

Making Non-Germans

“How did German National Socialist (Nazi) laws and their socio-cultural context deprive German citizens of their status and citizen rights?”

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Introduction

During the Nazi rule in Germany from 1933 to 1945, Nazi officials infamously assaulted the civic rights and citizenship of political opponents and those defined as not belonging to the nation, or as racially and biologically inferior. This created the legal foundation for their exclusion from social life, expropriation and murder. After the defeat of fascism, this violation led to the enshrinement of the right to nationality and citizenship, in article 15 of the *Universal Declaration of Human Rights* (1948), stating that “everyone has the right to a nationality” and “no one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.”¹ Nevertheless, assaults on citizenship continue today: in many European countries, the introduction of dual citizenship has been linked to the possibility to withdraw one citizenship, while some politicians advocate removing “terrorists” citizenship on account of serving foreign Armed Forces, such as ISIS.² As in these contemporary examples, the Nazi government relied on legal arguments to put into question or withdraw citizenship. However, exclusion from German society and “being German” was also generated through other social mechanisms besides legal ones, including older ideologies and attitudes. Therefore, this essay consists of two parts. The first deals with legislation adopted to exclude certain groups from being German during Nazi rule. The second part examines *socio-cultural* concepts (notably “faithfulness” and “blood”), which were reflected in the laws and, in turn, encouraged by them, apart from being by themselves sources of non-legal exclusion. To contextualise the primary sources (mostly law texts), I have used selected historians’ work (e.g. Joachim Neander and Dieter Gosewinkel) as secondary sources, and internet research to examine the cultural and social context of Nazi-era citizenship politics.

¹ United Nations. (1948). “Universal Declaration of Human Rights. Article 15”. <https://www.un.org/en/universal-declaration-human-rights/>. Last accessed 1.11.2019.

² Rawlinson, Kevin & Dodd, Vikram. (2019). “Shamima Begum. Isis Briton faces move to revoke citizenship”. *The Guardian*, 19.2.2019. <https://www.theguardian.com/world/2019/feb/19/isis-briton-shamima-begum-to-have-uk-citizenship-revoked>. Last accessed 1.11.2019.

Citizenship and Laws

Citizenship is a legal construct, which expresses national belonging and extends the nation-state's protection to its bearers. While citizenship is often taken for granted in contemporary Western society, it is a recent, historically changeable construct. After its use in Antiquity, it re-emerged after the Treaty of Westphalia (1648), in French and American revolutions (1788 & 1776), and through 19th century nation-state formation. Thus, being German became only legally defined after Germany's unification in 1870-71.

Since the largest group of people, whose rights the Nazi government curtailed, culminating in genocide, were Germans of Jewish descent, one might assume a link between the stripping of legal citizenship during the 1930s and 40s, and the Holocaust. This first part of this essay will qualify this assumption and further analyse legal exclusion from German Society.

I shall begin by examining Nazi citizenship law to provide an understanding of how, and to what extent, the NSDAP-government used legislation to exclude individuals from being German. The Nazis passed the first laws which radically changed German citizenship less than six months after Hitler was appointed chancellor. The **“Law on the revocation of naturalisations and the deprivation of German citizenship”** from July 14th 1933³ was followed, on February 5th 1934, by the **“Regulation on German citizenship”**.⁴ Other significant legislation was the **“Law amending the imperial- and state-citizenship law”** (May 15th 1935),⁵ and the so-called **“Nuremberg Laws”**;⁶ composed of the **“Imperial citizen law”** (and its first regulation in November 1935),⁷ and the **“Law for the protection of German blood and German honour”** adopted September 15th 1935.⁸ Finally, the

³ “Gesetz über den Widerruf von Einbürgerungen und die Aberkennung der deutschen Staatsangehörigkeit”, (1933), found on http://www.documentarchiv.de/ns/1933/deutsche-staatsangehoerigkeit_ges.html. Last accessed 2.11.2019.

⁴ “Verordnung über die deutsche Staatsangehörigkeit”, (February 1934), found on <http://www.verfassungen.de/de33-45/staatsangehoerigkeit34.htm>. Last accessed 2.11.2019.

⁵ “Gesetz zur Änderung des Reichs- und Staatsangehörigkeitsgesetzes”, (May 1935), found on <http://www.documentarchiv.de/ns/1935/reichs-staatsangehoerigkeitsgesetz-aender.html>. Last accessed 2.11.2019.

⁶ “Nürnberger Gesetze” comprising of the “Reichsbürgergesetz” and the “Gesetz zum Schutze des deutschen Blutes und der Deutschen Ehre”, (September 1935), found on https://www.1000dokumente.de/index.html?c=dokument_de&dokument=0007_nue&object=facsimile&pimage=3&v=100&nav=&l=de (or source below). Last accessed 2.11.2019.

⁷ “Reichsbürgergesetz”, (September 1935), and “Erste Verordnung zum Reichsbürgergesetz”, (November 1935), found on https://www.1000dokumente.de/index.html?c=dokument_de&dokument=0007_nue&object=translation&st=&l=de. Last accessed 2.11.2019.

⁸ “Gesetz zum Schutze des deutschen Blutes und der Deutschen Ehre”, (September 1935), found on <http://www.documentarchiv.de/ns/nbgesetze01.html>. Latest accessed 2.11.2019.

