The policy of exclusion: repression in the Nazi state, 1933–1939

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One of the key elements of Nazi ideology and propaganda was the pledge to create a new Germany. This promise of national rebirth resonated particularly strongly in the early 1930s, when the Weimar Republic was shaken to the core by economic and political crisis. At the centre of the Nazi vision stood the ‘national community’, depicted as the complete opposite of the conflict-ridden Weimar society. In a widely publicized speech in January 1932, one year before his appointment as German chancellor, Adolf Hitler concluded that the resurgence of Germany depended on the creation of a ‘healthy, national, and strong’ community. But Hitler made clear that not everyone would be allowed to join: those who threatened the ‘body of the people’ had to be ruthlessly excluded.¹ This was not a novel idea. Hitler and other Nazi leaders had ranted for years about the need to ‘cleanse’ Germany of various ‘community aliens’ (Gemeinschaftsfremde). Only by removing from society all that was alien, sick, and dangerous, they claimed, could the uniform ‘national community’ emerge, which would then form the basis for rebuilding Germany and for war, the logical consequence of Hitler’s drive for living space and racial domination. Nazi leaders had no detailed plan for the implementation of their destructive vision. But it was clear that they envisaged, from early on, a fierce campaign of repression,

targeting three groups in particular: political opponents (especially those on the left), social outcasts (those labelled as deviant), and ‘racial aliens’ (above all Jews). In short, well before they gained power, the Nazis believed that an extensive policy of exclusion was needed for national salvation: their dream of a golden future for Germany was always also a dream of terror and destruction for others.

1933: the year of terror

1933 was a year of dramatic upheaval in Germany. Liberal democracy, which had been on life-support for some time, was finally finished off, with a one-party dictatorship taking its place. And the new regime lost no time in turning its vision of ‘cleansing’ Germany into reality. Indeed, it is striking how far Nazi terror was pushed in the very first year of Hitler’s Third Reich.

Among the main targets was the political opposition, with the focus on the left, above all on Communists, but also on Social Democrats, trade union officials, and others. In itself, this was hardly surprising: leading Nazis had long harboured paranoid hatred of the left, which had fought the Nazi movement in the Weimar Republic and continued to do so in the early days of the Third Reich; German Communists, in particular, engaged in mass resistance against the Nazi regime, maintaining illicit party structures and printing anti-Nazi leaflets and newspapers. What was surprising, at least to many left-wing opponents of Nazism, was the sheer ferocity of the attack against them in spring and summer 1933: their organizations were ripped apart and many tens of thousands were detained and often brutally maltreated. Many were kidnapped by Nazi activists and abused in temporary torture chambers. Others were arrested by the police and turned over to regular courts, which passed thousands of prison sentences, not only for active resistance, but also for dissent: as early as spring 1933, so-called special courts were established to punish criticism and jokes about the new rulers. Crucially, not everyone detained by the police was later turned over for sentencing to the courts: under the Decree for the Protection of People and
State, introduced on 28 February 1933, the day after the Reichstag fire (wrongly blamed by the Nazi leadership on a Communist plot), the police started to lock up political suspects in ‘protective custody’ (Schutzhaft), without any judicial proceedings. In Prussia alone, up to 25,000 individuals—mostly Communists—had been taken into ‘protective custody’ by the end of June 1933. Many of them were forced into one of the dozens of makeshift detention centres, established by state and Nazi Party authorities, where the prisoners were often held for months. Only one of these early camps lasted for the whole of the Third Reich: Dachau, near Munich, set up in March 1933 on the orders of SS leader Heinrich Himmler, who was then little more than a bit-player in the ‘Nazi revolution’, having just been appointed as police president of Munich.

But repression in 1933 went far beyond the political opposition. For the Nazi leaders and their supporters it was not simply a question of stabilizing the new regime and settling scores with political enemies. Rather, 1933 saw the start of a comprehensive policy of exclusion, aimed at remaking the German nation in the Nazis’ image. Jews, in particular, were singled out from the very beginning, and were subjected to a sustained assault in spring and summer 1933. A whole range of official measures was implemented from above against the approximately 500,000 Jews living in Germany, aiming to drive them into social and economic isolation. This included the national boycott of Jewish businesses on 1 April, which had been called by Hitler personally, and it was followed one week later by the euphemistically named ‘Law for the Restoration of the Professional Civil Service’. Over the coming months, this law led to the dismissal of around half of all Jewish civil servants, including judges, teachers, and government officials (non-Jewish political opponents were sacked in 1933, too); the remaining Jewish civil servants, who had initially been spared, followed within a few years. Jewish students were directly affected, after quotas were introduced into schools and universities in late April. Jews in many other walks of life, such as the cultural sphere, were also hit in 1933: musicians, actors, writers, and other professionals were harassed or driven out of employment altogether. Among them was the famous painter Max Liebermann, forced to resign as honorary president of the Prussian Academy of Arts, who memorably commented on
the new Germany: 'One can’t gobble as much up as one would like to puke'.

The various anti-Semitic measures introduced from above were accompanied and influenced by an extensive campaign involving local Nazi activists. It had started in March 1933 in German villages, towns, and cities, with assaults on Jewish shops and businesses, and violent attacks on individual Jews, including judges, lawyers, doctors, and students. The most extreme violence occurred inside the early detention or concentration camps. Jews made up only a small proportion of prisoners, arrested mainly as political opponents of the regime. But once inside, they were often victims of gruesome racial assaults. While deaths inside the early camps were unusual, it was no coincidence that many of the first victims were Jews: of the twenty-one prisoners killed by the SS in Dachau in 1933, at least fourteen were Jews.

