried members of the Reich Ministry of Justice as well as jurists and prosecutors of the People's Court [Volksgericht] and Special Court [Sondergericht]. The highest-ranking officials of the Nazi judicial system could not be tried. Franz Gürtner, the Nazi regime's first Minister of Justice, had died in 1941; Otto Thierack, Justice Minister since 1942, had committed suicide in 1946; and Roland Freisler, the infamous president of the People's Court, died in a bombing raid on Berlin in February 1945. In what came to be called the "Jurists' Trial," surviving high-ranking jurists and prosecutors stood accused of "judicial murder and other atrocities, which they committed by destroying law and justice in Germany and then utilizing the emptied forms of legal process for the persecution, enslavement, and extermination on a large scale." In describing the crimes of the judicial system, prosecutor Telford Taylor remarked: "The dagger of the assassin was concealed beneath the robe of the jurist." Justice Oswald Rothaug—the chief of the Special Court before whom Leo Katzenberger's case was heard—was tried and found guilty. In the words of the judgment against him, "The trial itself, as testified to by many witnesses, was in the nature of a political demonstration. High party officials attended.... During the proceedings, Rothaug tried with all his power to encourage the witnesses to make incriminating statements against the defendants. Both defendants were hardly heard by the court. Their statements were passed over or disregarded. During the course of the trial, Rothaug took the opportunity to give the audience a National




This political cartoon, which appeared in Arbeiter-Illustrierte Zeitung in 1934, is captioned "The Touchstones of German Justice... because of the appearance of a uniquely expedited process, proceedings and sentences in German criminal justice represent a new touchstone for justice." © 2009 Artists Rights Society (ARS), New York / VG Bild-Kunst, Bonn

Socialist lecture on the subject of the Jewish question.… Because of the way the trial was conducted, it was apparent that the sentence that would be imposed was the death sentence."

The facts as established in the verdict show the ways in which Rothaug perverted legal norms and manipulated the process to ensure that Katzenberger would be found guilty and put to death. The judgment did not stop there, however. The tribunal made a more general statement concerning the use of the German legal system in carrying out the Nazi program of persecution and murder and, in so doing, took a step in attempting to at least nominally right the legal wrongs of that era. Their condemnation of Rothaug and all that he represented was unequivocal. "One undisputed fact," the judgment stated, "is sufficient to establish this case as being an act in furtherance of the Nazi program to persecute and exterminate Jews. That fact is that nobody but a Jew could have been tried for racial pollution.… Katzenberger was tried and executed only because he was a Jew.… [His] execution was in conformity with the policy of the Nazi state of persecution, torture, and extermination of these races. The defendant Rothaug was the knowing and willing instrument in that program of persecution and extermination."

There were countless judges, prosecutors, and lawyers who acted as "willing instruments" of the Nazi agenda. There were others who struggled to maintain their ethical center of gravity amid a swarm of social and political pressures. Some succeeded more than others. In the end, the American Military Tribunal prosecuted 16 defendants: ten were convicted, four were acquitted, and two did not stand trial.[8] Of those convicted, six received five to ten years in prison and four, including Oswald Rothaug, were given life sentences in jail. Rothaug was released in December 1956 and died in 1967.

8. One defendant committed suicide before the trial convened, and the other was dismissed due to poor health.

## Excerpts from Part 3 of the Decision in US vs. Altstötter, et al., December 4, 1947[9]

The third case to be considered is that of Leo Katzenberger. The record in this case shows that Lehmann Israel Katzenberger, commonly called Leo Katzenberger, was a merchant and head of the Jewish community in Nuremberg and that he was "sentenced to death for an offense under Article 2 legally identical with an offense under Article 4 of the Decree against Public Enemies in connection with the offense of racial pollution." The trial was held in the public session on March 13, 1942. Katzenberger's age at that time was over 68 years.

The offense of racial pollution with which he was charged comes under Article 2 of the Law for the Protection of German Blood and German Honor. This section reads as follows:

"Sexual intercourse (except in marriage) between Jews and German nationals of German or German-related blood is forbidden."

The applicable sections of the Decree against Public Enemies read as follows:

**Article 2**
**Crimes during Air Raids**
"Whoever commits a crime or offense against the body, life, or property while taking advantage of air raid protection measures is punishable by hard labor of up to fifteen (15) years or for life and, in particularly severe cases, punishable by death."

**Article 4**
**Exploitation of the State of War as a Cause for More Severe Punishment**
"Whoever commits a criminal act exploiting the extraordinary conditions caused by war is punishable beyond the regular punishment limits with hard labor of up to fifteen (15) years or for life, or is punishable by death if the sound common sense of the people requires it on account of the crime being particularly despicable."

The evidence in this case, aside from the record, is based primarily upon the testimony of Hans Groben, the judge who first investigated the case; Hermann Markl, the official who prosecuted the case; Karl Ferber, who was one of the associate judges in the trial; Heinz Hoffman, who was the other associate judge in the trial; Armin Baur, who was the medical expert in the trial; Georg Engert, who dealt with clemency proceedings; and Otto Ankenbrand, another investigating judge.

The salient facts established in connection with this case are in substance as follows:

Sometime in the first half of the year 1941 the witness Groben issued a warrant of arrest against Katzenberger, who was accused of having had intimate relations with the photographer Seiler. According to the results of the police inquiry, actual intercourse had not been proved, and Katzenberger denied the charge. Upon Groben's advice, Katzenberger agreed that he would not move against the warrant of arrest at that time but would await the results of further investigations. These further investigations were very lengthy, although Groben pressed the public prosecutor for speed.

