The Role of the German Legal System in the Holocaust

by

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To Dr. Frolick and Dr. Morris
In thanks for their time and effort.

And, to Cathy Kandron
In thanks for letting me use her computer.
Introduction

In this thesis I will argue that the Holocaust could not have happened without the cooperation and support of the German legal community in the 1920s, 1930s and 1940s. I will also argue that members of other professions, university students, and professors contributed to the success of Hitler and the Nazis in carrying out the Holocaust.

Although there may not be substantial evidence to prove that all of the individuals involved were active participants in the events of the Holocaust, inferences can be drawn. It is sufficient to say that "the men who were the potential leaders of the professions did act by not acting..." (Friedlander 149) This tacit consent undermined any sort of resistance against the Nazis that might have been formulated in Germany during the Holocaust.

Historical Background

The Holocaust was the Nazi policy of the systematic extermination of Jews in Europe in the 1930s and 1940s. During this time over six million Jews died under Nazi policies. In order for the Nazis to be able to carry out their extermination policies in all forms, the support of the legal community, as well as that of other professions, was necessary.
There are a number of reasons why this support was an integral component of the success of Nazi policies. First, since the prominent professional and academic communities appeared supportive of Nazi policies, the general public wasn’t immediately aware of any obvious need for resistance. The appearance of support was given by the lack of opposition to Nazi policies. The legal profession, medical profession, and university students and professors were areas of prestige and importance in Germany in the 1920s, 1930s and 1940s. Since there was no public resistance from these groups, then the people saw no need to be suspicious of the Nazis.

Second, German professions, especially the medical community, were respected and renowned world-wide. Physicians in Germany at the time of the Holocaust were second to none in medical research and advancement. (Friedlander 142) The legal and academic communities were also respected outside of Germany, as well as outside of Eastern Europe. Therefore, if these areas weren’t outwardly objective to what was going on in Germany, and the rest of Eastern Europe, then the rest of the world could justify their lack of response to the horrendous actions being taken by the Nazis. Certainly if something were really wrong in Germany, there would be a great outcry from the professional community there. However, Adolf Hitler and the Nazis made sure that this was not possible. By keeping internal support levels high, there was no way for the outside world to be aware of the injustices being perpetrated through Nazi policy. This was of critical importance
to the Nazis because the threat of outside retaliation or resistance would have caused a number problems for carrying out their "Final Solution."

Third, if the legal community was supportive of the Nazis, then the bench was not a serious source of possible or probable resistance. Nazi policy even helped secure legal support. When the legislation was passed that prohibited Jews from belonging to certain professions, Jewish influence in these areas was reduced drastically. At the same time, legislation which completely destroyed the judicial process was promulgated. This denied the Jews, and other victims, any formal source of redress against the National Socialist government. Eliminating the bench as a source of opposition was important because it was an area where Jews had a high participation percentage. Also, the bench was a well organized area with some degree (although not a high one) of public influence. This, too, would have been a problem for the Nazis if they had not been able to stifle it in time.

Fourth, the support and compliance of the legal community, as well as other professions, was critical because of the ties that these areas had to the government. The strong bond between these groups and the state government, or the National Socialist party for all practical purposes, necessitated that the professions support any of the state formulated policies. This was especially obvious in the legal profession where judges were as closely related to the government as civil servants.
It is obvious that the support of the legal community and other professions was essential to the success of Nazi policy in the 1920s, 1930s, and 1940s. Gaining this support, however, was a complex process. Adolf Hitler and his supporters were very skilled in this area. Without the overall corroboration by German professionals, the Holocaust could never have taken place.