“**Eleventh regulation of the Imperial citizen law**” (1941),⁹ was central for the legal exclusion of the Jews from being German. Most of these laws build upon pre-NS, and pre-Weimar legislation: the “**Acquisition and loss of federal and national citizenship**”,¹⁰ that dates back to the formation of the German empire in 1870-71, which in 1913 was replaced by the by-and-large similar “**Law of imperial and federal citizenship**”,¹¹ which remained in force throughout the Weimar years and provided the basis for Nazi citizenship law.¹²

The terminology used in German citizenship laws (and historians’ debates about them) is complex. Sources refer to three overlapping kinds of citizenship: “Reichs-“ (Imperial-), “Staats-“ (State-) and “Bundesangehörigkeit”(Federal-), while the bearers are referred to as the respective “-bürger”. The idea of a standardised German citizenship first emerged during the revolutionary years of 1848/49.¹³ However, until the unification of smaller German states as “Reich” in 1871, these ideas were not realised. The laws of 1870 established a new “*Bundesangehörigkeit*” (citizenship in the federation of German states). This was attained (or lost) through receiving (or losing) the “*Staatsangehörigkeit*” of one of the regional “*Bundestaaten*”.¹⁴ In other words no actual national citizenship, the likes of the contemporaneous French citizenship, existed in Germany yet. The law of 1913 still only states that a “German is someone who has a citizenship of one of the “*Bundestaaten*””.¹⁵ The primary citizenship to a regional “*Bundestaat*” is only abolished in the law of February 1934,¹⁶ as part of the Nazi “*Gleichschaltung*” policy,¹⁷ in favour of one German citizenship called “*Reichsbürger*” (Imperial citizen). The aim was that Nazi officials in Berlin could centralise power and, as paragraph §2-§5 in this law describe, decide upon citizenship laws

⁹ “Elfte Verordnung zum Reichsbürgergesetz”, (1941), found on <http://www.verfassungen.de/de33-45/reichsbuerger35-v11.htm>. Last accessed 2.11.2019.

¹⁰ “Gesetz über den Erwerb und Verlust der Bundes- und Staatsangehörigkeit”, (1870), found on http://www.documentarchiv.de/nzjh/ndbd/bundes-staatsangehoerigkeit_ges.html. Latest accessed 2.11.2019.

¹¹ “Reichs- und Staatsangehörigkeit Gesetz”, (1913), found on <http://www.documentarchiv.de/ksr/1913/reichs-staatsangehoerigkeitgesetz.html>. Last accessed 2.11.2019.

¹² Neander, Joachim. (2008) “Das Staatsangehörigkeitsrecht des „Dritten Reiches“ und seine Auswirkungen auf das Verfolgungsschicksal deutscher Staatsangehöriger”. *Zeitschrift für Theologie und Kulturgeschichte*, Bd.2, <http://universaar.uni-saarland.de/journals/index.php/tg/article/viewArticle/471/510>. Last accessed 2.11.2019.

¹³ Scriba, Arnulf. (2014). “Die Revolution von 1848/49”. *Berlin, Deutsches Historisches Museum*. <https://www.dhm.de/lemo/kapitel/vormaerz-und-revolution/revolution-1848.html>. Last accessed 1.11.2019.

¹⁴ “Gesetz über den Erwerb und Verlust der Bundes- und Staatsangehörigkeit”, (1870), found on http://www.documentarchiv.de/nzjh/ndbd/bundes-staatsangehoerigkeit_ges.html. Latest accessed 2.11.2019.

¹⁵ §1 of “Reichs- und Staatsangehörigkeit Gesetz”, (1913), found on <http://www.documentarchiv.de/ksr/1913/reichs-staatsangehoerigkeitgesetz.html>. Last accessed 2.11.2019.

¹⁶ §1 of “Verordnung über die deutsche Staatsangehörigkeit”, (February 1934), found on <http://www.verfassungen.de/de33-45/staatsangehoerigkeit34.htm>. Last accessed 2.11.2019.

¹⁷ Scriba, Arnulf. (2015). “Gleichschaltung”. *Berlin, Deutsches Historisches Museum*. <https://www.dhm.de/lemo/kapitel/ns-regime/etablierung-der-ns-herrschaft/gleichschaltung.html>. Last accessed 2.11.2019.

for the entire nation, instead of each regional state having to adopt them.¹⁸ The Nuremberg “Imperial citizen law” (of September 1935) introduced subsequently a “privileged *Reichsbürger*” who had to have “German or related blood”.¹⁹ However, many who had become “*Reichsbürger*” in 1934 retained this status, although they no longer were deemed to have “related blood”.²⁰ Hence, in German legislation, citizenship terminologies vary, although they carry overlapping meanings, and translate to the same English words. This historical confusion has some lasting political consequences, e.g., in that extreme right-wing movements in present-day Germany contest the current legal construct of German citizenship (as did the Weimar Republic monarchists) and propose alternative forms, like the “*Reichsbürgerbewegung*”.²¹

Another important aspect of Nazi citizenship legislation is that it was equally much about inclusion, as it was about exclusion: it extended the basis of who could be German in the Third Reich. For example, “ethnically German” Austrians and eastern Europeans became German citizens, whereas other Eastern Europeans became citizens of the German “protectorate” they resided in.²² Below, I focus on practices of exclusion. However, the Nazi logic of inclusion directly reflects the practice of exclusion. For instance, if one had a German grandfather, but had grown up in eastern Europe one became a “*Reichsbürger*”.²³ According to the same logic, if one had a Jewish grandparent, one became a “*Mischling*” (bastard) to the second degree,²⁴ which meant that one was excluded and, after the law of 1941, could lose one’s German “*Reichsangehörigkeit*” (imperial citizenship).²⁵

¹⁸ §1 of “Verordnung über die deutsche Staatsangehörigkeit”, (February 1934), found on <http://www.verfassungen.de/de33-45/staatsangehoerigkeit34.htm>. Last accessed 2.11.2019.

¹⁹ §2 (1) of “*Reichsbürgergesetz*”, (September 1935), found on https://www.1000dokumente.de/index.html?c=dokument_de&dokument=0007_nue&object=translation&st=&l=de. Last accessed 2.11.2019. The German original reads: “Staatsangehöriger Deutschen oder artverwandten Blutes”.

