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Michael F. Polgar

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# Professional Ethics in Three Professions during the Holocaust

**Michael F. Polgar**

*Penn State University, USA*

*E-mail address:* [mfp11@psu.edu](mailto:mfp11@psu.edu)

*ORCID ID:* <https://orcid.org/0000-0003-1856-7577>

## Abstract

*Modern scholars and bioethicists continue to learn from the Holocaust. Scholarship and history show that the authoritarian Nazi state limited and steered the development and power of professions and professional ethics during the Holocaust. Eliminationist anti-Semitism drove German professions and many professionals to join in policies and programs of mass deportation and ultimately genocidal mass murder, while also excluding many professionals (including most Jewish professionals) from paid work. For many physicians and other medical professionals, humane and truly ethical practices were limited by constrained professional autonomy and coercive state laws. Education and research in natural sciences were distorted by applications of racist eugenic policies and practices. In law schools and legal professions, professionals were rewarded as judgmental enforcers of state policies, often working with limited independent agency and in the public sphere. Mass harm and mass crimes were therefore perpetrated in accordance with Nazi laws and policies, incorporating professions and professionals into destructive practices, along with other occupational groups.*

**Key-words:** *bioethics; holocaust; professional ethics; independent agency; public sphere*

## I. Introduction

Bioethics has a tradition of learning from the Holocaust,<sup>1</sup> especially with respect to medical ethics,<sup>2</sup> the limits of research with human subjects,<sup>3</sup> and the immorality of eugenics.<sup>4</sup> Since the Holocaust, the Nuremberg Code has been created, endorsed, and built upon by internation-

<sup>1</sup> Arthur L. Caplan, *When Medicine Went Mad: Bioethics and the Holocaust* (Totowa, NJ: Humana Press, 1992).

<sup>2</sup> Arthur L. Caplan, "The Meaning of the Holocaust for Bioethics," *The Hastings Center Report* 19, no. 4 (1989): 2-3.

<sup>3</sup> Sheldon Rubinfeld, and Susan Benedict, *Human Subjects Research after the Holocaust* (Dordrecht: Springer International Publishing, 2014).

<sup>4</sup> Arthur L. Caplan, Glenn McGee, and David Magnus, "What Is Immoral About Eugenics?" *British Medical Journal* 319, no. 7220 (1999): 1284-1285.

al and national actions, as has the 1964 Helsinki Declaration condemning medical abuse of human experimentation.<sup>5</sup> Horrifying mass crimes, including genocide, human experimentation, and euthanasia, perpetrated by the authoritarian National Socialist (Nazi) regime, were rationalized using racist and anti-Semitic ideologies which were deeply rooted in German biology, medicine, sciences, and public attitudes.<sup>6</sup>

Many Nazi-era scientists and physicians supported persecution of racialized groups, such as Jews and Roma, by advancing ideologies. This came to public attention in the post-war Nuremberg trials.<sup>7</sup> While eugenics had widespread and international public support around the time of the Holocaust in many nations,<sup>8</sup> the Nazi Germans took eugenic theories to extremes in both science and medicine.<sup>9</sup> Policies based on eugenics allowed unethical practices, from sterilization to murder, based on national and local law,<sup>10</sup> which were enacted and operationalized without successful opposition from medical, scientific, or legal professions.<sup>11</sup> A Nazi version of “medical ethics” was reinforced by teaching physicians their obligations to their profession and to the Nazi German state.<sup>12</sup> Obligations to individual people under Nazi medical ethics was subjugated in favor of actions based on an eliminationist anti-Semitism that supported an authoritarian regime.<sup>13</sup>

Bioethics has grown to serve as a system of checks and balances for unethical medical practice since the Holocaust, and it has a respected tradition of considering the ways that social and cultural contexts influence the practice of health care and research.<sup>14</sup> Bioethics has incorporated the scholarship

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<sup>5</sup> Michael H. Kater, *Doctors under Hitler* (Chapel Hill: University of North Carolina Press, 1989), 6.

<sup>6</sup> Christopher Hutton, *Race and the Third Reich: Linguistics, Racial Anthropology and Genetics in the Dialectic of Volk* (Cambridge; Malden, MA: Polity, 2005), 17-33.

<sup>7</sup> Caplan, “The Meaning of the Holocaust for Bioethics,” 2-3.

<sup>8</sup> Alison Bashford, and Philippa Levine, *The Oxford Handbook of the History of Eugenics* (New York: Oxford University Press, 2010), 1-23.

<sup>9</sup> Patricia Heberer, “Science,” in *The Oxford Handbook of Holocaust Studies*, eds. Peter Hayes, and John K. Roth, 39-53 (Oxford: Oxford University Press, 2010).

<sup>10</sup> Michael J. Bazyler, *Holocaust, Genocide, and the Law: A Quest for Justice in a Post-Holocaust World* (New York: Oxford University Press, 2016).

<sup>11</sup> Telford Taylor, “The Legal Profession,” in *The Holocaust: Ideology, Bureaucracy, and Genocide: The San José Papers*, eds. Henry Friedlander, and Sybil Milton, 133-140 (Millwood, NY: Kraus International Publications, 1980).

<sup>12</sup> Florian Bruns, and Tessa Chelouche, “Lectures on Inhumanity: Teaching Medical Ethics in German Medical Schools under Nazism,” *Annals of Internal Medicine* 166, no. 8 (2017): 591-595.

<sup>13</sup> Daniel Jonah Goldhagen, *Hitler's Willing Executioners: Ordinary Germans and the Holocaust* (New York: Alfred A. Knopf, 1996).

<sup>14</sup> Arthur Kleinman, Renée C. Fox, and Allan M. Brandt, “Introduction: Bioethics and Beyond,”

of leading philosophers and social scientists, including works encouraging the teaching of non-biomedical topics to medical students.<sup>15</sup> One important and interesting combination of bioethics and the Holocaust is to explore the roles, behaviors, and conditions for professions and professionals during the first half of the twentieth century.<sup>16</sup> We learn from “sociological bioethicists” that people and groups motivated or constrained by bioethics, including medical and legal professionals, have obligations to work towards the common good through the pursuit of social justice in addition to protecting individual rights.<sup>17</sup>

Individual and human rights during the Holocaust were not subject to systematic protection by either international organizations or by respected professional organizations. Jews, including Jewish professionals, were subject to systematic discrimination and eventually the loss of all rights under German law.<sup>18</sup> After the Holocaust, international human rights law grew substantially, in part to fill this void.<sup>19</sup> During the Holocaust, Nazi power over professions (and professionals) redirected, coerced, and transformed scientific, medical, and legal goals, expenditures, and practices. This transformation sometimes involved disguising policies of persecution and later genocide with pseudo-scientific fictions and with “double-speak,” in which propaganda and policy claimed “racial hygiene” as a primary goal of science, medicine, law, and education.<sup>20</sup> Grotesquely, physicians were employed in “medical killing” and other forms of systemic harm, violating bioethical principles, including autonomy, beneficence, justice, and non-maleficence.<sup>21</sup> Coercive transformations of information and education also impacted scientific and legal professions and professionals.

Professional autonomy and ethical practice are hallmarks that can be affected by the environment within which professionals must practice.<sup>22</sup> During

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*Daedalus* 128, no. 4 (1999): vii.

<sup>15</sup> Renée C. Fox, “Is Medical Education Asking Too Much of Bioethics?” *Daedalus* 128, no. 4 (1999): 1-25.

<sup>16</sup> Renee C. Fox, and Judith P. Swazey, “Examining American Bioethics: Its Problems and Prospects,” *Cambridge Quarterly of Healthcare Ethics* 14, no. 4 (2005): 361-373; Renée C. Fox, Judith P. Swazey, and Judith C. Watkins, *Observing Bioethics* (New York: Oxford University Press, 2008).

