An infamous date

By Harry Reicher

The brutal, sadistic era of Nazi Germany, though relatively brief historically—12 years in all, from 1933 to 1945—left in its wake a number of dates that continue to live in infamy. April 7, 1933, the day on which the euphemistically named Law for the Restoration of the Civil Service was promulgated, is one of these. And the day bears particular resonance for lawyers.

In order that "officials of non-Aryan descent are to be retired," the law was the opening shot in a systematic assault by the Nazi regime on the income-earning capacity of the Jews, requiring the dismissal of Jewish civil servants, as well as university professors, lawyers, and others, who were all promptly closed to Jews. And with civil servants, in each case a law giving effect to the decree was promulgated. "The profession of lawyer is closed to Jews," proclaimed one law. "Licensees of Jewish physicians unremovable," declared another; "Jews are excluded from the operation of individual retail shops, as well as the independent operation of a trade," announced a third, and so on.

This campaign emasculated, and, is a sick, perverse way, followed logically from the enigmatic Nazi racial ideology, a critical pillar of which viewed Jews as a mortal danger to the fabric of society, which thus required the elimination of their influence from it. The effect of the campaign was direct, immediate, and personal on the daily lives of Jews in Germany, and the lives of the Jews of Germany. And they were horrific: The measures, dizygotic and testimony of survivors are replete with heart-rending accounts of loss of income, and the way this translated into terrible financial difficulties, with the most basic items of food, clothing and shelter becoming an insurmountable burden. The writing of the deepest empathy, especially in anyone who has ever been unemployed, or endured financial hardships.

From middle class to desperate

Viktor Klemperer, in his perceptive and moving diary, traces the decline of himself and his wife from the life of a middle-class academic into poverty, reporting how he took to measuring the distance of Sunday afternoons drives, conscious of the cost of gas, and how he gave up to his frustration as being reduced to a diet of potatoes. Professor Marion Kaplan in BETWEEN DIGNITY AND DESPAIR wrote of the heart-rending facts of role reversal, in which, in a tradition-ally patriarchal society, women were suddenly thrust into the unfamiliar role of breadwinners, as well as the becoming the emotional and psychological mainstays of families. The descent into despair chronicled in various writings from about the era caused us to provoke intense emotions, even decades later.

The campaign to prevent Jews from earning an income constituted a fundamental assault on one of their most basic human rights. The ability to work, to earn an income and support oneself and one's family is one of the indices of a human being. Indeed, the charter of the post-World War Il human rights movement, the Universal Declaration of Human Rights, proclaims that "everyone has the right to work," and in "just and favorable remuneration ensuring himself and his family an existence worthy of human dignity." The universal declaration identified the very rights that the Nazis had wrested from certain classes of people, particularly Jews. The declaration's structure is a reaction, measure-for-measure, proclaiming those very rights to be human rights.

One of the most extraordinary aspects of the Nazi regime was that so many of their actions were perpetrated "in cool blood," from the initial denial of economic opportunity to the ultimate dépôt of life itself. One after another of the industries became closed to Jews and the effects were by means of purely legislative—one of the hallmarks of the Nazis' fanatical obsession with legislating their rising level of discrimination and atrocities.

In reflecting on the significance of the anniversary this week of the enactment of the Law for the Restoration of the Civil Service, lawyers might ask themselves what special lesson we can draw from the day for us. The legislation itself is a harsh reminder that it is possible to commit the most grotesque indignities through "legal" means. The Nuremberg 'Justice Trial' (or Justice Cases) in which the leading figures in the Nazi legal establishment were tried, bears this out, having heard evidence about the judges who continued to serve in the German judiciary, applying and enforcing the laws of the Third Reich, the tribunal concluded: "The dignity of the accused was subordinated beneath the role of the jurist."

Underlying these stark facts is an obvious yet fundamental point: Law is inherently neutral. If it is used with wisdom and compassion, it can accomplish the greatest good. But if a legal system falls into the wrong hands, it can become the instrument of the greatest barbarities. If April 7 reminds us of that, it has accomplished something important.

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