The opening salvo in the assault on social outcasts was also fired in 1933. A new law passed on 14 July 1933 introduced the compulsory sterilization of those labelled as the ‘hereditary ill’. The law triggered a massive hunt for deviants, conducted by doctors, social workers, and directors of hospitals, asylums, and prisons, and assessed by judges at new ‘hereditary health courts’. Police measures also intensified, with the homeless and beggars targeted from an early stage: in September 1933, the police orchestrated a huge ‘beggar raid’ in streets, taverns, and night shelters, arresting some tens of thousands (most of them were apparently released again within days). Smaller raids picked out other social outcasts, such as prostitutes. The authorities also moved to destroy organizations and subcultures considered to be breeding-grounds of immorality and deviance—targets ranged from birth control clinics to bars popular among homosexuals or ex-convicts. For good measure, new laws against common criminals were passed too, including a provision for the forcible castration of sex offenders. Arguably most important were two measures introduced in November 1933, which allowed for the indefinite confinement of ‘dangerous habitual’ and ‘professional’ criminals (the main targets were actually recidivist property offenders). Those found guilty of new offences could be sentenced by courts to ‘security

² Quoted in Richard Evans, The Coming of the Third Reich (London, 2003), 415.
confinement’ (Sicherungsverwahrung) in regular prisons, while in Prussia other ex-convicts could be taken into ‘preventive police custody’ (vorbeugende Polizeihaft) inside the early camps.

The policy of exclusion launched in 1933 had far-reaching effects. Several measures—such as the sterilization law and ‘protective custody’—laid the basis for the persecution of many hundreds of thousands of ‘community aliens’ over the following years. Beyond that, broad patterns of persecution emerged in 1933 which shaped the future course of Nazi repression. For example, while the new rulers demonstrated from the start that they would not hesitate to resort to murder to reach their aims, they did not simply rely on un_restrained terror alone: a stream of laws, decrees, and regulations lent an appearance of legality to Nazi terror, which was important for the popular standing of the regime. After all, the promise to restore order had been a main ingredient in the Nazi appeal to the German public. This was one reason why the established legal system with its courts and prisons was never abolished, but continued to operate alongside new instruments of terror such as the SS. The result was some overlap between the different agencies of repression, as was typical for the ‘polycracy’ of the Third Reich in general.

The events of 1933 also point to the complexity of the Nazi web of terror. For some time after the end of the Second World War, the Nazi dictatorship was often pictured as a rigid totalitarian system, based on ruthless orders from above and blind obedience from below. Historians have since painted a more differentiated picture, which highlights two important aspects of Nazi repression. First, Hitler and his associates did not personally direct every act of terror. Rather, there was a dynamic interplay between the actions of the leaders and those of the rank and file. Hitler and other top Nazis (often occupying state offices after 1933) set the tone and initiated crucial policies. But the assault on the left, Jews, and social outsiders was also driven by local Nazi supporters, who believed that they were acting in line with Hitler’s wishes, without always awaiting detailed orders. However, these local activists still operated within the general framework defined by Hitler and others at the top: for example, Hitler’s announcement in July 1933 that the Nazi revolution was over contributed to a decline in rank-and-file terror over the following months. Second, repression in the Third
Reich always involved more than just a core of Nazi fanatics. Right from the start, it also relied on the cooperation and initiative of large numbers of state and municipal officials—policemen, judges, doctors, and many more—who, while sympathetic to Nazism, had not necessarily been fervent supporters before 1933. How can we account for their involvement in the policy of national rebirth through terror?

The policy of exclusion grew out of a jumble of ideas which had been around since the nineteenth century. The thinking about social outcasts, for instance, was shaped by theories of eugenics and degeneration, while demands for decisive action against the left had long accompanied the growth of the labour movement. Anti-Semitism had an even longer history, with the emergence of a modern racial variant in the late nineteenth century. All these exclusionary discourses—which were not unique to Germany—were radicalized during and immediately after the German defeat in the First World War, and again during the final crisis years of the Weimar state. Still, there was no seamless continuity from Weimar to the Third Reich: the break with previous practice was often sharp. In the Weimar years, there were influential critics of exclusionary policies, and this was one reason why some measures taken in 1933 were not introduced earlier. And even among those who had favoured repressive measures—against the left, Jews, social outcasts, or all of them—there had been no consensus: before 1933, views were extremely heterogeneous, ranging from the moderate to the lunatic extreme.

Crucially, the Nazis, a minor party for most of the Weimar period, had always belonged to the most radical fringe. They were already demanding compulsory sterilizations, opposed at the time even by many supporters of eugenics; they counted the most fanatical enemies of the left among their ranks; and their anti-Semitism was of the most vicious variety, making many other racists appear almost restrained by comparison. This raises a point of fundamental importance: the Nazi capture of power meant that the most radical exponents of a policy of exclusion took charge of the German state. They were now able to set the agenda. Some of their new initiatives were in line with what others outside the Nazi movement had been demanding for some time, and the Nazis could count on their active support. In other areas, though, the regime helped
to transform existing norms and values, creating a moral climate in which ever more radical assaults on ‘community aliens’ were increasingly regarded as legitimate. In this way, measures which had still been widely rejected in the 1920s found more and more collaborators among those previously outside the Nazi movement.