<sup>17</sup> Renée C. Fox, “Moving Bioethics Towards Its Better Self: A Sociologist’s Perspective,” *Perspectives in Biology and Medicine* 59, no. 1 (2016): 46-54.

<sup>18</sup> Ingo Müller, *Hitler’s Justice: The Courts of the Third Reich* (Cambridge, MA: Harvard University Press, 1991), 115-119.

<sup>19</sup> Bazylar, 235-288.

<sup>20</sup> Deborah Dwork, and R. J. Van Pelt, *Auschwitz, 1270 to the Present* (New York: Norton, 1996).

<sup>21</sup> Robert Jay Lifton, *The Nazi Doctors: Medical Killing and the Psychology of Genocide* (New York: Basic Books, 1986).

<sup>22</sup> Eliot Freidson, *Professional Dominance: The Social Structure of Medical Care* (New York:

the Holocaust, many types of working people were severely limited by authoritarian Nazi laws, policies, and practices. Professionals often worked collectively toward unethical, and retrospectively criminal, purposes, perpetuating and rewarding tasks that clearly included abuses of human populations, often in the name of pseudo-scientific racial theories.<sup>23</sup> Especially after 1939, professionals during the third *Reich* were obligated to subscribe to eugenic and authoritarian systems of professional ethics, often delivered through lectures by Nazi Party loyalists.<sup>24</sup>

Many German professions, strained by economic challenges and stresses on a growing labor pool, quite readily welcomed Nazi seizure of power.<sup>25</sup> Consequently, the Nazi regime routinely denied autonomy, agency, and the rewards of ethical professional work not only to medical and allied health professions but also to professions in the natural sciences and law.

Disempowering acts included but were not limited to evolving anti-Jewish policies that preceded the Holocaust, such as a 1926 NSDAP (Nazi) draft law that banned Jewish professional practice in a Thuringian regional Party Program.<sup>26</sup> In the context of authoritarian rule during the Third Reich, professions and professionals of all sorts were subject to totalitarian and terrifying influences of fascist government policies and practices, rather than to the humanistic ideals of professional ethics that are now the center of professional pride. This is not in any way meant to justify unethical and harmful professional practice or to minimize the possibility of free will or even the obligation of ethical dissent, but simply to emphasize the extreme contextual and historically specific challenges that Nazi fascism created for professional ethical practices.

During the Holocaust, many professionals and professions collectively collaborated and acted in ways that supported state violence and crime, concluding with the catastrophe (Shoah) that we have since learned to define as medically sanctioned genocide. Indeed, ethics themselves were decreed by authoritarian and anti-Semitic actions, including state-sponsored curricula, lectures, and texts that included inhumane demands for a complete "solu-

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Atherton Press, 1970); Eliot Freidson, *The Professions and Their Prospects* (Beverly Hills CA: Sage Publications, 1973); Andrew Delano Abbott, *The System of Professions: An Essay on the Division of Expert Labor* (Chicago, IL: University of Chicago Press, 1988).

<sup>23</sup> Heberer, 39-51.

<sup>24</sup> Bruns, and Chelouche, 591-595.

<sup>25</sup> Konrad H. Jarausch, "The Perils of Professionalism: Lawyers, Teachers, and Engineers in Nazi Germany," *German Studies Review* 9, no. 1 (1986): 107-137.

<sup>26</sup> Peter Longerich, *Holocaust: The Nazi Persecution and Murder of the Jews* (Oxford: Oxford University Press (OUP), 2010).

tion to the Jewish Question in Europe” that involved mass murder.<sup>27</sup> In these respects, the policies and practices of the Nazi German state did not allow anything like the significant degree of professional autonomy that characterizes our modern medical, scientific, or legal professions and professionals.<sup>28</sup> While this does not implicate or exculpate any specific individuals or groups, it does reinforce the finding that professional work has been and can be strongly influenced by its environment.<sup>29</sup>

## II. Medical Professions: Limited Professional Autonomy

All professions, including biomedical ethics, were subject to Nazi eugenics and a program of deception. The exclusion of Jews from the German Health System involved the implementation of a “racial hygiene” paradigm in medicine,<sup>30</sup> and the expansion of scientific racism through eugenics.<sup>31</sup> In Germany and German-occupied nations, persecution followed a series of steps, from identification (such as of Jews with stars), documentation (such as allowing forced removal and latter historical tracing), isolation and ghettoization, and ultimately mass murder (genocide). Nazi authorities harnessed scientists and physicians to fuel Germany’s war machine and to implement racist policies.<sup>32</sup>

Prior to the creation of death camps, the Nazis established deceptively named “euthanasia” policies of direct medical killings by means of medicalized decisions carried out by medical professions. “Medical killing” was rationalized as “life unworthy of life” and involved five gross and criminal violations of both medical ethics and human rights: coercive sterilization, killing “impaired” (disabled) children, killing “impaired” adults, concentrated killings of “impaired” people, and mass murder in death camps.<sup>33</sup>

“Medicalized killing” perversely reversed a doctor’s ethical obligations, substituting criminal murder of persecuted groups for the ancient obligations to heal and to do good. According to Robert Jay Lifton, “Nazification” of the

<sup>27</sup> Bruns, and Chelouche, 591-597.

<sup>28</sup> Henry Friedlander, *Origins of Nazi Genocide: From Euthanasia to the Final Solution* (Chapel Hill, NC: The University of North Carolina Press, 1995); Henry Friedlander, and Sybil Milton, *The Holocaust: Ideology, Bureaucracy, and Genocide: The San José Papers* (Millwood, NY: Kraus International Publications, 1980).

<sup>29</sup> Abbott, *The System of Professions: An Essay on the Division of Expert Labor*.

<sup>30</sup> Longerich, 52-69.

<sup>31</sup> Daniel J. Kevles, *In the Name of Eugenics: Genetics and the Uses of Human Heredity* (New York: Knopf, 1985).

<sup>32</sup> Heberer, 42-44.

<sup>33</sup> Lifton, 30-51.

German medical profession meant extending the “euthanasia” first practiced on persecuted groups into the context of mass murder in death camps. These applications of racist biomedical ideologies meant that Nazi doctors took roles in Auschwitz and other locations of genocide that included supervising murders by gas and lethal injections, directing the crematoria, and keeping order during the human “selection” processes, where some people were permitted to live as enslaved laborers in the camps while most others were murdered, often gassed and incinerated *en masse*.<sup>34</sup>

While it is not fair to assume that *all* medical professionals had a choice in these matters, and while there has been debate around the idea that all professionals were *forced* to collaborate with Nazi policies, it has been established that many professionals and professional associations were *willing* collaborators and offered themselves to the Nazi regime.<sup>35</sup> National Socialism was considered an opportunity for many aspiring and working professionals. Not all medical professions or professionals, however, were compliant with Nazi policies nor complicit in the mass crimes committed in Nazi German and occupied territories. Indeed, physicians in Holland resisted co-optation in the early 1940s, and consequently one hundred of them were sent to concentration camps, providing an example (among others) of organized resistance to both Nazi policies and fascist policies more generally.<sup>36</sup>

The German medical profession, which had been a location of movements for public health and social justice in the mid-1800s, gradually reduced “editorial comment” on public health or social justice at the beginning of the 20th century, focusing more on “technical” and medical discussions.<sup>37</sup> By the early 1930s, Jewish contributions to medical and other sciences were being removed and replaced with anti-Semitic, eugenic, and other racial theories that condemned large groups as unfit, unequal, and/or eugenically ‘diseased.’ Doctors supported eugenic policies sooner, and in larger numbers, than most other professions in Germany. During the Holocaust (1933-1945), 31-40% of German physicians were members in the Reich’s Physicians’ League, an adjunct Nazi Party organization; thus demonstrating how the medical profession welcomed members of the ‘racial hygiene’ movement.<sup>38</sup>

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<sup>34</sup> Lifton, 5.