There were "two developments that directly influenced the course of events leading to the totalitarian corruption of the legal system." (Wallimann 186) The first event was the establishment of the SS (Sturmbataillone). And, the second development was the use of illegal Vehemic trials to prosecute post-WWI political leaders and accused traitors. The Vehemic trials resulted in numerous death sentences and a series of brutal murders in Germany for which the perpetrators were never punished. (Wallimann 186-87)

The Vehemic trials were prominent in the early to mid-1920s. The German judicial system's treatment of those who participated in carrying out these trials set the precedent for German leniency in dealing with right-wing law breakers. The pattern followed lines similar to this:

a) law breakers were allowed to flee the country or go into hiding
b) highly placed offenders were never brought before a court
c) cases against defendants were dropped
d) convicted criminals received light sentences
e) prisoners only served a fraction of their time

During the entire time that these legal infractions were taking place, left-wing Germans were being handed severe -- often unjustified -- sentences for law-breaking. (Wallimann 187) "The operation of this double standard revealed the fatal flaw of the entire judicial system: tacit approval of Fascist and anti-Semitic terrorism." (Wallimann 187) This tacit approval signified a lack of loyalty on the part of those individuals who had sworn to uphold the republic. This was the beginning of the destruction of judicial process in Germany.

Adolf Hitler came to power in Germany legally. He then proceeded to "exploit the letter of the law to subvert the law." (Dawidowicz 49) Although some of Hitler's policies concerning the Jews seemed extremely harsh, there was not much resistance to them. There were two reasons for this. First, Hitler gave the people what they wanted -- someone to blame for the problems and failures in German society. Second, the German people feared the consequences for protesting. (Friedlander 133)

Although these two reasons don't seem too severe, at the time they were enough to ensure that there would not be any sort of organized resistance. This was due to the fact that along with these reasons, Hitler and the Nazis were able to formulate legislation that would gradually exclude Jews from all areas of German life without providing them with any opportunity to retaliate or resist.
Anti-Jewish Legislation

Gunter Remmling wrote, "the totalitarian corruption of the German legal system began as soon as the NSDAP came to power on January 30, 1933." (Wallimann 187) I would, however, argue that it began much earlier than that with the Vehemic trials mentioned earlier. It then continued to intensify during the period leading up to the National Socialists' rise to power in Germany. In the time from 1920 to 1933, there were Nazi ideas being introduced to the Reichstag and there were Nazi sympathizers in the legal system and on the bench.

"Anti-Jewish legislation was a familiar idea to the Nazis. From the very earliest days of their parliamentary activity they had introduced anti-Jewish bills into the Reichstag and the state parliaments." (Dawidowicz 56) Nazi legislation against the Jews can be seen as early as 1924. The Nazis had managed to gain thirty-two seats in the Reichstag at this time. In 1924 the Nazis introduced bills which would have placed all Jews under special legislation; excluded all Jews from public offices; and, dismissed Jews from civil service. This legislation was not actually enacted by the legislature until 1933.

In 1930 the Nazis went so far as to propose legislation that would have taken all property from the Jews and expropriated it for the welfare of the German people. This suggestion was laughed at by other Reichstag members at the time, and the Nazis were not able to gain the necessary support for it. Hitler then ordered that it
be revoked. In 1938, however, when this action was actually taken by the Nazis, no one laughed. (Dawidowicz 56) This demonstrates the gradual gains that the National Socialists had made in the legal field. It also shows that the Nazis were persistent, never giving up on what they believed was a good idea.

Anti-Jewish legislation presented the Nazis with a problem early on in its formulation. There was no formal definition of what constituted a Jew. This is a problem that would not be legally promulgated until 1935. In the meantime, the Nazis were pretty clear about what their idea of a Jew was. To them a Jew was a Jew was a Jew -- as far as the third generation back. (Dawidowicz 59) There were other ideas that were circulated concerning this issue, but for the time being, the Nazis held to their simple definition in formulating anti-Jewish legislation.

"The National Socialists called their new law 'Kampfrecht' or battle law." (Wallimann 188) Nazi leaders used battle law to destroy their opponents and accelerate the establishment of a totalitarian system which benefitted a select few people: "Hitler, the National Socialist leadership, high ranking military officers, large landowners, the big capitalists, and the top civil servants." (Wallimann 189) It was specifically designed to achieve the goal of the Nazis. This goal was, at least primarily, the biological separation of the Jewish and German races. (Schleunes 108)

As time went by, however, the goal became more severe: complete extermination of the Jewish race. This change was due to the fact that the original aim was not permanent enough. Jews were
still finding ways to integrate German society. Therefore, the goal was intensified to include the total destruction of the Jewish population in Germany, as well as the rest of the world.