This did not mean that the Nazi policy of exclusion progressed in a clear and straightforward way. It did not follow some detailed master plan, nor were all ‘community aliens’ treated in the same way; different policies hit different groups at different times. Crucially, the identification of Jews as ‘racial aliens’ was set in stone. They were regarded as the most dangerous enemy, the personification of all that the Nazis feared and hated—consequently all Jews were to be excluded, in one way or another, from the new Germany. By contrast, the decision about who, exactly, counted as a political opponent or social outcast was more fluid: definitions were more vague and new ‘enemies’ were added all the time. This had two implications. On the one hand, it served as a deterrent against nonconformist political and social behaviour—most people would not want to risk being labelled a ‘community alien’. On the other hand, it meant that some potential outsiders could hope to escape repression by trying to adapt to the demands of the new regime. In this way, some former Communists, for example, could still end up as members of the ‘national community’. This was impossible for German Jews.

Political opponents

After the full-frontal assault on political opponents in the first half of 1933, repression in the Third Reich soon became more streamlined. The open terror by local Nazi activists started to decline in the second half of 1933 and most of their torture chambers were closed down. The same was true of the early camps, even though they did not disappear completely. From late spring 1934 onwards, the few remaining ones were coordinated in the hands of the SS. Terror inside these camps became more systematic; now, there was only one rule: that of the SS. But the camp system was still a very long way from the vast network of terror it became during
the Second World War. By mid-1934, following many releases over
the previous months, prisoner numbers were much smaller than
before, and numbers continued to fall, reaching a low point of
around 3,000 at the end of the year. In this period, other agencies
of the Nazi state played a much more decisive role in the assault
on political opponents.

At the centre stood the political police or Gestapo, a name
which quickly became synonymous with Nazi terror. Of course,
political police forces had existed in Germany before the Nazis
came to power, but they changed almost beyond recognition
in the Third Reich. Under the Nazis, the political police became
increasingly autonomous, first from the rest of the police apparatus,
then from outside administrative control as well. It was also
centralized, with national headquarters in Berlin and dozens of
regional offices replacing the old federated system. This new police
apparatus commanded extensive weapons of repression, among
which indefinite detention in concentration camps was only one,
albeit the most powerful. Fear of the Gestapo was widespread:
some opponents suspected police agents in all factories and on
most street corners. In reality, despite increases in personnel, there
were no more than an estimated 7,000 regular officials in 1937. The
Gestapo drew extensively on support from outside its ranks, using
information and denunciations from paid informers, low-ranking
party activists, and state and municipal agencies, as well as from the
general public. Many Gestapo officials themselves were veterans
of the Weimar police, sympathetic to the broader goals of Nazism
without necessarily being extremists. But matters were different at
the top. Here, a new generation of police officials emerged who
combined ambition and professionalism with radical ideological
convictions and murderous activism.

This development was inextricably linked to the relentless rise
of the SS leader, Heinrich Himmler. By spring 1934, still in his early
thirties, he was already starting to establish the SS concentration
camp system and had also gained almost complete control over the
political police in all German states. Himmler’s stock rose further
following the so-called Röhm Putsch of 30 June 1934, which
demonstrated that the brutal Nazi attack on political opponents
was not confined to the left: everyone could be declared fair
game, in this case SA leaders around Ernst Röhm, conservative
critics of the regime, and some other old enemies of Hitler. These
events also provided further evidence of the curious relationship
between law and terror in the Third Reich. On the one hand, Hitler
had not hesitated to initiate the murderous rampage, which left
an estimated 150–200 people dead; on the other, he made sure
that the killings were retrospectively ‘legalized’, in order to prevent
any judicial investigations. One of the main beneficiaries of the
murderous summer of 1934 was Himmler, whose SS had played a
key part in the whole affair. As a payback, Hitler declared the SS an
independent organization within the Nazi Party (it had hitherto
been part of the SA). Over the next two years, Himmler made
clever use of his growing status to see off critics and rivals for the
control of the German police apparatus, and, on 17 June 1936, he
was appointed by Hitler as Chief of the German Police.

Himmler’s advancement had serious repercussions. Not only
did it further strengthen the links between police and SS, it also
meant that the German police was now led by a man who believed
in a radical policy of exclusion—a key reason, no doubt, why
Hitler had backed Himmler during his rise. The almost inevitable
consequence was an extension of the police mandate. Initially,
the focus of the political police had been very much on the left:
Communists, in particular, proved more determined than some
officials had expected. But their open opposition—driven by the
delusion that Nazism was about to collapse and be replaced by
a ‘dictatorship of the proletariat’—eventually ran out of steam.
The growing popularity of the Third Reich deprived the resistance
of possible recruits, while those who still unequivocally rejected
the regime were increasingly demoralized and broken. Left-wing
activists (mostly men, but including hundreds of women too) who
were captured paid a high price in Hitler’s prisons, as did their
families on the outside, where they faced poverty and isolation.
One political prisoner reported after his release that inmates just
wanted to return home to their wives and children ‘and don’t want
anything more to do with politics’.

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By the mid-1930s, the organized left-wing resistance was pretty
much crushed. At around this time, Himmler and his associates,

³ Deutschland-Berichte der Sozialdemokratischen Partei Deutschlands, 7 vols. (Frank-
furt am Main, 1986), v. 876.
including his right-hand man Reinhard Heydrich, formulated a new, more sweeping mission for the German police, in line with the general radicalization of the Nazi state in the run-up to war. Advocating a policy of ‘racial general prevention’, the target of the police was moved from ‘enemies of the state’ to all ‘enemies of the Volk’.⁴ The police styled itself as the doctor of the German ‘racial organism’, cutting out and destroying all that was regarded as sick and dangerous. This vision contributed to the escalation of police terror against Jews and social outcasts in the second half of the 1930s. It also helped to create a growing pool of political suspects, including those charged with religiously motivated dissent, such as individual German priests and thousands of Jehovah’s Witnesses.