<sup>35</sup> Konrad H. Jarausch, “The Crisis of German Professions 1918-33,” *Journal of Contemporary History* 20, no. 3 (1985): 397-398.

<sup>36</sup> Kater, 54-73.

<sup>37</sup> Gert H. Brieger, “The Medical Profession,” in *The Holocaust: Ideology, Bureaucracy, and Genocide: The San José Papers*, eds. Henry Friedlander, and Sybil Milton, 141-150 (Millwood, NY: Kraus International Publications, 1980).

<sup>38</sup> Michael H. Kater, *The Nazi Party: A Social Profile of Members and Leaders, 1919-1945* (Cambridge, MA: Harvard University Press, 1983); Kater, *Doctors under Hitler*, 12.



“Hereditary Health Courts” were established nationally by Nazi law in mid-1933 and operationalized early in 1934. Their role was to select people and groups for involuntary sterilizations, based on decisions among groups including two physicians and one district judge with ties to the Nazi Party.<sup>39</sup> Physicians were legally obligated to report people who could be “hereditarily sick,” sterilizing large numbers that were projected to exceed 410,000 in only a few years. The process, like many others, was reinforced by law and aggressive policing.<sup>40</sup>

Lifton observed that Nazification of the medical profession and of German medical practices during the Holocaust enabled a horrific transition from sterilization to direct medical killing. Both ideological zeal and systematic terror aided this Nazification process. Authorities like Berlin faculty member Rudolf Ramm encouraged each doctor to “cultivate genes” and serve the *Volk* as a “biological soldier.” Selecting those considered unfit for sterilization or murder was considered “merciful” and an “obligation” that superseded individual rights. Nazi public “euthanasia” programs were modeled after programs to create a genetically select defense squad (SS) force. New medical associations replaced older ones; a younger generation of bureaucratic and Nazi-influenced professionals pushed out older professionals who were subject to pre-Nazi ideologies. Gerhard Wagner, chief Reich physician, helped promote “people’s medicine” that was distrustful of both academic medicine and pure science.<sup>41</sup>

Jewish doctors in Germany were subject to oppressive regulations from the start of Nazi rule in 1933, but on August 3, 1939 all remaining Jewish physicians had their medical licenses nullified by a “Fourth Amendment” to the Nuremberg Laws. Adding to exclusionary practices, German doctors were discouraged from referencing Jewish authors in scientific papers (any Jewish references were required to be in a separate list of Jewish sources) and “Aryan” doctors were discouraged from seeing Jewish patients. This “purification” and “racial hygiene” was promoted despite shortages of medical providers. In academic medicine and in education more generally, Jewish scholars and others who challenged authorities were persecuted from above by differential treatment from authorities and from below by militant behaviors on the part of the National Socialist Student League, which organized violent protests. German academics who opposed the regime, including Karl Saller, a prominent anthropologist, were subject to sanctions, including prohibition from teaching.<sup>42</sup>

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<sup>39</sup> Lifton, 25-29.

<sup>40</sup> W. W. Peter, “Germany’s Sterilization Program,” *American Journal of Public Health* 24, no. 3 (1934): 187-191.

<sup>41</sup> Lifton, 30-39.

<sup>42</sup> *Ibid.*, 39.



“Positive eugenics,” such as encouraging large Aryan families, and “negative eugenics,” such as sterilization and eventually “euthanasia,” were combined as elements of the Nazi biomedical vision. Physicians were part of special commissions tasked with “approving” marriages based on Nuremberg racial statutes, an authority and practice formalized by the 1935 Physicians’ Law. Doctors were also active in criminal and positive eugenics through a “Spring of Life” (*Lebensborn*) program that administered welfare and other forms of assistance to SS officers who parented “racially valuable” children. This program’s medical director, Gregor Ebner, publicly applauded both positive and negative measures.<sup>43</sup>

Propaganda including stereotypes of Jewish people and others who were represented as subhuman or vectors of diseases polluting society were used to distort genetics and to rationalize this genocidal form of eugenics. How could medical professionals, trained in science and obligated to ethical care, ignore these distortions and engage in harmful practices? Lifton’s interviews with Nazi doctors and consideration of perpetrator psychology are the basis for the idea that Nazi doctors “doubled” their “medical selves” into good people in bad situations, acting as individually autonomous people-who-could-do-evil, victimizing humans while unconstrained by medical ethics and ethical requirements. Numbed, split, perhaps dissociated from their “other” selves, Lifton suggests that these medical practitioners made Faustian bargains and did “dirty work.” Much as a soldier rationalizes killing for the sake of future peace, Nazi doctors killed for false future ideals of racial “progress.”<sup>44</sup>

The most horrifying cases of medical collusion with Nazi crimes, which were prosecuted and found criminal after the war, have been well-documented. The International Military Tribunal (IMT) Trials at Nuremberg were followed by twelve more Nuremberg trials, starting with “The Doctors Trial” which started on October 25, 1946, less than four weeks after the IMT judgements were issued. In “Case number 1” (*US vs. Karl Brandt et al.*), 23 Nazi physicians were tried for war crimes and crimes against humanity. Defendants included Brandt, who was Hitler’s personal doctor, and Dr. Herta Oberheuser, who worked as a doctor at the Ravensbruck camp and was the first female defendant at Nuremberg. While only 16 of these 23 were found guilty, Brandt was hanged and others received prison sentences of 10-20 years.<sup>45</sup> In a second case with only one defendant, Marshal Milch was tried and found guilty of crimes against humanity that included slave labor and medical experiments. Resected legal historian

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<sup>43</sup> Ibid., 43-44.

<sup>44</sup> Ibid., 418.

<sup>45</sup> Bazylar, 92-93.

Michael Bazyler notes that Milch served only seven years of a life-in-prison sentence.<sup>46</sup>

If we examine the almost 90,000 physicians in Nazi Germany, we see that only 350 people in the medical profession were found to be closely involved with the most infamous and cruel medical crimes after the war.<sup>47</sup> It is difficult to estimate how many in Germany or in other occupied nations were collaborators, bystanders, or actively resisted eugenics or genocide. Professionals were, for the most part, unable to or unwilling to resist authoritarian rules in any organized fashion until after the genocidal “war against Jews” had decimated the European continent.

In addition to physicians, many nurses were also involved in medical harm, including unethical experimentation, in all sorts of roles, from SS to forced laborers.<sup>48</sup> During hidden and malicious medical and other war crimes, where were the ethics of famous German medical leaders who inspired earlier generations from around the world? This version of “the German question”<sup>49</sup> is hard to answer, but one reviewer of professional literature shows that “no opinions” were widely expressed about Nazi “actions” in German medical editorial circles at the time. While Jewish medical professionals were excluded from professional practice, state-approved “Aryan practitioners” usually put the goals and orders of the Reich above any individual responsibilities or ethical obligations to universal or public human health.<sup>50</sup> Is there a standard of historical research that helps classify Nazi-era medical professionals as perpetrators, collaborators, or bystanders? Historical documents clearly show that mass harm was done by large numbers of professional biomedical practitioners. The larger goal of the Nazi state was eliminationist genocide, which involved “ordinary” people.<sup>51</sup> It appears now that biomedical professionals in Germany did not, for the most part, stop or even slow this process. While not all people or professionals acted in a similar or ethical manner, the net result was a long period of harm, injustice, and ultimately eliminationist genocide, reinforced by willing and “ordinary” people in all kinds of occupational groups.<sup>52</sup>

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<sup>46</sup> Ibid., 93.

<sup>47</sup> Brieger, 43.