²⁰ The term “Artverwandten Blutes” is not easy to translate as it originates from Nazi racial ideology. Directly translates ‘species-related’.

²¹ Anonymous. (2018). “Zahl der „*Reichsbürger*“ dramatisch gestiegen”. *Frankfurter Allgemeine Zeitung*. <https://www.faz.net/aktuell/politik/inland/zahl-der-reichsbuerger-auf-15-600-gestiegen-15391038.html>. Last accessed 2.11.2019.

²² Neander, Joachim. (2008). “Das Staatsangehörigkeitsrecht des „Dritten Reiches“ und seine Auswirkungen auf das Verfolgungsschicksal deutscher Staatsangehöriger”. *Zeitschrift für Theologie und Kulturgeschichte*. Bd. 2. <http://universaar.uni-saarland.de/journals/index.php/tg/article/viewArticle/471/510>. Last accessed 2.11.2019.

²³ §1 of “Vertrag Republik über Staatsangehörigkeits- und Optionsfragen zwischen dem Deutschen Reich und der Tschechoslowakischen Republik, (September 1938), found on <http://www.egerer-landtag.de/Dokumente/Vertrag-Staatsangehoerigkeit.htm>. Last accessed 4.11.2019.

²⁴ Hackenberger, Willi. (1935). “Die Nurnberger Gesetze. Reichsausschuß für Volksgesundheit”. *Berlin; Deutsches Historisches Museum*. <https://www.dhm.de/lemo/bestand/objekt/d2z09371>. Last accessed 2.11.2019.

²⁵ “Elfte Verordnung zum *Reichsbürgergesetz*”, (1941), found on <http://www.verfassungen.de/de33-45/reichsbuerger35-v11.htm>. Last accessed 2.11.2019.

The most well-known Nazi exclusion laws were the Nuremberg Laws (of September 1935), which consisted of the infamous race laws and the “Reichsbürgergesetz”. Multiple websites (including Wikipedia etc.²⁶) and articles concerning Nazi policies of exclusion, refer at first to these laws, underlining their importance.²⁷ However, according to historian Joachim Neander, these laws have commonly been incorrectly understood as stripping Jews (and other minorities) of their citizenship.²⁸ Many of the laws are undeniably directed against the Jewish minority, for instance §4 (1) explains that a Jew cannot be a “*Reichsbürger*”,²⁹ and indirectly targeted other “alien races” such as the Sinti and Roma.³⁰ However, according to Neander, the laws to forcefully strip their citizenships only came later.³¹ Furthermore, the “imperial citizenship-letter” proposed by the Nuremberg Laws as a requirement for becoming a “superior *Reichsbürger*” never materialised. Hence “*formally, until the end of the third Reich, the “privileged Reichsbürger” never legally existed*” and hence, Jews could not yet be deprived of it.³²

The law of July 1933 was, in fact, the first major Nazi citizenship legislation adopted.³³ It is separated into three laws, of which §1 concerns itself with the new possibility to “recall” naturalised German citizenships if they were seen as “unwanted”, and issued between the dissolution of the German Empire (November 9th 1918) and Hitler’s appointment as chancellor (January 30th 1933).³⁴ These laws affected primarily so-called “Ost-Juden” – Jews who had migrated to Germany from eastern Europe during and before the Weimar

²⁶ E.g., “Nuremberg Laws”, https://en.wikipedia.org/wiki/Nuremberg_Laws. Last accessed 2.11.2019.

²⁷ Anonymous. (2015). “From Citizens to Outcasts, 1933–1938”, United States Holocaust Museum, Washington; <https://www.ushmm.org/learn/introduction-to-the-holocaust/path-to-nazi-genocide/chapter-3/from-citizens-to-outcasts-1933-1938>. Last accessed 2.11.2019.

²⁸ Neander, Joachim. (2008). “Das Staatsangehörigkeitsrecht des „Dritten Reiches“ und seine Auswirkungen auf das Verfolgungsschicksal deutscher Staatsangehöriger”. *Zeitschrift für Theologie und Kulturgeschichte*. Bd. 2. <http://universaar.uni-saarland.de/journals/index.php/tg/article/viewArticle/471/510>. Last accessed 2.11.2019.

²⁹ §4 (1) of “Reichsbürgergesetz”, (September 1935), found on https://www.1000dokumente.de/index.html?c=dokument_de&dokument=0007_nue&object=translation&st=&l=de. Last accessed 2.11.2019.

³⁰ Neander, Joachim. (2008). “Das Staatsangehörigkeitsrecht des „Dritten Reiches“ und seine Auswirkungen auf das Verfolgungsschicksal deutscher Staatsangehöriger”. *Zeitschrift für Theologie und Kulturgeschichte*. Bd. 2. <http://universaar.uni-saarland.de/journals/index.php/tg/article/viewArticle/471/510>. Last accessed 2.11.2019.

³¹ Ibid.

³² Ibid.

³³ Gosewinkel, Dieter. (2008). “Staatsangehörigkeit, Inklusion und Exklusion. Zur NS-Bevölkerungspolitik in Europa”. In: Lutz Raphael/Herbert Uerlings (Hg.): *Zwischen Ausschluss und Solidarität. Modi der Inklusion/Exklusion von Fremden und Armen in Europa seit der Spätantike*. Inklusion, Exklusion, Bd. 6. Frankfurt: Peter Lang, S. 407-434.

³⁴ “Gesetz über den Widerruf von Einbürgerungen und die Aberkennung der deutschen Staatsangehörigkeit”, (1933), found on http://www.documentarchiv.de/ns/1933/deutsche-staatsangehoerigkeit_ges.html. Last accessed 2.11.2019.