9. Trials of War Criminals before the Nuremberg Military Tribunals under Control Council Law No. 10, Volume III "The Justice Case" (Washington, DC: US Government Printing Office, 1951). Pages 1150–56. PDF available at Library of Congress website http://loc.gov/rr/frd/Military_Law/NTs_war-criminals.html.

The police, in spite of their efforts, were unable to get further material evidence, and it became apparent that the way to clarify the situation was to take the sworn statement of Seiler, and this was done.

In her sworn statement she [Seiler] said that Katzenberger had known both her and her family for many years before she had come to Nuremberg and that his relationship to her was a friendly and fatherly one and she denied the charge of sexual intercourse. The evidence also showed that Katzenberger had given Seiler financial assistance on various occasions and that he was administrator of the property where Seiler lived, which was owned by a firm of which he was a partner. Upon Seiler's statement, Groben informed Dr. Herz, counsel for Katzenberger, of the result and suggested that it was the right time to move against the warrant of arrest.

When this was done, Rothaug learned of it and ordered that the Katzenberger case be transferred from the Criminal Division Court to the Special Court. The first indictment was withdrawn, and another indictment was prepared for the Special Court.

The witness Markl states that Rothaug dominated the prosecution, especially through his close friendship with the Senior Public Prosecutor, Dr. Schroeder, who was the superior of Markl.

The indictment before the Special Court was prepared according to the orders of Rothaug and Katzenberger received the charge of race defilement as well as an additional charge under the Decree against Public Enemies that made the death sentence permissible. The new indictment also joined Seiler on a charge of perjury. The effect of joining Seiler in the charge against Katzenberger was to preclude her from being a witness for the defendant and such a combination was contrary to established practice. Rothaug at this time told Markl that there was sufficient proof of sexual intercourse between Seiler and Katzenberger to convince him and that he was prepared to condemn Katzenberger to death. Markl informed the Ministry of Justice of Rothaug's intended procedure against Katzenberger and was told that if Rothaug so desired it, the procedure would be approved.

Prior to the trial, the defendant Rothaug called on Dr. Armin Baur, medical counselor for the Nuremberg Court, as the medical expert for the Katzenberger case. He stated to Bauer that he wanted to pronounce a death sentence and that it was, therefore, necessary for the defendant to be examined. This examination, Rothaug stated, was a mere formality since Katzenberger "would be beheaded anyhow." To the doctor's reproach that Katzenberger was old and it seemed questionable whether he could be charged with race defilement, Rothaug stated: "It is sufficient for me that the swine said that a German girl had sat upon his lap."

The trial itself, as testified to by many witnesses, was in the nature of a political demonstration. High party officials attended, including Reich Inspector Oexle. Part of the group of party officials appeared in uniform. During the proceedings, Rothaug tried with all his power to encourage the witnesses to make incriminating statements against the defendants. Both defendants were hardly heard by the court. Their statements were passed over or disregarded. During the course of the trial, Rothaug took the opportunity to give the audience a National Socialist lecture on the subject of the Jewish question.

The witnesses found great difficulty in giving testimony because of the way in which the trial was conducted, since Rothaug constantly anticipated the evaluation of the facts and gave expression to his own opinions. Because of the way the trial was conducted, it was apparent that the sentence which would be imposed was the death sentence.

After the introduction of evidence was concluded, a recess was taken, during which time the prosecutor Markl appeared in the consultation room and Rothaug made it clear to him that he expected the prosecution to ask for a death sentence against Katzenberger and a term in the penitentiary for Seiler. Rothaug at this time also gave him suggestions as to what he should include in his arguments.

The [findings] for the verdict were drawn up by Ferber. They were based upon the notes of Rothaug as to what should be included. Considerable space is given to Katzenberger's ancestry and the fact that he was of the Mosaic [Jewish] faith, although that fact was admitted by Katzenberger. Much space is also given to the relationship between Katzenberger and Seiler. That there was no proof of actual sexual intercourse is clear from the opinion. The proof seems to have gone little farther than the fact that the defendant Seiler had at times sat upon Katzenberger's lap and that he had kissed her, which facts were also admitted. Many assumptions were made in the reasons stated that obviously are not borne out by the evidence. The court even goes back to the time prior to the passing of the Law for the Protection of German Blood and German Honor, during which Katzenberger had known Seiler. It draws the conclusion, apparently without evidence, that their relationship, for a period of approximately ten years, had always been of a sexual nature. The opinion undertakes to bring the case under the decision of the Reich Supreme Court that actual sexual intercourse need not be proved, provided the acts are sexual in nature.



Leading Nazi jurists on trial before an American military tribunal in Nuremberg, Germany, 1947

US Holocaust Memorial Museum, courtesy of John W. Mosenthal

Having wandered far afield from the proof to arrive at this conclusion as to the matter of racial pollution, the court then proceeds to go farther afield in order to bring the case under the Decree against Public Enemies. Here the essential facts proved were that the defendant Seiler's husband was at the front and that Katzenberger, on one or possibly two occasions, had visited her after dark. On both points the following paragraph of the opinion is enlightening:

"Looked at from this point of view, Katzenberger's conduct is particularly contemptible. Together with his offense of racial pollution he is also guilty of an offence under Article 4 of the Decree against Public Enemies. It should be noted here that the national community is in need of increased legal protection from all crimes attempting to destroy or undermine its inner cohesion.… This is why the defendant is liable to the death penalty which the law provides for such cases. Dr. Baur, the medical expert, describes the defendant as fully responsible."

We have gone to some extent into the evidence of this case to show the nature of the proceedings and the animus of the defendant Rothaug. One undisputed fact, however, is sufficient to establish this case as being an act in furtherance of the Nazi program to persecute and exterminate Jews. That fact is that nobody but a Jew could have been tried for racial pollution. To this offense was added the charge that it was committed by Katzenberger through exploiting war conditions and the blackout. This brought the offense under the Decree against Public Enemies and made the offense capital. Katzenberger was tried and executed only because he was a Jew. As stated by Elkar in his testimony, Rothaug achieved the final result by interpretations of existing laws as he boasted to Elkar he was able to make.