Anti-Jewish legislation occurred in four phases in Germany, as defined by Gunter Remmling. (Wallimann 192) The first of these phases lasted from the Nazi seizure of power on January 30, 1933, until September 15, 1935. (Wallimann 190) It began with a series of emergency decrees being issued on February 28, 1933. These anti-Semitic decrees suspended fundamental freedoms and increased the severity of punishment for crimes against the state and other criminal acts.

On March 11, 1933, the SA (the National Socialists' private army) broke into the German courts and drug Jewish lawyers and judges out into the streets. (Dawidowicz 52) This was partly a Nazi propaganda technique devised to show the German people that the German Jews were hostages of the state. (Dawidowicz 53) It was also a message to the German people that no Jews were immune to the Nazi German policies including those who held prestigious professional positions or positions within the government. For the Nazis, this move initiated the physical assault that was to be carried out against Jewish professionals in the courts.

It was important that the German people witness this physical assault against the bench and the bar. These were respected people of good standing in German society. By publicly degrading and humiliating them, it only made it easier for the Nazis to pursue legal attacks on all areas of Jewish life.
Next, on March 23, 1933, the Reichstag passed Hitler’s Enabling Act. This Act gave the government the power to promulgate emergency legislation, without the consent of the Reichstag, for a specific period of time. (Dawidowicz 50) It "provided Hitler with the legal authority for dictatorship." (Dawidowicz 51) Once Hitler had the authority to legislate freely, he was able to shift his focus to the "Jewish Question" and the formulation of the "Final Solution." In dealing with the Jewish Question he could effectively lend legal support to any of the policies that he decided to implement through the use of the Enabling Act. This was of critical importance to the success of the Nazis. The Enabling Act gave Hitler the power to promulgate legislation without the support of the Reichstag and without the threat of opposition from other parties. It was a rubber stamp which Hitler and the Nazis used with reckless abandon in formulating their policies against the Jews.

Joseph Bendersky said of Hitler that, "he made it clear that he felt bound by the constitution only during the struggle for power, and that thereafter he could legally change the constitution." (Bendersky 146) He even quoted Hitler as having said, "...if I come to power legally,...then quite a few heads will roll legally." (Bendersky 146) This makes it clear that Hitler’s intentions were well defined from the very beginning. It also suggests that Adolf Hitler was well aware of the importance of having legal power. His manipulations of the legal system in Germany were obviously not a coincidence.
In April, 1933, a series of anti-Jewish laws were passed. These laws dealt with the civil service, the legal profession, the medical profession, and teachers and students. "The April laws represented a very limited attack upon Jewish professional people. The laws made no specific mention of Jews, nor were they aimed at Jews exclusively." (Schleunes 102) They did, however, single out non-Aryans as the subjects of the legislation. Specifically, the April laws were "The Civil Service Law," April 7; "The Law Concerning Admission to the Legal Profession," April 7; "The Decree Regarding Physicians' Services with the National Health Service," April 22; and, "The Law Against the Overcrowding of German Schools," April 25. (Wallimann 191, Dawidowicz 58-59, Schleunes 103-107)

The Civil Service Law defined three classes of undesirable civil servants and provided for their legal dismissal. The groups were those appointed after November 9, 1918, those who were political risks for the NSDAP, and non-Aryans. (Schleunes 103) This law also provided for the dismissal of non-Aryan judges, public school teachers, and university professors. (Wallimann 191) It can be assumed that the Nazi attack on the professions was planned out from the very beginning, because this piece of legislation (one of the very first enacted against the Jews) specifically singles out these groups.

"The Law Concerning Admission to the Legal Profession" affected judges and public prosecutors, who were essentially the same as civil servants. (Schleunes 105) This law was critical in
determining the future of Jewish lawyers and judges in Germany. It succeeded in prohibiting Jews from entering the legal profession at any time after its enactment. It also called for a number of current members of the profession to lose their status with the bar. Although it didn't specifically mention Jews, it was worded to affect any non-Aryans, which did, of course, include Jews.