Republic.³⁵ Nevertheless, other social and political groups were “unwanted” as well: §2 thus dealt with intellectual and political opponents of the NSDAP who had fled persecution in Germany.³⁶ §2(1) explains that Germans living abroad who “damaged German interests” or who did not fulfil their “duty of being faithful to the empire and people”, could be stripped of their citizenship and property.³⁷ This is a dramatic change from previous legislation (the laws of 1870/1933) which states that a German citizenship can only be forcefully taken away if the subject is applying for foreign citizenship (and living abroad).³⁸

Historian Dieter Gosewinkel argues, in his first chapter of “*Staatsangehörigkeit, Inklusion und Exklusion - Zur NS-Bevölkerungspolitik in Europa*” that the first targets of exclusion laws were Jews and political opponents.³⁹ Although this is supported by the law of 1933, it needs a bit of scrutiny. According to official statistics, 10487 citizenships were recalled on the basis of §1.⁴⁰ Nevertheless, §1 (2) proclaimed all citizenships obtained on the basis of the 1913 inclusion laws through an “unwanted” citizenship were also to be withdrawn (i.e your citizenship would be recalled if it was gained through your husband’s/father’s German citizenship, which was obtained during the Weimar Republic and was determined as “unwanted” by the Nazis). Therefore, Neander and others estimate that 30 000 were affected by §1 until the end of WW2, most of whom remained stateless in the German Reich.⁴¹ According to the Nazi perspective, these individuals were not stripped of their citizenship, but their naturalisation was “recalled”, unlike those affected by §2. This is documented in the official “*Ausbürgerungslisten*” – public lists of people whose citizenship had been taken away (1933-45). In the first list, from August 25th 1933, 33 intellectual and political

³⁵ Neander, Joachim. (2008). “Das Staatsangehörigkeitsrecht des „Dritten Reiches“ und seine Auswirkungen auf das Verfolgungsschicksal deutscher Staatsangehöriger”. *Zeitschrift für Theologie und Kulturgeschichte*. Bd.2.

<http://universaar.uni-saarland.de/journals/index.php/tg/article/viewArticle/471/510>. Last accessed 2.11.2019.

³⁶ Anonymous. (2018). “23 August 1933 – 33 NS Gegnern wird die deutsche Staatsbürgerschaft entzogen”. *WDR*.

<https://www1.wdr.de/stichtag/stichtag-ns-gegner-staatsbuergerschaft-aberkennung-100.html>. Last accessed 2.11.2019.

³⁷ §2 (1) of “Gesetz über den Widerruf von Einbürgerungen und die Aberkennung der deutschen Staatsangehörigkeit”, (1933), found on http://www.documentarchiv.de/ns/1933/deutsche-staatsangehoerigkeit_ges.html. Last accessed 2.11.2019. The German original reads: “sofern sie durch ein Verhalten, das gegen die Pflicht zur Treue gegen Reich und Volk verstößt, die deutschen Belange geschädigt haben”.

³⁸ §17 (2) and §25 of “Reichs- und Staatsangehörigkeit Gesetz”, (1913), found on

<http://www.documentarchiv.de/ksr/1913/reichs-staatsangehoerigkeitgesetz.html>. Last accessed 2.11.2019.

³⁹ Gosewinkel, Dieter. (2008). “Staatsangehörigkeit, Inklusion und Exklusion. Zur NS-Bevölkerungspolitik in Europa”. In: Lutz Raphael & Herbert Uerlings (Hg.): *Zwischen Ausschluss und Solidarität. Modi der Inklusion/Exklusion von Fremden und Armen in Europa seit der Spätantike. Inklusion, Exklusion*, Bd. 6. Frankfurt: Peter Lang, S. 407-434.

⁴⁰ Neander, cited above, refers here to: Hepp, Michael. (1985). “Die Ausbürgerung deutscher Staatsangehöriger 1933-1945 nach den im Reichsanzeiger veröffentlichten Listen”. Book 1, München und New York 1985, p.37.

⁴¹ Neander, Joachim. (2008). “Das Staatsangehörigkeitsrecht des „Dritten Reiches“ und seine Auswirkungen auf das Verfolgungsschicksal deutscher Staatsangehöriger”. *Zeitschrift für Theologie und Kulturgeschichte*. Bd.2.

<http://universaar.uni-saarland.de/journals/index.php/tg/article/viewArticle/471/510>. Last accessed 2.11.2019.

opponents of the Nazis were robbed of their German citizenship.⁴² This included writers like Heinrich Mann and politicians like the Social Democrat Otto Wels.⁴³ In all, according to Neander, approximately 40000 were denationalised on the basis of §2 until the end of WW2.⁴⁴ They became stateless and experienced a profound loss of identity, as they were both unable to return to Germany to undermine the Nazi state, and to flee Europe since the majority no longer had legitimate identity papers – mirrored in novels by exiled German authors of the time.⁴⁵ This shows that Nazi citizenship legislation at first was less a tool of racist ideology, and more a rational political tool to target political opposition in order to consolidate power.

All Jews (and minorities) became explicitly targeted in 1935 and directly affected by laws on citizenship only after 1941. As explained, the “Nuremberg Imperial Citizen Law” prevented Jews from becoming the new (but never completely materialised) superior “*Reichsbürger*”. The first effective legal foundation to rob all Jews (who had not been affected by the law of 1933) of their citizenship came only in the law of 1941.⁴⁶ §1 of the law states that Jews who live abroad immediately lose the German citizenship, and §2 extends this provision to any Jew that moves out of the Reich in the future, regardless of whether voluntary or not. However, because during the war the borders of the German-Reich were expanded and at best unclear, also this law was a source of confusion. Diemut Mayer explains that Auschwitz was (in regard to this law) categorised as being “in foreign territory”.⁴⁷ Neander suggests that this is the likely reason why there is a widespread, but mistaken, belief that Jews deported to Auschwitz lost their citizenship before being murdered. On the contrary, Neander argues that, according to official Auschwitz documents, “the majority of deported Jews from the German

⁴² “Erste Ausbürgerungslisten 1933”, (1933), found at <https://kuenste-im-exil.de/KIE/Content/DE/Objekte/mann-heinrich-erste-ausbuergerungsliste-1933.html?single=1>. Last accessed 2.11.2019.