<sup>48</sup> Susan Benedict, and Cathy Rozmus, “Nurses and Human Subjects Research During the Third Reich and Now,” in *Human Subjects Research after the Holocaust*, eds. Sheldon Rubinfeld, and Susan Benedict, 87-98 (Dordrecht: Springer International Publishing, 2014).

<sup>49</sup> Ralf Dahrendorf, *Society and Democracy in Germany* (Westport, CT: Greenwood Press, 1979).

<sup>50</sup> Brieger, 141-146.

<sup>51</sup> Goldhagen, 80-129.

<sup>52</sup> Ibid., 181-202.

### III. Natural Sciences: Distorted by Eugenics

During the Holocaust, all academic disciplines, including the natural sciences, were subject to coercion and influence from the state, skewing subjects towards “German” national (eugenic) goals and away from “Jewish” influence. Science and medicine are described as “enabling agents of the Holocaust” in a world where Nazi dictatorship “muzzled dissent and discouraged alternative opinions.”<sup>53</sup> Like Einstein, many prominent scholars were compelled to emigrate, leaving space for new and sometimes pseudo-scientific endeavors. While many legitimate natural sciences and scientific professionals were publicly and officially respected during the Holocaust, professionals who conducted “Nazi science” were beholden to the ideologies and material demands of their authoritarian, fascist state. “Nazi scientists” were obligated to serve Nazi leadership and policies under duress from Nazi law; they worked in fields well beyond military sciences and with theories that included geography, demography, and planning, in addition to eugenic genetics and “racial hygiene.”<sup>54</sup>

In the context of Nazi science, some pseudo-scientific theories were also promoted. For example, “World Ice Theory” in physics was a form of pseudo-science promoted to rationalize the demotion of more credible and established theories, like Einstein’s physics, associated with Jewish scientists.<sup>55</sup> *Gleichschaltung* (synchronization) of national and scientific policies resulted in the segregation of “German” and “Jewish” physics by “Aryan physicists” Stark and Leonard.<sup>56</sup> As with many aspects of Nazi persecution and propaganda, deceptive language manipulation was used to control organizations and groups in society.<sup>57</sup>

Even with the promotion of certain pseudo-sciences, scientists and science during the Nazi era and the Holocaust did not work illogically or singularly pursue irrational theories. Basic and applied chemistry and physics, along with engineering and demography, were systematically required for the war effort and for massive operations, including population transfers. Objective

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<sup>53</sup> Heberer, 43.

<sup>54</sup> Longerich, 80-85.

<sup>55</sup> Heberer, 42.

<sup>56</sup> Alan Beyerchen, “The Physical Sciences,” in *The Holocaust: Ideology, Bureaucracy, and Genocide: The San José Papers*, eds. Henry Friedlander, and Sybil Milton, 151-163 (Millwood, NY: Kraus International Publications, 1980).

<sup>57</sup> Henry Friedlander, “The Manipulation of Language,” in *The Holocaust: Ideology, Bureaucracy, and Genocide: The San José Papers*, eds. Henry Friedlander, and Sybil Milton, 103-113 (Millwood, NY: Kraus International Publications, 1980).

scientific practices were used for barbaric and political ends, both against international enemies and “internal” threats; a genocidal war against Jewish populations required innovation and applied sciences. Development, application, and popularization of eugenic biology was a major part of this effort.<sup>58</sup>

“Eugenics” was developed as a science of “good births.” The term itself was coined in 1883 by British naturalist Francis Galton. “Racial hygiene” was later developed in 1895 by Alfred Ploetz. Ploetz, following a focus on artificial selection by Biologist Ernst Haeckel, advocated an unjust and ultimately catastrophic view of “health” through persecution, including segregation and selections of populations deemed diseased, dangerous, and/or degenerate. For Ploetz, selection of marriage partners and killing of babies was part of the goal of eugenic practices, which mimicked those of Spartan warriors.<sup>59</sup> Less draconian eugenic advocates, especially in Germany but also internationally, advocated the mobilization of scientific eugenic practices to control what was perceived as a cycle of decay through three objectives: discover (presume) hereditary characteristics contributing to social problems, develop biomedical solutions to the problems, and create public health campaigns (including propaganda) to combat these dangers. In Nazi Germany, eugenic theories grew into an industrially destructive practice that perpetrated genocide through the Holocaust, scapegoating Jewish and other “dangerous” or “polluted” populations (following anti-Semitic tropes) in attempts to “eliminate root causes” of social problems.

In 1920, Karl Binding and Alfred Hoche published a barbaric text, “The Destruction of Unworthy Life.” In this text, only those vigorously working and maximally producing should live in and as part of Germany. This text offered a “solution” to the internal conflicts in Germany that were magnified by economic troubles after the World War I. Popular opinion held, and many Germans were shocked into believing that German leadership had allowed the loss of a “winnable” World War I. Hitler echoed theories presented by Binding and Hoche in his book *Mein Kampf*, and operationalized eugenics (and euthanasia) once the Nazis took power. The first Nazi social program was the Law for the Prevention of Hereditarily Ill Offspring (1933), followed by the Law against Dangerous and Habitual Criminals. These policies promoted sterilization and other forms of persecution, limiting intergroup marriage. As noted above, regulations initially designed for elite troops (the SS) were used as a model for medical and social regulation of the entire German population.<sup>60</sup>

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<sup>58</sup> Bashford, and Levine, 5-21.

<sup>59</sup> Dwork, and Van Pelt, 118.

<sup>60</sup> Ibid., 119.

Biologist Ernst Haeckel had suggested that “artificial” selection of human individuals and groups should aid natural selection to remove and destroy those “unworthy” of life – what we would now call “ethnic cleansing.” Extension of a German and international eugenics movement into promoting active euthanasia was realized through Nazi policies and law. Sterilization and killing large numbers of people was “science-based” Nazi policy, reinforced by propaganda and education to stigmatize and scapegoat Jewish, disabled, Slavic, Roma, and other populations deemed a “threat” to idealized nationals (*Volk*) and “races.” Racist pseudo-science thus guided policies, practices, and professional work under authoritarian government. Anthropology was transformed into “German Anthropology” and established on a larger scale to support the science of human difference and the uniqueness and superiority of German (*volkish*) national and Aryan culture.<sup>61</sup> Sociology and history were “transformed” as well.

Professional ethics were twisted to serve eugenic theories and euthanasia, based on Hitler’s interpretation of the writings of Alfred Ploetz. “Scientific” conclusions about people who were disabled or about ethnic groups including Jewish people fueled popular prejudice and rationalized systemic harm to humans and later genocide. Scientists followed research trajectories that clearly reinforced this process. For example, respected geneticist and German pathologist Otmar von Verschuer became Director of a newly founded Institute for Hereditary Biology and Racial Hygiene at the University of Frankfurt in 1935. He published a 1937 text describing genetic origins of diseases and was widely respected and well-funded for clinical studies of twins that supported genetic theories.<sup>62</sup>

Ploetz and others supported expansion of racial hygiene education in German medical schools, writing often on “Jewish issues,” placing a “racial biology” of Jews in the context of his research in hereditary pathology. Soon, after he was a late joiner to the Nazi party in 1940, he published “Primer to Racial Hygiene” in 1941, which called for a “complete solution to the Jewish Question.”<sup>63</sup>

Unlike our world of modern bioethics, there were few regulations on scientific research. When biological “materials” for eugenic research became scarcer after 1941, pathologist Verschuer turned to his former student and assistant, the infamous and cruel Dr. Josef Mengele, who became head physician of Auschwitz. Mengele thereafter provided his collaborator with human skeletons and body parts, blood samples and other “biological material” for research, including twins whom Mengele had infected with typhus.<sup>64</sup> This

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<sup>61</sup> Hutton, 18-24.