The "Decree Regarding Physicians' Services with the National Health Service," made it impossible for patients covered by the national insurance to have their expenses paid for if they consulted a non-Aryan physician. The decree was not applicable to Jewish physicians who were war veterans, but this factor did not make much of a difference. Excluding Jewish doctors from receiving money from the national insurance had a big economic impact on the Jewish medical profession. It caused Jewish physicians to lose money and lose patients. It was not be long before similar provisions were taken against other professions. (Schleunes 106)

The April Law that dealt with the schools limited the number of Jews to be admitted to high schools, technical institutes and universities to 1.5 percent of total enrollment. (Schleunes 107) This made it necessary for Jewish communities to set up their own school system. Which, in turn, succeeded in further separating the Jewish population from the rest of the German society. And, those children who were admitted to German schools were by no means privileged. In fact, they surely suffered anti-Semitic abuse from teachers and classmates.
These "April Laws" were only the beginning. The laws that dealt with the legal profession, the medical profession, and the schools were all designed to exclude Jews from these areas of professional and community life. These laws were accompanied by others which dealt with all areas of Jewish life. In total there were over 400 pieces of anti-Jewish legislation promulgated in Germany during the time from 1933 to 1945. (Wallimann 190)

On July 8, 1933, Hitler declared, "The party has now become the state." (Dawidowicz 52) With this all parties other than the NSDAP were declared to be illegal. This also signified the strong tie between political beliefs and state action by the leaders of the time. With this, Hitler's "legal assault" on the Jews had officially begun.

"No significant anti-Jewish legislation was enacted during 1934, and that fact, too, reinforced the illusion that Jews might remain in Germany, albeit with limited rights." (Dawidowicz 62) This illusion would not last for long. In 1935 there was a new wave of anti-Jewish legislation from the National Socialist Party. The most prominent laws of this "wave" were the so-called "Nuremberg Laws." This marked the beginning of the second phase of anti-Jewish legislation.

On September 15, 1935, these new anti-Jewish laws were passed unanimously by the Reichstag. The main focus of the Nuremberg Laws was to legitimize racist anti-Semitism. They were a step at legalizing the definition of a Jew and prohibiting Jews from mixing
The Nuremberg Laws of September 1935, made race a formal legal category. (Bendersky 228) With this, the racial ideology of the Nazis became law. This second wave of anti-Jewish legislation lasted until approximately November 9, 1938 -- the date of Kristallnacht, a Nazi pogrom. During this second phase the professions affected by legislation were expanded to include "construction engineers, cattle dealers, auctioneers, arms dealers, realtors, nurses, etc." (Wallimann 192) This signaled the expanse of Nazi influence into other professional areas. The National Socialists realized the importance of controlling all areas of German life and excluding the Jews from every possible aspect of it.

The next phase of legislation lasted from late 1938 until the start of World War II, September 1, 1939. This phase was characterized by legislation which "accelerated the isolation and impoverishment of the Jews," including a law which completely forbade Jewish children from attending German schools. (Wallimann 193) The legislation enacted during this short period of time was not of critical importance to the professions or the schools, except for the one piece mentioned. By completely excluding Jewish children from the German schools, the Nazis were denying the Jews their right to public education. The Nazis had succeeded in cutting Jewish children out of the German educational system completely.
The fourth and final phase of legislation lasted from September, 1939 to May 8, 1945. The legislation of this period was aimed at completely destroying the Jewish population of Germany and the other Nazi dominated areas. On January 20, 1942, the German Nazis held the Wannsee Conference. It was a meeting of the Nazi leaders and other persons of political importance aimed at solidifying the policy against the Jews. The Conference provided a "detailed schedule for the destruction of Europe’s 11 million Jews." (Wallimann 194) After this date, Nazi legislation and policy acted in full support of genocidal tactics for dealing with the "Jewish Question." On July 1, 1943, legislation was enacted which denied the Jews their rights to legal protection and made them subject to the power of the police and the Gestapo.