Despite the growing power of the police, Nazi Germany never became an all-out police state, in the sense that repression was never solely in the hands of the police. True, many of those arrested were dealt with directly by the Gestapo or the criminal police. Those regarded as serious offenders, however, were still largely left to the legal authorities, for trial, sentencing, and imprisonment. This meant that the legal system played a vital part in Nazi terror, too, even though it is often brushed over by historians.

The legal apparatus changed less visibly than the police in the Third Reich. Even at the top, there was no dramatic break with Weimar personnel. The Reich ministry of justice in Berlin was largely run not by diehard Nazis, but by experienced civil servants such as the national-conservative Reich minister Franz Gürtner, who was in this post from before Hitler’s own appointment as chancellor. But the German legal system was nevertheless transformed: it was centralized, some officials were dismissed, new laws and courts were introduced, and stricter sentences were passed. State prisons, run by the legal authorities, were also affected: rules became harsher, rations were cut, and conditions deteriorated. The most important innovation was the establishment of big prison camps, the largest of which (in the Emsland region) held over 9,000 prisoners in 1938; in contrast to most other German prisons, inmates here were systematically and brutally maltreated. More generally, the Third Reich saw a gradual subversion of fundamental

legal principles, such as equality before the law and the protection of courts from political pressure. Legal officials played an active part in this: some to ingratiate themselves with the Nazi regime, others in the naive expectation that ‘concessions’ would diminish extra-legal police measures, and others again because they truly believed that legal conventions prevented a more effective attack on ‘community aliens’.

Many political defendants ended up in prison. Those convicted for criticizing the regime often received short prison terms: in one case in 1936, the Bamberg special court sentenced a construction worker to four months in prison for saying that ‘Hitler has promised us all sorts of things and we still have nothing. The current system won’t last for much longer.’⁵ Active resistance against the regime was punished more harshly, with lengthy imprisonment. Most such cases came before higher state courts, which sometimes held mass trials with a hundred or more defendants, while cases regarded as particularly serious were dealt with by the new People’s Court (Volksgerichtshof) set up in 1934. In all, several tens of thousands of men and women were sentenced for treason until 1939, largely for connections to the Communist movement. Most German judges needed no prompting here: they had often made no secret of their nationalist sympathies in the Weimar years and welcomed the opportunity to crack down on the left. As a result, prisons filled up. Throughout the pre-war years, they generally detained more political prisoners than SS camps, just as the prison system as a whole was much bigger than the camps. At end of June 1935, there were some 23,000 political prisoners (out of a total of 107,000 prison inmates) inside the several hundred German prisons. By contrast, there were only a handful of SS concentration camps at this point, with around 3,500 inmates, not all of them political prisoners.

In the late 1930s, this balance between prisons and camps started to change. The number of political detainees inside prisons declined: as resistance fell, so did convictions for treason; in addition, many inmates who had been sentenced for resistance in the early years of Nazi rule reached the end of their terms and were

⁵ Quoted in Bernward Dörner, ‘Heimtücke’: Das Gesetz als Waffe (Paderborn, 1998), 189.
released. Meanwhile the population inside SS concentration camps increased, as the German police made greater use of their powers to detain suspects. Among them were numerous convicts rearrested on their release from prison—a practice widely supported by the legal authorities. The result was an increase in the number of political prisoners inside SS camps. But unlike in the early Nazi camps, these inmates—wearing the red triangle on their uniforms—were now often outnumbered by other victims of Nazi repression.

Social outcasts

The Nazi assault on social outcasts—a key part of the policy of exclusion—was quickly forgotten after the Second World War. It took several decades before historians started to uncover the fate of some of these ‘forgotten victims’, who included those reviled as ‘asocial’ or ‘degenerate’—sweeping terms which could be applied to virtually any behaviour regarded as deviant. The groups targeted were as diverse as the reasons given for pursuing them. Among the motives of the authorities was the deluded aim of eradicating crime and other social problems, the fanatical belief in racial hygiene, deep-seated social prejudice, and even the desire to exploit more labour power for the economy. These disparate ideas were held together by one overall goal: to exclude all those from the ‘national community’ who did not, or could not, fit in.

Two of the measures introduced in the first year of Nazi rule—castration and sterilization—aimed at a radical policy of ‘prevention through surgery’. Between 1934 and 1939, German courts sentenced around 2,000 male sex offenders to forcible castration, most of them paedophiles, with exhibitionists and rapists targeted as well. Crucially, these castrations continued even after it became clear that they did not necessarily eradicate the offender’s sex drive, which had been the main justification for the operations in the first place. While castration targeted a rather specific group of men only, sterilization took place on a massive scale among both sexes: between 1934 and 1939, at least 300,000 women and men were compulsorily sterilized. Several hundred
of them, predominantly women, did not survive the operations. Among the victims of the sterilization policy were disabled people, singled out for mental illness and physical disabilities. But the policy went much further. This was already clear from the official commentary on the Sterilization Law, which claimed that the operations would prevent ‘inferiors’ and ‘degenerates’ from having children, as these would swell the ranks of the ‘slow-witted’ and ‘asocial’. Such thinking led to the sterilization of thousands, largely men, for ‘severe alcoholism’. It was also behind the classification of individuals as ‘congenitally feebleminded’, the most common ‘diagnosis’ for sterilization. Often, this was based on nothing more than social and moral prejudice, dressed up as medical reasoning: extreme poverty, poor education, and promiscuity (the latter predominantly among women) could all be used as evidence—as in the case of the 21-year-old Anna V., who had been put forward by the Hadamar asylum because she was regarded as ‘sexually unrestrained’ and ‘workshy’. In short, sterilization was seen by the authorities as a major weapon against social outcasts. But its primary concern was with the future, trying to prevent the birth of ‘degenerates’. As far as the present was concerned, social outcasts were also hit by a variety of other measures in the 1930s.