<sup>62</sup> Heberer, 39-41.

<sup>63</sup> Ibid.

<sup>64</sup> Ibid.

“Nazi science,” among many others, has become one of the major reasons for the advancement and codification of modern and biomedical ethics for scientific research with human subjects.<sup>65</sup>

While medical experimentation on prisoners was not the only crime undertaken by Nazi science, it has become one of the most infamous. Without giving every brutal example, we can review some of the categories of unethical human medical experimentation by Nazi scientists. First, some experiments were designed to help German military personnel endure dangerous conditions, such as high altitudes in damaged aircraft. Second, many experiments involved testing pharmaceutical drugs and other treatments for injuries and illnesses on prisoners. Third, combining unethical ends and means, were experiments like those inducing disease by Dr. Josef Mengele and eugenic trials using forced sterilization.<sup>66</sup> These distortions of science and research methods, including practices found to be criminal by international courts, violated almost any version of biomedical ethics, illustrating a lack of medical and scientific autonomy, not to mention the central scientific norms of universalism and disinterestedness.<sup>67</sup>

Scientific professionals, along with engineers and many other professionals, were subject primarily to central governmental control. From the outset of Nazi rule, in the name of management of economic and other amplified “crises” facing the nation, racial ideologies were used to “reprofessionalize” those involved in sciences and other professions, including the educational systems, the selective pipelines to the professions, and most forms of professional practice. In the longer run, by the end of the 1930s and the war, an ironic result of this process was “deprofessionalization,” wherein people and associations previously focused on truth and progress had been “recast” into obedient roles, void of ethical reflection and determined largely by an authoritarian and genocidal government.<sup>68</sup>

#### IV. Legal Professions: Limited Agency under Authoritarian Rule

The Nazi assault on Jewish and other groups during the Holocaust was conducted based on newly established dictates in German law.<sup>69</sup> National and local laws empowered racist, corrupted, and xenophobic “criminal justice sys-

<sup>65</sup> Caplan, *When Medicine Went Mad*, 1-32.

<sup>66</sup> Heberer, 51-52.

<sup>67</sup> Robert King Merton, and Norman W. Storer, *The Sociology of Science: Theoretical and Empirical Investigations* (Chicago, IL: University of Chicago Press, 1973).

<sup>68</sup> Jarausch, “The Perils of Professionalism,” 107-137.

<sup>69</sup> Doris L. Bergen, *War and Genocide: A Concise History of the Holocaust* (Lanham: Rowman & Littlefield, 2016), 69-98.

tems” that included legal, courts, and “corrections” systems.<sup>70</sup> These systems were themselves staffed by police and military forces,<sup>71</sup> along with the designers and employees of concentration, transit, and extermination camps.<sup>72</sup> This section will explore the lawyers and other legal professionals working in the courts; many scholarly authors and texts noted herein more fully describe the actions and motivations of the other and varied occupational groups serving in the police, military, and penal systems.

The workings of the German legal system before, during, and after the Holocaust are important and well described by Ingo Müller.<sup>73</sup> In Germany, law students are selected and begin their studies immediately after high school. After state examination they take obligatory clerk roles. In contrast to courts in Britain and the United States, German courts, which worked at three levels and sometimes with specialty courts, are presided over by stable panels of judges and without juries. With more judges involved, the careers of many German jurists do not flow from public or private legal practice into the judiciary, but rather start with judicial roles that can begin immediately after law school, more akin to a civil servant position in the United States.

While there were many Jewish professionals in German society and in legal professions in the years leading up to the Holocaust, accounts of Jewish influence in German and European, especially professional, life do not often include accurate data. Providing facts and challenging Nazi stereotypes of professionals can improve our understanding of history. In the case of the German Weimar republic, exaggerated descriptions of Jewish representation, power, and influence have been grossly misleading. In fact, the percentage of Jews in the nation declined from 1.2% in 1871 to 0.76% in 1930. While Hitler and Hans Luther, German Ambassador to the US, suggested that over 50% of government workers were Jewish, the actual statistic was less than 1% of *all* government employees.<sup>74</sup> In the field of law, Jews were indeed *over-represented* due to restrictions in other professions; 22% of about 19,500 members of the bar in Germany were of Jewish background. Nazis ranted against the powers of more politically involved Jewish attorneys – especially labor leaders – rather than against the less Jewish judiciary. Jewish employment in civil service was declared illegal in April of 1933; thereafter thousands of attorneys were harassed, discriminated against, and often deprived of their right to practice for “racial” reasons. Persecution of legal professionals who

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<sup>70</sup> Müller, 46-84.

<sup>71</sup> Goldhagen, 203-282.

<sup>72</sup> Dan Stone, *Concentration Camps: A Short History* (Oxford: Oxford University Press, 2017), 1-10.

<sup>73</sup> Müller, 27-198.

<sup>74</sup> *Ibid.*, 59-67.



supported political opposition or stood up against Nazi policies such as the annexation of Austria were also disbarred, all this without any consideration of professional autonomy.<sup>75</sup>

Research supports the proposition that the German legal profession helped Nazis take and retain power during the Holocaust. Unlike the medical profession, there was no need to invent scientific racism or eugenics, only to support and incorporate its harmful implications. The Weimar judiciary supported the idea that the loss of the World War I was a “stab in the back” from criminal “enemies within” the German nation. Weimar judges were part of a movement to discern “friend” of the state from “foe,” advancing the notion, embraced by Hitler and fascism, of an ongoing national German struggle. From 1919-1920, in the wake of the Russian revolution, this involved resisting a German civil war, executing hundreds without trial, and sentencing thousands of revolutionary socialists for treason.<sup>76</sup>

Anti-Semitism was hardly a new legal topic in the 1930s. During the peak of the inflation crisis in 1923, while eastern regions formed coalitions with communists and French troops occupied western regions, Hitler and storm trooper militias marched and carried out the “beer hall *putsch*,” for which Hitler was brought to trial in February 1924. This Munich trial displayed the power of the radical right, and the court failed to admonish those calling out “a Jew government” of criminals. Hitler and associates were minimally sentenced to a very comfortable imprisonment and given early parole. Historians show that lawyers, among others, drifted towards support for Nazi power even before 1933.<sup>77</sup> Weimar trials showed German courts openly expressing anti-Semitism, taking sides with Nazi actions and aggressions against social democratic groups. Despite limitations on German militarization in the Treaty of Versailles, courts upheld rapid growth in militias by referring to a “national emergency,” prosecuting thousands of pacifists and republicans who objected to the regrowth of a heavily re-militarized state as treasonous.<sup>78</sup>

Legal professionals supported Nazi authoritarianism and the Holocaust, from the Reichstag Fire Trial that helped the Nazis consolidate power until the collapse of the regime and the Nuremberg trials. In March and April of 1933, at once threatened and empowered by the new Nazi leadership, the German Federation of Judges expressed confidence in and servility towards the new government. Judges enabled the “Law for Restoration of the Professional Civil Service” to remove thousands of Jews and other “unreliable” jurists and officials. Some judicial associations disbanded or “coordinated”

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<sup>75</sup> Longerich, 38.

<sup>76</sup> Ibid., 10-21; Müller, 12-26.

<sup>77</sup> Jarausch, “The Crisis of German Professions 1918-33,” 379-398.