This tribunal is not concerned with the legal incontestability under German law of the cases discussed above. The evidence establishes beyond a reasonable doubt that Katzenberger was condemned and executed because he was a Jew; and Durka, Struss, and Lopata met the same fate because they were Poles. Their execution was in conformity with the policy of the Nazi state of persecution, torture, and extermination of these races. The defendant Rothaug was the knowing and willing instrument in that program of persecution and extermination.

From the evidence it is clear that these trials lacked the essential elements of legality. In these cases the defendant's court, in spite of the legal sophistries which he employed, was merely an instrument in the Nazi state's program of persecution and extermination. That the number the defendant could wipe out within his competency was less than the number involved in the mass persecutions and exterminations by the leaders whom he served does not mitigate his contribution to the program of those leaders. His acts were more terrible in that those who might have hoped for a last refuge in the institutions of justice found these institutions turned against them and a part of the program of terror and oppression.

The individual cases in which Rothaug applied the cruel and discriminatory law against Poles and Jews cannot be considered in isolation. It is of the essence of the charges against him that he participated in the national program of racial persecution. It is of the essence of the proof that he identified himself with this national program and gave himself utterly to its accomplishment. He participated in the crime of genocide.

Again, in determining the degree of guilt the tribunal has considered the entire record of his activities, not only regarding racial persecution but in other respects also. Despite protestations that his judgments were based solely upon evidence introduced in court, we are firmly convinced

that in numberless cases Rothaug's opinions were formed and decisions made, and in many instances publicly or privately announced, before the trial had even commenced and certainly before it was concluded. He was in constant contact with his confidential assistant Elkar, a member of the criminal SD[10] who sat with him in weekly conferences in the chambers of the court. He formed his opinions from dubious records submitted to him before trial. By his manner and methods he made his court an instrumentality of terror and won the fear and hatred of the population. From the evidence of his closest associates as well as his victims, we find that Oswald Rothaug represented in Germany the personification of the secret Nazi intrigue and cruelty. He was and is a sadistic and evil man. Under any civilized judicial system he could have been impeached and removed from office or convicted of malfeasance in office on account of the scheming malevolence with which he administered injustice.

Upon the evidence in this case it is the judgment of this tribunal that the defendant Rothaug is guilty under count three of the indictment [crimes against humanity]. In his case we find no mitigating circumstances, no extenuation.

**Opposite: Proceedings before the People's Court in Berlin, Germany, 1944.** US Holocaust Memorial Museum, courtesy of Library of Congress

10. The SD (Sicherheitsdienst) was the security service of the SS. The International Military Tribunal at Nuremberg declared both the SD and the SS "criminal organizations."



# PROGRAM RESOURCES

# Contract Law Case

## Background

**Article 242 Civil Code:** Performance in Good Faith (1900–2002)[1]

The debtor is obligated to perform in a manner consistent with good faith *(Treu und Glauben)* with regard to the common usage.

**Article 626 Civil Code:** Summary Dismissal for a Compelling Reason (1900–69)[1]

A service relationship may be terminated by any party to the contract without notice if there is compelling reason to do so.

**Article 627 Civil Code:** Specific Provisions for Special Services of a Higher Nature (1900–69)[1]

1. Termination of a contractual relationship is permitted even without cause as required under Article 626 of the Civil Code, if the service provider is not permanently employed with a fixed salary and if the service provider performs duties of a higher nature which tend to be assigned on the basis of special trust.

2. (1) The party providing a service may only terminate the contract in such a way as it permits the party requiring a service to obtain such service elsewhere, unless a compelling reason for untimely termination exists. (2) If the contract is terminated without such reason or notice, then the service provider must pay compensation for the resulting damage.

## Application

Ruling of the State Superior Court in Berlin on November 17, 1933

a) Civil Matters

1. Substantive Law

I. Articles 242, 626, 627, of the Civil Code:

Termination without notice of a contract regarding the employment of a Jewish film director, in light of the development of current political circumstances.

The parties concluded a contract, in which the plaintiff [film company A] pledged to provide the services of Director K to the defendant [film company B] for 12,000 RM. Director K would direct and assist on the script for the creation of the film *Aus dem Tagebuch einer schönen Frau* [English title: The Adventure of Thea Roland]. At the same time, the plaintiff [film company A] granted the defendant [film company B] the option to involve Director K in a further film in 1933 for a fee of 15,000 RM. The start of the contract was to be sometime between January 1 and December 31, 1933, with the actual start date to be determined later by mutual agreement. After the completion of the first film, *Aus dem Tagebuch einer schönen Frau,* the defendant [film company B] availed themselves by post on November 21, 1932, of their agreed-upon right to employ Director K for another film and paid a fee of 2,500 RM.

1. See Bürgerliches Gesetzbuch http://lexetius.com/BGB. Dates indicate years during which each article was effective in this form under German law.

On February 14, 1933, the defendant informed the plaintiff that Director K was to be available to start work [on the second film] starting on March 15. The defendant paid an additional sum of 1,500 RM and soon thereafter refused any further fulfillment of the contract. After a number of verbal and written exchanges, the defendant finally clarified in a letter dated April 5, that, given the current political situation and taking the Director's Jewish heritage into consideration, the public would accept Director K neither as the director nor as the author responsible for the film's manuscript. Thus, completing the contract would constitute substantial material harm to the defendant [film company B].

The plaintiff [film company A] demanded the partial payment of 1,050 RM, with interest [for the termination of the contract]. Both lower courts had rejected the plaintiff's claim.