⁴³ Anonymous. (2018). “23 August 1933 – 33 NS Gegnern wird die deutsche Staatsbürgerschaft entzogen”. Köln, WDR. <https://www1.wdr.de/stichtag/stichtag-ns-gegner-staatsbuergerschaft-aberkennung-100.html>. Last accessed 2.11.2019.

⁴⁴ Neander, Joachim. (2008). “Das Staatsangehörigkeitsrecht des „Dritten Reiches“ und seine Auswirkungen auf das Verfolgungsschicksal deutscher Staatsangehöriger”. *Zeitschrift für Theologie und Kulturgeschichte*. Bd.2. <http://universaar.uni-saarland.de/journals/index.php/tg/article/viewArticle/471/510>. Last accessed 2.11.2019.

⁴⁵ Seghers, Anna (orig. 1944). *Transit*. Verlag Philipp Reclam, Leipzig 1980; and Feuchtwanger, Lion (orig. 1940) *Exil*. Querido Verlag, Amsterdam 1940.

⁴⁶ “Elfte Verordnung zum Reichsbürgergesetz”, (1941), found on <http://www.verfassungen.de/de33-45/reichsbuerger35-v11.htm>. Last accessed 2.11.2019.

⁴⁷ Neander, cited above, refers here to: Mayer, Diemut. (1993). *Fremdvölkische im Dritten Reich. Ein Beitrag zur nationalsozialistischen Rechtssetzung und Rechtspraxis in Verwaltung und Justiz unter besonderer Berücksichtigung der eingegliederten Ostgebiete und des Generalgouvernements*. Fast unveränderte Neuauflage. Boldt, Boppard am Rhein (*Schriften des Bundesarchivs* 28), p.213

Reich, were correctly documented as German citizens”.⁴⁸ An explanation for this confusion is that by 1941, being a legal German citizen no longer afforded protection. The focus in the law of 1941 (§3-§10) on the legal and bureaucratic details of how to legitimately “take possession” of Jewish property, supports this. However, this created a conundrum for the financial administration: if the deported Jews kept their citizenship, the Ministry of Finance was, legally, unable to take their property. Neander suggests that to solve this, the Gestapo and the Ministry agreed that a foreign destination was officially recorded for deported Jews, instead of an extermination camp on German territory,⁴⁹ like Auschwitz and Theresienstadt.

This quick examination of Nazi legislation concerning citizenship shows that, contrary to the direct association between citizenship, exclusionary politics and the Holocaust, a key motivation of the laws was initially not racial ideology, but a political thrust. Until 1945 more political and intellectual opponents than minorities and Jews were affected by the citizenship law of 1933. Even during the “*Endlösung*”, Jews who had been citizens before the Weimar Republic continued to be official, legal Germans – although primary sources indicate, and historians argue, that this no longer had much importance for officials.⁵⁰

Moreover, while some provisions of the laws are clear (e.g., if you work against the German Nazi government abroad your citizenship is removed), other parts of the legislation are ambivalent, for instance the notion of “duty of being faithful to the empire and people”, which becomes a condition of citizenship. The messiness of Nazi citizenship law emerges also around the definition of “Jewishness”. Who is Jewish remained ambiguous, despite attempts by Nazis to define Jews in the Nuremberg laws (1935). For instance, being part of a Jewish congregation after conversion to Judaism had no impact for a German-blood-person; and yet, it could determine the very same person’s grandchild’s race.⁵¹ Instead of clear definitions of race – which would be hard to get by - the notion of “blood” and the equally diffuse concept of “racial compatibility/kinship” (“*Artverwandschaft*”) were evoked as seemingly self-evident categories.

⁴⁸ Neander, Joachim. (2008). “Das Staatsangehörigkeitsrecht des „Dritten Reiches“ und seine Auswirkungen auf das Verfolgungsschicksal deutscher Staatsangehöriger”. *Zeitschrift für Theologie und Kulturgeschichte*. Bd.2. <http://universaar.uni-saarland.de/journals/index.php/tg/article/viewArticle/471/510>. Last accessed 2.11.2019.

⁴⁹ Ibid.

⁵⁰ Ibid.

⁵¹ Hackenberger, Willi. (1935). “Die Nurnberger Gesetze. Reichsausschuß für Volksgesundheit”. *Berlin; Deutsches Historisches Museum*. <https://www.dhm.de/lemo/bestand/objekt/d2z09371>. Last accessed 2.11.2019.

As a consequence of this messiness and ambiguities in the legislation, much was left to the bureaucrats' judgement. E.g. §1 of the law of May 1935 explicitly states "the official should decide with due discretion".⁵² This analysis of some of the Nazi citizenship legislation, and especially these unclear underlying concepts, suggests that law does not operate by itself. Rather, it functions in a cultural, social and historical context and setting. Therefore, to understand the mechanisms of exclusion during the Nazi era, one must look beyond the law.

Social, Cultural and Historic Context of Exclusion

In the legislation above, two important concepts emerge, that of "*Treue*" (faith/loyalty) and "*Blut*" (blood/racial-value). These keep recurring in laws, for instance the law of 1933 and Sept 1935, although they neither are legal terms, nor particularly well-defined (e.g. as political opponents damaging German interests), but rather reference broader cultural tropes.