When considering the effects of legislation, it is important to remember one key fact. "Many crucial laws, decrees, and administrative functions require interpretation and enforcement." (Bendersky 149) This is critical because it shows the direct link between the state and the law. Interpretation of the laws is based on political beliefs. When the Nazis enacted their control over the legal system, and other professions and schools, they guaranteed that judicial interpretation would follow party lines. It can be assumed, then, that even laws worded in a seemingly just and fair manner, could be twisted and manipulated to accomplish all sorts of injustices when left to political judicial interpretation.

Through their use of anti-Jewish legislation, the Nazi leaders had succeeded in systematically transforming a state based on the
rule of law into a state which functioned on illegality and injustice. For all practical purposes, the party really had become the state.

German Legal System and German Lawyers

"Before Hitler, Germany took justifiable pride in the quality of its judiciary, its bar and its legally trained officials." (Shartel 521) With the Nazi rise to power, however, the quality of the legal system in Germany deteriorated completely. This deterioration began slowly. As mentioned earlier, legislative moves against the Jews could be seen as early as 1924. This legislation intensified in following years. One of the most important sections of anti-Jewish legislation was the area which dealt specifically with the legal system and the lawyers of Germany.

The question has been raised by some as to how well-equipped the German legal system was to deal with the Nazis and their lawlessness. It was, obviously, not very well-equipped at all. (Friedlander 133) One cause of this was that the legal system in Germany was very young. It was still in the earliest stages of development when Hitler and the Nazis came to power. The German legal system as a profession only came into existence during the 1870s. (Friedlander 136)
Prior to that time, Germany was made up of kingdoms and princedoms. The court system could not be separated from the state in the 1870s. There were efforts which began in 1848 to try to establish a bar association and to professionalize the administration of the law. These efforts, however, were not successful until the 1870s. In the late 1870s there was a tremendous increase in the number of lawyers in Germany. This was primarily due to the fact that lawyers no longer needed a royal appointment to enter the legal profession. (Friedlander 134-35) Instead, the legal system was partially separated from the state with the creation of the "Lawyer's Association" or "German Bar Association." The professionalization of the legal system did not, however, completely succeed in cutting off all ties between the judiciary and the state.

The number of Jews involved in the German legal profession was extremely significant. In 1905, approximately 30 years after the changes to the legal system took place, Jews made up 14 percent of lawyers. At this same time, Jews were less than 1 percent of the overall population of Germany. (Friedlander 135) During the time from 1905 until the Nazi's rise to power, this percentage remained virtually unchanged. The large proportion of Jewish lawyers was due, in large part, to the fact that Jews, as a whole, were more educated than most of the German population. This stems from the very nature of the Jewish religion. Study and discipline are a large part of Judaism. Jewish children are exposed to this at a
very young age. This early involvement with formal instruction was a key to Jewish success in professional education.

There were six distinct groups that existed within the legal profession. Legal training was dependent upon which of these groups the individual planned on entering. The groups were: legal scholars, judges, prosecutors, attorneys and notaries, administrative officials, and business advisers. (Shartel 521-22) The judges, prosecutors, and administrative officials, as well as some of the individuals in the other groups all had strong ties with the government. The majority of legal professionals in Germany worked for the government in one form or another and were dependent on the government for their livelihood. (Friedlander 136-37) This contributed to the willingness of the legal profession to cooperate with Hitler and the Nazis. (Friedlander 136)

Legal training was also a contributing factor in the compliance of the legal profession with Hitler’s policies. Legal training varied, as mentioned above, depending upon which area of the profession an individual planned to enter. The basic, or primary, training was the same for all groups. This was pre-legal training. It consisted of completing an educational program at a secondary school, which was equivalent to a junior college education in the United States. Then, the student was required to pass a state exam, the Abiturientenexamen, before entering a university. Here the student had to complete six semesters of work and then take another exam. If the student passed this exam, he then moved on to the next step. This final step is where legal
training was varied to be specific to the legal field that the student planned to enter. This step consisted of practical preparation in the student’s field. (Shartel 522)

Practical preparation generally consisted of hands-on experience in the appropriate field. This involved a variety of different activities including writing a thesis, work in the courts, work an attorney’s office, or work in a state or local administrative office. (Shartel 522-26) It is important to note that the training for judges was the same as the training for the civil service positions in Germany. (Shartel 523) In fact, the judiciary and the office of public prosecution were virtually a segment of the civil service. (Friedlander 136) This contributed to the strong link between the government and the legal profession, which led the overall lack of resistance from the bench.