Nazi policy against those on the margins of society involved various forms of discrimination. Social outcasts were excluded from more and more benefits—from marriage loans to social housing—and those still on welfare had their benefits cut. The authorities also tightened the control over their movements: the criminal police, for example, pursued a coordinated policy of surveillance of ‘professional criminals’. There was also growing concern about large ‘asocial’ families. Numerous cities established special ‘colonies’ where ‘asocial’ and ‘anti-social’ families, often on welfare, were forced to live in a strictly controlled environment. On top of this, regional and national centres were set up to collect data on different suspects, such as abortionists and homosexuals. Of course, this was not just about keeping an eye on them. It was also supposed to facilitate their detention.

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7 Cit. in Michael Burleigh, Death and Deliverance (Cambridge, 1994), 64.
More and more social outcasts were locked up in the Third Reich. Initially, detention was still in the hands of the traditional state apparatus. True, some men and women classified as asocial or criminal were held early on inside SS concentration camps. But numbers were still small, compared with those inside regular workhouses and prisons. Workhouses had traditionally held beggars, prostitutes, pimps, and homeless people, who could be detained for up to two years. In the Weimar years, workhouses had been in decline and were often left half-empty. This changed after the Nazis came to power: by October 1936, there were well over 4,000 inmates (overwhelmingly men). This was not simply the result of tighter policing. It was also a reflection of new powers given to German judges, who could commit selected individuals to indefinite confinement in workhouses. Similar judicial powers contributed to the rise of inmate numbers in regular prisons, too. Sentencing for criminal offences became stricter in general, and judges were particularly enthusiastic about their powers to confine ‘dangerous habitual’ criminals indefinitely in prisons. By January 1937, there were already some 3,000 such prisoners (again, overwhelmingly men)—far more than the Reich Minister of Justice had envisaged when the legislation was first introduced in 1933. Most of these prisoners were not particularly dangerous at all, but minor offenders from the margins of society, guilty of repeated petty property offences such as stealing food, clothes, or bicycles. One of them was Gustav T., a petty thief, who tried to fight his impending sentence: ‘I deny that I am an “incorrigible thief”’, he declared to the authorities. ‘During all of my thefts I was suffering from hardship.’ But this defence, which held some truth, cut no ice with the judges, who regarded him as ‘workshy’ and sentenced him to indefinite security confinement. Ultimately, offenders like Gustav T. were imprisoned not so much for their dangerous criminal energy, but because they were regarded as social nuisances and as biological inferiors.

The detention of social outcasts escalated in the second half of the 1930s. This was linked directly to the radicalization of the German police: aiming at a policy of ‘racial general prevention’,
the police stepped up the persecution of male homosexuals, abortionists, the homeless, prostitutes, and other people regarded as socially marginal. Many of those arrested still ended up before the courts and in prison. For instance, trials of those accused of homosexual activity (already illegal in the Weimar Republic) increased dramatically, assisted by stricter legislation passed in 1935. Between 1936 and 1939, almost 30,000 men were sentenced for homosexual offences, generally to prison terms. Lesbians were exempt, partly because sexist Nazi leaders and lawmakers saw female homosexuality as rather more harmless and ‘curable’. But the police also started to take more and more social outcasts straight to concentration camps. Police strategy was embodied in new German-wide regulations for preventive police custody (14 December 1937), which allowed for the indefinite detention of everyone who ‘endangers the general public by his asocial behaviour’. This included, in Heydrich’s words, ‘beggars’, ‘whores’, and the ‘workshy’, among others.⁹ In 1937/8, several high-profile police raids put this thinking into practice. In March 1937, some 2,000 ex-convicts and suspected criminals were arrested and taken to the camps; in April 1938, 1,500–2,000 supposedly ‘workshy’ individuals followed; and in an extensive raid against ‘asocials’ in June 1938, 9,000 or more men were arrested and taken to concentration camps—among them many homeless and others regarded as irritants by local police and welfare authorities. The number of arrests far exceeded the official minimum target set for this operation—another example of the escalation of repression from below. As a result, ‘asocial’ prisoners (wearing a black triangle) now outnumbered political prisoners in the concentration camps.

In turn, the SS camp system greatly expanded in the second half of the 1930s. Concentration camp prisoner numbers rose from 4,761 in early November 1936 to around 24,000 two years later. Most of them were held in new, purpose-built SS camps such as Sachsenhausen (1936), Buchenwald (1937), Mauthausen (1938), Flossenbürg (1938), and Ravensbrück (1939), at that time the only concentration camp for women. The growth of the camp system was not only a reflection of the new style of policing; there was also

an economic component. As labour became increasingly scarce in Germany, following the economic recovery and the growing mobilization for war, public terror against supposedly ‘workshy’ individuals was also meant to discipline and intimidate the German workforce at large. The message was clear: those who were not seen to be pulling their weight ended up in the camps. And the SS itself, from the late 1930s, also developed greater economic ambitions. For example, camp inmates were supposed to provide bricks and stones for Hitler’s megalomaniac architectural projects. This was why police raids on ‘asocials’ targeted, at least on paper, able-bodied workers.

