

■ NAZI LAWS

# An infamous date

By Harry Reicher SPECIAL TO THE NATIONAL LAW JOURNAL

**T**HE BRUTAL, sadistic era of Nazi rule in 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 ordering that "Officials of non-Aryan descent are to be retired," the law was the opening salvo 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, the law was the model for a relentless and merciless campaign by which professions, occupations, trades and businesses, one after another, were all peremptorily closed to Jews. And as with civil servants, in each case a law giving effect to the closure was promulgated. "The profession of lawyer is closed to Jews," proclaimed one law. "Licenses of Jewish physicians terminate," 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 emanated, and, in a sick, perverse way, followed logically from, the egregious 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 effects of the campaign were direct, immediate and personal on the daily lives of Jews in Germany. And they were horrific. The memoirs, diaries 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 immense burden. The writings evoke the deepest empathy, especially in anyone who has ever been unemployed, or endured financial hardships.

#### From middle class to desperate

Victor Klemperer, in his perceptive and moving diaries, 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 afternoon drives, conscious of the cost of gas, and how he gave vent to his frustration at being reduced to a diet of potatoes. Professor Marion Kaplan in *Between Dignity and Despair* wrote of the heart-rending cases of role reversal, in which, in a traditionally 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 and about the era cannot fail 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 indicia of a human being. Indeed, the charter of the post-World War II human rights movement, the Universal Declaration of Human Rights, proclaims that "everyone has the right to work" and to "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 wrenched 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 "lawfully"—from the initial denial of economic opportunity to the ultimate denial of life itself. One after another of the indignities heaped upon the Jews was effected by means of pseudo-legislation—one of the hallmarks of the Nazis' fanatical obsession with legalizing 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 message the day bears for them. The legislation itself is a harsh reminder that it is possible to commit the most grotesque illegalities 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 dagger of the assassin was concealed beneath the robe 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. **REJ**

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