It is irrelevant whether the agreement between the parties constituted a contract for personal service or work or some other particular kind of contract; in any case, at the time they cancelled the contract on April 5, the defendant [film company B] could not have been expected to make a film with Jewish director K, considering the developments in the political situation in Germany after January 30, 1933. The goal of the Reich leadership is to curb and to exclude Jewish influence, especially in all areas of cultural life. Through the repeated pronouncements made by the Führer and the appropriate ministers, this would have already been publicly known in March 1933. In particular, Minister Goebbels, acting since March 13, 1933, as Minister for Public Enlightenment and Propaganda (and whose oversight includes the German cinema), had made it clear in his speeches that German cinema-goers have an absolute right to see the burning issues that pertain to them portrayed by artists from their own cultural sphere, and to have their need for education and entertainment fulfilled by people who resemble them [Germans] both spiritually and culturally (See Ordnance for the Official Commission of Film Quotas). The court has taken due notice of these facts. Then, once the Jewish boycott began on April 1, 1933, the plaintiff should have relied on sound and reasonable judgment, taking into account the fact that feelings were running particularly high at the time, to determine that it could not be expected of the defendant that they make another film with Director K, because to do so would be to take on an immediate business risk of great proportions for the defendant. The defendant already faced a risk of unimaginable proportions due to the conclusion of the contract and their "calling up" of Director K on February 14, 1933 (for his services on the second film). A later legal provision showed that the defendant truly would have borne such a risk if they had taken on Director K as director [for the second film]. Pursuant to the 4th Decree on the Presentation of Foreign Films of June 28, 1933, the only films that are considered to be German films are those whose production manager, director, and participants are German. A German in the sense of this Decree is someone who is of German ancestry and who possesses German citizenship. Films in which a Jewish director has participated count as foreign films, and are subject to the restrictions placed on them by the quota regulation. It is also of note that, according to information presented [to the court] by the defendant [film company B], the German Cinema Owners' Association rejected on May 24, 1933, films created and directed by K, because the Public Theater has been repeatedly boycotted for showing films with Jewish actors or directors and because the authorities have ordered the closing of such theaters [those that show films made by Jews].

The defendant was in the right in summarily ending the contract.[2]

2. *Juristische Wochenschrift* (Jurist Weekly), Journal of the German Lawyers' Association (1933): 2918.

# Family Law Case

## Cited Statutes and Laws

**Article 1666 Civil Code:** Court measures where the welfare of the child is endangered (1900–58)[1]

1. (1) If the spiritual or physical welfare of the child is endangered by the father's abuse of his right to care for the child, or his neglect of the child or is guilty of dishonorable or immoral practices, then the Guardianship Court is obligated to take whatever actions are required to eliminate the danger to the child. (2) The Guardianship Court can especially order for the purposes of upbringing that the child be placed in the care of an appropriate family, a children's home, or a reformatory.
2. If the father has violated the child's right to support as a dependent and there is an ongoing substantial danger to the child's future support, the father can also be deprived of access to and management of all assets.

### Child Welfare Law of July 9, 1922[2] (1922–38)

1. Every German child has a right to an upbringing for spiritual, physical, and social excellence.

   The right and responsibility of the parents for the upbringing [of children] is not affected by this law.

   Interference in the upbringing of children, against the will of those responsible, is permitted only when the law allows.

   Insofar as the right of the child to an upbringing is not fulfilled by the family, the Child Welfare Office is responsible, without prejudice to the participation of volunteer organizations.…

43. The Child Welfare Office must support the Guardianship Court in all measures which concern the care of a minor.…

## Application

### Ruling of the District Court of Karlsruhe on April 6, 1937[3]

Ruling by the District Court B III, Karlsruhe, of April 6, 1937, before Justice Krall and his clerk Dechert, Case 3 X 40/37, in the matter of: guardianship of the minor Willi Josef Seitz, born March 11, 1923, Karlsruhe, son of Josef Seitz and Anna Seitz, nee Panther, residing at K-strasse.

1. See Bürgerliches Gesetzbuch http://lexetius.com/BGB. Dates indicate years during which each article was effective in this form under German law.
2. *Reichsgesetzblatt*. I S. 633.
3. See Franz Josef Seitz, "Meine Erlebnisse im Dritten Reich," Buchenwald, 1945. 21 pages typed memoirs in US Holocaust Memorial Museum Archive RG 32.008.01 (Willi Seitz Papers).

The father, Josef Seitz, appears and after being again warned that today's state cannot allow a developing youngster to mature outside the national community, [Seitz] states:

> I declare that I must only obey god and Jehovah, that I will exert no force on my son, that he has been apprenticed as an electrician, and that I will teach him privately, circumstances permitting.

We informed the father of the following ruling, pending appeal.

**Judgment**

I. Under paragraph 1666 of the Civil Code, the father's custody rights over his son have been removed and the boy is to be brought for observation to the juvenile home Schloss Flehingen.

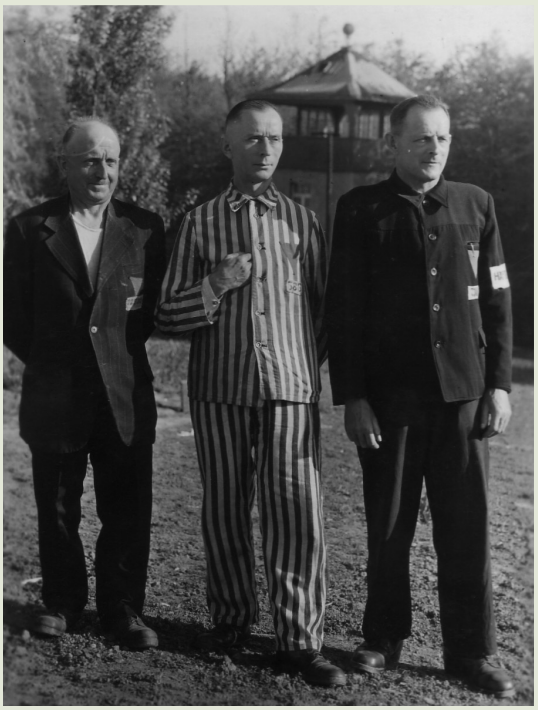
II. The municipal youth welfare office is assigned as official guardian and is to implement this judgment under Paragraph 43 of the child welfare law, should the father not voluntarily deliver his boy to Flehingen by April 9.