In reality, it proved difficult to turn the camps into productive entities. Economically, some pre-war SS schemes failed completely—the giant brickworks built near Sachsenhausen, for instance, were unable to produce even one usable brick—and only succeeded in making the lives of many inmates even more miserable. Conditions inside the camps were appalling, much worse than in prisons and workhouses, not least because the SS guards saw themselves as political soldiers fighting enemies of the regime. The SS inspector of the concentration camps urged his men to act ruthlessly: ‘There is no room for weaklings in our ranks.’

In this battle against helpless prisoners, everything was allowed: beatings, whippings, torture, and even murder. Deaths in the concentration camps shot up rapidly in the late 1930s. In 1938 alone, more than 1,400 prisoners died. Hundreds of them were Jewish men, killed in the aftermath of the November pogrom, when Jews briefly made up the majority of all camp inmates.

‘Racial aliens’

The policy of exclusion was at its most sweeping against Jews, that is, all those classified as ‘Jewish’ by the German authorities. It trapped all Jews, irrespective of age or sex, and it touched on all aspects of their existence, with countless initiatives aimed at their social segregation and discrimination, economic isolation, expropriation,

¹⁰ Quoted in Karin Orth, Die Konzentrationslager-SS (Munich, 2004), 130.
and detention. Increasingly, these different measures were seen as elements in what emerged as the ultimate purpose of pre-war Nazi racial policy: driving all Jews out of Germany. But this policy followed no straight road. It unfolded in a complex way, driven by the dynamic between central and local activity, bureaucratic measures, and open terror. In the pre-war years, this led to several twists and turns.

Following the initial onslaught in spring and summer 1933, there were two further stages of escalation in the Nazi war on Jews in Germany. The first took place in spring and summer 1935, and culminated in the Nuremberg Laws, which officially branded Jews as second-class citizens and provided the basis for their racial classification. It had started with waves of attacks by local Nazi activists, targeting Jewish shops as well as relationships between Jews and ‘Aryans’. In part, the attacks provided an outlet for the pent-up aggression of disgruntled Nazi thugs. But these men also acted in line with Hitler’s anti-Semitic ideology—and they were not alone in doing so. A ban on marriages and sexual relations between Jews and non-Jews, for example, was also pushed for by the Nazi Party press, some judges, and central government. It was this combination of local terror and central planning that led to the passing of the Nuremberg Laws in September 1935, which banned future marriages and extra-marital relationships between Jews and non-Jews; men found guilty of ‘race defilement’ would be sentenced to imprisonment. Women were excluded from the law, although they could be punished in other ways by the courts or the police. German judges soon applied the law as widely as they could, punishing even kisses between Jews and non-Jews. But the detention of Jews was still fairly unusual at this point: no more than a few hundred Jewish men were sentenced for ‘race defilement’ each year. Anti-Jewish policy was not yet primarily about camps and prisons.

Compared with the burst of anti-Semitic frenzy in 1935, the majority of the early period of Nazi rule might appear calm. In reality, this was anything but a ‘quiet’ time for German Jews. There were so many initiatives, on so many levels, that their cumulative impact was massive: step by step, Jews were forced into a life of poverty and isolation. Economic discrimination advanced on many fronts at once. More and more Jews were driven out of their
jobs, special taxes were introduced, and discrimination before industrial tribunals and civil courts intensified too, affecting everything from job disputes to tenancy agreements. On a local level, Jews also became the victims of constant harassment. Municipal officials excluded them from all kinds of services and banned them from parks, pools, and other public spaces, an important reason— together with the incessant anti-Semitic propaganda— why any remaining social contacts between Jews and ‘Aryans’ were largely abandoned by the mid-1930s. Local activists in the SA, Hitler Youth, and NSDAP also played a crucial part, mounting violent campaigns against Jewish businesses, setting up boycotts, smashing windows, and intimidating customers. This terror from below further increased the economic pressures on Jews and by early 1938, most of their businesses had been ‘Aryanized’ (sold to non-Jewish Germans, generally at far below market value) or closed down completely. But local terror did not go entirely unchecked. State and party officials sanctioned some measures and tried to rein in others, though more out of tactical concerns than anything else. As far as Hitler was concerned, any ‘restraint’ was purely strategic, affected for example by foreign-policy considerations, such as the 1936 Olympics, held in Germany, when the Nazi dictatorship wanted to present a more benign face to the world. Such concerns diminished rapidly in the second half of the 1930s, as Germany became more belligerent on the international stage, with dire consequences for Jews living in Germany.

In 1938, Nazi policy against Jews entered its final phase of escalation before the war. The state robbery of their property was intensified and they were hit by an avalanche of new discriminatory laws. The Anschluss (annexation) of Austria in March, which brought some 200,000 more Jews into the Reich, added further momentum. Austria became a testing ground for Nazi anti-Semitic policy. New methods were pioneered here to force Austrian Jews to emigrate, accompanied by the first mass expulsions of foreign Jews, a measure that was soon extended to the whole of Germany: in late October 1938, some 18,000 Polish Jews, many of them born in Germany, were deported from the country. The number of Jews inside SS concentration camps also increased sharply in mid-1938. In June, well over one thousand Jewish men with previous convictions— ranging from trivial traffic offences to transgressions
against the myriad anti-Semitic laws—were taken to the camps in the course of the police raids against ‘asocials’. Taken together, all these measures amounted to a marked escalation of anti-Jewish policy, designed to make life for Jews inside the German Reich intolerable. But this escalation was soon overshadowed by the pogrom in November, which opened a new chapter in Nazi anti-Semitism.