Other factors also affected the ability of the German bench to resist Nazi lawlessness. German judges did not have the opportunity to achieve individual recognition, they were only known as a group. Without the opportunity for individual success, there was no motivation to deviate from the mainstream opinions of the bench as a whole. There were rarely dissenting opinions and decisions were not written with the informality or logical structure common to those in America. The names of even the highest ranking judges in Germany were not well known to the German people like those of judges in other countries are. Judges in Germany were civil servants who did not view themselves as public figures. (Friedlander 137) They had no reason to think that others
would follow their lead in any sort of resistance. After all, no one even knew who they were. Because of these factors, there was not much chance for organized resistance from the bench to obstruct the National Socialist anti-Jewish policies.

Unquestioned compliance by the legal system to Hitler and the Nazis existed at least as early as 1923, with the trial of Adolf Hitler, himself. This was before even the first hint of anti-Jewish legislation, which did not surface until 1924, as discussed above. Hitler's trial was decided on by Judge Georg Neithardt, who had a reputation for being very dedicated to the letter of the law. In this case "there was a statute that explicitly required that any alien convicted of treason was to be banished, or deported."

(Friedlander 138) When Hitler was convicted, although he was an Austrian, he was not subjected to the provisions of this statute. Instead, Judge Neithardt was quoted as saying, "Well, he served in the German army, he thinks of himself as a German, and therefore we will not impose this penalty of banishment." (Friedlander 138) Judge Neithardt's reasoning for making this exception is not completely known. Had the letter of the law been followed, though, we can only speculate as to what would have happened. This set the stage for what was to be a long series of bending the rules.

After Hitler's trial, things began to move rather quickly. Hitler came to power in 1932 and began his personal assault on the legal profession right away. The assault on the legal community followed these lines:
The bar association crumbled rapidly. In 1928, the National Socialist Bar Association had approximately two hundred and fifty members; in 1930, it had about one thousand three hundred members; in 1933, after less than a year of Hitler's power, there were over eighty thousand members. The Lawyer's Association, the pre-existing bar association, in March, a few weeks after Hitler came to power, passed a resolution disavowing discrimination "against our Jewish colleagues." But the resolution published in the papers did not say anything about that. And a few weeks later, a law (Law for the Restoration of the Civil Service) was passed, requiring that no Jew could be an attorney unless he had served in World War I, or had been a lawyer since before 1914, or had lost a relative in World War I. All others were legally disqualified, and after that the German Bar Association crumbled completely. The German lawyers were all dismissed, and in 1936 the prohibition on Jewish lawyers was made complete. Within the space of a few months -- and this was much the same as in the medical profession -- the expulsion of the Jews took place with hardly a whimper. (Friedlander 138-39)

* The "National Socialist Bar Association" came into existence in 1924 at the time when the National Socialists gained their seats in the Reichstag. It was the alternative to the "Lawyers' Association", the already existing German bar association established in the 1870s.
Telford Taylor wrote, "I think it would be fair to say that if in 1933 we had been looking for a source of probable opposition to Hitler, that last place we would have looked to would have been the bench and the bar." (Friedlander 140) These areas were being manipulated by the state. The judicial decisions were almost always politically motivated and the legislation that was enacted was blatantly anti-Semitic. These factors, when coupled with the fact that Jews were completely excluded from the legal profession, provided another explanation for the lack of resistance to Hitler and the Nazis from the bar.