Treue

The notion of "faith" has a long history in German society and culture. The concept emerges as early as in German mythology, the 14th century Nibelungen, which were recorded and published during the national romanticism era in Germany as a cultural reference for the emerging German national identity.⁵³ Here, the term "*Nibelungentreue*" emerges, meaning "unconditional loyalty in to death",⁵⁴ based upon the saga of three brothers who remain loyal to a friend who is wanted for murder, which becomes the source of their own doom.⁵⁵ This unconditional loyalty was frequently stimulated in Nazi propaganda and ideology.⁵⁶

In German romantic poetry, too, "faith" features, for example in the 2nd verse of the old national anthem by the radical poet Von Fallersleben:

⁵² "Gesetz zur Änderung des Reichs- und Staatsangehörigkeitsgesetzes", (May 1935), found on <http://www.documentarchiv.de/ns/1935/reichs-staatsangehoerigkeitsgesetz-aender.html>. Last accessed 2.11.2019. Translated from German: "entscheiden die Einbürgerungsbehörden nach pflichtmäßigem Ermessen".

⁵³ Anonymous. "Die Rezeption des Nibelungenstoffs in der Kunst und Kultur der Goethezeit. *GoetheZeitPortal*. <http://www.goethezeitportal.de/wissen/projektepool/rezeption-nibelungen/chronologie-der-nibelungenrezeption.html>. Last accessed 1.11.2019.

⁵⁴ Anonymous. "Die Nibelungentreue". *Duden*. <https://www.duden.de/suchen/dudenonline/Nibelungentreue>. Last accessed 1.11.2019.

⁵⁵ Hoeppe, Uwe. (1998/99). "Freund und Fein dim Nibelungenlied". <https://www.arnosoft.de/text/Nibelungen%20-%20Freund%20und%20Feind.pdf>. Last accessed 1.11.2019.

⁵⁶ Rapp, Marcel. (2013). "Das Nibelungenlied. Missbrauch für Ideologie und Propaganda der Nationalsozialisten". *Grin*. <https://www.grin.com/document/279405>. Last accessed 2.11.2019.

“German women, German faithfulness/fidelity, German wine and German song”.⁵⁷

This deep, underlying cultural trope becomes linked to the German nation-state when it is infused with Prussian military values. Similar to the Nibelungen-Ideology, Prussian values included a strong sense of loyalty and sacrifice for the nation.⁵⁸ Here, “*Treue*” takes on a sense of “obedience”. These values are conveniently summarised by a poem of Eberhard von Mackensen, a German officer.

“Prussia is posture, not mediocrity, Prussia is duty following Immanuel Kant, Prussia is loyalty to people and country, duty to serve into death”⁵⁹

Von Mackensen (1889-1969) served the German army long after the unification of Prussia with other states to form Germany. Hence, Prussian values remained central for society during the German Empire and Weimar Republic. It is this Prussian value of obedience that the Nazis frequently evoked in their propaganda. However, this deeply rooted value also was important for the military resistance against Hitler, e.g. failed attempt to overthrow Hitler on July 20th, 1944.⁶⁰

“*Treue*” and its opposite, betrayal, began to be used instrumentally in the political arena in the 20th century. The notion of “*Nibelungentreue*” was coined by chancellor von Gülow on the mutual German and Austrian-Hungarian loyalty, in the context of the Bosnian crisis 1909.⁶¹ Furthermore, announcing the first world war, Kaiser Wilhelm proclaimed “*I no longer know any parties (...), I only know Germans*”.⁶² The meaning was that from then onwards there no longer existed socialists, republicans and so forth, but only Germans who

⁵⁷ Von Fallersleben, Hoffman. (1841). “Das Lied der Deutschen” found on <http://ingeb.org/Lieder/deutschl.html>. Last accessed 2.11.2019.

⁵⁸ Saltzweil, Johannes. (2007). “Reformstaat Preussen vordenker Der Nation”. *Der Spiegel*. <https://www.spiegel.de/spiegel/spiegelspecialgeschichte/d-52666763.html>. Last accessed 1.11.2019.

⁵⁹ Von Mackensen, Eberhard. Poem found on www.landbote.com/sonderveroeffentlichungen/preussen.html. Last accessed 3.11.2019. It should be noted that I only found the poem on this one website that appears to be a biased right-wing source.

⁶⁰ Zebec, Davor. (2013). “Das Erbe Stauffenbergs: Treue und Loyalität bedeuten nicht blinden Gehorsam”. *Deutschesheer*. https://www.deutschesheer.de/portal/a/heer/start/aktuell/nachrichten/jahr2013/juli2013/lut/p/z1/hZDRa4MwEMb_GI9zqU6rezOUQYeWrY5V8zJSzaljTSRNdYz98btSKAxWdg8Hd_f7Pj4OONTAjZgGJfxgjdA4Nzx5Y2nxUoRZGMYsj-jaZVW1fs4jmiTwCrv_El5neqNyClUnoUGP5U2PEiHgWd_EJD7JaJ3X0hPRnjNC0wvTafIk2_vyQLCTpLUGGexeGj9gV054667q9uQcXsjQQUMXK0bja6bFd5bVJcuS5d1qzbbwCFxpu798Izf7KFXAnXyXTjpycrjuvR-P9wEN6DzPRFmr9DnBlaB_SXp79FD_JmE8PKSbTTx9FXL3A_H2Vns!/dz/d5/L2dBISEvZ0FBIS9nQSEh/#Z7_B8LTL29225BA30IB9SSRQM30M0. Last accessed 4.11.2019.

⁶¹ Anonymous. “Woher stammt eigentlich der Begriff Nibelungentreue”. *Navigator Allgemeinwissen*. www.navigator-allgemeinwissen.de/die-wichtigsten-fragen-und-antworten-zu-sprache-und-sprichwoertern/beruehmte-ausdruecke/1842-woher-stammt-eigentlich-der-begriff-nibelungentreue.html. Last accessed 03.11.2019

⁶² “Ich kenne keine Parteien mehr, ich kenne nur Deutsche”, Propagandaplakat mit Aufruf Kaiser Wilhelms II. an das deutsche Volk (1914), *Berlin, Deutsches Historisches Museum*, <https://www.dhm.de/lemo/bestand/objekt/plakat-ich-kenne-keine-parteien-mehr-ich-kenne-nur-deutsche-1914.html>. Last accessed 2.11.2019.

would be loyal to the German Kaiser and follow him into war. In turn, those who did not support the war credits in Parliament, potentially ceased to be Germans, reflected in a popular derogatory term of the era, “*Vaterlandslose Gesellen*”, applied to Socialist and (later) Jews.