<sup>78</sup> Müller, 52-54.

with those patrons more sympathetic to Nazi power, one delegate noting the limits of “narrow professionalism.” Right wing German nationalists subsumed the judiciary, as well as the political leadership. Subsequent concern from national judicial leadership was limited; Supreme Court Judge Erwin Bumke expressed few legal concerns with national policies beyond issues of pensions.<sup>79</sup>

Nazi power and rule under Hitler essentially amounted to twelve years of martial law.<sup>80</sup> A German state of emergency and thus suspension of all personal rights during the Third Reich was in effect from the publication of the Reichstag Fire Decree on February 28, 1933 until war’s end in May 1945. The legal profession, lawyers, and the force of law were subsequently limited to and agents of the Nazi state. The scope of unjust and eugenic laws would expand with war and eliminationist anti-Semitism, affecting populations and conflict throughout Europe and driving migrations around the world.<sup>81</sup>

Racial and cultural persecution, while focused on anti-Semitism and culminating in genocide, was not limited to anti-Jewish measures. Racial and other forms of persecution against non-Jewish and mixed groups evolved from 1933 and were intensified by the police in 1936-1937. Prior to organized expulsion, forced migrations, and mass murder, persecuted groups included people of non-European origin and mixed ancestries, Roma (Sinti) cultures, people labeled “asocial” and/or disabled, and people identified as LGBT. The centralization of police forces helped increase “preventive detention” and “preventive crime-fighting,” based on regulations from “Criminal Biology.” Guidelines for the identification of “asocials” included begging and alcoholism. Concurrent regulations were issued and helped authorities round up and persecute men identified as homosexual, of mixed national or ethnic origin, or otherwise deemed a threat to “racial hygiene.”<sup>82</sup>

Radicalization of anti-Semitic policies followed Hitler’s party rally in 1937, leading to more active measures to remove Jewish populations and culture from a toxically racialized German nation. New anti-Jewish measures in 1938 included prohibitions of Jews from the auction and weapons trades and the loss of tax privileges for Jewish religious associations.<sup>83</sup> The annexation of Austria soon meant persecution of a larger Jewish population, accelerating the exclusion of Jews from the economy and magnifying the crisis of Jewish voluntary and forced emigration.

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<sup>79</sup> Ibid., 39-41.

<sup>80</sup> Bazyler, 3-13.

<sup>81</sup> Deborah Dwork, and R. J. Van Pelt, *Flight from the Reich: Refugee Jews, 1933-1946* (New York: W. W. Norton, 2009).

<sup>82</sup> Bergen, 70-73.

<sup>83</sup> Longerich, 133-150.

Lawyers and legal professions inside of Germany had limited independent agency in the context of authoritarianism and sweeping anti-Semitic segregation during the 1930s and institutionalized eliminationist anti-Semitism during the war. Throughout the Holocaust, many local populations anticipated the anti-Semitic intention of Nazi law and policies even before they were enacted, barring Jews from public facilities and from professions even before national mandates. Daniel Goldhagen explains that many judges and other legal professionals were predisposed to anti-Semitic actions under Weimar leadership. They began purges of Jews early in 1933 just after the Nazis took power, and a Berlin court soon allowed this even in the absence of a special law to this effect.<sup>84</sup>

German anti-Jewish policies involved at least two specific aims: producing “social death” of Jews and removing Jewish presence and influence from German dominion. This was done through terror and other forms of violence, using anti-Semitic and vituperative propaganda, assaults upon Jewish bodies, and legal/administrative separations of Jews from non-Jewish Germans. An unsystematic and punitive series of exclusionary laws from 1933-1935 were consolidated in the Nuremberg laws of September 1935, which defined Jewish “blood” in order to “purify” the nation (defined by the people or *Volk*) and “the race.” Identification (by genealogy or heritage, not belief) and definition of Jewish individuals was a first stage in Germany’s war against Jews that was required for subsequent stages of expropriation and emigration, ghettoization, and annihilation.<sup>85</sup> Negative eugenics was associated with scientific racism in both Nazi ideology and in German law.<sup>86</sup>

Holocaust-era judges and courts were rarely constrained by what we now consider professional ethics. From the early 1930s, Nazi courts ramped up prosecution of political opponents and forgave uses of excessive force by police and the military. After outlawing communist and social democratic political parties, along with other associations, members of groups which opposed the Nazis were successfully tried – often for treason – and either driven into exile or subject to incarceration in concentration camps. At the same time, amnesty was granted for many actions and crimes committed based on “zeal for the National Socialist (Nazi) cause.”<sup>87</sup>

During the Third Reich, Nazi jurisprudence witnessed a decline of autonomous law that involved law schools and professors. Cloaking Nazi crimes,

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<sup>84</sup> Goldhagen, 164-202.

<sup>85</sup> Bazyler, 7-13.

<sup>86</sup> Philippa Levine, *Eugenics: A Very Short Introduction* (New York: Oxford University Press, 2017).

<sup>87</sup> Longerich, 52-89.

writings by newly employed “professionals” were used by judges and the state to rationalize punitive verdicts and legal interpretations. Only three months after taking power, on April 7, 1933, 120 of all 378 (31.5%) of all German law professors were dismissed for being Jewish. Newly vacant positions were soon offered to colleagues with “nationalist orientations,” without regard to prior standards that included objectivity and autonomy. Carl Schmidt concisely summarized the Nazi judiciary and legal standard: every interpretation must be a National Socialist interpretation.<sup>88</sup>

Authoritarian law, judgement, and principle in this context was designed to protect the state against individuals, rather than individual rights against state powers. Müller states that law students thus learned to protect German society by eliminating “degenerate” or “otherwise lost” individuals, purging “inferiors” through principles of “protective law.”<sup>89</sup> New “standards also changed criminal trials into evaluations of personality types rather than specific criminal actions or behaviors.

Many of the defendants who were tried at the Nuremburg trials were lawyers and judges. Wielding threats from the military and police agencies and with control over heavy industry, Nazis had used terror and fear to control the German legal system, preventing any systematic check on Nazi persecution and its many misuses of power. Telford Taylor, Counsel for the Prosecution at the International Military Tribunal overseeing the Nuremburg trials, describes the German legal profession as having four parts: private practitioners, the judiciary (a relatively large group of lawyers and part of civil services), government lawyers, and private corporate lawyers. The proportion of the legal professional working in the latter types of work (who all depend on the government) was much greater in Germany (~75%) than in other nations (~25% in the USA), making it much easier for government, especially an authoritarian one, to exercise power over the profession. In addition, German judges did not often achieve prominence or offer dissenting views, rather they were more like civil servants. In Taylor’s view, the overcrowded bar was divided, conservative, jealous of the military, and frequently anti-Semitic.<sup>90</sup>

Taylor also notes that the German legal system and bar association crumbled rapidly after Nazis took power in 1933, centered around the National Socialist Bar Association, whose membership ballooned. Jewish lawyers were banned in the spring of 1933 by the Law for the Restoration of Civil Service, with a short-lived exemption for Jewish WWI veterans, and, as in the medical profession, Jewish professionals were forced out of the profession. Hitler’s

<sup>88</sup> Müller, 41-45.

<sup>89</sup> Ibid., 59-67.