The above description of the legal profession gives the impression that everything happened immediately. This was not quite true. While the legal system was being destroyed, there were still some judicial proceedings in the courts. These proceedings were no longer governed by the letter of the law, though. In a 1935 edition of the German periodical Deutsche Justiz, the official organ for magistrates, the following instruction appeared: "The judge is his own legislator, he is no longer subject to the law, the judge is only subject to the orders given him by the Fuhrer." (Friedlander 139) This had essentially the same effect as Hitler's "Enabling Act." It gave the judges the power to legislate freely as long as their legislation complied with Hitler's demands. Thus the courts were no longer even partially free from state control. Instead, they were given a large amount of power as long as state policy was upheld. With this, "the independence of the courts seemed definitely to belong to the past." (Friedlander 139)
"Ideally, medicine ought to be value free and beyond political reach. Yet it is perfectly clear, both from the history of medicine and from a quick glance around us, that medicine is culturally and socially influenced, if not determined, and medical care is an eminently political issue." (Friedlander 143) This was the situation in Germany during the Holocaust. Medical care and medical policy were, indeed, "eminently political issues."

Medicine was used to perpetrate the policies against the Jews in 3 distinct ways. First, medical testing was carried out by the "doctors of infamy" using Jews as "guinea pigs." The Jews were subjected to the same sorts of testing and experimentation that is outlawed, even on animals, today. (Friedlander 141) Medical reports were formulated, claiming Jews were racially inferior and that the Jews were contaminating the Aryan race. As a result of these reports, Jews were subjected to medical sterilization operations in many cases. (Friedlander 141) And, finally, Nazi legislation was enacted which affected the medical profession. This included legislation that prohibited Jewish doctors from treating non-Jewish patients and, eventually, from practicing medicine at all. As discussed previously, there was also legislation which prohibited Jewish doctors from collecting fees through the national insurance of Germany. On March 31, 1933,
Jewish physicians in university hospital and faculty positions were instructed not to appear for work on the following day. (Friedlander 145) They were never asked back.

Since the focus of this thesis is the legal profession, I will not go into great detail about the various injustices dealing with the medical profession. I offer the information about the medical profession for one simple reason: to substantiate the claim that Nazi influence was affecting all of the professions in Germany at this time. This pressure left the Jews with very few options for organized resistance. By controlling the professions and the schools, the Nazis strategically eliminated any threats to their security.

Nazi influence within the medical profession was similar to that within the legal community. There was legislation which affected both groups. Both groups had a large percentage of Jewish professionals. And, perhaps most importantly, individual membership in Nazi controlled professional associations increased drastically during the Nazis' reign of terror. Between 1933 and 1945, 31 percent of German physicians took out membership in the Reich's Physician's League, an adjunct Nazi party organization." (Friedlander 145) One study "found that certain academics, especially physicians and jurists, were over-represented in the SS," as well. (Friedlander 146)

The high level of representation in Nazi organizations by members of the various professions can possibly be attributed to the fact that many Germans were scared. They were convinced that
there was no other alternative. Because of this, the boundary between a physician’s professional ethics and his Nazi party life was blurred. (Friedlander 148) This contributed to a complete abandonment of justice and humanity in Germany.

Before moving on, it is important to mention a critical fact about German medicine in relation to the rest of the world. At the time of the Nazi rise to power and perpetration of the Holocaust, German medicine was viewed as second to none on a global scale. For this reason, conclusions published by German medical experts were accepted and respected world-wide. This explains the fact that there was not more opposition from the rest of the world to the Nazi policies. (Friedlander 142) Although the rest of the world may have been suspicious of what was going on in Germany, the "medical evidence" to back-up Nazi policy helped to alleviate the fears of the rest of the world. As mentioned earlier, this was a critical factor for Nazi success. Any substantiated suspicions about German policy during the Holocaust could have led to the downfall of the Nazis.

Teachers, University Students, and Professors

Elementary teachers, university students and professors had a significant role in the Holocaust and surrounding events. In fact, anti-Semitism began to show up in university teachings as early as
1918. Jews were made symbols of modern evil in these teachings. This symbolism took two specific forms:

1. The Jew generally symbolized economic calculation and utilitarian rationality; he represented the "bad," "unproductive," and "uprooting" aspects of the commercial and industrial revolution.