After Germany lost the First World War and the social democratic government signed the Versailles treaty for the new Weimar Republic, the concept of “*Treue*” had further implications. Nationalists blamed the defeat on the betrayal by those who were not Kaiser Wilhelm’s loyal Germans – socialist, social democrats, and by implication the Weimar government. This conspiracy theory became the so-called “*Dolchstoßlegende*” (Stab-in-the-back-myth), which was foundational for the Nazi movements.⁶³

To conclude, the concept of “*Treue*” was, for Germans during the 30s and 40s, a deep, underlying cultural and emotional theme. It was politicised in the run-up to Hitler takeover of power. The Nazi party and its demand for absolute loyalty became the reincarnation of German “*Treue*”. Therefore, not only for nationalist and Nazis, but also for ordinary Germans, the legal texts’ use of the concept “*Treue*” would have made sense: those who opposed the Nazi party, betrayed the nation and lost their right to be German.

Blut

The other concept that features in the laws, “German Blood”, links an idea of mythical blood-bonds, of the Nibelungen sort, to modern ideas of scientific racism such as Social Darwinism. “Non-German” blood refers here to any human deemed “genetically weak” and thus weakening the Aryan Nazi Volksgemeinschaft, predominantly Jews, Sinti and Roma. As clearly can be seen in later legislation (e.g. the Nuremberg Laws),⁶⁴ the main focus is on Jewish blood, which introduces the question of anti-Semitism and its role in relation to German citizenship.

Some scholars, such as Daniel Goldhagen, argue that cultural anti-Semitism and the so-called “*Judenfrage*” was a part of German heritage since the reformation, e.g. in Luther’s text *On*

⁶³ Scriba, Arnulf. (2014). “Die Dolchstoßlegende”. *Berlin, Deutsches Historisches Museum*, <https://www.dhm.de/lemo/kapitel/weimarer-republik/innenpolitik/dolchstoßlegende.html>. Last accessed 4.11.2019.

⁶⁴ “Nürnberg Gesetze” comprising of the “Reichsbürgergesetz” and the “Gesetz zum Schutze des deutschen Blutes und der Deutschen Ehre”, (September 1935), found on https://www.1000dokumente.de/index.html?c=dokument_de&dokument=0007_nue&object=facsimile&pimage=3&v=100&nav=&l=de (or source below). Last accessed 2.11.2019.

Jews and Their Lies (1543).⁶⁵ Goldhagen further argues that, in regard to anti-Semitism, Germans are fundamentally different from other people and regarded the Jewish population as being “un-German”.⁶⁶ Other historians, such as Christopher Browning, strongly dispute this claim, arguing that anti-Semitism pre-existed in a limited fascist minority,⁶⁷ and was in ascendancy across late 19th-century Europe, tied to economic and migration patterns.⁶⁸ While historians debate the origins of anti-Semitism and whether or not it is a specific German disposition, it was undoubtedly central in German 19th century society. Even classical music was discussed with reference to the German or Jewishness of the composer. E.g., in Wagner’s “*Das Judentum in der Musik*”, which also targeted assimilated, converted German composers such as Felix Mendelsohn and their allegedly harmful effect on “German music”.⁶⁹

It is important to note that anti-Semitism before the turn of the 20th century was somewhat different from the more biological and genetic, scientifically justified anti-Semitism thereafter. With the development of racist-scientific theories such as eugenics and social Darwinism, anti-Semitism too became much more a question of blood and genes. The ideas of superior and weaker genes further radicalised globally, providing the arguments for removing weaker ones to protect the good and healthy, and ultimately opening for violence and murder.

Linkages between blood and faith

The concepts of Blood and Faith did not operate by themselves, but have been throughout history often interlinked. Anti-Semitic ideology and stereotypes commonly express the view that Jews, being a diasporic population, don’t belong anywhere, and hence are likely to be disloyal to Germany (or any other nation). For example, the medieval story of the “eternally wandering Jew” (reused in Nazi propaganda),⁷⁰ and the association of Jews with global

⁶⁵ Tietjen, Alex. (2003). “An Examination of Goldhagen’s *Hitler’s Willing Executioners: Ordinary Germans and the Holocaust*, (1996). <http://marcuse.faculty.history.ucsb.edu/classes/33d/projects/bat101/TietjenGoldhagenRev.htm>. Last accessed 1.11.2019

⁶⁶ Ibid.

⁶⁷ Ibid.

⁶⁸ Brustein, W. and R. King. (2004). "Anti-Semitism in Europe Before the Holocaust." *International Political Science Review* 25: 35-53. https://www.jstor.org/stable/1601621?seq=1#page_scan_tab_contents. Last accessed 2.11.2019.

⁶⁹ Mourby, Adrian. (2000). “Can we forgive him?”. *The Guardian*, 21.7.2000, https://www.theguardian.com/friday_review/story/0,3605,345459,00.html. Last accessed 4.11.2019.

⁷⁰ Anonymous. (2015). “Judentum – ewiger Jude”. *Stiftung gegen Rassismus und Antisemitismus*, <https://www.gra.ch/bildung/gra-glossar/begriffe/judentum/ewiger-jude/>. Last accessed 3.11.2019.

capitalism and communism.⁷¹ This sentiment is expressed in the fake document the “Protocols of the Elders of Zion”, which circulated from Russia in the early 20th century,⁷² claiming to uncover a cosmopolitan Jewish conspiracy.