**Justification**

Based on notification from the Municipal School Office, Willi Seitz has been suspended from school because of his refusal to participate in national school celebrations, his refusal to use the German greeting or to sing the national anthem or Horst Wessel song. He explained that he pledges his faith to the leader who created heaven and earth.

The boy is uncooperative and rejects every attempt at guidance and, during judicial questioning, referred to the fact that his father was fired from his municipal job.

The father served four months in prison after sentencing by the Mannheim Special Court [*Sondergericht*] for activities on behalf of the prohibited Jehovah's Witnesses (violation of Paragraph 4 of the Decree of February 28, 1933, for the Protection of People and State prohibited meetings and missionary activities by Jehovah's Witnesses). He still rejects recognition of the Führer [Adolf Hitler] as well as of the National Socialist outlook through refusal to use the



Josef Seitz (right), a Jehovah's Witness, and two other liberated prisoners. Buchenwald concentration camp, April 1945. Courtesy of Sammlung Gedenkstätte Buchenwald

German greeting [*Heil Hitler*], because according to his religious beliefs he has pledged his obedience only to Jehovah.

It does not need to be emphasized that when the father allows himself such liberties, placing himself outside the national community (*Volksgemeinschaft*), he violates his parental duty to educate his son within the national community by influencing his son to likewise stay outside this national community, thereby inflaming the patriotic feelings of his classmates and necessitating that the school authorities expel the boy. Through this inevitable reprimand, the youth is incapable of pursuing vocational and educational training mandated by German compulsory education laws and the parents are responsible for this damage.

Since the parents have rejected all advice, it is mandatory that we take action in guardianship court under Paragraph 1666 of the Civil Code, placing the boy in other surroundings that will lead the child back into the national community.

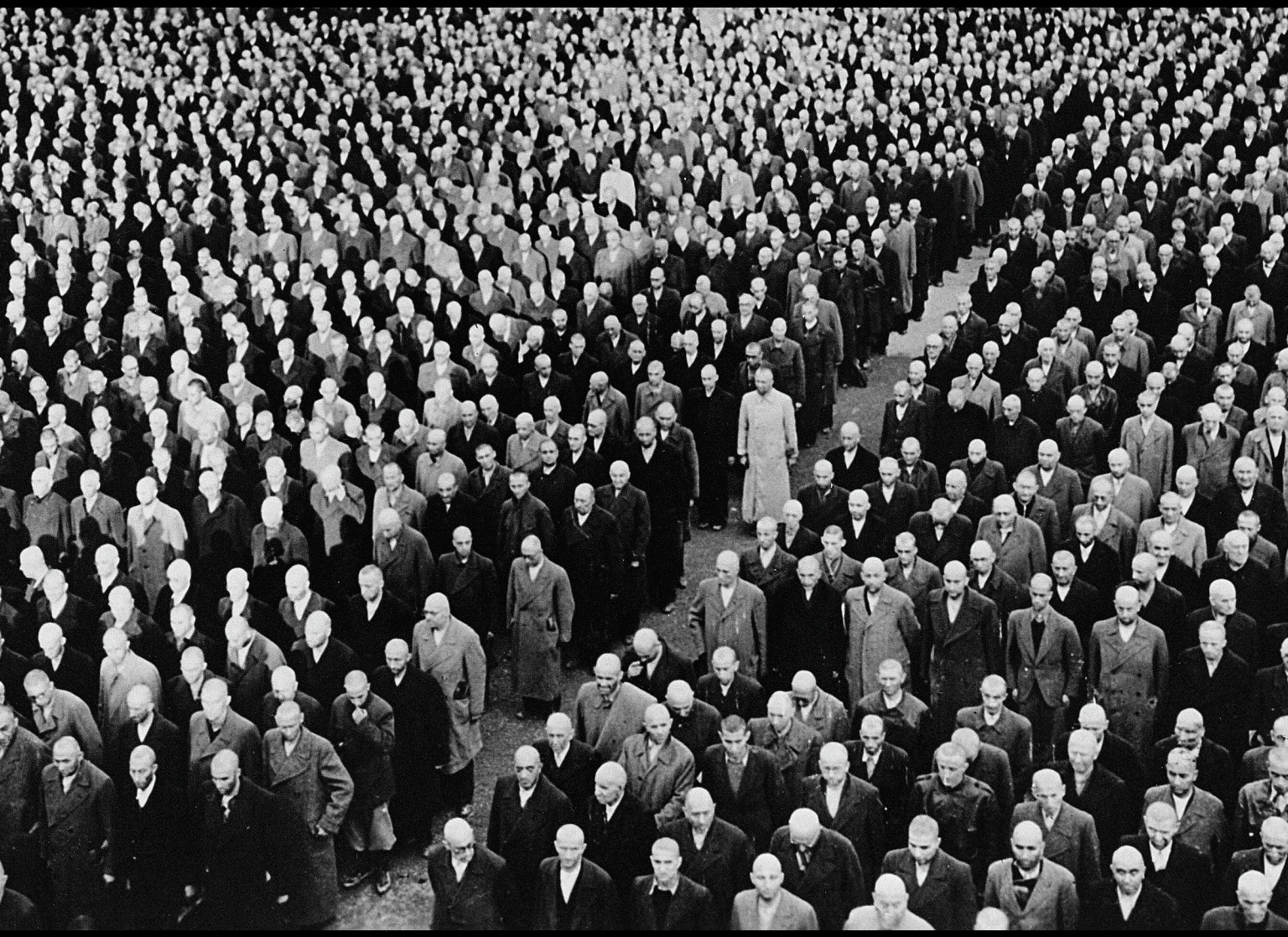
The youth cannot be indefinitely removed from mandatory school attendance until a suitable foster home is found. The guardianship court, in consideration of the March 10, 1937, petition by the municipal school office, has removed familial custodial rights and recommended temporary commitment of the boy to an observation unit under Paragraph 43 of the Child Welfare Code.