2. The Jew represented the critical aspects of modern thought, the acids of analysis and skepticism that helped to dissolve the moral certainties, patriotic commitment, and social cohesion of former times.

(Wallimann 56)

Along with these, there were even more direct claims that Jews were racially inferior and responsible for all of Germany's problems.

There was a young Jewish girl in Germany, the daughter of a rabbi, who recorded some of her teacher's lecture which included the following:

1. The Jewish race is much inferior to the Negro race.

2. All Jews have crooked legs, fat bellies, curly hair, and an untrustworthy look.

3. Jews are responsible for the World War.

4. They are to blame for the armistice of 1918 and they made the Peace of Versailles.

5. They were the cause of inflation.

6. They brought on the downfall of the Roman Empire.

7. Marx is a great criminal.

8. All Jews are communists.
9. They are the rulers of Russia. (Schleunes 107-8) These teachings began to surface during the period of the Weimar Republic. This time period was characterized by popular revulsion "against the machine age and the need for a spiritual revival of the people." (Wallimann 57) With the young people of Germany being taught to believe such unsubstantiated claims against the Jews, there was a decreased probability that any type of Jewish resistance would ever be supported by the German population.

In response to the "revulsion against the machine age" and the need for "spiritual revival", "the explicit anti-Semites among German university professors conceived their attack on the Jews as an integral part of their opposition to the Republic and to the vulgar materialism of the day." In this climate of opinion all standards of academic freedom and civility simply melted away. (Wallimann 59) The schools became the ideal setting for the Nazis to spread their beliefs to the rest of the German population.

Along with the academic promotion of anti-Semitism in Germany, the Nazis had succeeded in forcing other professions into collaboration with the policies against the Jews (such as the medical and legal professions, discussed earlier). Not only did these policies directly harm the Jews, they called for German professionals to follow Nazi directives targeting the Jews as the source of all of Germany’s problems. And, thus, directly led to the destruction of German professional respectability.

The Nazi formulated boycott of Jewish establishments on April 1, 1933, also affected the academic community. It brought forth
the terrorizing of Jewish retail merchants, physicians, professors, lawyers, and their clients. "Obviously, there was no major sector of the German social or political organization that was not significantly involved." (Friedlander 133) This boycott even prevented Jews from entering universities, libraries, and law courts. (Wallimann 189)

I offer the evidence about the academic community for a reason similar to that given in the section on the medical profession: to show that Nazi influence was penetrating all areas of the Germany community. There was no one area which was immune to the power of the Nazis. The intellectual community was subject to Nazi control for some of the same reasons that the professions in Germany were dominated by it: German academics were highly state controlled, so Nazi influence was inevitable.

It is also important to note that the law the dealt with the overcrowding of German schools, mentioned earlier, only furthered Jewish exclusion from the professions. It denied them the necessary training and education to become a lawyer, physician, teacher, or member of any other professional group. Thus, we can conclude that Nazi influence found its way into all areas of German life and proceeded to take its toll on the Jews.
Conclusions

It is obvious that the legal system was an integral part of the Holocaust and the accompanying events in Nazi Germany. The inability of members of the legal profession to form an organized resistance to Nazi policy was a critical factor in Hitler's reign of terror. This was also the problem with the other professions and the intellectual community in Germany at the time of the Holocaust.

It is impossible to know what would have happened if there had been an organized resistance from the bench against Hitler and the Nazis. We can, however, speculate as to how things would have turned out. It is almost certain that hundreds, even thousands, and maybe millions of lives might have been saved. Perhaps even Adolf Hitler would have found himself being subjected to legal retaliation for his actions against mankind.

Although we can only guess how things might have been in Germany, we can learn from what did happen and hopefully avoid a similar situation in the future. Most importantly, we must be aware that "...among the prerequisites of genocide, the corruption of the law occupies a prominent place." (Wallimann 190)
Works Cited


Schleunes, Karl A. The Twisted Road to Auschwitz: Nazi Policy Toward German Jews 1933-39. Chicago: University of Illinois