<sup>90</sup> Taylor, 136-139.

singular authority was cemented by 1934 with the Rohm purge, and the news championed the fact that judges were only subject to orders from the Fuhrer, eliminating any pretense of independent judgement. By the start of the war in 1939, all Jews were removed from legal protections entirely.<sup>91</sup>

At the end of the Nuremberg congress in September 1933, a special session of parliament had created the Reich Citizenship laws, limiting German citizenship to people of “kindred” blood. To “protect” this racialized and exclusionary concept of a national blood line, the Law for the Protection of German Blood and German Honor was also passed, forbidding intermarriage and sexual intercourse between people who were defined as Jews and citizens of German “kindred” heritage. To administer these and other anti-Jewish laws, supplementary laws using counts of grandparental religious identifications were used to create classifications of mixed (*Mischlings*: two Jewish grandparents) and fully Jewish individuals (3+ grandparents, 2 grandparents and a Jewish spouse, or post-law converts).<sup>92</sup>

On December 21, 1935, a supplementary decree clarified the inter-group marriage prohibitions and criminalized more types of relations, introducing a concept of “alien blood” that was thereafter defined as referring to anyone of “Gypsy” or “Negro” heritage. Jewish life was made more difficult in August 1938 by forcing mandatory middle names (Israel and Sarah) and passport demarcations. This same month, another decree completed exclusion of legal practices by Jews.<sup>93</sup>

Ethnic cleansing and pressures to migrate were expedited by these and other subsequent laws passed prior to the onset of war. Hitler made the first public governmental announcement threatening Jewish Europeans was made on January 30, 1939 in a speech to the German parliament. Thereafter, German invasions of neighboring nations incited war and expanded the scope of German law, requiring the ministry of Justice to recruit new and transnational lawyers. Anti-Jewish laws would consequently apply in Austria and large parts of Poland, France, and other nations, some of which were ruled by puppet regimes.<sup>94</sup>

In occupied territories, including what Snyder calls the “blood lands” of eastern Europe,<sup>95</sup> two new sets of laws were created and administered by civilian administrations. First, law was designed to and lawyers sought to quell

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<sup>91</sup> Ibid., 137-138.

<sup>92</sup> Bazylar, 9-11.

<sup>93</sup> Ibid., 12.

<sup>94</sup> Ibid., 14-21.

<sup>95</sup> Timothy Snyder, *Black Earth: The Holocaust as History and Warning* (New York: Tim Duggan Books, 2015).

underground resistance. Second, sets of laws addressed the “management” of transportation and ghettoization of large Jewish populations in Poland and adjacent nations. Laws against resistance included a “Night and Fog” decree that allowed “disappearances” of enemies in detention and public shootings of blacklisted individuals as “examples.” Post-war Nazi law has been subject to less research, but those studies that exist show that Jewish and other “foreign people” or aliens were subjected to “special laws” during Polish and other occupations. In these new rules, lawlessness became permissible, allowing systemic terrorism against persecuted populations and facilitating corruption and profiteering during the stages of forced removal and genocide.<sup>96</sup>

Tragically, “extermination” during the Holocaust was authorized by law, including both large-scale killing of Soviet civilians and virulently anti-Semitic genocide. For example, liability for killings in the mass shootings in Operation Barbarossa in June 1941 was removed by the Barbarossa Jurisdiction Order, leaving militias and civilians free to commit mass killings, including those by “murder squads” (*Einsatzgruppen*). Uses of poison gas, first used in “euthanasia” programs of people with disabilities, were expanded into systemic genocidal attacks in 1942, first with mobile killing vans and later through death camp gas chambers.<sup>97</sup>

Laws and the legal profession in Germany also created the systems of concentration and extermination camps. From the outset, Nazi “prison reform” was less “economical” than designed to create military-like discipline and demand work, reducing diet at the same time.<sup>98</sup> 1923 principles that included humane justice were replaced in 1934 by principles that included severe discipline and order. Prison populations rapidly increased, which created crowding. History records more harsh discipline and extensions of prison systems, leading to beatings, starvation, and humiliation, well before the creations of ghettos and the extermination camps that have stained our history.

The legal heroes of the Holocaust were those who coined, adopted, and used the new term for barbaric mass murder, “genocide.” Raphael Lemkin remains first and foremost among these heroes.<sup>99</sup> In charging war criminals with war crimes, Nuremberg lawyers, including Taylor, Robert Jackson, Benjamin Ferencz, and many others, adapted and incorporated Lemkin’s term of genocide, developing new structures for important international legal traditions.

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<sup>96</sup> Bazylar, 21-31.

<sup>97</sup> Ibid., 25.

<sup>98</sup> Müller, 85-89.

<sup>99</sup> Raphael Lemkin, “Genocide as a Crime under International Law,” *The American Journal of International Law* 41, no. 1 (1947): 145-151; Raphael Lemkin, and Steven L. Jacobs, *Lemkin on Genocide* (Lanham, MD: Lexington Books, 2012).

The December 1948 international convention against genocide was central to this process. Not only does this convention and subsequent law create important preventive rules, human rights, and responses to injustice for all nations, it also addresses related crimes and criminal categories, including conspiracy, incitement, attempted genocide, complicity, and crimes against humanity.<sup>100</sup>

## V. Conclusion

In the context of the Holocaust, it is not surprising to find that authoritarian government and eliminationist anti-Semitic policies both affected many professions and limited the potential autonomy and power of bioethics. Professional autonomy was restricted by Nazi-era laws and practices, taking to extremes the medical and scientific applications of eugenics, supporting policies of mass murder later defined as genocide. While not all professionals and associations were continually complicit or active in the destructive state policies and actions, the fact remains that professionals and those principles we now consider professional ethics and bioethics did not and often could not realize powers necessary to restrain or to successfully prevent harm to human health and mass crimes associated with eliminationist genocide.

The coercive and destructive force of the Holocaust were also apparent after the war, both in the statistics of genocide and the post-war conditions for Jews and other professionals in Germany and Europe.<sup>101</sup> Narrative and witness accounts from survivors, as well as from war crime trials, have painstakingly elaborated the many inhuman, genocidal, and unethical actions and policies which harmed European, and ultimately world populations. To describe the Holocaust as simply a distortion or absence of bioethical behavior is insufficient, but we can certainly conclude that a lack of humane bioethics was part of the tragic evolution of this genocide. Lucie Adelsberger, a respected Jewish physician who worked during the Holocaust and an Auschwitz survivor, wrote after liberation and reflection, "To be a physician was a farce as soon as one became an unwilling minion of the Gestapo."<sup>102</sup> For most Holocaust-era professionals, to work at all in Germany or German-occupied areas was to engage in practices that now appear to mock widely accepted principles of bioethics.

While the evolution of professional ethics after the war is a topic beyond our scope, it is notable that the reconstruction of Jewish life in Germany has

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<sup>100</sup> Bazylar, 69-152.

<sup>101</sup> Leni Yahil, *The Holocaust: The Fate of European Jewry, 1932-1945* (New York: Oxford University Press, 1990); Yehuda Bauer, and Nili Keren, *A History of the Holocaust* (New York: Franklin Watts, 2001), 499-542.

<sup>102</sup> Lucie Adelsberger, and Arthur Joseph Slavin, *Auschwitz: A Doctor's Story* (Boston: Northeastern University Press, 1995).



included many contradictions and complications, for professionals and for all members of societies. While two-thirds of European Jewry was murdered and others fled to new nations, remnants of Jewish communities have endured, despite sometimes difficult conditions. Jews in Germany passed through temporary structures known as displaced persons camps, reconsolidated, worked to become represented again, and some now serve as functionaries in new German administrations.<sup>103</sup> If we seek lessons after the Holocaust, we can find two important consequences: the development of international law (including genocide prevention) and the global growth and ongoing development of professional ethics in many professions, including medicine, science, and law. In reviewing and discussing issues of Holocaust-era professional ethics, we can continue to honor the memories of the millions who were harmed and killed during the Holocaust and the World War II, including Holocaust-era resisters and survivors.<sup>104</sup>

## References

Abbott, Andrew Delano. *The System of Professions: An Essay on the Division of Expert Labor*. Chicago, IL: University of Chicago Press, 1988.

Adelsberger, Lucie, and Arthur Joseph Slavin. *Auschwitz: A Doctor's Story*. Boston: Northeastern University Press, 1995.

Bashford, Alison, and Philippa Levine. *The Oxford Handbook of the History of Eugenics*. New York: Oxford University Press, 2010.

Bauer, Yehuda, and Nili Keren. *A History of the Holocaust*. New York: Franklin Watts, 2001.

Bazyler, Michael J. *Holocaust, Genocide, and the Law: A Quest for Justice in a Post-Holocaust World*. New York: Oxford University Press, 2016.