This judgment against the father has been made in proceedings held under Paragraph 16, Subsection 3 of the Child Welfare Code and will be implemented without delay, even if the father exercises his legal right for an appeal.

After the sentence was read and the father instructed to sign the decision, the father stated: I confirm receipt of the sentence. I do not accept and will not sign anything.

Signed by Judge Krall and Court Clerk Dechert

Opposite: Newly arrived prisoners stand at attention during a roll call in the Buchenwald concentration camp. Germany, circa November 10, 1938. US Holocaust Memorial Museum, courtesy of Robert A. Schmuhl



# GLOSSARY

## Glossary of Terms and Individuals in the Nazi Judicial System

**Bumke, Erwin:** President of Germany's Supreme Court from 1929 through 1945. Bumke had a reputation as an apolitical lawyer of the old school. Nevertheless, he joined the German National People's Party (DNVP) in 1919 and the Nazi Party in May 1937 and became a compliant servant of the Nazi regime.

**Concentration camps:** Places of incarceration under the administration of the SS, in which people were held without regard to due process and the legal norms of arrest and detention. In addition to concentration camps, the Nazi regime ran several other kinds of camps under various SS, military, police, or civilian authorities, including labor camps, transit camps, prisoner-of-war camps, and killing centers.

**Criminal Police (Kriminalpolizei; "Kripo"):** Police detective force responsible for investigating nonpolitical crimes.

**Decree against Public Enemies (Volksschädlingsverordnung; literally, Ordinance against Folk Pests):** Enacted on September 5, 1939, this law made punishable by death all criminal acts committed by anyone exploiting the special circumstances of war, and it thereby expanded the range of criminal prosecution and culpability.

**Freisler, Roland:** German jurist and early supporter of the Nazi Party, which he joined in 1925. After 1933, Freisler became Ministerial Director in the Prussian Justice Ministry and then State Secretary in the Reich Justice Ministry. He represented the Justice Ministry at the infamous Wannsee Conference, where German officials discussed the implementation of the so-called Final Solution to the "Jewish question" in Europe. In 1942, Hitler appointed him President of the People's Court in Berlin. Freisler declared to Hitler that he wanted to judge each case as he believed the Führer himself would judge it.

**Gürtner, Franz:** German jurist and leading member of the DNVP. Gürtner belonged to the conservative camp that strove to set aside democracy in favor of an authoritarian regime, though he favored a moderate policy of gradual transition. In 1932, Franz von Papen appointed him Reich Justice Minister, a post he held until his death in 1941. Initially believing that the Nazi regime would return to orderly conditions, Gürtner achieved individual successes in the defense of legal principles; for example, in trials against clergymen (1935–39), he was able to ensure relatively fair treatment. But he also signed Nazi laws and mediated between the Nazi regime and conservative jurists to gain their cooperation.

**Heydrich, Reinhard:** SS General and Chief of the Security Police and SD (RSHA after 1939). In December 1940, he was tasked with developing the so-called Final Solution to the "Jewish question" in Europe. On July 31, 1941, he was given authority to deal with all agencies of the Reich in his capacity as the official responsible for coordinating the implementation of the "Final Solution."

**Himmler, Heinrich:** Reich Leader of the SS and Chief of the German Police.

**Mobile killing units (Einsatzgruppen):** Special duty units of the Security Police and SD, augmented by the Order Police and Waffen SS personnel. These units followed the German army as it invaded the nations of central and eastern Europe. Their duties included arresting or eliminating political opponents, suppressing potential resistance, securing documentation, and establishing local intelligence networks. In Poland in 1939, these units were assigned to shoot Polish intellectuals and to concentrate the Jewish population into large cities. In the wake of the German invasion of the Soviet Union in 1941, they had explicit instructions to kill Jews, Soviet political commissars, and other key officials of the Soviet state

apparatus and the Soviet Communist party, Roma (also known as Gypsies), and other real or perceived "racial" and ideological enemies of the German Reich.

**National community (Volksgemeinschaft; literally, Folk Community):** Term used by the Nazis for the German people as a whole. It refers to race-conscious "Aryan" Germans who accepted, obeyed, and conformed with Nazi ideology and social norms.

**People's Court (Volksgericht):** Nazi court with jurisdiction over treason and other politically motivated crimes. It dealt summary justice without right of appeal to all those accused of crimes against the Führer, Adolf Hitler, and against the government of the Third Reich.

**Preventive arrest (Vorbeugungshaft):** Legal instrument that permitted criminal police detectives to take persons suspected of criminal activities into custody without warrant or judicial review of any kind. Preventive arrest usually meant indefinite internment in a concentration camp.

**Protective custody (Schutzhaft):** Legal instrument that permitted Gestapo detectives to take persons suspected of pursuing activities hostile to state interests into custody without warrant or judicial review of any kind. Protective custody was based on Article 1 of the Decree of the Reich President for the Protection of the People and the State of February 28, 1933. Protective custody most often meant indefinite internment in a concentration camp.