The spark that set off the violence was the assassination of a German diplomat in Paris by Herschel Grynszpan, a Jewish teenager who wanted to protest against the deportation of his family from Germany to the Polish border. The diplomat’s death was seized upon by the Nazi leadership as an excuse to wreak destruction against Jews all over Germany. The pogrom was instigated by Joseph Goebbels, with Hitler’s explicit backing, on the evening of 9 November 1938. Within hours, local Nazi activists went on the rampage, given the go-ahead by their superiors to unleash their hatred. Hundreds of synagogues were set on fire and Jewish cemeteries desecrated, thousands of houses and shops were wrecked, their owners abused and beaten, and many hundreds of Jews were murdered or committed suicide. In addition, up to 30,000 Jewish men were taken to concentration camps, apparently on Hitler’s personal initiative; most of them were released after several weeks, but not before they had endured an unprecedented torrent of violence. And the ruins of the synagogues had barely stopped smouldering when the Nazi regime pushed through a new round of racial enactments. In a particularly cynical move, German Jews were forced to pay one billion Reichsmark as ‘atonement’ for the ‘hostile attitude of Jewry against the German people’.¹¹ As the German economics supremo Hermann Göring concluded in a meeting on 12 November 1938, where this and other new anti-Jewish measures were decided: ‘I would not like to be a Jew in Germany.’¹²

The pogrom was a watershed for German Jews. Since 1933, they had suffered mounting hardship: persecuted, isolated, and frozen

out by former friends and neighbours, they often descended into poverty, with many tens of thousands unemployed; those who still had jobs were increasingly working as manual labourers. In the face of discrimination and destitution, many German Jews decided to leave their home country, despite the massive financial levies placed on emigrants by the Nazi authorities, the difficulties of obtaining visas, and the uncertainty of life abroad. But most Jews had stayed in Germany, some withdrawn, others determined to withstand the Nazi attack. Jewish communities and organizations provided some refuge, promoting cultural activities and sports, and offering education and social welfare. But the massive shock of the November pogrom made clear to most remaining Jews that it was impossible to adapt to life in Nazi Germany.

In the following months, a desperate scramble to escape ensued. After the ‘inferno’ of the pogrom, the former professor of philology Victor Klemperer noted in his diary at the end of 1938, ‘I have really been doing everything humanly possible to get out of here’.¹³ In the end, Klemperer did not manage to leave, but many other German Jews did: it is likely that over 100,000 escaped between the pogrom and the outbreak of the Second World War. This was exactly what the Nazi leadership wanted, of course. Radical anti-Semites, such as the self-styled Jewish ‘experts’ in the SD (the SS Sicherheitsdienst, or security service, dedicated to the surveillance of opponents), had long demanded the ‘total emigration of Jews’, and by the late 1930s, this was government policy.¹⁴ Those Jews left behind in Germany—poor, elderly, and predominately women—were hit by a whole barrage of further anti-Semitic measures introduced in late 1938 and 1939. Segregation intensified, with Jews increasingly forced into shared houses in big cities. Equally significant was the growing conscription of Jews—some 15,000 by May 1939—for forced labour in municipal jobs and larger public work projects, such as roadworks.

Jews were the main targets of Nazi racial policy, but not its only victims. Others were also attacked as ‘racial dangers’ and ‘inferiors’. Among them were children born to black soldiers and

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¹⁴ Internal SD report, May 1934, cit. in Peter Longerich, *Politik der Vernichtung* (Munich, 1998), 68.
German mothers during the Allied occupation of the Rhineland after the First World War, who were forcibly sterilized in the Third Reich. Even more important, in the eyes of the authorities, was the ‘threat’ posed by Gypsies. They were a much smaller minority than Jews, with an estimated 20,000–26,000 living in Germany when Hitler came to power. Hitler himself showed little interest in their persecution, in sharp contrast to his obsession with Jews. Nazi policy against Gypsies was left to others, such as the police and municipal authorities, who initially continued to target Gypsies as social outcasts. For, unlike German Jews, Gypsies had already been on the very margin of society in the Weimar Republic. Suspect because of their non-normative lifestyle, they had been subject to constant harassment and social control. Such measures were intensified in the early years of the Third Reich, with further police checks, cuts in benefits, and new restrictions on work and settlement.

It was in the second half of the 1930s that anti-Gypsy measures escalated, with two crucial developments. First, Himmler’s expanding police apparatus took on a more influential role in the persecution of Gypsies. From 1938, police measures were to be coordinated in the new Reich Central Office for Combating the Gypsy Menace and Gypsies were targeted by preventive police detention. Hundreds were arrested in the June 1938 raids on ‘asocials’ and taken to concentration camps. Policing was increasingly influenced by racial thinking. Outlining further strict measures, including the creation of a vast database of records, Reinhard Heydrich spoke in March 1939 of the need for the ‘racial separation of the Gypsies from the German people’.¹⁵ This growing construction of Gypsies as a racial, rather than social threat, was the second major change in this period. The shift was already signalled in 1935: soon after the Nuremberg Laws had been passed, they were extended to Gypsies on account of their ‘alien blood’. This raised the question of how individual Gypsies would be identified. In their classification of Jews, the Nazis had fallen back on their religious affiliation, and that of their parents and grandparents; while this exposed the absurdity of Nazi racial theory, it did provide clear criteria required for the bureaucratic process of identification and

exclusion. No such sleight of hand proved to be possible in the case of Gypsies. Instead, the authorities put their trust in bogus racial science, and a new institute was set up to racially classify Gypsies and to collect data about them. This work later played some part in the wartime deportations of German Gypsies to Auschwitz—one of the many fateful legacies of the pre-war policy of exclusion.