More specifically, the association between anti-Semitism and the betrayal-narrative of the “*Dolchstoßlegende*” led to political violence during the Weimar years. For instance, the industrialist and Weimar Republic minister Walter Rathenau, was murdered by the ultra-nationalist “Operation Consul”. Rathenau became a target because he had signed the Treaty of Rapallo, hence not being loyal to the German people. In addition, he was a subject to anti-Semitism because he came from a wealthy Jewish-German industrialist family.⁷³ The murder of the communist politician and thinker Rosa Luxemburg is another example. She came from a Polish-Jewish family (naturalised in late 19th century), a feminist woman and was a socialist – a perfect scapegoat of the “*Dolchstoßlegende*”.

The cultural concepts that emerge in the Nazi legislation have deep, partly German roots. This explains on the one hand how the laws, despite being relatively messy and grounded in imprecise concepts, worked and were comprehensible for German society and officials. To return to the subject of citizenship laws, this brief examination of cultural notions of faithfulness and blood make it clear why laws and regulations could rely on the “dutiful judgement” of bureaucrats and the common understanding of what was meant by “the official should decide with due discretion” in the law of May 1935.⁷⁴

Social practices of exclusion in emerging Nazi Germany

It also explains how, as Dieter Gosewinkel discusses, the exclusion of Jews from German society and from being German, happened even though the laws did *not* strip them of their

⁷¹ Roth, Winfried. (2018). “Die Geschichte des Mythos der Weltverschwörung”. *Deutschlandfunk Kultur*, https://www.deutschlandfunkkultur.de/juden-als-feindbild-die-geschichte-des-mythos-der-976.de.html?dram:article_id=433837. Last accessed 1.11.2019.

⁷² Anonymous. (2018). “Protocols of the Elders of Zion”. *Encyclopaedia Britannica*, <https://www.britannica.com/topic/Protocols-of-the-Elders-of-Zion>. Last accessed 1.11.2019.

⁷³ Hierholzer, Vera. (2000). “Die Ermordung Walter Rathenaus”. *Berlin; Deutsches Historisches Museum*, <https://www.dhm.de/lemo/kapitel/weimarer-republik/innenpolitik/ermordung-rathenaus-1922.html>. Last accessed 4.11.2019.

⁷⁴ “Gesetz zur Änderung des Reichs- und Staatsangehörigkeitsgesetzes”, (May 1935), found on <http://www.documentarchiv.de/ns/1935/reichs-staatsangehoerigkeitsgesetz-aenderung.html>. Last accessed 2.11.2019. Translated from German: “entscheiden die Einbürgerungsbehörden nach pflichtmäßigem Ermessen”.

formal citizenship.⁷⁵ For example, Nazis staged a boycott against Jewish business on the first of April 1933. Although not hugely successful, the United-States-Holocaust-Memorial-Museum argues “it marked the beginning of a nationwide campaign (...) against Jews with the aim to exclude them from German society”.⁷⁶ These campaigns had in fact existed throughout the early 20th century, e.g. “German-only” hotels and shops. In other words, non-Germans could be produced *both* by law, as well as by culturally grounded social actions/campaigns and socio-cultural dispositions.

Conclusion

As I showed, the making of “non-Germans” by the Nazis relied upon meticulous, somewhat perversely thorough, provisions of the law, which interacted with and partly relied upon the wider socio-cultural and historical context. In addition, legislation commonly relied upon pre-Weimar legislation, but simultaneously radically changed the conditions for being “a German”. Among the ambiguous concepts on which the laws rest are the ill-defined concepts of “*Treue*” and “*Deutsches Blut*”. Even though these have old roots and had been long developed in German society and culture, they were rendered acute and aggressive in the aftermath of World War 1 and the economic crisis, were further radicalised in the run-up to Nazi takeover 1933, and had remarkable influence on law making. Hence, analysing the practice of legal and social exclusion in Nazi Germany suggests that law and public attitudes and values collaborated and enforced one another.

Contemporary parallels

This last point has purchase for the present in that small legal changes can enforce public opinion and even violent dispositions, and these public views can in turn spark further legislation. For example, populist calls for legal regulation on the burka recently resulted in increased violence against Muslims⁷⁷ – just as ordinary citizens’ anti-Islamic attitudes are

⁷⁵ See Gosewinkel, Dieter (2008). “Staatsangehörigkeit, Inklusion und Exklusion. Zur NS-Bevölkerungspolitik in Europa”. In: Lutz Raphael/Herbert Uerlings (Hg.): Zwischen Ausschluss und Solidarität. Modi der Inklusion/Exklusion von Fremden und Armen in Europa seit der Spätantike. Inklusion, Exklusion, Bd. 6. Frankfurt: Peter Lang, p.407-434.

⁷⁶ Anonymous. (1933). “Anti-Jewish Boycott”. *United States Holocaust Memorial Museum*, <https://www.ushmm.org/learn/timeline-of-events/1933-1938/anti-jewish-boycott>. Last accessed 2.11.2019.

⁷⁷ Parveen, Nazia. (2019). “Boris Johnson’s burqa comments led to surge in anti-Muslim attacks”. *The Guardian*, 2.9.2019. <https://www.theguardian.com/politics/2019/sep/02/boris-johnsons-burqa-comments-led-to-surge-in-anti-muslim-attacks>. Last accessed 2.11.2019.

increasingly reflected in populist proposals and implementation of laws against the burka and similar minority symbols. Similarly, in an increasing globalised world, the possibility to share a dual citizenship has gained traction. But this legal move has also opened up the backdoor to removing citizenship from unwanted, e.g. returning European ISIS-militants. Hence, the present has many concerning parallels to both the legal and social exclusion, and its relation to underlying attitudes in 1930s/40s Nazi Germany society.

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