**Reich Law Gazette (Reichsgesetzblatt):** Legal register for the Reich since 1871. Since 1922 the *Gazette* had two parts: Part I contained laws, decrees, and rulings having the force of law, and Part II contained international treaties and agreements between the German Reich and other states.

**Reich Security Main Office (Reichssicherheitshauptamt; "RSHA"):** Headquarters of the Commander of the Security Police and SD. Included the central offices of the Gestapo, the Kripo, and the SD. The RSHA was commanded by Reinhard Heydrich and, later, Ernst Kaltenbrunner.

**SA (Sturmabteilung, or Storm Troopers):** Nazi paramilitary formation. They served as the street fighters of the Nazi Party before Hitler's rise to power in 1933.

**Secret State Police (Geheime Staatspolizei; "Gestapo"):** Police detective force responsible for investigating political crimes and opposition activities.

**"Sound popular judgment" (gesundes Volksempfinden):** Slogan used in the nazification of the legal system. On June 28, 1935, the German Penal Code was amended so that courts had the option of deciding cases according to written codes or according to the principle of "sound popular judgment," which gave judges more flexibility in determining guilt and in sentencing. In judging what constituted "sound popular judgment," courts were to refer to Hitler's public statements—that is, to the "Führer's will." As Nazi jurist Roland Freisler said, "Whether the judgment is sound must be tested against the standards and guidelines that the Führer himself has repeatedly given to the people (*Volk*) in important questions affecting the life of the people."

**Special Court (Sondergericht):** Special court or tribunal for minor political crimes established in each Superior Court district by federal law on March 21, 1933. Defendants convicted for offenses before the Special Courts had no right of appeal.

**SS (Schutzstaffel, or Protection Squads):** Originally established as a bodyguard for Hitler as Führer of the Nazi political movement, the SS later became not only the elite guard of the Nazi Reich but also the Führer's executive force prepared to carry out all security-related duties, regardless of legal restraint. From the beginning of the Nazi regime, Hitler entrusted the SS first and foremost with the removal and eventual murder of political and so-called racial enemies of the regime. The SS was specifically charged with the leadership of the so-called Final Solution, the implementation of the murder of European Jews.

**Stuckart, Wilhelm:** Nazi politician and jurist responsible for the drafting of the Nuremberg Race Laws (1935) and their subsequent implementation. He was a right-wing extremist when he joined the Nazi Party in 1922, and in 1926 he became its legal adviser. Stuckart headed the department for constitutional and legislative matters in the Ministry of the Interior.

**Supreme Court (Reichsgericht):** National Supreme Court of Justice (the highest tribunal in Germany), established in Leipzig, Germany, by the Court Organization Act of 1877.

Opposite: Residents gather to watch the destruction of a synagogue during *Kristallnacht* while firemen hose down neighboring buildings to prevent the spread of the flames. Local police confiscated this picture the same day. Ober Ramstadt, Germany, November 10, 1938.
US Holocaust Memorial Museum, courtesy of Trudy Isenberg



# FURTHER READING

## German Justice System Quotations 1933–45

The courts are taking up the duty now more than ever of recognizing the deepest spiritual needs of the people and strengthening and awakening in the people the need for a strong legal order, faith in justice, and the willingness to do justice. All of the judges, prosecutors, and attorneys at the Supreme Court strive for truth and justice and nothing more than truth and justice. This will contribute to the regeneration of our fatherland.

— Supreme Court President Dr. Erwin Bumke, 1929
(Bundesarchiv Koblenz, Findbuch 4319N)

The National Socialist movement will try to achieve its aim with constitutional means in this state. The constitution prescribes only the methods, not the aim.… We shall try to gain decisive majorities in the legislative bodies so that the moment we succeed we can give the state the form that corresponds to our ideas.

— Adolf Hitler, testimony before the Supreme Court, September 1930
(*Justiz und Nationalsozialismus: Katalog zur Austellung des Bundesministeriums der Justiz.* Cologne: Verlag Wissenschaft und Politik, 1989, 53)

I am deeply mortified that I am to leave office before I reach the mandatory retirement age, under such humiliating circumstances, after I have felt and acted my whole life like a "real" German. Loyalty can be found in every religion and every race. I think statesmen should preserve loyalty like a holy flame, regardless of where they may find it.

— Supreme Court Justice Alfons David, shortly before his removal from office because of his Jewish ancestry, March 1933
(Bundesarchiv Potsdam, Reichsgericht Personalia 143)

I swear I will be true and obedient to the Führer of the German Reich and people, Adolf Hitler, observe the law, and conscientiously fulfill the duties of my office, so help me God.

— Oath sworn by civil servants, August 1934
(*Reichsgesetzblatt* I 1934, 785)

After careful consideration I find, in good conscience, that I am not able to swear the loyalty oath to the Reich Chancellor and Führer, Adolf Hitler, as required of all officials by Reich law of August 20, 1934.

— State's Attorney Martin Gauger, resignation submitted to Chief Judge of the State Court in Wuppertal, August 25, 1934
(Mitteilungen des Hamburgische Richtervereins, 4/2005, 15 December 2005)

Whether the judgment is healthy must be tested against the standards and guidelines that the Führer himself has repeatedly given to the people in important questions affecting the life of the nation.

— State Secretary Roland Freisler, on the meaning of "sound popular judgment" [*gesundes Volksempfinden*], 1935
(Roland Freisler, "Volk, Richter, Recht," *Deutsche Justiz*, 97/1935)

What is right may be learned not only from the law but also from the concept of justice that lies behind the law and may not have found perfect expression in the law. The law certainly continues to be the most important source for the determination of right and wrong because the leaders of the nation express their will in the law. But the legislator is aware of the fact that he cannot give exhaustive regulations covering all the situations which may occur in life; he therefore entrusts the judge with filling in the gaps.