1939 and beyond

During the Second World War, the ‘policy of exclusion’ turned into a ‘policy of annihilation’.¹⁶ Mass murder became the order of the day: millions of ‘community aliens’ were killed, both inside the Third Reich’s expanding borders and elsewhere in German-dominated Europe. The contrast with pre-war policy was dramatic—then, murder had generally still been the exception, not the norm. But does this mean that the war somehow turned Nazi policy on its head? This would seriously underestimate the importance of pre-war policy. For even though there was no direct line from early repression to genocide, pre-war policies left an important mark. Various actions against ‘community aliens’—such as isolation, detention, identification, and deportation—provided a base for the later wartime measures. Also, key parts of the Nazi web of terror were already firmly in place by the time war broke out. These included a coordinated concentration camp system run by ruthless SS men; a powerful, independent police apparatus, with close links to the SS and headed by professionals committed to the Nazi cause; a perverted legal apparatus, based not on justice and fairness, but on prejudice and political conformity; and a large body of bureaucrats, professionals, municipal officials, and local Nazi activists eager to drive repressive measures forward.

It should also be emphasized that the potential for radicalization was inherent within the policy of exclusion from early on. The Nazi regime was so committed to it that the inevitable failure to bring about the harmonious ‘national community’ did not lead to the abandonment of this policy, but its further escalation. If

¹⁶ For the latter term, see Longerich, Politik der Vernichtung, esp. 16–17.
only ‘community aliens’ were removed even more ruthlessly, it was thought during the war, the dream of national salvation would become reality after all. This escalation was aided by the vague terminology which characterized repressive policies: ‘exclude’ could mean different things, as could ‘community alien’, inviting ever more radical interpretations and initiatives from below.

What is more, there had already been ominous signs in the last phase before the war that Nazi policy was taking a more radical turn. In a speech to the Reichstag on 30 January 1939, Hitler made his notorious ‘prophecy’ that another world war would lead to the ‘annihilation of the Jewish race in Europe’.¹⁷ This should not be mistaken as an early announcement of his plans for the Holocaust. Rather, Hitler’s main aim was to terrorize even more Jews into fleeing the country and to prevent the West from contemplating action against Germany. But this was still an extraordinary threat coming from the leader of the German state and it gives an insight into Hitler’s increasingly genocidal mindset. It was also indicative of the murderous escalation of Nazi policy in late 1930s more generally: the state-sponsored pogrom against Jews and the sharp rise in deaths inside SS camps showed that policy was starting to change. Elsewhere, preparations were already under way for a secret programme to murder the disabled. After Hitler had given the go-ahead for killing selected handicapped children, detailed plans were drawn up from early 1939, and implemented from summer 1939 onwards. At around this time, Hitler probably also approved the extension of mass murder to handicapped adults. The first killings took place during the war, but the murderous ‘euthanasia’ enterprise was taking shape before the war began.

The pre-war experience also taught Nazi leaders that they did not really have to worry about popular opposition. The policy of exclusion had been no secret. Public speeches and newspapers, radio programmes, and illustrated magazines, books, and academic journals gave many details of what was going on. Of course, this always passed through the filter of Nazi propaganda, with key facts distorted and omitted; but it was clear that a massive campaign was under way. Indeed, many Germans saw this for themselves: police raids, violent attacks, and boycotts often took place in broad

¹⁷ Hitler speech in the Reichstag, 30 Jan. 1939, in Domarus, Hitler, ii/1, 1058.
daylight. So how did ‘ordinary Germans’—those not directly affected—respond?

Historians have found it difficult to answer this question: it is hard to gauge popular opinion in a society where criticism of the regime was a criminal offence. What one can say is that reactions were complex. Clearly, terror against some groups was more popular than that against others. Harsh measures against ‘asocials’ were probably widely welcomed; after all, suspicion of social outcasts had already been intense in the early 1930s and before. By contrast, millions of former supporters of the SPD and KPD would have had very mixed feelings, to say the least, about the crackdown on the left. The kind of approach taken by the authorities was also crucial in shaping public opinion: actions which appeared lawful generally gained more acceptance than open terror. The Nuremberg Laws, for instance, were widely greeted by a mixture of approval and indifference, while the extreme violence of the 1938 pogrom was rejected by many.

Of course, popular reaction to Nazi repression went beyond passive support, apathy, or partial criticism. Fear was an important factor, too: many measures were intended as a warning to broader sections of the population not to stray from the social and political code of the Third Reich. At the other end of the spectrum, numerous ordinary Germans actively reinforced repression by denouncing ‘community aliens’ to the authorities. Such denunciations proved important in some cases (such as relationships between Jews and non-Jews), less so in others (such as political resistance) where the police themselves were more proactive. A large number of supposed offences were never denounced, of course; many Germans did not become unconditional supporters of Nazi repression. But nor did they actively oppose it. The Nazi leaders realized that a sizeable minority of collaborators, and an often passive population, was enough to allow them to pursue an ever more radical policy of exclusion.