Benedict, Susan, and Cathy Rozmus. "Nurses and Human Subjects Research During the Third Reich and Now." In *Human Subjects Research after the Holocaust*, edited by Sheldon Rubinfeld, and Susan Benedict, 87-98. Dordrecht: Springer International Publishing, 2014.

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<sup>103</sup> Y. Michal Bodemann, *Jews, Germans, Memory: Reconstructions of Jewish Life in Germany* (Ann Arbor: University of Michigan Press, 1996).

<sup>104</sup> Henry Greenspan, *On Listening to Holocaust Survivors: Beyond Testimony* (St. Paul, MN: Paragon House, 2010); Ruby Rohrlich, *Resisting the Holocaust* (New York; Oxford: Berg, 1998): 1-18.

Bergen, Doris L. *War and Genocide: A Concise History of the Holocaust*. Vol. 3. Lanham: Rowman & Littlefield, 2016.

Beyerchen, Alan. "The Physical Sciences." In *The Holocaust: Ideology, Bureaucracy, and Genocide: The San José Papers*, edited by Henry Friedlander, and Sybil Milton, 151-163. Millwood, NY: Kraus International Publications, 1980.

Bodemann, Y. Michal. *Jews, Germans, Memory: Reconstructions of Jewish Life in Germany*. Ann Arbor: University of Michigan Press, 1996.

Brieger, Gert H. "The Medical Profession." In *The Holocaust: Ideology, Bureaucracy, and Genocide: The San José Papers*, edited by Henry Friedlander, and Sybil Milton, 141-150. Millwood, NY: Kraus International Publications, 1980.

Bruns, Florian, and Tessa Chelouche. "Lectures on Inhumanity: Teaching Medical Ethics in German Medical Schools under Nazism." *Annals of Internal Medicine* 166, no. 8 (2017): 591-595.

Caplan, Arthur L. *When Medicine Went Mad: Bioethics and the Holocaust*. Totowa, NJ: Humana Press, 1992.

Caplan, Arthur L., Glenn McGee, and David Magnus. "What Is Immoral About Eugenics?" *British Medical Journal* 319, no. 7220 (1999): 1284-1285.

Caplan, Arthur L. "The Meaning of the Holocaust for Bioethics." *The Hastings Center Report* 19, no. 4 (1989): 2-3.

Dahrendorf, Ralf. *Society and Democracy in Germany*. Westport, CT: Greenwood Press, 1979.

Dwork, Deborah, and R. J. Van Pelt. *Auschwitz, 1270 to the Present*. New York: Norton, 1996.

Dwork, Deborah, and R. J. Van Pelt. *Flight from the Reich: Refugee Jews, 1933-1946*. New York: W. W. Norton, 2009.

Fox, Renée C. "Is Medical Education Asking Too Much of Bioethics?" *Daedalus* 128, no. 4 (1999): 1-25.

Fox, Renée C. "Moving Bioethics Towards Its Better Self: A Sociologist's Perspective." *Perspectives in Biology and Medicine* 59, no. 1 (2016): 46-54.

Fox, Renee C., and Judith P. Swazey. "Examining American Bioethics: Its Problems and Prospects." *Cambridge Quarterly of Healthcare Ethics* 14, no. 4 (2005): 361-373.

Fox, Renée C., Judith P. Swazey, and Judith C. Watkins. *Observing Bioethics*. New York: Oxford University Press, 2008.

Freidson, Eliot. *Professional Dominance: The Social Structure of Medical Care*. New York: Atherton Press, 1970.

Freidson, Eliot. *The Professions and Their Prospects*. Beverly Hills CA: Sage Publications, 1973.

Friedlander, Henry. "The Manipulation of Language." In *The Holocaust: Ideology, Bureaucracy, and Genocide: The San José Papers*, edited by Henry Friedlander, and Sybil Milton, 103-113. Millwood, NY: Kraus International Publications, 1980.

Friedlander, Henry. *Origins of Nazi Genocide: From Euthanasia to the Final Solution*. Chapel Hill, NC: The University of North Carolina Press, 1995.

Friedlander, Henry, and Sybil Milton. *The Holocaust: Ideology, Bureaucracy, and Genocide: The San José Papers*. Millwood, NY: Kraus International Publications, 1980.

Goldhagen, Daniel Jonah. *Hitler's Willing Executioners: Ordinary Germans and the Holocaust*. New York: Alfred A. Knopf, 1996.

Greenspan, Henry. *On Listening to Holocaust Survivors: Beyond Testimony*. St. Paul, MN: Paragon House, 2010.

Heberer, Patricia. "Science." In *The Oxford Handbook of Holocaust Studies*, edited by Peter Hayes, and John K. Roth, 39-53. Oxford: Oxford University Press, 2010.

Hutton, Christopher. *Race and the Third Reich: Linguistics, Racial Anthropology and Genetics in the Dialectic of Volk*. Cambridge, UK; Malden, MA: Polity, 2005.

Jarausch, Konrad H. "The Crisis of German Professions 1918-33." *Journal of Contemporary History* 20, no. 3 (1985): 379-398.

Jarausch, Konrad H. "The Perils of Professionalism: Lawyers, Teachers, and Engineers in Nazi Germany." *German Studies Review* 9, no. 1 (1986): 107-137.

Kater, Michael H. *Doctors under Hitler*. Chapel Hill: University of North Carolina Press, 1989.

Kater, Michael H. *The Nazi Party: A Social Profile of Members and Leaders, 1919-1945*. Cambridge, MA: Harvard University Press, 1983.

Kevles, Daniel J. *In the Name of Eugenics: Genetics and the Uses of Human Heredity*. New York: Knopf, 1985.

Kleinman, Arthur, Renée C. Fox, and Allan M. Brandt. "Introduction: Bioethics and Beyond." *Daedalus* 128, no. 4 (1999): vii.

Lemkin, Raphael. "Genocide as a Crime under International Law." *The American Journal of International Law* 41, no. 1 (1947): 145-151.

Lemkin, Raphael, and Steven L. Jacobs. *Lemkin on Genocide*. Lanham, MD: Lexington Books, 2012.

Levine, Philippa. *Eugenics: A Very Short Introduction*. New York: Oxford University Press, 2017.

Lifton, Robert Jay. *The Nazi Doctors: Medical Killing and the Psychology of Genocide*. New York: Basic Books, 1986.

Longerich, Peter. *Holocaust: The Nazi Persecution and Murder of the Jews*. Oxford: Oxford University Press, 2010.

Merton, Robert King, and Norman W. Storer. *The Sociology of Science: Theoretical and Empirical Investigations*. Chicago, IL: University of Chicago Press, 1973.

Müller, Ingo. *Hitler's Justice: The Courts of the Third Reich*. Cambridge, MA: Harvard University Press, 1991.

Peter, W. W. "Germany's Sterilization Program." *American Journal of Public Health* 24, no. 3 (1934): 187-191.

Rohrlich, Ruby. *Resisting the Holocaust*. New York; Oxford: Berg, 1998.

Rubinfeld, Sheldon, and Susan Benedict. *Human Subjects Research after the Holocaust*. Dordrecht: Springer International Publishing, 2014.

Snyder, Timothy. *Black Earth: The Holocaust as History and Warning*. New York: Tim Duggan Books, 2015.

Stone, Dan. *Concentration Camps: A Short History*. Oxford: Oxford University Press, 2017.

Taylor, Telford. "The Legal Profession." In *The Holocaust: Ideology, Bureaucracy, and Genocide: The San José Papers*, edited by Henry Friedlander, and Sybil Milton, 133-140. Millwood, NY: Kraus International Publications, 1980.

Yahil, Leni. *The Holocaust: The Fate of European Jewry, 1932-1945*. New York: Oxford University Press, 1990.