— Reich Minister of Justice Dr. Franz Gürtner, 1935
(NA Nuremberg Trial Document 2549-PS Document Book USA-F, Part 1, 119)

Those actions of judges that seek to limit the political decisions of the Führer and ultimately obstruct them are in direct opposition to the central legal conception of the National Socialist state, namely the Führer Principle.

— State Secretary Dr. Stuckart
(*Deutsche Verwaltung,* 12 JG 1935, 161)

Other difficulties argue against such a narrow definition equating "sexual relations" with "intercourse." Such a definition would pose nearly insurmountable difficulties for the courts in obtaining evidence and force the discussion of the most delicate questions. A wider interpretation is also required here because the provisions of the law serve not only to protect German blood but also to protect German honor.

— Supreme Court decision on the Nuremberg Race Laws, December 9, 1936
(Bundesarchiv Koblenz, RG R22 File 50)

I am totally indifferent as to whether a legal clause opposes our actions.… During the months when it was about the life or death of the German nation, it was entirely irrelevant whether other people whined about breaking the law.… They called it lawless because it did not conform with their notions of the law. In truth, through our labors we laid the foundations of a new law, the right to live of the German nation.

— Reich Leader of the SS and Chief of the German Police Heinrich Himmler, speaking to the Committee of Police Law of the Academy of German Law, October 11, 1936
(Hans Adolf Jacobsen and Werner Jochmann, eds. *Ausgewählte Dokumente zur Geschichte des Nationalsozialismus 1933–1945.* Bielefeld: 1961)

Reich Leader Bouhler and Dr. med. Brandt are charged with responsibility to extend the powers of specific doctors in such a way that, after the most careful assessment of their condition, those suffering from illnesses deemed to be incurable may be granted a mercy death.

— Adolf Hitler, authorizing the secret "euthanasia" killing program, September 1, 1939
(National Archives, PS 630 RG 238 Box 14)

They are taking certain mentally ill patients from asylums and killing them, without the knowledge of their relatives, their legal representatives, and the family court—without the guarantee of orderly legal process and without the proper legal foundation.

— Judge Lothar Kreyssig, writing to the Minister of Justice, July 8, 1940
(Letter reprinted in Ernst Klee, ed., *Dokumente zur "Euthanasie."* Frankfurt am Main: Fischer Taschenbuch Verlag, 1992, 201–4)

Katzenberger practiced [race] pollution for years.… Neither the National Socialist Revolution of 1933 nor the passing of the Law for the Protection of German Blood and German Honor in 1935, neither the action against the Jews in 1938 nor the outbreak of war in 1939, made him abandon his activities. As the only feasible answer to the frivolous conduct of the defendant, the court therefore deems it necessary to pronounce the death sentence as the heaviest punishment provided by Article 4 of the Decree against Public Enemies.

— Decision of the Nuremberg Special Court of March 13, 1942, in the Katzenberger Race Defilement Case
(Military Tribunal III Document NG-154, The United States of America v. Josef Altstoetter, et al., in *Trials of War Criminals before the Nuremberg Military Tribunals, October 1940–April 1949.* Washington, DC: United States Government Printing Office, 1951)

In our system of justice the judge is the expert in the law, the prosecutor speaks for the state administration, and the lawyer speaks on behalf of the Folk comrade who is seeking justice before the court.

— Reich Minister of Justice Otto Thierack, 1944
(Heinz Boberach ed. *Richterbriefe: Dokumente der deutschen Rechtsprechung 1942–1944.* Boppard am Rhein: Harold Boldt Verlag, 1975, 397)

His [Judge Rothaug's] acts were more terrible in that those who might have hoped for a last refuge in the institutions of justice found these institutions turned against them and a part of the program of terror and oppression.

— Decision in U.S. v. Altstötter et al., or the "Jurists Trial," December 4, 1947
(Military Tribunal III Document NG-154; The United States of America v. Josef Altstoetter, et al.)

## Suggestions for Further Reading

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# TIMELINE OF NAZI GERMANY

1933 | 1934 | 1935 | 1936 | 1937 | 1938 | 1939 | 1940

**JANUARY**
Hitler appointed Chancellor

**FEBRUARY**
Reichstag Fire

**AUGUST**
Hindenburg dies, new oath to Hitler

**AUGUST**
Nazi Olympics

**NOVEMBER**
*Kristallnacht*

**SEPTEMBER**
Germany invades Poland, World War II begins

**FALL**
T-4 "euthanasia" program begins



The 1936 Berlin Olympics US Holocaust Memorial Museum, courtesy of National Archives and Records Administration, College Park, MD



*Kristallnacht* in Ober Ramstadt US Holocaust Memorial Museum




Hitler greets President Hindenburg. US Holocaust Memorial Museum, courtesy of National Archives and Records Administration, College Park, MD

1940 | 1941 | 1942 | 1943 | 1944 | 1945

**OCTOBER**
Large-scale deportations of Jews from Greater Germany begin

**JANUARY**
Wannsee Conference

**FEBRUARY**
Major German defeat at Stalingrad

**APRIL–MAY**
Warsaw ghetto uprising

**APRIL**
US troops liberate Buchenwald concentration camp

**MAY**
Germany surrenders



Surviving prisoner after the liberation of Buchenwald US Holocaust Memorial Museum, courtesy of National Archives and Records Administration, College Park, MD



Jews surrender during the Warsaw ghetto uprising.
National Archives and Records Administration, College Park, MD



TIMOTHY HURSLEY

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